The Laws of Settlement: their impact on the poor inhabitants of the Daventry area of Northamptonshire, 1750-1834.

Thesis submitted for the degree of Doctor of Philosophy at the University of Leicester

By

Christine Mary Vialls

Department of English Local History
University of Leicester
The Laws of Settlement: their impact on the poor inhabitants of the Daventry area of Northamptonshire 1750-1834.

The aim of this thesis has been to analyse the Laws of Settlement. It is based on a collection of documents at the Northamptonshire Record Office which originated in the offices of several long-established firms of solicitors.

It is obvious that the firms were deeply involved with settlement appeal cases. From the large number of barrister's briefs and case summaries found, it has been possible to reconstruct much of the work undertaken, not only by the solicitors, but also by the magistrates and the overseers of the poor.

The method used has been to analyse a number of cases, to demonstrate the various points of law and to show how these were interpreted in practice. To explain the points of law correctly, much use has been made of the eighteenth and early nineteenth century books written as aids for the justices, solicitors and overseers.

With the additional use of some of the parish collections for the county, the last chapter of the thesis deals specifically with the work of the justices, solicitors and overseers, with the final section given over to the study of the effects the settlement laws had on the paupers themselves.

The first four chapters deal in turn with the four most common ways in which a man or woman could gain a new settlement, while the fifth chapter deals with the settlement certificates and how they were used.

Chapter six is a study of a number of cases where the complexity of the settlement laws either led to parish officers making mistakes in their interpretation of the legislation, or where it seems that deliberate attempts were made to 'bend' the laws to benefit for their own parishes.
Acknowledgements

I am very much indebted to a large number of people for help while researching and writing this thesis. Firstly I acknowledge my great debt to the archivist of the Northamptonshire Record Office and her staff, for their untiring help and patience with all my requests. I am also grateful to the staff of all the other record offices that I have visited.

I thank Peter Bennett for doing all the searches for me at the Public Record Office and the Middlesex Record Office.

I am also grateful to the staff of Leicester University Library for helping me to find my way round their collection.

I would like to thank my family for allowing me to bore them with endless reports on my progress and in particular I am grateful to my friend Sue Harris for her unflagging encouragement.

I am deeply in debt to Mrs Kay Collins for allowing me the use of her excellent index of Northamptonshire Quarter Sessions Cases, 1754-1834, without which my task would have been much more difficult.

Above all, I acknowledge my very great debt to my supervisor, Dr Keith Snell. Without his encouragement I might not have stayed the course.
Abbreviations

Throughout this thesis I have mentioned the Poor Law Index. This is the Northamptonshire Poor Law Index, Series 1, which is available on the open shelves of the Northamptonshire Record Office. Book 5 is an index of the Justices of the Peace who signed Poor Law documents.

The Quarter Sessions Index mentioned is also on the open shelves. This is an index of all the cases heard at the Northamptonshire Quarter Sessions between 1754 and 1834, and was compiled by Mrs Kay Collins.

All places mentioned in this thesis are in Northamptonshire unless specific mention is made of another county.

All documents mentioned are in the Northamptonshire Record Office unless otherwise stated.

D = Documents which are in the Daventry Collection.

p = Documents in one of the Northamptonshire parish collections.
Contents

Acknowledgements.
Abbreviations.


Chapter 3. Settlement by owning
or renting a property p. 121.
Chapter 4. The Consequences of Illicit Love p. 160.
Chapter 5. Of Certificates and their usage p. 209.
Chapter 7. Men of Power and the Paupers p. 263.

Conclusion. p. 353.

Appendix No.1 Accounts for the Bosworth Case p. 367.
Appendix No.2 Mr Morton's Opinion p. 371.
Appendix No.3 Cost of Appeal Cases p. 375.
Appendix No.4 List of Mop Fairs p. 377.
Appendix No.5 Overseers Costs for Hinks Family p. 379.
Appendix No.6 Survival rate of Bastardy Papers p. 380.
Appendix No.7 Survival of Certificates p. 381.
Appendix No.8 Occupations of Certificate Holders p. 383.
Appendix No.9 Survival of Removal Orders p. 384.
Appeals heard at Quarter Sessions

Bibliography Original Documents p. 386.
Pre 1900 publications p. 389.
Post 1900 publications p. 392.
Introduction

K.D.M. Snell has written that 'the old poor law provides the key to a social understanding of the eighteenth century'. 'It permeated social relationships with its wide-ranging influence over aspects of parish life'.¹ This was the law designed to help orphaned children, the old and the sick, as well as the able-bodied unemployed so that 'under the English poor laws ... all men and women were eligible for relief and all parishes were charged with the responsibility for organizing and financing' that relief.²

From the sixteenth century the administrative district chosen for the relief of the poor was the ecclesiastical parish, which as David Eastwood reminds us, 'had its roots in patterns of church organization and lordship in Anglo Saxon England'.³ Because it was already so well established as the unit of local church government, it was easy for Parliament to impose on it the additional statutory burden of care for the parish poor. As a culmination of various statutes, the Act of 1572 decreed that 'the Justices of the Peace were to take surveys of the poor and then to "tax and assess" all the inhabitants


to provide for them'. To facilitate this it was enacted that Overseers of the Poor should be appointed for each ecclesiastical parish in England and Wales, who would collect the rate within the parish and distributed it among the needy. Overseers of the Poor 'were appointed by the Justices on the nomination of the Vestry'.

The Vestry

Richard Burn, writing of the vestry tells us that 'at the common law, every parishioner who paid to the church rates, and no other, had a right to vote,' and that 'the major part of them that appear' shall set the parish rate. However David Eastwood writes that 'in practice generally only the principal ratepayers' attended, and he describes the parish officers as being 'both self defining and increasingly self-confident'. He also writes that 'the style of parish government is reflected in the pattern of archival survival', which he lists as overseers' accounts, rate books and lists of churchwardens' disbursements. This seems to ignore the bastardy orders, certificates and other documents which show the personal contact with the poor, and which were such an important part of the day-to-day work of the overseers.

---


6 R. Burn, The Justice of the Peace and the Parish Officer (15th edn, 4 vols, 1785), 1, p.337.

7 Eastwood, Government and Community, p.43 and p.28.

8 Eastwood, Government and Community, p.42.
This study has found little evidence of the involvement of the vestry in settlement matters, though it has to be remembered that the documents studied are mainly those generated by solicitors. On rare occasions mention is made of the attorney attending a Vestry meeting to discuss whether an appeal should be made to the Sessions, but the bulk of the material suggests that decisions were left to overseers, helped by churchwardens. The latter were of course technically also overseers of the poor, though it was only occasionally that this technical office-holding was called into being. Bryan Keith-Lucas has written that 'the two offices were clearly distinct, the churchwardens limiting themselves to their own business'. In practice, the Northamptonshire Poor Law Index shows us that it was quite common, particularly in small parishes, for the same man to hold both offices; it was also very common for the churchwarden to have served as an overseer a few years earlier, or in some cases for the previous year. Also there were certain documents such as settlement certificates, which had to be signed by 'the churchwardens and overseers ... or by the major part of them'. Wrightson tells of areas where it was ordered that 'Overseers of the Poor should be selected from only the "most substantial" parishioners'. Probably our views of the divisions of power in a small community depend not only on archive survival but on the personalities of the parishioners we are studying, there

9 The Churchwardens 'were overseers of the poor long before this statute of the 43.El. And hereby they need no formal appointment to the office'. Burn, Justice (14th edn. 1780), 3, p.312.

10 Keith-Lucas, Unreformed Local Government, p.87.

11 Burn, Justice, (14th edn, 1780), 3, p.335.

being, no doubt, as many differences in such matters as there were parish vestries. It seems possible that the substantial members of the parish may have influenced the poor law at parish level, but not a great deal of evidence of this has been found during this study.

Bryan Keith-Lucas has written that 'when, under the laws of settlement, the ordinary people of England were bound by invisible but powerful bonds to the parish to which they belonged, the parish vestry and its officers inevitably mattered in many ways far more than Parliament or the king'.\textsuperscript{13} This was bound to be so. London and the King were remote from the average parisioner. The impression gained during research for this thesis is that it was the character of the individual overseer of the poor rather than the vestry which affected the lives of the very poor. But while the fear of poverty must have ever been with the majority of the people, the settlement laws did not deter people from leaving their parish of settlement.

The settlement laws were first introduced in the early modern period when mobility, while substantial, was probably less prevalent than it was to become after the late eighteenth century, when large number of workers moved into industrial areas such as Manchester. The laws were not structured to deal with such complex social changes, and in Chapter 7 it will be shown that, while still governed by 'settlement', whole communities found their own ways of surviving the problems it could cause.

Many historians state that no-one was allowed to move into a parish unless it was their legal settlement, or at the least would be removed to their parish of settlement immediately they fell on hard times. Chapter 7 will again

\textsuperscript{13} Keith-Lucas, \textit{Unreformed Local Government}, p.75.
show that this was by no means true. Once the settlement laws came into force, among those people not resident in their own legal settlements, none but the comparatively wealthy would have been secure from the fear of removal. Yet it is true that many people received relief from their legal parish while living elsewhere. We shall see how poor people asked for relief, wording their letters carefully in an attempt - very often successful - of making overseers feel that a small payment to a non-resident parishioner was preferable to having him or her return. But when W.A. Holdsworth described the parish as 'the unit of that great system of local self-government which is the foundation of English Freedom', he may have overlooked those enmeshed in the settlement laws and about to be removed, for whom there was probably little in the way of 'liberty'.

Looking back over more than two centuries it is easy to misinterpret the attitudes of people in the past. Some writers at the time suggested that all paupers were lazy and idle, but David Davies stated that the 'charge of mismanagement made against labouring people, seems to rest upon no solid ground'. The research for this thesis has shown that many of the paupers were men and women who had fallen on hard times through illness, accidents or, in the case of many women, through bereavement.

There had for many years been somewhat draconian rules for dealing with vagrants, but it seems possible that in drawing up the poor-law legislation, no account was taken of people who moved legitimately from their parish to seek work. The question was to arise as to who was to

---


assume responsibility, for example, if shortly after moving to a new parish, the father of a family of young children was incapacitated by an accident or illness, and who was to help a recently arrived young pregnant woman whose husband died before her child was born? Sir George Nicholls, writing in 1860, suggests that the settlement laws were passed mainly to help large London parishes such as Westminster and The City, but resulted in a law which affected the whole of the industrious and respectable labouring classes throughout the country.¹⁶

To ensure that no distressed person was left without help, the 1662 Settlement Act laid down that everyone was to have a legal place of settlement where they had a right to assistance. The Act listed various criteria by which a person could establish a settlement, such as serving an apprenticeship in a parish, or owning a property above a certain value. Although details of the various parameters would be changed, the general principle of settlement was to remain unaltered for over two hundred years. Thus a parish was to be responsible for all its settled inhabitants, raising a local poor tax from the rate-payers to fund this help for the needy. The Act also allowed a parish to dispute a person's right to relief as not being a member of that community and to have him or her removed by the magistracy to what was adjudged to be his or her legal settlement.

This apparently simple concept of a personal settlement was to lead to a most convoluted legal system as parishes strove to rid themselves of the unwanted poor, and solicitors and barristers searched for the legal nicety which would prove a poor person legally settled in another place. Over the next two centuries it was to prove extremely expensive for many parishes and was, the

Webbs suggested 'to nobody's ultimate advantage except the lawyers'.

Much has been written about the old poor law by economic historians, yet the Laws of Settlement and their impact on individual families receive no more than a passing mention in the works of many writers. One possible explanation of this may be a scarcity of documentary evidence that covers certain facets of the system. While many settlement examinations and removal orders are to be found amongst the parish collections in county record offices, they usually give us little insight into the way the laws were administered at parish level. Quarter Session records show the results of appeals against removal orders, but give scant evidence of how the case for the appellant parish was prepared. Demands for payment for work undertaken by solicitors in preparing such appeal cases can occasionally be found in parish collections, but these alone give little insight into the working of the entire system.

---


The preservation of an extremely large collection of documents in the Northamptonshire Record Office, designated The Daventry Collection, has given what may possibly be a unique opportunity for the study of the settlement laws and the work undertaken by local solicitors, parish officers and Justices of the Peace. During an in-depth study of the poor law material in this collection, a very large number of documents about settlement cases came to light. These included over fifty barrister's briefs for appeals against the removal of paupers to a particular parish, and a number of Case Summaries, drafted as a request to a barrister for an 'opinion' on the validity of a suggested appeal.

In addition to these documents, many letters have been found, some from barrister to solicitor, others between the solicitors of opposing parishes, together with solicitors' Day Books and Office Diaries. Through the use of this very rich deposit, this study aims to build up a well-documented picture of the day-to-day running of a settlement appeal. At the same time it is hoped to explain the law more fully, and show how it was administered - including how it was sometimes manipulated by the various parties to a case.

The material in the Daventry Collection includes detailed information on actual cases. Together with these, we have evidence of the work undertaken by solicitors and their clerks in an attempt to prove the case of the parish by which they were employed, and the examinations of witnesses and correspondence about cases. These documents give an unusual insight into the workings of poor law settlement appeals, and together cast a very new light on the role of the solicitors, overseers of the poor and the magistracy.
The History of the Daventry Collection

The Daventry Collection is not connected with either the ecclesiastical parish of Daventry or with its civil administration. The Fifteenth Annual Report of the Northamptonshire Record Society for the year ending 31st December 1935 gives us some information about the deposit. Under the heading of Accessions for the year, we find that 'three extensive and from the historical point of view, highly important collections have been deposited during the year'.

The note about the first of these reads:

Messrs W., F. and W. Willoughby (per L.G. Woodridge, Esq.) Solicitors of Daventry. Seventy-Six sacks of documents, dated from the 13th to the 19th centuries. Only a small proportion of these has yet been sorted, but there is much interesting material relating to local government, politics, early railways etc.

The earliest solicitor's name in the collection is that of J. Godfree, found on some accounts dated 1762, 1763 and 1764. Twenty years later Bailey's Directory for 1784 lists seven attorneys in the town. These are John Godfree, H.B. Harrison, Edmund Burton, Edward Lamb, Thomas Freeman, Andrew Miers and Charles Simon Oakden. Staff at the Record Office state that the documents were designated the Daventry Collection because it had seemed impossible to establish the name of the firm which had amassed them in the first place. Though it is not always possible to establish to which firm the books belong,

---

19 Northamptonshire Record Society. Fifteenth Annual Report for the Year ended 31 December 1935.

20 See Appendix No 3.

there is no doubt that the majority of the documents, Day Books and Account Books, are for the firm of Harrison and Burton, as are many bundles of letters. There is also a much smaller quantity of material carrying the name Oakden, who was not part of the Harrison and Burton firm. Some evidence suggests that a firm from Buckinghamshire is also included.

The words 'much interesting material' used in the Annual Report seems an under-stated description of the wealth of material to be found in the Daventry Collection. Firstly there are several hundred manorial documents dating from the thirteenth to the nineteenth century. Many documents deal with enclosures, including some for adjacent counties; papers about turnpike trusts, and the building of canals and railways can be found. Official documents include tax assessments for 1846, electoral registers and other papers about early Victorian elections. There are accounts for the Surveyors of the Highways for 1857-62, for Constables for 1730 and various Militia papers. There are a number of sets of accounts for local tradesmen, such as an important late eighteenth-century collection from a local bookseller which lists the title of the books together with the names of the purchasers. There are also many documents connected with the lives of the local landed gentry, such as estate papers, deeds for purchase and sale of property, personal documents about family settlements and drafts of numerous wills.

Scattered in a haphazard manner amongst all the other types of material, no doubt still in the order in which they were removed from the seventy-six sacks already mentioned, are many hundreds of poor-law papers. These include settlement examinations, removal orders and bastardy papers. Also spread through the collection are the documents which are to be the main basis for this
thesis. Very occasionally barrister's briefs can be found in isolated parish collections; one such case has been found in the documents for Benefield in Northamptonshire and will be discussed in Chapter 5. The discovery of such a large collection in a deposit from a firm of solicitors suggests that other rich collections may be hidden in the storerooms and cellars of other legal firms. This supposition is strengthened by the discovery of how many parishes have few if any surviving poor-law documents. Statistics show that, taken in alphabetical order, of the first hundred pre-1834 Northamptonshire parishes, twenty-two parishes have rate books or account books of the overseers of the poor, but no personal documents such as removal orders or apprentice indentures. Eighteen parishes have personal documents but no rate books, while in only thirty-four parishes do both types of documents survive in the parish collections. The remaining twenty-six had no surviving documents of either type. This data seems to enhance the claim to the importance of the Daventry Collection.

It is clear from the collection that Harrison and Burton were deeply involved in poor-law matters. Not only were they used by various parish officers, but they appear to have been clerks to the Justices. As well as serving Daventry town itself, the firm was employed on various work by the majority of parishes within a six- to eight-mile radius of the town and in some cases for parishes considerably further away. Few parishes within this area are not mentioned as clients in their Day Books, though three appear to have used solicitor Oakden. One exception is the parish of Fawsley, but as this consists almost entirely of the estate and House of the Knightley family, perhaps we can assume that the family looked after its

---

22 I am indebted to Mrs Kay Collins for this information.
own poor tenants as other members of the landed gentry did at that period. Harrison and Burton also represented a small number of parishes in Warwickshire, though many of these were still within six miles of Daventry.

Joan Wake

As this thesis is based almost exclusively on documents found in the Daventry Collection, it seems appropriate to include a tribute to the one person responsible for their preservation.

Joan Wake was born at Courteenhall, Northamptonshire, the second daughter of Sir Hereward Wake, the 12th baronet. Despite her total dedication to history, she showed interest but 'little pride in her genealogy'. In a tribute to Miss Wake written soon after her death, Christopher Brooke wrote that

She was a personality so remarkable as to enter into legend in her lifetime.

The legend was sedulously and delightfully cultivated. She made one believe that she was a brigand - how could one descended from so many Hereward Wakes be otherwise?

When she retired from her position as Honorary Secretary of the Record Society in 1963, she wrote characteristically, 'Of course NRS has been enormous

---

23 This will be discussed later in this thesis.

fun from start to finish - but what gives me real solid satisfaction is the thought that it may have really been of some use to English History'.

As a member of the Northamptonshire aristocracy, she was in an unique position to persuade the owners of the many stately houses in the county to satisfy her curiosity about their records. From this it was a small step to impress them with the historic importance of their collections.

On hearing that the firm of W., F. and W. Willoughby of Daventry was about to dispose of centuries of old papers, she immediately contacted them and offered to remove the entire collection. In Peter Gordon's book about the Wake family, there is an old photograph of Miss Wake herself, man-handling a very large sack into a waiting lorry. Professor Gordon's book leaves us in no doubt that she was a great influence in making the owners of the old estates aware of the importance of their documentary collections. It is surely in no small part due to her that the Northamptonshire Record Office owes its superb holdings. Possibly as a result of the rich historical sources she had found at Daventry, we learn from Professor Gordon that she contacted solicitors throughout the Midlands in an effort to stop the destruction of other collections.

---


The Town of Daventry and its Surroundings

The material in the Daventry Collection is mainly connected with the Daventry area of Northamptonshire and the adjacent parishes of Warwickshire. Daventry is one of the four ancient boroughs in Northamptonshire, though the administration of the poor law within its bounds was in no way different from that of a small village parish. Daventry received its Charter in 1255. Situated in the centre of England, it is reputed to be further from the sea than any other town in the country. It lies on the westward side of the Northampton Heights, the long belt of upland running from the south-west towards the north-east, close to the county boundary. Northamptonshire is part of the Midland plain, but this area which sees the birth of several great rivers, forms the watershed between east and west. From here run the head-waters of the Avon which eventually empty into the Bristol Channel. But running towards the Wash, the River Nene and the Great Ouse also rise only a few miles from Daventry.

The town is close to the old Roman road to Wroxeter which was turnpiked following an Act of 1706. The Grand Junction Canal, which passes very close to the town, was opened in 1799. A Trade Directory dated 1791 describes the town as a major coaching centre 72 miles from London. It then lists many towns such as Coventry, Northampton and Rugby all of which were connected to Daventry by turnpike roads. Regular coaches ran from the town to Liverpool, Birmingham, Chester, Shrewsbury and Cambridge. J.M. Steane suggests that as many as eighty

---


coaches passed through the town each day at the height of the coaching era.\textsuperscript{31}

The area is good agricultural land. Statistics taken from the 1811 census show that in the majority of villages in the area, a large proportion of the population worked on the land. There are a few notable exceptions. Daventry itself had only 143 families listed as working in agriculture, but 413 working in trade, manufacture or handcrafts, an understandable division of labour for the local town. However Weedon Beck had only 45 in the first category but 75 in the second, plus 108 who were said not to be included in either of the other two classes. This no doubt was due to the proximity of the great army depot.\textsuperscript{32}

Several parishes showed a high proportion of families working in trade, manufacture or craft work in 1811

<table>
<thead>
<tr>
<th>Parish</th>
<th>Families Employed in Agriculture</th>
<th>Families Employed in Trade, crafts or manufacture</th>
<th>Families in Mixed Occupations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Buckby</td>
<td>104</td>
<td>233</td>
<td>38</td>
</tr>
<tr>
<td>Weedon Beck</td>
<td>45</td>
<td>75</td>
<td>108</td>
</tr>
<tr>
<td>Crick</td>
<td>93</td>
<td>121</td>
<td>4</td>
</tr>
<tr>
<td>West Haddon</td>
<td>63</td>
<td>127</td>
<td>4</td>
</tr>
<tr>
<td>Welford</td>
<td>81</td>
<td>120</td>
<td>5</td>
</tr>
</tbody>
</table>

In the parishes on the Warwickshire side of the county boundary, agricultural employment predominated, except


\textsuperscript{32} In 1803 an Act of Parliament was passed for the building of the Royal Military Depot for the service of His Majesty's Ordnance. This included Barracks for 500 men, where a regiment of the line was generally quartered for the protection of the place. G. Baker, \textit{The History and Antiquities of the County of Northampton} (2 vols, 1822-1830), 1, p.452.
for the town of Rugby.

The major industrial development in the county was in boot and shoe manufacture. There was a great increase in the demand for Northamptonshire shoes around 1793, due to the war with France. Between 1797 & 1802, in Daventry parish church, 10% of all baptisms were of the children of shoemakers, rising to 18% by 1809-1812. It seems that there was overproduction of boots and shoes during the hostilities, which resulted in a glut when the war ended.

Agriculture and enclosure

Statistics taken from the Northamptonshire Poor Law Index show that, while there was a great rise in pauperism throughout the second half of the eighteenth century, it was not until after 1814 that the most spectacular increase occurred. It does not seem that this was a direct result of enclosure. Daventry itself was not enclosed until 1802, but details of the thirty parishes in the immediate vicinity encircling Daventry show that six were enclosed before 1700, and twelve before 1770. The remaining twelve were enclosed between 1770 and 1780. These details are taken from D. Hall, The Open Fields of Northamptonshire (1995).
county took place between 1760 and 1792.36

The great rise in the number of removal orders listed in the Poor Law Index does not begin until 1814, when the numbers were augmented after the cessation of hostilities with France with the consequent demobilisation. As Hobsbawn and Rudé stated, the end of the Napoleonic War 'turned the potential crisis of agriculture into an actual one: an artificial wartime boom into a correspondingly acute and prolonged recession'.37

A considerable number of craft industries were common in the county in the second half of the eighteenth century, such as wool carding and weaving, stocking making and lace making.38 In a trade directory for 1791 a number of craftsmen are listed in Daventry, such as silk framework-knitters, curriers, flax-dressers, and whip makers, as well as the more usual occupations such as wheelwrights and carpenters. It seems possible that these, plus the increase of work in the shoe trade, helped employment in the area during the Napoleonic Wars; the overproduction of shoes and boots during that period may have accentuated unemployment after 1814, but the trade helped it to recover in due course. Another agricultural factor which helped the area was that 'in a tract of country, about Charwelton, and between Daventry and Banbury considerable dairies are kept, of 20 to 40 and even to 60 cows each'.39 This appears to have been a local specialisation of considerable importance.

36 Greenall, Northamptonshire, p.83.
39 W. Pitt, General View of the Agriculture of the County of Northampton (1809), p.199.
Before attempting to analyse the cases found, it was necessary to establish the reasons for the removal of each pauper. This did not take place just at the whim of the overseers, though it appears that in some cases this may have influenced the action taken. No parish could remove a pauper unless it could be established that he or she was not settled in the parish.

To facilitate study of the various ways in which settlement could be gained, it was decided to divide the various briefs and case summaries into the main categories. However in many instances it became clear that several aspects of settlement could be found combined in one case. An example of this is that of James Pettifer, who at first worked as a servant but later became an apprentice.\footnote{This case will be dealt with in Chapter 1.} If a new settlement was gained, the previous one was superseded, because as Keith Snell has reminded us, 'every person had only one legal settlement'.\footnote{K.D.M. Snell, 'Settlement, poor law and the rural historian: new approaches and opportunities', \textit{Rural History} 3 (1992), p.147.} A solicitor, trying to rid a parish of an unwanted pauper family, often gave details of an earlier settlement in the hope of proving that it had not been superseded.

Although all the briefs were connected with the Poor Laws, several were not directly concerned with settlement. In other cases, two briefs may have survived for the same appeal. After omitting these, we are left with a final total of fifty-nine cases.

The following list shows the number of the main settlement-related phenomena documented in these remaining briefs or case summaries.
The total of all these elements amounted to 139.\(^{42}\)

It is hard to compare such a breakdown of settlement phenomena with evidence taken from the Poor Law Index, where the only documents that can give similar information are the settlement examinations. However, the briefs and case-summaries include many more such settlement-related circumstances than the majority of examinations, as fuller enquiries had been made into them, and a wider range was likely to have been recorded. Also it is natural that the cases which resulted in an appeal would be more complicated than the norm. The predominance of cases resulting from service and apprenticeship - always the two dominant modes of gaining a settlement for men - is of course typical of the normal distribution found in examinations.

The Typicality of the Daventry material

As part of this research, it seemed important to ascertain whether the methods of dealing with Quarter Sessions appeals against removal orders were standard throughout England, or typical only in the local context of the East Midlands. To establish this, letters were

\(^{42}\) The classification 'Strange or unusual elements' covers such events as official documents giving conflicting evidence, cases of magistrates apparently acting incorrectly, or similar unexpected happenings.
written to ten County Record Offices in the north-west and the south-west asking if they held any similar solicitors' deposits. The replies received seemed to establish that such archived collections are rare for the period before 1834. Subsequent visits suggest that, for the period in question, the Daventry Collection is not duplicated either in quality or quantity in any of the archives visited. At the Cheshire Record Office a solicitor's account book showed the firm establishing that a bastard child was not settled in Mouldsworth, and several instances were found of legal work undertaken to help a parish faced with a pauper brought to them by a removal order. Similar material was found in Worcestershire, while in Devon, seven case summaries for barristers opinions were found. On visiting the Dorset Record Office it was interesting to hear that, after receiving the enquiry, the archivists had been surprised to find poor law material about settlement cases in a deposit from a firm of solicitors.

These visits showed that, where poor law documents were located, the material confirmed that the work undertaken by the solicitors and overseers in those other areas was very similar to what has been found in Northamptonshire and the adjacent counties.

The Neglected section of the Poor Law.

Bryan Keith-Lucas has written that 'a tenth of the population were paupers', but it seems certain that a much larger proportion of every community must have been aware of the effect that the laws of settlement could have on their lives if they fell on hard times. It is remarkable to find that little detailed study has been

---

43 Cheshire CRO DPB/1021/1.
made of the workings of the system. J.S. Taylor, in his book on settlement, has done more than anyone else to throw light on how paupers fared.45

This thesis hopes to advance understanding further by explaining the everyday working of the system. By taking a legalistic approach it will aim to clarify the laws governing settlement. It is hoped that it will supply a gap in the historiography of the poor law, perhaps acting for historians rather in the manner that the handbooks of the Old Poor Law clarified the laws for the Justices, lawyers and overseers of the period.

It is important to define the word 'pauper'. The Oxford English Dictionary gives us the Latin Pauper, of which the English translation is poor, but during the period under discussion it had taken on the more specific definition of one in receipt of help from the parish poor rate. This being so, the families which were given small sums of money or perhaps food from a parish charity were not classed as 'paupers' unless they were also given parish money.

The method to be used to explain the Laws of Settlement will be an analysis of various cases connected with the removal laws, and the all too frequent subsequent appeals heard at Quarter Sessions and at the Court of King's Bench. The rare nature of the Daventry Collection, in which no piece of paper was apparently considered too small or insignificant to be kept, is such that many of the solicitors' working papers have been found. As the documents cover the period from about 1750 onwards, it is hoped to reconstruct the actual circumstances of many cases, together with details of the work of Justices of the Peace, barristers, solicitors and overseers of the

poor. This legal dimension has not been covered in any previous historiography.

A chapter will be devoted to each of the most important ways of gaining a settlement: apprenticeship, service for a year, renting or owning property, and settlement by birth or marriage. Chapter 5 will deal with the problems connected with settlement certificates, and Chapter 6 will discuss some unusual cases. By this method it is hoped to elucidate the laws, and show how they were interpreted in practice.

The final chapter will be devoted mainly to the work of the people responsible for running the poor law: the magistrates, the solicitors and the overseers of the poor. However the last section of that chapter will throw some light on the question of why people became paupers, and on the problems which faced them.

This thesis is in no way an attempt to discuss the economic consequences of the administration of the poor law, nor is it aimed at defining the causes of poverty. The aim is to explain the legal structure of the settlement laws and to show their impact on the individual pauper families which came into contact with them.

In the preface to his book on pauperism, J.R. Poynter wrote that in transferring his thesis into a book, 'which concentrated attention on ideas rather than practice', a result has been 'the virtual exclusion of the poor themselves from the story'. By basing this present thesis on actual legal case papers for settlement appeals, it is hoped to humanise discussion of the laws, and illustrate the personal circumstances of many different people documented in the Daventry Collection.

---

This approach should help to explain the complexities of the settlement laws, both as laid down by parliament, and after their modification by case law during the hearing of appeals by judges of the Court of King's Bench. This will provide the necessary detail and correctives for the historiography which shows ignorance of the laws, all too often suggesting, for example, that a person's settlement was simply to be equated with place of birth.

No attempt will be made to judge the settlement laws by modern standards. This thesis aims to produce a more factual and procedural account by utilizing this rich source to throw new light on the settlement laws and their effects on the people of the Daventry area of Northamptonshire. As J.S. Taylor pointed out, 'there is no modern exposition of the pre-1834 settlement laws; nor does any book consider their significance'.\textsuperscript{47} This study aims to help fill the gap. If it contributes towards laying the foundation for future historians to evaluate this important dimension of the Old Poor Law, it will have fulfilled its purpose.

\textsuperscript{47} Taylor, \textit{Poverty, Migration and Settlement}, pp.3-4.
Chapter 1

Settlement by Apprenticeship

To demonstrate the working of the appeal system and how evidence was assembled, it is proposed to make a full analysis of one particular case for which a large number of papers exist. The documents used in this study are the most comprehensive set found connected with a specific settlement appeal case, and have made it possible for a very full picture to be gained. Subsequent cases to be discussed will not be dealt with in such depth. As this case rests on the apprenticeship of the husband of the pauper, this will be followed by a study of several other cases likewise resting on apprenticeship.

There were basically three types of apprenticeship. One was a private apprenticeship where the apprentice or his or her family paid a premium to the master to teach his craft. After 1710 a stamp duty was imposed on the premiums paid.

If the indentures were legal and the tax duly paid, the apprentice would gain a settlement in the parish in which the apprenticeship was served after a period of forty days. If the master moved to another parish, the apprentice would gain a new settlement there after forty days residence.¹

¹ Nolan quotes Burn as saying that an apprentice 'may gain as many settlements in an apprenticeship as there are sets of forty days in the term of it'. M. Nolan, A Treatise of the Laws for the Relief and Settlement of the Poor (2 vols, 1808), 1, p.448.
In a parish apprenticeship, the overseers of the poor placed a child from a poor family, though not necessarily a pauper family, while in the third type, the premium was paid by a recognised charity. No tax was charged on either the parish or the charitable apprenticeship, but the child would still gain a settlement after forty days residence.

As will be seen, there were many minor details connected with the law, but these will be discussed as examples are studied.

The Case of Elizabeth Bosworth, 1782

On January 28th 1782, two Justices of the Peace for the County of Middlesex signed an order removing Elizabeth Bosworth and her son John, aged about six years, from South Mimms to the town of Daventry in Northamptonshire. Neither her examination nor the removal order appear to have survived. The evidence we possess comes from the papers connected with the appeal by Daventry against the order. From these we find that Elizabeth was the wife of Samuel Bosworth who had 'gone away and left her'.

In a letter dated 7th May 1782, written to H.B. Harrison, attorney for the parish of Daventry, we are told that Elizabeth Bosworth states that

she has often heard her husband affirm that he was bound apprentice to Tho\(^{2}\) Bourn of West Haddon, that he served part of his time ...that he and his Master disagreed & Bourn then delivered up his indentures.

She also gave evidence that he had told her that shortly

\(^{2}\) D8214.
after this he went to Daventry with his brother, John Bosworth, who arranged that he should serve the remainder of his time with George Checkley. She said that her husband served one full year with Checkley. The letter ends by saying that the writer has shown the examination of John Bosworth to Mr Thomas Adams who has given it as his opinion that the legal settlement of Samuel Bosworth is Daventry 'but would have you act in this business as you think proper'.

The letter finishes

Mrs Harrison's Love to you & the family are all very well,

I am Dear Sir,
Your Most faithful & affect. Clerk,
Thos Worley

Daventry 7th May 1782

We have no copy of the examination of John Bosworth, the elder brother of Samuel Bosworth. However in the Daventry Parish material we have H.B. Harrison's account with the Churchwardens and Overseers of the Poor in connection with this case. An the entry for 6th May reads

Journey Mr Worley to Denton, beyond Northampton, to examine Paupers Brother respecting his birth and apprenticeship etc.
Horsehire and expenses £0-13-4

This one assumes is the visit to John Bosworth who of

---

3 It seems possible that Thomas Adams is the man who signed a poor law document in 1817 as Justice of the Peace and Bailiff of Daventry. D62/7.

4 96p/326. A rough draft of this account, D7316, does not differ materially from the final document sent to Daventry.
course should not have been described as the pauper's brother, but the brother of the pauper's husband. Later we shall see that a subpoena was served on 'paupers brother Mr John Bosworth of Denton'.

As Samuel Bosworth's wife seems to have come from South Mimms and so would have been unlikely to have a brother in Northamptonshire, it seems fair to assume that the clerk entering up the account made the not unnatural mistake of speaking of Samuel Bosworth as the pauper. This mistake is repeated in other documents about the case - as indeed in the note about the subpoena.

Another important document is the examination of Thomas Bourn. It is worth noting that this is not an official examination signed by Justices, nor is it on a printed examination form. It seems certain that this was an examination by the solicitor or one of his clerks, taken for the purpose of the appeal. However the document is couched in the normal official phraseology.

The Examination of Thos Bunn. This Examinant says that Samuel Bosworth lived with him between 5 & 6 years.

The examination goes on to say that Samuel Bosworth's father was to give Bourn £10 in timber in return for which Bourn was 'to learn him his Trade as a wheelwright'. After Samuel Bosworth started to live with him, Bourn began to take some of the timber, taking about £5 worth in all before Bosworth left him.

He also states that

Samuel Bosworth was born at West Haddon - had one Yard land there & kept it in his own occupation Paid to Church & Poor.
The information about the land must presumably apply to the father of the pauper's husband. Despite the somewhat ambiguous nature of this paragraph in Thomas Bourn's evidence, we learn from it that Samuel Bosworth was the son of a man of some substance. This might have been deduced from the fact that Samuel was not a parish apprentice though the father's offer of timber in lieu of a premium on the signing of the indentures, suggests that he was not wealthy. However it is not irrelevant to suggest that this arrangement may have been an effort to avoid paying the tax.

We have contemporary evidence in the accounts that the indentures were not enrolled.

**September**

Attending at the Stamp Office in Lincolns Inn to search if Paupers Indentures of Apprenticeship were inrolled 3/6

Paid for such search 4/2

The indentures should have been enrolled despite the fact that no actual premium was paid. If goods in lieu of money were given, tax was payable on the value of the goods. It seems quite clear that because of this, Samuel Bosworth's indentures of apprenticeship to Thomas Bourn were not legal.

Apparently Bourn had kept some contact with his old apprentice as he gives evidence that he knew that Samuel Bosworth had gone to work for Checkley in Daventry. He had also heard from John Bosworth, the brother, that Samuel lived with Checkley as a journeyman and that Checkley had agreed to hire him for a year for the wages of £3-3-0. He added that Samuel worked the full year and received his full wages. He states that it was between '25 or 26 years since' that Samuel Bosworth had lived
with him and that he was then only about thirteen years old, and that it was 'about twenty years since he lived with Checkley'. He also states that

all Bosworth's fathers children were baptised at West Haddon and that Bosworth has lived at London & upon & down the Country ever since not having settled any where.

This examination is signed Thomas Bourn, but despite this signature, most of the documents found gave his name as Bunn.

In view of Bourn's evidence, a search was made for a possible will of the pauper's father-in-law. John Bosworth senior, was a farmer of West Haddon. There can be no doubt that this is the right will. Firstly we have mention of his son John Bosworth. This agrees with evidence given in the Barrister's Brief for this case which mentions

Mr John Bosworth, paupers husbands eldest brother who after the death of his father considered himself as a kind of Parent of and Guardian for his brother.

The will also mentioned Samuel who was to receive £10 when he reached the age of 21. In the Brief we read that in 1782 he was approximately 42 which makes him 17 in 1757, the time of the writing of the will and of the father's death. This also fits with the fact that it was his brother John who arranged his transfer from Thomas Bourn to George Checkley. The will also supplies us with the explanation of why Thomas Bourn had kept in contact with the Bosworth family as in it we read that 20/- was left to the daughter Elizabeth, wife of Thomas Bourn of
West Haddon, Wheelwright.  

This information helps to explain the irregular apprenticeship of Samuel Bosworth and the apparent willingness of Bourn to release him under the full term of seven years. At no time during the case are the indentures for this apprenticeship produced - it is in fact suggested in one document that they may have been destroyed. In the will we also find mention of another son-in-law, George Judkins of Whilton, carpenter.

Work undertaken by the solicitor

The detailed account listing the work undertaken by the solicitor for Daventry reads

touching their Appeal against the order made for the removal of Mary Bosworth from South Mimms to Daventry'.

The case under discussion is of course about the removal of Elizabeth Bosworth from South Mimms. However the contents of the accounts show that they are for the same appeal, such as the entry for April 12th, to take examination of Thomas Bourn Paupers husbands Brother in law and with whom he served part of his Apprenticeship.  

The accounts show the parish officers of Daventry as debtors to H.B. Harrison. This is Henry Bagshaw Harrison who appears to have been the senior partner in the firm

5 Will of John Bosworth of West Haddon, farmer, 17th September, 1757. Archdeaconry of Northampton.

6 The rough copy of the accounts also gives the name as Mary Bosworth.
of Harrison & Burton of Daventry.

In February 1782 the accounts list his

Attendances upon the Parish Officers in consequence of Pauper being brought by order from South Mimms to Daventry perusing said order, advising them thereon and taking Paupers examination. 6/8

The second item in the accounts reads

Attending Mr Checkley very often half a Dozen times at least and enquiring of him what he knew of the Settlement of Samuel Bosworth Paupers husband who by virtue of his having served said Checkley had been adjudged to have gained a Settlement.

The charge for this interview was only 3/6 which is perhaps explained by part of the letter signed by Thomas Worley. In it he writes

I also went to Checkley but he was gone out of town & will not be at home till night when I will call upon him again & send you his Examination.

The lower fee for this examination is presumably due to the clerk's time being worth less than that of the solicitor himself.

Unfortunately Checkley's examination has not been found. It is perhaps significant that not only has this document not survived but also there is no mention of Checkley in the Brief, nor was he to be called to give evidence in court. One is forced to consider whether what he said was
not welcome to the Parish Officers of Daventry. It is tempting to wonder whether his evidence corresponded with that of Thomas Bourn who stated that Checkley took Samuel Bosworth into his service as a journeyman for a wage of £3-3-0 for a year. On the face of it this evidence alone seems to destroy any chance of Daventry proving that Samuel Bosworth had not gained a settlement in their town. If George Checkley was prepared to give similar evidence, solicitor Harrison may well have taken care to omit Checkley from his list of witnesses.  

The next item in the accounts is for making a copy of the removal order 'to send to my Agents in order for them to enter an appeal thereto in Court' for which work a charge of 3/6 was made. Counsel's fee for moving the appeal was 10/6 plus a further 2/6 for his clerk. The accounts point out that it has been impossible to find the pauper's husband and so a notice to adjourn the appeal had to be drawn up and served on the other parish. The solicitor's charges also included 3/4 for attending the sessions, 5/- for an order of adjournment and 1/6 for making a copy and service of the same. Presumably because of the long distance between the two parishes, an affidavit had to be drawn up in which Mr Burton gives evidence about the absence of material. The cost of this and having it sworn came to 6/7. Yet another affidavit had to be sworn to prove that the notice of adjournment had been served on the South Mimms officers costing another 6/7, while for attending the Court of Session to hear the adjournment moved, Mr Harrison charged 6/8.

Mr Harrison, his partner Mr Burton and his clerks continued to try to find evidence in support of their case. On 15th March Mr Burton journeyed to West Haddon to

---

7 As will be seen later in this thesis, hiring for a year would have gained Samuel Bosworth a settlement in Daventry.
make enquiries about the birth and apprenticeship of the pauper's husband and to search the church registers for his baptism 'the same could not be found on account of his being a Dissenter'. His charge for this was 13/4 plus 6d paid to the Clerk of the Parish for the search of the register. The same document shows that on 12th April Mr Burton visited West Haddon again and then went to Brockhall to speak to Samuel Bosworth's sister. This must have been Mary, the wife of the George Judkins of Whilton mentioned in the will of John Bosworth, senior. The entry in the draft accounts for Burton's journey originally read 'to Whilton' but this has been crossed out and Brockhall substituted. Also the Bishop's Transcripts for Brockhall show the baptism of a daughter of George & Mary Judkins some years before the date of this appeal case.

On 6th May, as has already been shown, the accounts show that Mr Worley visited Denton 'to examine Paupers brother respecting his Birth and apprenticeship'. The accounts also show that in September a subpoena was obtained and Mr Worley journeyed to Denton to serve it on John Bosworth requiring him to give evidence at the hearing.

The two barristers mentioned in the accounts were Mr Silvester and Mr Leckmere, receiving £3-3-0 and £1-1-0 respectively, both their clerks being paid 2/6. It is interesting to see that they are not the usual barristers employed in Poor Law cases by the firm of Harrison and Burton. This was presumably because the case had to be heard at the Middlesex Sessions. 

8 Settlement cases had to be heard at the Quarter Sessions for the area in which the removal order was signed. R. Burn, The Justice of the Peace and the Parish Officer (14th edn, 4 vols, 1780), 3, p.519.
lived in the Midlands. No doubt Mr Silvester and Mr Leckmere were from London.

The Barrister's Brief

Another important document which has survived is the Barrister's Brief for the Appellant parish of Daventry. Firstly this gives details of the removal order and states that Daventry had duly entered a request to appeal against it at the next sessions. The Case for the Appellants is then set out. We read that the pauper's husband is about 42 years old, and was born in West Haddon, Northamptonshire, where his father had occupied a considerable farm for many years. The parents being dissenters, none of their children was baptised. When the pauper's husband was about thirteen

his father bound him apprentice to Thomas Bunn, a Wheelwright at West Haddon, and agreed to give him Timber to the value of Ten pounds.

After Samuel Bosworth had served his master for about five years, his father died. At this point we find some evidence slightly different from that given in the other documents.

his Master having very little business either to employ or improve him in the knowledge of his trade, Mr John Bosworth ... being uneasy at his situation and desirous that he should learn his trade applied to Bunn to release him from his Apprenticeship and to give up his Indenture which he consented to and accordingly did and

---

9 In a solicitor's account book there are several entries in March and April 1793 showing journeys to Warwick and Coventry to visit one of the barristers. D3446.
the Indenture was thereupon given up or destroyed.

The Brief goes on to describe how John Bosworth approached George Checkley 'a Wheelwright of great business at Daventry' and asked him to take his brother and teach him his business. Checkley agreed to take him for a year

but instead of Mr Checkley's paying Pauper as a Servant or as a Journeyman at the usual rate of six or seven shillings a week or the annual Wages of from fifteen to Twenty pounds a Year, Mr John Bosworth agreed to give and actually himself paid Checkley One Guinea to learn his brother the Trade.

This is a crucial piece of evidence, suggesting that Samuel Bosworth was still learning his craft and was not yet working as a Journeyman: but it is in direct contradiction to the evidence of Thomas Bourn who describes Samuel's service with Checkley as working as a Journeyman for a wage of £3-3-0.

The Brief states that after his year working for Checkley, Samuel Bosworth went south 'in the Neigborhood of London' but did not at any time 'hire himself for a Year'. In January 1775 the Pauper and Samuel Bosworth were married at South Mimms 'where she then lived' and stayed together until 'Christmas last' when he ran away and left his wife and son.

The brief then discusses the legal implication of these facts with regard to Samuel Bosworth's place of settlement.
As Checkley received a Guinea with Pauper as a Consideration for teaching him his trade and as this agreement was solely with a view to learn or to perfect him in the knowledge of his Trade, Appellants submit that this is no ground or pretence for a Settlement at Daventry or such a hiring and service within the meaning of the Act as gives a Settlement, and as the Indentures were given up by the Master before the Apprentice went and lived with Checkley, he could not live at Daventry or serve Checkley under those Indentures.

The Brief then deals with the question of whether this is a transference of the apprentice from Bourn to Checkley. It is suggested that the Respondents may claim that Samuel Bosworth was under age at the time he left Bourn and therefore could not legally consent to the 'discharge of the apprenticeship'. To counter this, the Appellants point out that Bourn was not consulted about the transfer of Samuel Bosworth to George Checkley. The Brief then seems to demolish the Appellants' case by stating that if the transfer to Checkley were under the original apprentice indentures, then the settlement of Samuel Bosworth would be the place in which he spent the last 40 days of his apprenticeship 'which place the Respondents must find out'.

This seems a very dangerous point for the solicitor to have made. At no point has proof been found of Bosworth's age when he was apprenticed to Bourn nor of exactly how many years he served with him. If it could have been proved that the boy served Bourn for a full six years of a seven years apprenticeship, then a legal apprenticeship would have terminated while he was employed by Checkley at Daventry. Certainly, in his examination, Bourn does not suggest that he gave specific agreement to Bosworth
working for Checkley, so again this period in Daventry might have been taken as not giving a good settlement.

The brief states that the apprentice indentures cannot be found though they are considered to be immaterial as Samuel Bosworth was apprenticed within the parish of his parents' settlement, and of his birth. It is also pointed out that the indentures would be void if found, as no duty was paid for the timber which the father gave to Thomas Bourn as a premium. This last point seems much more valid than some of the other arguments made in the brief.

It is suggested that if Thomas Bourn gives evidence for the Respondents, the barrister should object to his evidence on the grounds that he is a parishioner of West Haddon

and therefore interested to Fix Pauper at Daventry, for if not there his Settlement most probably is at West Haddon.

If the Court allows Bourn to give evidence despite this objection, the barrister is directed to

examine him strictly, for of his own knowledge, he knows nothing of the Terms between Checkley and Paupers husband.

Yet we still have the signed testimony of Thomas Bourn in which he states the terms and the wages arranged between John Bosworth and George Checkley. Possibly the solicitor considered that this was not allowable in law as being hearsay evidence, but the instruction to the barrister seems to suggest a degree of nervousness as to what Bourn might say in court. One has to admit that at first reading it seems unlikely that the Master should have
been aware of what happened to Samuel Bosworth after he ceased to be his apprentice, but having discovered from the will that Bourn was in fact Samuel's brother-in-law, which is confirmed by a note in the accounts, one feels that the court might well have accepted Bourn's testimony.

The Brief states that the Appellants have been given notice by the Respondents to produce the Pauper, Elizabeth Bosworth, so that she may give her evidence to the court. She is expected to say that her husband told her that he served for a year at Daventry 'but she can't say he ever told her in what manner or in what Capacity he lived there'. If the Respondents manage to 'fix Paupers husband at Daventry' the barrister is instructed to demand a copy of the marriage entry from the parish registers of South Mimms to prove that Elizabeth is legally married to Samuel Bosworth,

the rule being that the best Evidence the fact is capable of shall in all cases be given and the Entry is better than her Testimony, for if married, the Marriage might be void for want of the proper form and requisites.\(^\text{10}\)

The brief shows that after proving that the notice of appeal was duly served on the parish officers of South Mimms, the only witness the appellants intend to call is John Bosworth 'Brother to Paupers husband'. He, we read, will give evidence of Samuel Bosworth's birth at West Haddon, his apprenticeship to Bourn and the discharge of those indentures. He will also state that he placed his brother with Checkley

\(^{10}\) The parish registers for South Mimms show that Samuel Bosworth of West Haddon, Northamptonshire married Elizabeth Carter of South Mimms 20th January 1775.
for the purpose of learning him the trade & paying him a Guinea, and if necessary that there was no Duty paid for the timber given.

The Draft Brief

As well as the Barrister's Brief already mentioned, a draft brief for this case has been found. Most of this is identical to the fair copy but one slight difference is the statement that, as the time Samuel Bosworth spent with Checkley was

    with a view to learn or perfect him in the knowledge of his trade, the Appellants submit that this is no grounds for a settlement in Daventry.

It seems that Mr Harrison considered this an important case because the accounts tell us that both he and Mr Burton travelled to Middlesex to enter a notice of adjournment of the appeal due to the absence of Samuel Bosworth. At South Mimms the only information Mr Burton could find was that 'he was at or in the Neighbourhood of Highgate'. Two days later Mr Harrison and Mr Burton both travelled to Highgate but 'could obtain no information'. These journeys cost the parish of Daventry £1-15-2 despite the fact that they 'Dined at Highgate but will charge nothing for expenses'.

The costs of the appeal

The most expensive items in the accounts are the barrister's fees, £3-5-6 for Mr Silvester, the senior

\[11\] D9817.
barrister, and £1-3-6 for his junior, Mr Leckmere. Drawing the Brief for Counsel cost £1 as did the 'Two fair Copies for Council'. Otherwise all other items are less than £1 - many less than 10/-. The final sum amounts to £19-13-2. An extra item of £8 listed as 'Barby Account' is added to the total. This presumably is Harrison's charges for Daventry's appeal against the removal of John Roberts and his family from Barby to Daventry. The solicitor must have been working on both of these cases at the same time.

The grand total is given as £27-13-2.12

This is a very large sum for the parish of Daventry to have to pay. The accounts show that although both cases had finished by September 1782, the solicitor only received the first instalment of £15-15-0 on the 18th of March 1783, with the balance being acknowledged by H.B. Harrison as paid of the 10th of May of the same year.

On the legality of Bosworth's apprenticeship

It seems clear that Samuel Bosworth's supposed apprenticeship to Thomas Bourn was illegal. R. Burn in the 1780 edition of The Justice of the Peace and the Parish Officer makes it quite clear that an apprentice indenture that is not 'stamped and the duties paid' cannot be used as evidence in a court of law.13 However there is an interesting case quoted by Nolan where, despite the fact of having given him relief and 'otherwise treated him as a parishioner for the last twelve years', a parish appealed against a removal order

---

12 See Appendix No.1 for a full transcript of the accounts.

13 Burn, Justice, (15th edn, 1785), 1, p.61.
on the grounds that the man's indentures were not taxed.\textsuperscript{14} The parish 'proved by the register and deputy controller of the apprentice duties that it did not appear that any such indenture had been stamped'. However in King's Bench it was decided that no adequate proof had been established and that the Court would assume that the indentures were legal 'for the presumption of law is to be favoured; and against negative evidence by the comptroller may be set the possibility of an irregularity in the return made to the officer'.\textsuperscript{15}

As Bosworth's apprenticeship to Thomas Bourn was in the parish in which he inherited a settlement from his father, this fact did not affect him. However when his brother arranged for him to go to George Checkley of Daventry, the indentures became of the utmost importance. In his examination, Bourn states that Checkley agreed to hire Bosworth for a year for £3-3-0. But the evidence of John Bosworth was that he had given Checkley one guinea so that his brother could be taught his trade: this evidence certainly suggests that Samuel was in the relationship of apprentice to his new master. This being so, as he had not been legally apprenticed to Bourn, and no indentures were signed for his period with Checkley, he gained no settlement in Daventry.

Nolan wrote that 'although the term apprentice is not made use of, yet if the party gives a premium to the Master who engages to teach him some trade or mystery, it is a contract of apprenticeship'. Nolan quotes a specific case where a boy was sent to work with a carpenter for

\textsuperscript{14} Nolan, \textit{Relief and Settlement}, 1, p.469.

\textsuperscript{15} Bearing this judgement in mind, a search was made of the modern index of the Apprenticeship Books at the Public Record Office. No entry for Samuel Bosworth was found.
four years to learn the trade.\textsuperscript{16} The Master received £4-4-0 but no indentures were signed and the King's Bench considered that this was clearly an attempt to evade the tax on what was clearly an apprenticeship and so no settlement was gained.\textsuperscript{17}

Who won the case?

The result of this appeal is not marked on the outside of the brief as is the normal custom but one item in the accounts reads

\begin{quote}
Paid Court fees upon Allowance of Appeal
and for the order of the Court to quash the order of the Justices 8/6
\end{quote}

The Middlesex Sessions of the Peace and Oyer and Terminer Book for the 12th September 1782 reads

\begin{quote}
Elizabeth the wife of Samuel Bosworth (who has gone away & left her) with her son John aged upwards of six years ... ordered that the Churchwardens and Overseers of the poor of the parish of Daventry in the County of Northampton do forthwith convey and deliver back the said Elizabeth Bosworth and her said son (together with a copy of this order) unto the Churchwardens and Overseers of the poor of the parish of South Mimms or to some or one of them who are hereby required to receive and provide for the said Elizabeth Bosworth and her said
\end{quote}

\textsuperscript{16} Nolan, Relief and Settlement, 1, p.412.

\textsuperscript{17} Nolan states that a servant hired for general service for a year but receiving a low wage in order to learn a trade, may still gain a settlement through the hiring for a year. Nolan, Relief and Settlement, 1, p.415.
son until they can free themselves from the charge thereof.\footnote{18}

The wording of the order seems to suggest that the Court considered that South Mimms was not in fact the legal settlement of Samuel Bosworth. No doubt - as was suggested in the Barrister's Brief - the court considered that her legal settlement was most likely to be West Haddon. But the law was such that the Quarter Sessions could not make an order for a removal to West Haddon. They were only able to order that Elizabeth and her son were not to be removed to Daventry.

An order was made against South Mimms for £2-5-0 to be paid to Daventry for their costs in maintaining Elizabeth Bosworth and her son during their removal. This of course did not compensate Daventry for costs connected with the appeal.

The Case of George Thornton, 1790

About eight years after the Bosworth appeal, Daventry was again to be the appellant in a case which hinged on the legality of apprentice indentures. George Thornton was about 35 and stated in his examination that he was born at Sutton Cheney in Leicestershire.\footnote{19} When he was thirteen years of age his father approached John Swinfen, a plumber and glazier of Market Bosworth with the view to arranging an apprenticeship for his son. Swinfen expected a premium with the boy, so the father applied to the parish officers of Sutton Cheney. As they refused to pay for the apprenticeship, the father suggested that his son

\footnotetext{18}{MJ/SBB Sessions of the Peace and Oyer and Terminer Books. Piece 1347 page 108. 12th September 1782. Greater London Record Office.}

\footnotetext{19}{D4493}
should work for Swinfen for eight instead of the usual seven years.\textsuperscript{20}

The barrister's brief for the appellants shows that Mr John Swinfen was willing to give evidence to the effect that he could at that time have expected to receive a premium of fifteen guineas with an apprentice but that he agreed to take George Thornton on condition that he served the extra year. The brief also states that after 4 or 5 years, John Swinfen having no work for his apprentice, lent him to his brother Thomas Swinfen of Daventry with whom Thornton served the remainder of his eight years of apprenticeship.\textsuperscript{21} The brief states that the pauper will give evidence that when he was out of his indentures he remained for a further two years with Mr Thomas Swinfen as a journeyman at 14/- per week.

The fact that as a fully trained journeyman Thornton could expect to earn 14/- per week - over £36 per year - certainly suggests that the eighth year of his apprenticeship was of considerable worth to his master. It was the value of this years service which was the basis of Daventry's appeal against the removal order.

\textsuperscript{20} 'Sometimes the boys bound for long periods are the sons of labourers, or they were taken without a premium; presumably, such apprentices agreed to serve for a longer time in order to recompense their masters for taking them'. O.J. Dunlop, \textit{English Apprenticeship and Child Labour} (1912), pp.166-167. For details about the historical seven years apprenticeship and the changes that took place in 1814 see T.K. Derry, 'The repeal of the apprenticeship clauses of the Statute of Apprentices', \textit{The Economic History Review} 3 (1931), pp.67-87.

\textsuperscript{21} Burn states that 'if a master assigns over his apprentice, and the apprentice serves in pursuance of that assignment; he thereby gains a settlement: and it differs not whether he serves with one master or another; for he still serves by virtue of the first indenture. Burn, \textit{Justice}, (14th edn, 1780), 3, p.377. The subsequent settlement would be in the parish in which he served the last forty days of his apprenticeship.
Daventry contended that if that year's service was worth more than 20/- to his master, then tax should have been paid on the indentures. Perhaps because of their experience of the case concerning Elizabeth Bosworth, the firm of Harrison and Burton filled the brief with full details about the Act of Parliament covering the payment of duty on apprentice indentures. Among the documents for this case is a paper from the Stamp Office dated 30th September 1790 which stated that no such apprentice indenture had been enrolled.

In the Bosworth case we read that when Bourn released his apprentice, the indentures were 'thereupon given up or destroyed'. In the case of George Thornton the brief states that six months after Thornton started to work for John Swinfen, indentures of apprenticeship were drawn up by 'a Schoolmaster of Hinckley supposed to have been since dead'. The term was for seven years and was ante-dated to the previous October when Thornton had first started work with John Swinfen and were duly executed 'by all parties'. The brief continues 'The consideration of the Apprenticeship (that is to say) the 8th year's service was in lieu of money not set forth in the Indenture nor reduced into writing as the Pauper and his father & Master now say'. We also learn from the brief

---

22 The stamping of indentures 'had become increasingly neglected from the mid-eighteenth century, with the returns to the Board of Inland Revenue becoming incomplete'. K.D.M. Snell, Annals of the Labouring Poor, Social Change and Agrarian England 1660-1900 (1985), p.257.

23 This is only one of a number of cases found where indentures were drawn up by an unqualified person. Christopher Hibbert writes that in the 1730s, John Collier the dialect poet and caricaturist, who became an itinerant schoolmaster at the age of fourteen, supplemented his income by taking on work as a 'hedge-lawyer', writing wills and indentures and giving legal advice. C. Hibbert, The English, A Social History 1066-1945 (1987), p.451. However in the Daventry Collection various notes have been found showing that the solicitors often drew up non-parish apprentice indentures.
that the indentures are in the possession of the Respondents who refuse to produce them.

There are many similarities between this case and that of Elizabeth Bosworth. In each case the father of the boy to be apprenticed offered something other than money in lieu of a premium — in one case £10 worth of timber and in the other a year's free work by a qualified journeyman. It seems very likely that in law both these alternatives would have attracted tax if they had been declared under the wording of the Act which speaks of money or 'of things not money according to their value'.

In each case the youth did not serve his full term with the Master to whom he was apprenticed. In each case he left his Master because there was not enough work. John Swinfen dealt with this by 'lending' the youth to his brother Thomas Swinfen of Daventry. The Brief states that the brother 'never paid him any wages or other considerations for such service but only performed the Covenant on the part of his brother'. Judging by cases quoted in contemporary law books, if Thornton's indentures proved to be legal, there is little doubt that this transfer from John Swinfen to Thomas Swinfen would have proved a good assignment, and young Thornton would have gained a settlement in Daventry through his several years service there under the indentures.

24 'When a gentleman's son went to a Wiltshire apothecary in 1719, his premium was £60 and four hundredweight of cheese, valued at £5, on which tax was paid'. J. Lane, Apprenticeship in England, 1600-1914 (1996), p.25.

25 Writing on the assignment of an apprentice, Burn quotes the case of Alice Wheeler, a parish apprentice who was bound to George Leicester of St George's Hanover Square with whom she resided long enough to gain a settlement. 'Afterwards she was by parol agreement hired out by the said master to one Hall, in the parish of St Mary le Bon, and there lived and lodged above 40 days, that is, for the space of one year and upwards, the said apprenticeship
Result of the Appeal

In Bosworth's case the brief tells us that John Bosworth asked Bourn to release his brother from his apprenticeship and to give up his indentures. It is clear from other cases that this was always an ambiguous situation.

In the Thornton case the assignment seems to be above question, and the Northamptonshire Quarter Sessions Record Book for Michaelmas 1790 shows that the judgement of the court was that the removing Justices were correct in stating that George Thornton was legally settled at Daventry. We have no indication of how this verdict was arrived at. Thornton made no effort to suggest that the two years which he served in Daventry after the end of his apprenticeship were service for a year as he gives his wages as 14/- per week, so we must assume that his settlement at Daventry was under the indentures of apprenticeship. It therefore follows that the eighth year he served under the indentures must not have been considered to require tax so making his apprenticeship and subsequent assignment perfectly legal.

Is it safe to make this judgement? This case shows the limitations of working from the barrister's brief for only one party. The case as set out by solicitor Burton seems conclusively to prove that Thornton's indentures were not stamped and so were illegal. Unfortunately due to the very low survival rate of briefs, it is impossible for us to read the argument for the other side. The brief for Daventry states that the indentures are in the hands of the respondent parish, so it seems fair to suggest that these were accepted as legal by the Quarter

continuing; and the said George Leicester her master received her wages, and found her clothes'. The King's Bench judged that she was 'well settled in St Mary le Bon'. Burn, Justice, (14th edn, 1780), 3, p.378.
Sessions. It seems certain that no money passed. One has to assume that a period of eight years was entered in the indentures and that the court must have taken the view that the boy was entitled to work an extra year to pay his own apprenticeship premium.

The Case of Joseph Fouckes, 1793

In 1793 the firm of Harrison and Burton were again acting for the appellants in a settlement dispute. The pauper Joseph Fouckes with his wife and daughter were removed from Paulerspury to Flore. No copy of his examination seems to have survived but from the barrister's brief for the appellant parish of Flore we learn something of his history.

On December 28th, 1768, Fouckes apprenticed himself for seven years to Benjamin Tomlin, a weaver of Cold Ashby. The premium of £10 was paid by the Trustees of Lady Leveson's Charity. No mention is made of the indentures which presumably, as a charity was involved, were legally drawn up and executed.\(^\text{26}\)

After Fouckes had served his master for two years we read that Tomlin had become insolvent, but, with the help of father Fouckes, found another Master willing to take the boy. Tomlin cancelled the original indentures. On the 6th of February 1770 Joseph Fouckes bound himself to Joseph Wills, a woolcomber of Flore for seven years to run from the 6th of February 1768. This starting date for the apprenticeship actually pre-dates the original indenture by ten months. The most likely explanation of this is to be found in many other cases of apprenticeship where a

\(^{26}\) D4495a.
child goes to a possible master for some weeks, no doubt to assess the child's aptitude for learning the craft. However ten months seems a long delay. It is possible that the Leveson Charity was dilatory or perhaps was not approached at the start of the boy's time with Tomlin. A note in the brief shows that Tomlin was in fact the boy's brother-in-law.

The pre-dating of the second pair of indentures certainly suggests that despite the statement in the brief that the old indentures were cancelled, it is more likely that this was an assignment of an apprentice. It must be remembered that this information is taken from the brief for Flore, which parish was obviously desirous of proving that Fouckes had not gained a settlement by his service with Wills. Perhaps not surprisingly, in the list of persons to be called to prove the appellants' case, there is no mention of anyone to speak about the second pair of indentures.

Up to this point the case seems relatively simple but the brief states that the pauper is to give evidence that Joseph Wills required £5 as a premium before he would take Fouckes as his apprentice.

The original premium given with Joseph Fouckes was paid by a Charity which implies that the father was not able to pay. We also know that Tomlin had become insolvent and so almost certainly would be unable to pass any of that

---

27 In the case of Thomas Wood, son of Edward Wood of Burton Latimer, the boy apprenticed himself to Mr John Eyet of Kettering to serve from December 25th, 1803, to learn the art of a cordwainer. The indentures were actually signed six and a half weeks later on the 10th of February 1804. 55p/111/1.

28 This is a parallel with the Bosworth case where Thomas Bourn was brother-in-law to his apprentice. In a case to be studied later, James Pettifer was apprenticed to his uncle.
money to the new Master. The brief actually states that the 'brother-in-law Tomlin was not able to give it'.

The brief then states that the pauper is to give evidence to the effect that to raise the £5 required, he himself actually worked in the harvest for five years to earn the money: 'my master had my earning'. He will also swear that this arrangement was not entered in the indenture and that the papers were never out of Wills' hands and so could not have been enrolled.

If the evidence in the brief is correct it would seem that Fouckes, by his own labour, paid the premium for this apprenticeship with Wills. But was this a new apprenticeship, or was it an assignment of an apprentice by Tomlin? If Wills refused to receive the assignment because Tomlin could not give him his share of the original premium, it would have made it impossible for the youth to continue his apprenticeship. But was that apprenticeship made illegal because he chose to pay over part of the premium by his own labour? We seem here to have a direct comparison with the Thornton case where the youth worked an extra year in lieu of a premium. The quarter sessions verdict suggested that Thornton's indentures were considered to be legal, therefore it seems logical that Fouckes should have been allowed to earn money for his master by working in the harvest

---

29 While discussing cases where an apprentice was unable to finish his time with the original master, Burn writes 'this doctrine of refunding seemeth now to be established, as founded on great reason, tho' not expressly mentioned in the act ... it is but justice the master should return part of the money he has received with his apprentice, to place him out with a new master'. Burn, Justice, (15th edn, 1785), 1, p.77.

30 If this was an assignment of an apprentice by Benjamin Tomlin to Joseph Wills, there would be no question of payment of the apprentice tax as Fouckes would still be serving under the original indentures for which the premium was paid by the Leveson Charity.
The appellant parish of Flore states in the brief that the original indentures were cancelled. They also make the point that being under twenty one, he was not competent to bind himself legally to Wills - not being sui juris. Here it seems the appellants are trying to cover all possibilities. The solicitor must have been fully aware that if the boy's indentures to Tomlin had been cancelled then he was in fact free to re-apprentice himself. If he was not, this must surely have been because his service with Wills was under the legal first indentures.

The wording of the Brief suggests that the solicitor was very uncertain as to whether or not Fouckes was free to apprentice himself to Wills as it continues 'If the court should be of a contrary opinion then you will contend that the first Indenture being cancelled was totally at an end and that the pauper's service to Wills was not under the first Indenture but under the second in which the consideration money is presumed not to be set out and the duty not paid for it and in consequence the Indenture is bad and cannot be given in evidence'.

31 When one studies the complexities of the settlement laws and the diverse judgements given by even the King's Bench, it is perhaps understandable that a solicitor should feel compelled to cover every contingency. This case was some twenty years after a case to be discussed later, in which solicitor Harrison strongly disagreed with the Opinion written by counsel: this experience may well have made him wary of relying wholeheartedly on a barrister's judgement.

32 There is no evidence as to whether a search was instituted at the Stamp Office, but as this was done in the Thornton case, it seems fair to assume that this search was carried out. There is no evidence of this apprenticeship in the modern index of indentures on which the apprentice tax was paid.
In an earlier section of the brief it is stated that the indentures to Wills were not enrolled and that the Respondents have the custody of the last indenture but refuse to produce it to the Appellants who therefore 'cannot possibly say in what manner it is prepared'. Despite this, the brief declares that 'Tomlin and the Pauper's father are subscribing Witnesses to the Indenture'. This admission of the involvement of Tomlin in binding Fouckes to Wills seems to add to the possibility that this was not a new apprenticeship but that Fouckes was assigned to Wills by his first master Tomlin.\footnote{33}

We are left with the verdict of the Court of Quarter Sessions which in this case ratified and confirmed the removal order, thus giving Joseph Fouckes and his family legal settlement at Flore. We are unable to know exactly how this judgement was reached, but as with the Thornton case, we have to assume that the court found the indentures to be legal, either because the indentures showed a legal assignment to his second master, or because as in the Thornton case, they considered that the boy was entitled to pay the premium with his own labour.

**The Case of James Pettifer 1816**

James Pettifer was born in Kilsby but by the age of 13 or 14 it seems that his father was working as coachman to Lumley Arnold Esq. of Ashby St Ledgers. The boy worked for Mr Arnold, firstly as a farm servant and then for a year as a house servant, waiting at table, going out with the carriage, wore the same livery as the other servants

\footnote{33 The only other indications about this case are to be found in the Accounts Book of the firm of Harrison and Burton where on two occasions we read that the case was laid before Mr Dayrell, the barrister. D3446.}
and slept with the footman over the Coach House. He lived part of the time at Ashby and part in London.\textsuperscript{34}

The brief for Kilsby, the respondent parish, shows that Pettifer will give evidence that after leaving Mr Arnold's house he was apprenticed by his father for four years to his uncle Robert Wilkins, a tammy weaver of Kilsby. The indenture was drawn up by Mr Gibbons, a jersey comber now deceased. Robert Wilkins is to give evidence that the youth served two to three years before they 'made agreement to part'. Wilkins was also to say that he received no premium with the boy. Mr Gibbons destroyed the indentures by cutting them in two and putting them on the fire. Robert Wilkins was said to have been present at the time. The brief tells us that Pettifer will say in evidence 'I do not know what an indenture is - a paper and some writing'.

Despite the fact that Wilkins was to give evidence that no premium was given when his nephew was apprenticed to him, it appears from the brief that 2/6 was paid to Gibbons for drawing up the indenture and a further 2/6 was received by Wilkins himself. This small consideration paid to Wilkins is well below 20/-, the lower limit on which tax had to be paid. It seems therefore that the fact that the indentures were not enrolled did not affect their legality. However in an 'opinion' on the case of Thomas Smith removed to Weedon Beck in 1816, the barrister writes of the validity of Smith's indentures that 'As I understand the Statute of Anne upon which the Question will turn, the Indenture is void - the Act is the 8th of Anne Cap 9 Sect: 39, which requires that the sum or sums of money received or in any wise directly or indirectly given with the Apprentice shall be inserted or

\textsuperscript{34} D4962.
the Indenture shall be void'.

Richard Burn cites the case of Baxter and Fairlam where the premium given with an apprentice was only 6d. This raised the question of whether the indentures were void because no tax was paid on this sum. The Court ruled that

No duty was ever intended to be paid for so insignificant a sum, there being no coin in England small enough to pay it.

On reading this one tends to feel that one has found a 'human' element in the Court, but the Act of Parliament states that no tax was to be paid for a premium of less that 20/-. The brief states that Pettifer will give evidence about his apprenticeship to his uncle, but no mention is made of this in his examination before the magistrates, an interesting example of the Justices not being given all the relevant information. We can be quite sure that if the apprenticeship had been known, details would have been entered in the examinations. As K.D.M. Snell has written, 'the examining parish, concerned to discharge responsibility if possible, would enquire and state clearly' the details of the apprenticeship. Pettifer's

---

35 D822 and D1017. After his apprenticeship, Smith rented a house in Northampton. This case will be dealt with more fully in Chapter 3.


37 'Sums under twenty shillings are exempt from this duty; for the legislature, by fixing it at so much for every twenty shillings, limit that as the smallest sum upon which the tax is payable'. Nolan, Relief and Settlement, 1, p.397.

38 Snell, Annals, p.234.
examination has survived. He made a good clear signature which seems slightly at variants with the statement in the brief that he will say 'I do not know what an Indentures is - a paper and some writing'. At the quarter sessions the order removing Pettifer and his wife from Kilsby to Ashby St Ledgers was quashed, so it seems that the magistrates accepted that the apprentice indentures were legal.

The Case of Simon Redgrave, 1771

In 1733, Hannah Baisley of Charwelton gave birth to a son who was acknowledged by the father Andrew Redgrave, and was subsequently known as Simon Redgrave. In 1771, Simon, his wife Ann and their three children were removed from Badby to Charwelton. The barrister's brief for the Respondent parish tells the story of Simon's childhood. In 1738, when the child was variously described as aged 5, 5½ or 6, he was apprenticed to Nathaniel Rainbow of Badby, a mason, who realised that the father might be glad to rid himself of the permanent costs for the upkeep of the child. With his friend Thomas Elliman, Rainbow approached the child's father and suggested the apprenticeship. Being badly in debt, he hoped to receive a sum of money for caring for the child. A premium of five guineas was agreed, a vastly smaller amount than the fifty guineas apparently asked for by Rainbow and which the brief states 'the master reasonably deserved'. The very same day Rainbow took the child back to Badby with him, together with a part payment of the premium. The remainder of the money was to be paid when the indentures


40 D9855.
were signed.\textsuperscript{41}

Elliman then approached a schoolmaster from Newnham named Barnfather, who drew up indentures which were later executed by the child's father Andrew Redgrave and the master Nathaniel Rainbow. Elliman was one of the witnesses. It appears that the child was bound until the age of 21 and that, in consideration of 5 guineas, the master was to provide for him completely until that time.

The brief describes how the child was at first too young to learn a trade but was later taught to spin by Rainbow's daughter, who will give evidence that the child was unable even to dress himself when he was first came to live with her father. It is suggested that the Appellants will try to prove that the pauper was over seven when the indentures were signed, thus making the indentures good.\textsuperscript{42} The brief also states that 'a gentleman of Warwick is concerned for the Appellants in this Appeal & since the Pauper has seen his face he has learnt very widely to differ in all Material circumstances he particularly swore to in his Examination before the Justices'.

A copy of this examination is annexed to the brief. It is a short document. Simon Redgrave says that he is about 35 or 36 years old and was born at Charwelton, the natural son of Andrew Redgrave. At the age of four he was apprenticed by his father to Nathaniel Rainbow, a mason

\textsuperscript{41} When children from poor families and pauper children were apprenticed by the parish officers, 'a premium was generally given with them, and for the sake of it they would be taken by men who often could not well support them'. Dunlop, Apprenticeship, p.188.

\textsuperscript{42} 'The age of the person binding himself is immaterial, so as he be not under the age of seven years'. J. Steer, Parish Law being a Digest of the Law and the Relief, Settlement and Removal of the Poor (1830), p.501.
of Badby until age 21. He claims that his master never taught him his trade and so after thirteen or fourteen years he left his master and later 'bought of his said Master the remaining part of his Apprenticeship and that since he hath not by any service act or deed gained any settlement'.

The instructions to the barrister suggest that Redgrave should be examined 'very closely & particularly' as to his age: also as to his deserting his Master because he was told that his indentures were not valid and how on hearing this he set the 'bells to ringing'. This latter detail it is said will be sworn to by Rainbow's daughter.

Another witness to be called is Thomas Elliman who will swear that the indenture or agreement - he knows not which - was drawn up by Mr Barnfather in 1738, but whether it was stamped or sealed 'he knows not'. This is presumably the Thomas Elliman who went to see father Redgrave with Rainbow, and who arranged for Barnfather to draw up the indentures. As he is at first described as Rainbow's neighbour, he was probably an inhabitant of Badby and would therefore benefit by establishing that Redgrave had no settlement in the parish for which he may possibly have paid rates.

This brief has been described in some detail because, what seems at first sight a simple case of invalid apprentice indentures, was removed to the King's bench. Bott shows that the King's Bench sent the case back to the Quarter Sessions to be re-considered but there is no evidence of this in the Quarter Sessions records.43 In the final section of the brief under a heading Observations, while mentioning the appellants, the writer

---

43 E. Bott, A Collection of Decisions of the Court of King's Bench upon the Poor's Laws (2nd edn, 1773), pp.157-158.
says 'tho' they should succeed which is scarcely thought possible', and then goes on to doubt the legality of Andrew Redgrave to apprentice his illegitimate son unless he can produce an examination of the child's deceased mother giving him this power, or a filiation order 'or some other judicial Act for if his ipse dixit alone is admitted in this voluntary way he may bastardize the Children of every honest man or woman in the Parish'. The barrister is also advised that if the Appellants prove him to be the father of the pauper, his evidence should not be allowed on the grounds that he is a ratepayer in the appellants parish and is therefore biased.

At the Quarter Sessions the judgement went against the Respondents and the removal order was quashed but as a copy of the barrister's brief for the King's Bench hearing has survived, this provides us with details of how that judgement was reached.

It appearing to the Satisfaction of the Court ... that the Indentures of Apprenticeship could not be produced, parol evidence was admitted of its Existence, Execution and Contents. That it was not proved whether the Duty for such Consideration Money was or was not paid. That the pauper for the two first years was put to School by the said Nathaniel Rainbow to learn to read and afterwards for two or three years to learn to Spin Jersey and Continued

"As no poor-law material has survived for the parish of Charwelton where Redgrave was born, we have no means of knowing whether Andrew Redgrave was the subject of a bastardy order, though in evidence his son stated that his father had 'indemnified the parish' against any charges for the boy. The fact that the father of a bastard took full responsibility for the child may be explained by a rough note found on the back of one of the documents to the effect that John Russell remembers the child's birth and that 'the Pauper had liked to have been drowned by the Mother at his birth in the Chamber Pot'.

4
It is interesting to compare this case with another Northamptonshire example which again was heard by the Court of King's Bench some years later. Samuel Simcoe was apprenticed to a framework knitter of Abthorpe. His father and master both signed but the boy did not. The boy served for several years under the indenture and when later he was removed from Arnsby to Abthorpe, the Quarter Sessions said the indenture was void as only in the case of a parish apprenticeship can a boy be bound without his involvement. At the King's Bench hearing, Justice Best commented that 'It seems to me that nothing has been said to show that the infant was bound by this indenture. There is no sufficient authority for saying that a father, at the common law, can bind his infant son apprentice without his assent testified by the execution of the indenture'. It is hard not to assume that if the Abthorpe case had reached the King's Bench before the Badby case came before the Quarter Sessions, the verdict might have been reversed.

Papers about the Badby case show little comment on the fact that the child was so young when the indentures were signed. It is suggested that if the indentures are produced, the Respondents, Charwelton, will try to prove that the child was over seven years old when the indentures were executed. It also suggests that Charwelton realise that all indentures are illegal that bind a child under the age of seven years and a father

---

45 Burn, Justice, (23rd edn, 1820), 4, p.692.

46 R.V. Barnewell and E.H. Anderson, Reports of Cases Argued and Determined in the Court of King's Bench (5 vols, 1820), 3, p.587.
cannot bind a child for a period longer than seven years. Even if Simon Redgrave had been aged seven at the time of the binding, it would have implied a binding of fourteen years as in evidence he stated that he was bound until the age of twenty one. The brief adds the information that 'there does not appear any adjudged Case in any of the Books whereby an Infant shall gain a Settlement by Apprenticeship being bound under 7 years of Age'.

A report by Bott on the hearing at the King's Bench states that the sessions judged that Redgrave had gained a settlement at Badby by his apprenticeship. The King's Bench decided that it was for the sessions to decide whether the tax had been paid on the indentures. After a thirty year delay they must presume that everything had been done legally. The Court normally stated that 'we never presume a fraud if one be not expressly stated'. Consequently they sent the case back to the quarter sessions. Unfortunately there is no entry in the Quarter Sessions Rolls or Record Book of any subsequent hearing.

---

47 Emmison tells us that a child of four years of age was apprenticed in 1729, but apparently he was an orphan and was apprenticed to his own grandfather. J. Lane reports that boys as young as four or five were apprentices to Sweeps. An agreement dated 1794, found in the Cumbria Records Office (Kendal), arranges for a girl who is stated to be four years old, to be apprenticed. The parish arranged it because she was one of a large family which the father was unable to support. F.G. Emmison, 'Relief of the poor at Eaton Socon, Bedfordshire, 1706-1834', Bedfordshire Historical Record Society 15 (1933), p.68; Lane, Apprenticeship, p.16; WRP/83/Overseers.

48 Even though apprenticeship at the age of seven was legal, there was concern about it 'on the grounds that children were separated from their parents too early'. E.W. Martin, 'From parish to union, poor law administration 1601-1865', in E.W. Martin, ed, Comparative Development in Social Welfare (1972), p.37.

49 Bott, Decisions of the King's Bench, p.157.

50 Bott, Decisions of the King's Bench, p.153.
Parish Apprentices

Parish officers were empowered 'by the assent of two justices' to apprentice poor children.\textsuperscript{51} E.W. Martin writes that this was often done without the consent of the parents. 'An investigator reporting to the commission of 1832 stated that the practice of binding children compulsorily - without the consent of child, parents or masters - was very general in Devon, Cornwall and Somerset'.\textsuperscript{52}

Parish officers often tried to apprentice their poor children to a master from a different parish, so that the child would have gained a new settlement. Other overseers expected their more prosperous parishioners to receive a poor child as an apprentice, but Hugh Fearn suggests that some parishioners would pay a fine rather than have to take a poor child into their family. The fine could then be used to give a premium with the child - perhaps to a master from a different parish.\textsuperscript{53}

As no tax was payable on parish apprentice indentures, this removed one element found in cases about private bindings. But this still left many cases to be fought out at the Sessions, and the law books of the period quote many cases connected with parish bindings.

The Case of Richard Warner, 1772
Richard Warner when examined as to his settlement said

\begin{flushleft}
\textsuperscript{51} Burn, Justice, (15th edn, 1785), 1, pp.65-66.
\textsuperscript{52} Martin, Social Welfare, p.37.
\end{flushleft}
that he was about thirty years old and had been born at Edgcote. At the age of fourteen or fifteen he was apprenticed by the parish officers to Thomas Ward, a shag weaver of Bloxham, Oxfordshire.\textsuperscript{54} As Ward was not a legal inhabitant of Bloxham, the officers of the town threatened to have him removed if he took an apprentice, so as a result of this threat, the boy was immediately assigned by Ward to John Cakebread another shag weaver of Bloxham.

Warner said that he worked at his trade except at harvest time when he was sent by his Master to glean corn, but at the end of eighteen weeks he was again assigned to another shag weaver, Richard Page of Banbury. He states in his evidence that both assignments were by 'an instrument in writing'.\textsuperscript{55} He appears to have only lasted with this new master for 'about six or eight week' before Page 'took Occasion to quarrel with him and forcibly turned him out of his House'. After staying with his parents at Edgcote for two months, he returned to Page but after three years 'his Master forcibly turned him out of his house a second time'. On his return to his parents' home, the officers of Edgcote had him removed back to Banbury by the Justices. The parish of Banbury did not appeal against the removal order and Warner was sent to the Workhouse. He claimed that after a week there he had become 'nasty and full of Vermin' and so returned to his parents 'and was cleaned'.\textsuperscript{56} A meeting of the

\textsuperscript{54} D9857.

\textsuperscript{55} No parish material has survived for Edgcote so it has not been possible to find the original indentures or any evidence of the assignment. Nor are there any documents in the Oxfordshire Record Office.

\textsuperscript{56} One can well believe Warner's statement after reading Dorothy Marshall's description of the horrendous condition of many of the workhouses of the day. D. Marshall, The English Poor in the Eighteenth Century (1926), Chapter 4.
vestry arranged for him to return to Master Page from whom he eventually bought the last three years of his indentures for two shillings. A formal agreement to dissolve the apprenticeship was signed but was lost by Warner before the date of his examination.

Warner stated that he worked for a year with a butcher at Claydon, Oxfordshire and then moved to Shalston in Buckinghamshire where he worked for a farmer named Powell for several years. He seems to have settled happily into the life of a hired farm servant after his very chequered career as an apprentice shag weaver. One is forced to consider whether the youth was not suited to the weaving trade, possibly lacking the natural dexterity and coordination needed to work the loom.

One interesting detail of this case is that the examination quoted is dated April 24th 1772, on which day the two Justices signed the removal order. Solicitor Harrison's account with the parish officers of Edgcote 'touching the removal of Warner and his Wife' is amongst the case papers. The first entry is dated 25th January 1772 and reads

Attending the Pauper and Mr George Hitchcock and taking Paupers Examination very special and three exceeding long sheets and fair copy which took me and a clerk near a whole day 7/6.

---

57 While some apprentices might be received back and be allowed to buy themselves out of the last few years of their time, Dr Lane makes the point that absconding was a serious offence, and gives details of the possible punishments that might have to be faced. Lane, Apprenticeship, p.201.

58 Mr Hitchcock was probably the Overseer of the Poor for that period, but it has been impossible to confirm this. He is listed as a grazier in the Record Office Index of the 1762 Militia lists for the Chipping Warden Hundred.
As this pre-dates the removal order by three months, it is obvious that the parish took a considerable time to decide as to whether to have Warner removed. Other surviving documents explain this delay.

Several copies of Warner's examination have survived. One, on which Warner made his mark, was certainly sworn before two Justices as at the end we read

*Taken upon oath the 24th of April 1772 before us two of his Majestys Justices of the Peace for the County of Northampton*

J Spencer
Fr Burton

On one copy the heading has been altered to read 'Case of Richard Warner'. A section has been added in a different hand asking for an opinion about the case. This appears to be a copy of the original examination of 25th January, edited ready for a clerk to make a fair copy for dispatch to barrister Morton for his opinion.

As is stated in the accounts for this appeal, the examination is nearly three pages long. The paper signed by the Justices had been carefully written out. It shows no sign of hurry as might be expected when two Justices were waiting to sign the paper. There is only one small correction. It is hard to believe that this is not a copy of the examination taken by solicitor Harrison on the 25th January, which was then produced by him when Richard Warner was examined by the Justices. The document has exactly the same wording as the earlier one.\(^5^9\)

\(^5^9\) This seems to support the suggestion that the solicitors played a much larger part in the running of the poor law than has usually been assumed. In the Daventry Collection there is a letter apparently written by a parish officer asking solicitor Burton to take down the examination of a pauper so that time can be saved at the
Returning to the accounts, we find that on the 11th of February, seventeen days after Warner was examined by Hitchcock and Harrison, a fair copy of the examination was made for Mr Chauncy for which a charge of 5/- was made.

On the same day we find solicitor Harrison

\[
\text{drawing Case for Mr Mortons Opinion three} \\
\text{long and close sheets at 6/8} \quad \£1-0-0
\]

while the Barrister's Opinion written by Mr Morton is dated from London four days later, on 15th February.

By good fortune we have two very rough drafts of what must have been Mr Harrison's letter to Mr Morton requesting an Opinion.

The People of Edgcott are aware that if they remove Warner by Order either to Claydon or Shalston, they will certainly incur the expense & danger of an appeal.

Your Opinion is desired and also to point out what are the next advisable steps for the Parish of Edgcott to pursue in this Case - and particularly whether two Justices of the County may not in case Warner persists in staying at Edgcott, commit him to the House of Correction for returning to Edgcott after having been removed from thence to Banbury by Order in manner before stated, such order being

\[\text{next meeting of the Justices. D3231.}\]

\[60\text{ In the collection of documents about this case there are two letters signed by William Henry Chauncy of Edgcote, who was a Justice of the Peace for Northamptonshire.}\]
unappealed to.61

In his Opinion Mr Morton writes that he considers that the Pauper gained his settlement by his hiring at Claydon. He states very firmly that Warner should not be committed to the House of Correction, as returning after being removed.62

Such punishment ought never to be inflicted, but where the Settlement of the Pauper cannot come in Dispute.

John Morton
London Feb'y 15th 1772

Nine days after Morton signed the Opinion, Francis Burton, JP, of Aynho wrote a letter to solicitor Harrison about the Opinion received from Morton.63 It seems clear that he is being asked to sign the order to remove Warner and his wife, but he is far from convinced by the arguments put forward by the barrister.

On the 15th of March the accounts show that Mr Harrison attended Mr Chauncy at Edgcote

in Consequence of Mr Morton's Opinion and stating to him my fears & reasons for thinking Mr Morton had mistaken the case 13/4,

while the next entry reads

61 A complete transcript of Harrison's letter and Morton's Opinion is given in Appendix No 2. D5937 is a second copy of the Opinion.

62 It has to be remembered that about fifteen years have elapsed since Warner was removed to Banbury.

63 A transcript of this letter is included in Appendix No 2.
Being in London attended Mr Morton several times at his House to revise the Case & shewing him several authorities in point when he altered the same accordingly £13/4

The signed copy of Mr Morton's Opinion states that he considers that 'the paupers Settlement is at Claydon'. An addition in the same handwriting states that he has 'reviewed the case', and that he is therefore 'of Opinion that his Settlement is now at Banbury under the order of Removal unappealed from'. This is dated 27th March.

This is an interesting example of the complexity of the settlement legislation. It seems that Mr Morton was a barrister who specialised in poor law legislation as he is mentioned in a number of cases by Burrow.64 However his name has not been found in any other documents connected with the poor-law in the Daventry area.

The accounts show Harrison again visiting Mr Chauncy at Edgcote on 7th April.

with the Case & Opinion as altered by Mr Morton & from thence to Banbury to make several nessesary Enquiries of his Master there & of other Circumstances. Out all night and attending Mr Chauncy the next day. Horsehire and Expences £2 2 0
Retaining Mr Caldecott by Mr Chauncy's desire and paid such Retainer & Gratuity to his Clerk 2/6d £1 3 6
Drawing Notice for the Banbury Officers to produce at the Sessions the original Order whereby Pauper had been before

---

removed from Edgcott to Banbury & two fair Copies to deliver 10 6

The account next states that a Clerk visited Banbury to serve the notice and to examine the pauper and his Master 'respecting some particulars & from thence to Bloxham to Subpoena Cakebread pauper's first Master'.

It was not until July 14th that Francis Burton Esq, and John Spencer, Clerk, signed an order removing Richard Warner to Banbury. We can only speculate that Edgcote tried to prove that Warner's settlement depended on his apprenticeship, though how they had decided to establish this we have no means of telling as unfortunately only a Case Summary has survived for this case.

After many other details, the accounts show that on 14th and 15th of July, Mr Harrison and his clerk attended the Sessions to hear the appeal tried and where 'for want of Counsel I was obliged to argue it myself'. It seems that Mr Harrison's advocacy was not adequate as the order was quashed. On the 20th of the month he journeyed yet again to Edgcote to consult Mr Chauncy about the advisability of removing the Pauper to Shalston. This course must have been decided on because on the 25th of July Mr Dayrell was paid a retainer of £1-3-6 with 2/6 for his clerk.

From the Quarter Sessions Record Book for Epiphany 1773 we learn that Shalston did not appeal against the order.

The Reverend John SPENCER clerk and Francis BURTON Esquire two of his Majesties Justices of the Peace of and for the County abovesaid (one whereof is of the quorum) did make their order under their hands and Seals bearing date the seventh Day of September One thousand seven hundred and seventy two for the Removal of Richard Warner and Elizabeth his wife
from the Parish of Edgcott in the County aforesaid
to the Parish of Shalston in the County of Bucks
which said Order was in all things duly Executed
according to the Commands thereof And Whereas proof
on Oath was at this Sessions made that a true copy
of the said recited Order was delivered to the
parish officers of Shalston aforesaid. It is
therefore Recorded that the said Parish Officers of
Shalston did not dispute the Legality of the
Settlement of the said Richard Warner and Elizabeth
his wife as they Entered no Appeal against the above
recited Order.
By the Court.

The final two entries on the accounts are headed
'Michaelmas Sessions 1772 and Epiphany Sessions 1773'

Attending at Northampton both these Sessions
and two days at each Sessions in order to get
the Order of Removal of the Pauper to Shalston
filed which the Justices at Michaelmas refused
to allow. Horsehire and Expences
but having other Business at one of the
Sessions I charge only £3 3 0

For a great deal of other trouble Journeys
and Attendances in the course of this
business but as Expences have been
unavoidably great I charge £0 0 0

Despite this generosity, Mr Harrison's final bill
amounted to £27-19-6. Against this the parish had to
consider that they had rid themselves of a young married
man who might easily father a large family.

Did Edgcote consider the Warner family a feckless brood?
He had certainly not made a success as an apprentice,
though he was only being removed because he was likely to become a pauper. Also it is stated in some of Harrison's papers that he was being harboured by his father who himself was living in a parish house provided as accommodation for paupers. B. Stapleton writes that 'nearly seven out of every ten paupers, once they commenced receiving relief, became dependent for the rest of their lives'. In the Warner family poverty seems to have been passed from generation to generation.

An interesting feature of the case is the involvement of William Henry Chauncy who was the principal inhabitant of Edgcote. Despite being a Justice of the Peace he did not sign the removal orders connected with this case. This was very correct. There was no reason why he should not sign an order for the removal of a pauper from his parish unless it might result in an appeal case. It is clear from the accounts that long before the first removal order was signed, Chauncy and the solicitor were in contact about Warner. In an undated letter, Chauncy wrote 'I hope we shall supply you with all the Evidence in our power and what I hope will be Sufficient to quit us of the Pauper'.

The Case of Thomas Clarege, 1793

Born in Willoughby in Warwickshire, at the age of 25 Thomas Clarege is described as 'of a very weak understanding'. Despite this when he was 17, by offering a premium of 12 guineas, the parish officers of Willoughby persuaded Richard Morton, a woolcomber of

---

Daventry, to take the boy as his apprentice. The indentures were executed at the house of Mr Bromfield at Dunchurch.

Clarege was removed from Willoughby to Daventry in 1793. The draft brief for the subsequent appeal by the parish of Daventry states that when the indentures were signed, Mr Bromfield made the point that the apprenticeship 'would not do for the purpose of a settlement because the lad appeared incapable of learning a trade', to which the parish officers replied that 'they would run the hazard'. No other Justice of the Peace was present at the time and the draft brief states that the second Justice signed at a later date after seeing Mr Bromfield, but without seeing the boy. It seems that the boy stayed with his master until he reached the age of twenty one.

The firm of Harrison and Burton were the solicitors for Daventry in their appeal about Clarege. There is an entry in an account book which shows that someone from the firm journeyed to attend Mr Bromfield to obtain a copy of the pauper's examination. This is presumably Henry

---

66 £18 was given with a lame boy in 1730 when the average premium given by the parish was £3. Lane, Apprenticeship, p.27.

67 I assume that this must be a member of the Bromfield family, several of whom signed documents as Justices of the Peace for Warwickshire.

68 D9819.

69 In 1789 the Rev. Doctor Freeman was the only Justice to sign an apprentice indenture but 'a few days afterwards Dr Freeman went to the house of Dr Preedy where the same was signed in the presence of all the parties'. The court considered that this was legal. In a second case the Justices did not meet though both saw the apprentice but the court ruled that the Justices must meet to discuss the apprenticeship. Burn, Justice, (23rd edn, 1820), 4, p.383.

70 D3446.
Bromfield, Clerk, who with Sir W. Wheler, Bart, signed the removal order.

This case is in one respect similar to that of Simon Redgrave as in each case the master took the apprentice, not for the work he was likely to get from him, but purely for the premium money. In the case of Clarege, the brief describes the master as being in 'necessitous circumstances': it can only have been the twelve guineas premium which led him to accept the youth. The boy Redgrave being apparently only about five years old, the benefit the Master could expect to get from him in terms of labour, was obviously by way of being a long term investment. Rainbow's need was perhaps the most urgent as he agreed to take the boy for a mere £5. The barristers brief suggests that the £5 may have saved him from imprisonment. As the boy grew older Redgrave's master could be sure of getting plenty of work from him as he was apprenticed for a period of about fourteen years. Morton had only to house the simple Clarege for four years but his monetary reward was much greater.

For the parish of Willoughby, if Clarege's apprenticeship was deemed to be legal, there were very great advantages as they would save themselves the cost of maintaining a simple man - possibly incapable ever of maintaining himself - for the rest of his natural life. That this was their intention is shown by the fact that Morton was not to get his premium money until Clarege had served the first forty days of his apprenticeship, the time required to gain him settlement in Daventry. However the Warwickshire Quarter Sessions records show that their order removing Clarege was quashed. Their premium of twelve guineas did not rid them of the young man.71

---

71 Nolan quotes a case of indentures being cancelled because a boy was found incapable of learning a trade. Nolan, *Relief and Settlement*, 1, p.425.
The Case of John Townsend, 1813

There are several interesting features in the case of John Townsend. Firstly when he was apprenticed to John Marriott of Grimscott in the parish of Cold Higham, the indentures stated that he was to serve until he was twenty years old. It was normal at this time for an apprenticeship to continue until the age of 21. The fact that Townsend was only bound until he reached the age of 20 would be unlikely to make the indentures void. However as there was a definite deviation from the written law, the indentures were voidable if either the master or the apprentices chose to question their validity.\(^{72}\)

It seems that after serving Marriott for five years, the youth was taken by his master to West Haddon, handed over to Richard Turner and ordered by Marriott to serve Turner for the remainder of his apprenticeship. About thirty six years later he was removed with his wife and child from Welton to West Haddon. In the barrister's brief for the respondent parish of Welton we read that the pauper, whom the brief describes as 'not much to be relied upon' will say that he believes that Mr Denny, the solicitor for the appellant parish of West Haddon, prepared a document assigning him to his new master. This is denied by Mr Denny.\(^{73}\)

We are also told that 'Diligent search has been made for the assignment of the indentures'. This is easy to

\(^{72}\) A number of instances where indentures are declared voidable are quoted in books such as Burn and Nolan. One example is that of an apprentice who was bound for only four years instead of the normal seven. Lord Chief Justice Hardwicke for the Court stated that 'the indenture is not void, but only voidable, at the election of the parties themselves, if they think fit to take advantage of it; but not by a third person'. Burn, Justice, (14th edn, 1780), 3, p.373.

\(^{73}\) D9004.
believe as a properly executed assignment together with evidence that Townsend served over forty days at West Haddon, would conclusively prove that Townsend was settled at West Haddon, and that the removing Justices were correct to consider West Haddon as his last legal settlement.

The brief states correctly that even if the assignment document cannot be found, the fact that Marriott not merely gave his permission but instructed the youth to work for Turner, is enough to establish a legal settlement in the Appellant's parish. There is an interesting report on this subject about a case heard by the King's Bench. It was clearly stated that 'an infant cannot consent to transfer his service, nor can it be done without his consent. Nor can parish apprentices be transferred without the interposition of the justices'. However the report states that the barrister who was arguing this point agreed 'that, though an Apprentice cannot be legally assigned, yet, if assigned in fact, and he lives forty Days with the Assignee, he gains a Settlement'.

Quarter Sessions records show that Townsend's settlement was judged to be at West Haddon, but the order was quashed for his daughter because she was born before the parents married and therefore was settled in her place of birth.

The Case of Joseph Sherriff, 1817

In the papers about the appeal by Willinghall,

---

74 Sir W. Blackstone, Reports of Cases Determined in the several Courts of Westminster Hall. From 1746 to 1779 (2 vols, 1771), 1, p635.
75 The question of the settlement of illegitimate children will be discussed fully in Chapter 4.
Staffordshire, against the removal of Joseph Sherriff, his wife and daughter from Byfield in Northamptonshire, we read that the pauper states that he has never done any act to gain his own settlement. The case rests therefore on the settlement of his father who was apprenticed by the parish officers of Kington, Staffordshire to Richard Bromhall of Willinghall. It is hardly surprising that the inhabitants of Willinghall at first denied all responsibility for the Sherriff family, as the father had started his apprenticeship in the parish forty two years earlier. Byfield apparently managed to find a man who had served as an apprentice with the same master and would give evidence that the pauper's father served in Willinghall for two years.

This case is interesting as it highlights the problem facing a parish asked to accept a family who have had no connection with the place for many years. In this instance, Byfield managed to produce all the proofs necessary to substantiate their claim about the apprenticeship of the pauper's father. A letter to Mr Burton from Willinghall, signed by the parish officers, states that they have decided to abandon their appeal. This was dated only five days before the case was due to be heard at the Quarter Sessions. It is only from the Quarter Sessions Record Book that we find that the Sherriff family had been the subject of an earlier removal from Byfield to Kington in Staffordshire. This first order was quashed after Kington appealed. Perhaps the most chilling feature of this case is the last line of the letter to solicitor Harrison from his agent in Staffordshire which reads 'I suppose you have heard that Joseph Sheriff the pauper is lately dead'. The brief tells us that he was only twenty one. Was he removed from Northamptonshire to Kington in Staffordshire ten months

76 D9420.
before his death and then removed back about three months later? After another three months was he again removed back to Staffordshire? We have no evidence. We know that his young widow was left with a small child aged two, a son apparently having died between the signing of the two removal orders.

The case demonstrates the habit of parishes removing a man and his family 'from his place of residence, to some distant part of the kingdom, and then trying the question, whether he ought to have been removed or not'. In this particular case it was probably to a parish - perhaps even a county - which he and his wife had never previously visited.

**Time Scales**

It has not been possible to establish even an approximate date for the apprenticeship in all the cases found, but where this has been possible the results show that the parishes involved had, with the help of the pauper, to establish facts about events which took place numbers of years in the past. The shortest time that had elapsed since the start of the apprenticeship and the quarter sessions appeal was approximately eight years: this was the Clarege case where, perhaps not unexpectedly, the simple-minded youth soon needed help from the parish. Of the other cases, Warner started his apprenticeship fifteen years before he was subject to a removal order. The remaining cases range from twenty-two years to the Sherriff case of forty-two years.

Even if we take the time span as from the end of the apprenticeship, we still find only the Clarege case being

---

less that ten years. Of the other we find 12, 14, 18, 20, 24, 28 & 33 years had elapsed, with forty years for the Sherriff case.

J.S. Taylor quotes a case where a Devon man gives his age as 60 and states that he was apprenticed at the age of 7, giving a time span of 53 years between the signing of the indentures and his settlement examination. The solicitors carrying out enquiries on behalf of their client parish must have experienced great difficulty in establishing what was fact. Few of us would care to have to give evidence on oath of events of 25 years ago. It seems likely that the 'edges of truth' were somewhat smudged. There must have been many opportunities for manipulating the facts. As has already been quoted, solicitor Burton suggested that Redgrave somewhat changed his evidence after talks with the solicitor for the opposing parish. The implication of this comment by Burton seems to be that pressure has been brought to bear on Redgrave to give a different version of his story. It seems equally fair to assume that he had remembered more since first discussing his life before the solicitor or the examining magistrate. How often does one remember further details when discussing the past?

One feels great sympathy with the examinant quoted by J.S. Taylor who said that he was 67 years of age. When asked about his apprenticeship he replied that 'from this distance he does not immediately recollect the execution of the indentures'.

---


79 Taylor, Poverty, Migration and Settlement, p.63.
Chapter 2.

Settlement by Service

Of the barristers' briefs and case summaries found in the Daventry Collection, almost half make some mention of settlement based on service for a year. In this chapter, the details of the law concerning service will be explained by the analysing a number of cases.

To achieve a settlement by service, a man or woman had to be unmarried, or be a widow or widower without dependent children. The service had to be by hiring for a full year. If, as often happened, particularly with house servants, the service was in more than one parish, the settlement was adjudged to be in the last parish in which forty days service was worked. Because a servant such as a coachman or a lady's maid, might have to spend part of the year at various places such as London or Bath, it was possible that he or she might return to the master's country seat for only one night before the service ended. The settlement gained could be in the parish where the last night was spent, provided that a total of forty nights had been spent in that parish during the year.

The word servant needs some clarification. In the period of the Old Poor Law, the term servant had a totally different meaning from that of labourer, though two men so designated might well do identical work. The servant would in most cases live in the master's house and, as Nolan states must 'remain under his master's control
during the whole time of the contract'.\textsuperscript{1} The labourer worked by the day or the week, he did not sleep in his master's house and no matter how many years he worked for a single master, would gain no settlement. J. Rule has written that the labourer, even if his wage was given as a weekly amount, was only paid for the actual days he worked, getting nothing 'when sick or in bad weather.'\textsuperscript{2}

So, in the context of the Poor Law, a servant was most likely to be an unmarried man or woman who was contracted to work for 365 days and would, during that period, become a member of his or her master's household.\textsuperscript{3} Service seems to have meant that the servant must be under the master's control for the full 365 days, as a virtual slave imprisoned on the master's estate. However the judgements given in the King's Bench suggest that a servant must be allowed occasional free time. 'There is no Necessity of an actual Service upon every Day of the Year. The Master can always dispense with it: He can give Leave of Absence'.\textsuperscript{4}

There is an interesting case in the King's Bench of a married man who was approached by the son of a farmer and asked to work for the father for a year. Between this conversation and agreeing terms with the farmer himself, the man's wife died, making him eligible to gain a new

\textsuperscript{1} M. Nolan, \textit{A Treatise of the Laws for the Relief and Settlement of the Poor} (2 vols, 1808), 1, p.250.


\textsuperscript{3} Cases are quoted in books such as Burrow and Burn where servants gained a settlement while living in his or her father's house, but this was in a few areas where this was considered the norm. In the East Midlands, a servant was expected to reside on his master's property.

settlement by his year's service. Mr Norton, a barrister speaking in this case said 'The Intent of the Restriction of this Law to unmarried Persons without Children, was to prevent the consequential Damage that might accrue to Parishes from hiring Servants incumbered with Wives or with unsettled Children'.\textsuperscript{5} Ann Kussmaul in her book Servants in Husbandry explains that 'It was not an adult occupation, but a status and occupation of youths, a stage in the progress from child living with parents to married adult living with spouse and children'.\textsuperscript{6}

While this was obviously true in the great majority of cases, there are certainly instances of a man or woman gaining a new settlement by a year's service after a marriage had ended through the death of the spouse, and cases of men and women who never married.

Probably no single measure connected with the Old Poor Law gave more trouble at parish level than the 365 day rule. In many cases the pauper, asked to account for his last hiring, had to give evidence on his exact number of days service, yet that service may well have been twenty or perhaps even forty years earlier.

After reading a settlement examination which listed a series of hirings, a family historian was heard to ask if her ancestor had kept a diary.\textsuperscript{7} What is perhaps difficult

\textsuperscript{5} Burrow, Settlement Cases, p.456.


\textsuperscript{7} K.D.M. Snell has written that 'Settlement certificates acknowledging settlement (or apprenticeship indentures) were passed from father to son; receipts of rent paid in excess of £10 per annum were produced decades later in evidence'. K.D.M. Snell, Annals of the Labouring
for us to appreciate in the late 20th century is that help for the poor was not distributed nationally as it is today. As K.D.M. Snell has written, 'settlement was crucial because with it came eligibility to poor relief: the right of the poor to poor relief when they needed it, where they were eligible for it'. 

Because of this, the importance of settlement in the lives of our forbears meant that they must have striven to remember every detail that would establish their right to relief. But it is clear that memory failed them in many cases - or was it perhaps that memory could on occasions conveniently forget details the pauper preferred not to remember?

As many of the servants were young unmarried men, a parish in which a servant gained a settlement might find itself a few years later, responsible for the relief of that same man, now married with a quiver-full of young children. As a result many farmers in rural areas were discouraged from hiring servants for a full year. The cases heard in the Court of King's Bench often speak of 'fraud' in connection with hirings terminated a few days before the end of a year's service, but despite blatant attempts to stop servants gaining a settlement, the Court of King's Bench often allowed a settlement in cases of this type.

In the Northamptonshire area it was normal for servants to be hired in September or October at a Statute, or Mop, as the hiring fairs were usually known. It seems to have been accepted that service for a year would end at Michaelmas. Despite the fact that the cases found were in the late 18th or early 19th century, many of the servants

---


and their masters still spoke of Michaelmas Day and of Old Michaelmas Day, and many hirings were dated as 'a few days before or after Old Michaelmas'.

The legal definition of 'a year's hiring' was established by a number of appeal cases. In one such case, one of the judges used the example of a Church Warden or Overseer of the Poor who was appointed to serve in that position from Easter in one year to Easter in the next year, and 'are considered as executing the office a whole year, though it may fall short of 365 Days'. In the case of settlement by service, the courts established that the actual 365 days had to be served.

The Case of David Packer 1823

David Packer was born at Murcot, parish of Watford, but by an order dated 4th December 1822, he and his wife and child were removed from Watford to Long Buckby. The

9 Perhaps it is not inappropriate to tell here of the experience of Miss Rose Holyoak who worked as a land girl in the Second World War. On the 10th of October a son was born at the farm where she was working. To her surprise the farmer told her that the child was to be called Michael as he had been born on Michaelmas Day, showing that an old tradition had existed for approximately two hundred years.

10 Burrow, Settlement Cases, p.671.

11 D824. In the case papers the man's name is given as Packer but in the Quarter Sessions Record Book as Parker. The baptism of Charles, son of David and Sophia Packer 3rd April 1824 in the Watford parish register, suggests that the name is given wrongly in the Quarter Sessions records: an interesting example of how even official records may be incorrect. 343p/4.

Burn states that many actual cases are incorrectly named because those reporting them were trying to write down unfamiliar place-names: he cites Missenden being written as Misserden, Woodend as Wooden and Uttoxeter as Eutoscatur. He states that the writings of Sir James Burrow are better to be trusted as he is able to read the correct names in
barrister's brief for the parish of Watford as respondents in the subsequent appeal, tells us that he 'gained a settlement by living with Mr William Tebbutt of Murcot in the parish of Long Buckby for 3 years'. This was admitted by appellants. However in a settlement examination on the 4th December 1822, we learn some details of the service.

About a fortnight before Old Michaelmas 1811 he was hired by Mr Tebbutt of Long Buckby to serve him at the wages of six pounds from the Old Michaelmas. No time was mentioned as to the duration of the service. That he entered his service two days after Old Michaelmas and continued therein until the Old Michaelmas following and received his wages. That at Haddon Statute previous to Michaelmas 1812 his Master Mr Tebbutt hired him for the following year at the wages of seven pounds which time he also served and received his wages. That at Harlestone Statute 1813 his Master again hired him for the following year which time he also served.

This has been quoted at some length as it is typical of the information we read in examinations of men and women who had been employed as servants. The only other information given in this examination is about his

the official records. R. Burn, The Justice of the Peace and the Parish Officer (14th edn, 4 vols, 1780), 3, pp.382-383. Burrows as Master of the Crown Office was in charge of all the documents connected with the Court of King's Bench.

12 The pauper states in his examination that he was born in the Hamlet of Murcot in the parish of Watford. The case papers say that he was hired by Mr Tebbutt of the Hamlet of Murcot in the parish of Long Buckby. In Volume 10 of the English Place Name Society, the only entry under Murcot is given as in the parish of Long Buckby. J.E.B. Glover, A. Mawer & F.M. Stenton, The Place-Names of Northamptonshire (1933), pp.65-66.

13 D1502.
birthplace, and that he has a wife and a baby of two
weeks old. Taken alone this examination seems to prove
conclusively that Packer had gained a good settlement at
Long Buckby by his service with Tebbutt and it is hardly
surprising that the two Justices, Sir Charles Knightley
and T.R. Thornley Esquire, were willing to sign an order
to remove the family from Watford to Long Buckby.

We can be certain that the parish officers of Long Buckby
were not pleased to find themselves responsible for a
young married couple and their tiny baby. From the
surviving brief it is clear that Watford expect Long
Buckby to try to prove that Packer gained a subsequent
settlement after leaving Mr Tebbutt's service. We read
that his next service was with Mr Bland of Murcot, yet
again in the parish of Long Buckby. The brief states that
he was hired about 4 days after Michaelmas 1814 (about
the 3rd October) and served him until the day after Old
Michaelmas (11th October) 1815. This would have confirmed
a good settlement for him in Long Buckby.

We then read that on Saturday 14th October 1815 the
pauper was hired by Mr William Pool of Watford until the
following Michaelmas at a wage of £10 for the year. He
served his master until the day after Old Michaelmas
(11th October). He then left, taking his clothes with him
but his master told him that there would be work for him
if he returned on Monday the 14th. Nothing was said
about a hiring and when Packer returned he was employed
as a day labourer for two days. On the second day his
master offered to hire him but refused to pay the £12 for
which Packer asked. His master gave him 2/- for the two
days he had worked and on the Wednesday the Pauper went
to Daventry Mop but failed to get a place. He returned to
Mr Pool on Wednesday the 16th of October and was employed
as a labourer for a week and then accepted service at £11
until the next Michaelmas. He served his time and
received his wages on Monday the 13th October 1817.\textsuperscript{14} The brief states that Packer is anxious to establish his settlement in Watford and accuses him of lying about his service with Pool, saying that he claims that he was hired on the 14th of October of one year and paid on the 13th of the next.\textsuperscript{15} This would have given him a good settlement at Watford. He is also accused of saying that he was not hired as a day labourer on the 14th and 15th of October 1816, and that his master allowed him to visit Daventry Mop as a day's holiday.

The brief states that

The harvest in 1816 was exceedingly late and at Michaelmas, Pool had not done reaping: it was not therefore very likely, nor will the Court believe it, that Pool would have suffered his Servant to go merely for a holiday to the Mop.

At this time, Pool employed two labourers, William Fox and John Goodwin. The Pauper told them in the reaping fields that he and his master had not agreed on wages and he was going to the Mop. Later, Fox saw the pauper in the stable and told him to accept £10. This, it has to be remembered, is in the brief for Watford. It also states that Goodwin and Fox are both to give evidence in support of this statement.

\begin{itemize}
\item[\textsuperscript{15}] It was established by the Court of King's Bench in the case of Rex v. Skiplam, that service always included the day of hiring and the last day of service, as the servant was under his master's orders for at least part of both those days. Burn, Justice, (23rd edn, 1820), 4, p.293.
\end{itemize}
We are told that John Goodwin resided at Crick. The solicitors and barristers liked to find a witness from a parish not involved in the appeal as this made his evidence seem more trustworthy. A rate payer for one of the parishes which were party to the appeal would at this date be allowed to give evidence, but as labourers were unlikely to be rate payers, their evidence would always have been more acceptable. On this point Nolan states that someone who pays rates in one of the interested parishes is considered 'incompetent' and that particularly they are not allowed to give evidence for their own parish but can be called for the other parish as they would then be giving evidence against their interest.\textsuperscript{16} However before the date of the Packer case the law on this matter had been changed by 54 Geo. III c.170 which stated that people should not be 'incompetent' to give evidence in support of their own parish. Despite this new ruling, Long Buckby would have been pleased to have an independent witness. Goodwin, giving evidence in the Packer case, stated that Harvest was very late that year. The Pauper told him that he and Pool had not agreed, and that Packer was going to the Mop. The Pauper came back in the night and worked again for his master the next day.

The Quarter Sessions Record Book shows that the removal order was quashed. There is no mention of any other parish in which he might have gained a settlement, so it seems that he must have been allowed to stay in Watford, as we are told he wanted to do. There is much evidence in poor law documents of men trying to establish a settlement in a particular parish.\textsuperscript{17} The parishioners of

\textsuperscript{16} Nolan, \textit{Relief and Settlement}, 1, pp.377-378.

\textsuperscript{17} In the brief for their appeal against the removal of a pauper to the parish of Edgcote, we read that 'on the day the Pauper went to be examined before the Justices and before he set out, he asked Gutteridge (his former master)
Watford were going to have to support the Packer family. A rough draft of his account shows that they also had to pay solicitor E.S. Burton, £20-17-6 for the work undertaken in support of the order. No doubt Long Buckby had to pay a similar amount to their own attorney, so this case probably cost the two parishes in the region of £40. Nearly 40 years earlier Lord Chief Justice Hardwicke speaking in the Court of King's Bench said 'I have heard that the Money spent about determining these Settlements would go a great Way towards the Maintenance of the Poor'.  

Appendix No 3 is a list of the solicitor's accounts for Northamptonshire appeal cases. The amounts, which are for one parish only, vary from as little as £2-1-10½ to one of £64-13-4. There must also have been some additional expenses incurred by the parish officers themselves. Also in a general account from H.B. Harrison to the parish of Daventry, one item mentions the barrister he regularly used. 'Paid Mr Dayrell a general Retainer for the Parish of Daventry £3-3-0. To his Clerk 10/6 £3-13-6'.  

It seems probable that the total costs for each parish of at least some of the cases shown in the Appendix would in reality have been very much higher than the amount listed.

Another interesting point is that Packer's child was only two weeks old. In The World we have Lost, Peter Laslett writes that 'Poverty awaited the husbandman's servant when he got married and went himself to live in just such a labourer's cottage as the one in which he had been what he must say before the Justices in order to prove his settlement at Edgcott'. Northamptonshire Record Office, D9830. In another brief, the solicitor wrote of the pauper's 'great desire to fix himself at Catesby'. D1074. 

---

18 Burrow, Settlement-Cases, p.79.

19 96p/337/4.
The Northamptonshire Poor Law Index shows that a large number of men examined as to their settlement had a new baby. However being examined did not always result in a removal even if it established that the family were not living in their parish of settlement.

The Case of Elizabeth Warrop 1822

By an order dated 14th January 1822, two Justices of the Peace, William Ralph Cartwright and Rev. Thomas Fawcett, removed an unmarried woman with her child from Aston Le Walls to Byfield. Her name was Elizabeth Warrop. She was born at Aston Le Walls where her parents were legally settled. At Michaelmas 1813 she was hired by Mr Bromley of Byfield for a year, and continued in Mr Bromley's service for a further three years. This service gave her a good Settlement at Byfield.\(^{21}\)

Two or three days before Old Michaelmas day 1817, Mr King of Turweston in Oxfordshire offered to hire her for the next year. The barristers brief for Byfield tells us that she replied that 'she should have no objection if they could agree for wages. They agreed for £7'. The Pauper then asked Mr King to allow her 'to stay until the Monday week' - after Michaelmas Day - but he said that 'he wished her to come on Thursday but if it was her wish to stop till Sunday he should not object to it. He then gave her a shilling by way of earnest and they parted'.\(^{22}\)

---


\(^{21}\) D764.

\(^{22}\) It was normal for a master to give a new servant an 'earnest'. The acceptance of the earnest made it a binding contract. A shilling was the normal amount but some highly skilled men such as shepherds might be given as much as 2/6.
pauper entered his service on the day named and continued in it until Michaelmas Day 1818 when Mr King paid her wages and she left.

At Buckingham Statute (which was a week or more before Old Michaelmas) 1818 she was hired by Mr Flowers of Beckhampton in Buckinghamshire. She agreed to accept £9 wages. The brief states that

no time was mentioned as to the duration of the service and this conversation took place in the street. When they had agreed for wages ... they went to the Two Swans which was about one hundred yards from the place where they agreed, and ... he gave her a glass of beer and asked her when she could come. She asked to stay at home until Monday after Michaelmas, he said he was not willing to that but she might stay till Saturday. He then gave her a shilling earnest and they parted.

She continued in this service until three days before Old Michaelmas day 1819 when her Mistress told her that Mr Flowers said her time was up and paid the Pauper her wages.

There seems to be no doubt that the pauper had a good settlement at Byfield because of her three years service with Mr Bromley, but Byfield parish officers were obviously anxious to establish that she gained a new settlement by either her service with Mr King at Turweston, or with Mr Flowers of Beckhampton. This is a direct parallel with the Packer case. Elizabeth Warrop's service with Mr King seems to have started after Old Michaelmas Day but the actual contract was made at Buckingham Statute which we are told was 'a week or more' before Old Michaelmas Day.
Speaking of the contract between a master and a servant, Nolan wrote that 'it may be for a year to commence at some future time, as a week or fortnight after hiring; and the service need not commence in fact at the time when the servant's year commences inasmuch as it may be dispensed with by the master'. In many of the contemporary books about the law of settlement, it is shown that even if a servant absented himself from his master's service for as much as two weeks, if the master then received him back, this acceptance 'purged' the fault and so allowed the servant to gain a settlement. In the same way if a master allowed a servant a few days in which to visit a sick parent, this did not invalidate the years service but counted as leave granted with the master's permission.

As Elizabeth Warrop's mistress paid her her full wages three days before Old Michaelmas day, and as her master accepted her as his servant despite being late, and paid her full wages, it seems that this has to be accepted as a good settlement. However in the Quarter Sessions Record Book we find that Byfield lost the appeal, which can only mean that the sessions considered that she did not acquire a settlement with Mr King or Mr Flowers. One must conclude that the opposing parish produced other evidence in defence of their case.

The Case of William Dunkley 1800
On January 1st 1800, two magistrates signed an order by which William Dunkley, his wife and their children, Mary aged 2½ and Elizabeth aged 9 months, were removed to Castle Ashby from the neighbouring parish of Earls Barton. While these two parishes are not strictly in the Daventry area, the papers connected with the Earls Barton

---

23 Nolan, Relief and Settlement, 1, p.264.
side of the case are to be found in the Daventry Collection as the solicitor for that parish was H.B. Harrison of Daventry.

Castle Ashby appealed against the order. The brief for the barrister defending the order on behalf of Earls Barton states that the pauper was born in their parish but gained a settlement by service in the parish of Sywell. Later he was hired for a year by William Paine of White Mills. The papers suggest that there is no dispute about Dunkley's service with William Paine. The cause of the case was the exact location of the White Mill and the mill house. We are told that Castle Ashby will try to prove that the mill house in which Paine resided, or at least 'that part of it in which the Pauper Slept, is situated within the parish of Earls Barton'.

We are fortunate that a document about this case has survived in the parish chest material for Castle Ashby. This is a summary in note form of the happenings connected with this appeal. It is not clear by whom it was compiled, but shows that Harrison was correct in his judgement of the case that Castle Ashby were preparing. If he were not mentioned by name in the last paragraph, it might be written by Mr Scriven, Lord Northampton's Steward. Also mentioned are Rogers and Adams, two men who signed the Notice of Appeal. No mention of Rogers has been found in any documents connected with Castle Ashby, but Adams is presumably the John Adams who signed the Bishops' Transcripts as Church Warden in May 1800.

After stating that the removal order was given to Adams on 2nd January and the fact that the writer received it two days later, the document goes on to say that he tried

24 D611.

25 58p/127.
to visit Mr Markham, a Northampton solicitor, on the 6th but adds 'out of town, saw him next morning'. On the 8th Mr Markham junior 'came to Ashby to have notice of appeal signed by Adams and Rogers'. Mr Markham himself visited Ashby on Sunday 12th January and took away with him an

Ancient deed of Mill & Lease & Counterpart of Deed to Slater. Lease expresses Mill under one roof.

Under a heading 'Register' we read that there is no entry appertaining to the building erected on Barton land except the baptism of one of Paine's daughters 'in consequence of extreme pressure by Paine after being several times refused by Mr Seagrave', the rector of Castle Ashby. We are also told that the entry shows the parents as of the parish of Barton.

The document then states that there was a plan of the mill and adds that the 'Pauper never slept but in that part of additional building which was last erected' and that he relates that 'his Master has frequently told him the House is in Barton'. We also read that Castle Ashby had granted Mr Harrison's request that the case be postponed till Easter and that Mrs Slater's deposition should be taken at Wilby before Mr Dickens and Mr Young. These two men are the Justices who signed the removal order: both men appear occasionally as signatories of poor law documents in the area. The case was again adjourned because Mr Dickens was not in the county to take Mrs Slater's deposition.

---

26 John Seagrave was rector of Castle Ashby from 1773-1805.

27 This gives an interesting insight into the reasons why cases were sometime adjourned. Normally we are only aware of a delay between a parish applying to the Sessions for their appeal to be heard, and the actual hearing and judgement.
There is no mention of Mrs Slater in any of the papers connected with the brief for Earls Barton but the Castle Ashby document gives a summary of her evidence.

That she always considered the whole of what her Husband occupied under Lord Northampton to be in Ashby, that he paid no other rates than what he paid to Ashby. All her children except one were Christened by Mr Maule, Rector of Ashby. The whole building both Mill and House under one level roof. No lean-to except a triffling Scullery. Servants always slept over the Mill part.\(^{28}\)

One passage quoted in the brief is taken from a lease dated 7th August 1744 by which James, Earl of Northampton leased the property to John Slater for 21 years. Presumably this is the ancient deed mentioned in the Ashby paper. It would be interesting to know how Mr Harrison obtained this. Presumably if he knew of its existence, he was entitled to ask for it to be produced at the Sessions. That he knew its contents before the hearing is clear as it is quoted in the brief.

All those Mills called Hullock Mill being two wheat Mills two Barley Mills & one dressing Mill with appurtenances & the ground whereon the said Mills stand & all Mills Pools, Mill dams ways & passages to the mill belonging Also all two Holmes called the Mill Holmes containing one Acre & two roods all which premises are in the parish of Castle Ashby in the County of Northampton.

At first sight this seems to prove the mill to be in the parish of Castle Ashby, but the Ashby document states that 'Barton allowed to be so, but that the present

\(^{28}\) John Maule was rector from 1740 to 1773.
dwelling was not then built - proved by Ashby Witnesses'.

This no doubt refers to evidence given on behalf of Ashby by various old men. One of these was Wm White. The section of the Ashby documents about his evidence reads:

Remembers Perambulating with Ashby Parishioners upwards of 60 years ago & continued so to do for 4 Years. At that time there was no other building than the present Mill - the dwelling house being at that end of the same nearest Barton which is now used as part of the Mill. That in the open field State of Barton the sheep common came up to the end of the building & Barton Parishioners always mowed up to the River edge being the boundary of Barton Parish.

On one of the blank sheets of the Barton Brief, the barrister has made a note about evidence given by Wm Tite. The note reads:

Mills burnt twice but rebuilt on the same - 20 or 30 years since the last fire, 1st fire 10 or 20 years before that - better than 30 years since 1st burnt.\(^{29}\)

There is also a note that the new building never burnt down. In the Ashby document there are tantalising references to the fact that part of the building was over the river but this is never clearly stated. John Tebbutt,

\(^{29}\) It was very common for corn mills to burn down in past years. J.F. Lockwood, *Flour Milling* (1962), p.146, writing of modern roller mills, says 'without an exhaust system the air would become so heavily dust-laden as to present a serious risk of explosions'. The famous Albion Mills on the banks of the Thames, where, in 1786, Watt steam engines were first used to grind wheat, burnt down only a few years later. The fact that such large new buildings were destroyed by fire, was likely to have been the result of an explosion caused by flour.
another old man, is reported to have said that he 'remembered Perambulating at different times about 50 years. Never went beyond the N.E. Angle of the old building'. He also gave evidence there was a Perambulation of the Castle Ashby parish boundaries in 1791 when the Barton Parishioners were expected to meet them at White Mill. The Ashby people 'waited some time for them, but they did not come'. He had recently visited the mill and that the old mill was the same as it had been in the past and that part of the old mill wall was still standing. He also said that the building nearest to Barton had been added on what was in the past an open space, between the old part and the river.

It seems clear that there had been a dispute between the two parishes for some years before this case started. In the exposition of the Respondents Case in the Barton brief, it states that

the parish of Castle Ashby ends at the Mill and that the whole of the Mill House where Paine & his family now & where Slater did reside, is within Earls Barton & that the Letters "A.C" are marked upon the wall to denote where the parish of Castle Ashby ends, but it must be noticed that these Letters were not anciently or at the time of the perambulations, marked upon the walls, but since the Question has been in dispute, Mr Scriven Lord Northampton's steward caused them to be cut in the Wall.

Other evidence of a dispute between the two parishes is that for many years all the wagons belonging to the mill were marked "Castle Ashby"

But since the disputes have occurred Mr Paine has rubbed "Castle Ashby" off his waggons & wrote "Earls Barton".
Amongst the main case papers we have the report of an interview with Henry Paine, the brother of William Paine the lessee of the mill, and who had resided there until ten years before. He stated that he lived in Ashby Mill for about 23 years. He understood that the old parts of the mill were in Castle Ashby parish but that the new building was in Barton. However he himself always slept in the new building but was balloted for the Castle Ashby militia about 20 years before and at his own expense provided a substitute. He also stated that about ten years before, 'Mr Scriven employed Rivitt the younger of Grendon, a mason, to engrave the letter "A" on each side of the House purporting Ashby'.

A note written by the barrister during the trial shows that Ann Glover gave evidence that her mother's second husband had gained a settlement in Castle Ashby 'by Servitude with Mr Slater'. But the writer of the Ashby report reminds us that 'Mrs Slater says servants always slept in the Mill part which is allowed to be in Ashby'. The brief states that Castle Ashby parish belongs to Lord Northampton who, through his agent Mr Scriven, made provision for the poor of the parish. We are told that no poor rate had been levied in living memory. Also until 'of late years no Overseer of the Poor has been appointed for Castle Ashby'.

More evidence of a long-standing dispute between the two parishes is given in various pieces of evidence about the old Rector of Castle Ashby, the Rev. George Maule. In the Brief for the Respondents, Harrison and Burton say that they have evidence that Slater, while occupying the mill, became friendly with the Rector of Earls Barton and had one of his children baptised by him. This 'so offended Mr Maule, the Rector of Castle Ashby, that he threatened to prosecute the Rector of Earls Barton for interfering with the duty of Castle Ashby and it was with difficulty
he was dissuaded from putting his threats into execution'. A number of Mr Slater's children were baptised, and he and his family were buried at Castle Ashby. The baptism of their son John at Earls Barton was in 1753, forty seven years before the date of the Dunkley Case.

The final section of the Castle Ashby paper shows that the writer was far from satisfied with the way in which Mr Dayrell, the barrister for Ashby, had conducted the case.

A ground plan was drawn of present state of Mill etc, pointing out the old part from that built as Lean-to. Mr Dayrell would not bring it forward - nor did he impress the Bench so fully as he ought to have done with the distinction between the Old Building & that part where Pauper gained a Settlement.

Refused to ask Tebbutt as to his recollecting a Child of Slaters being brought to Ashby for Baptism & Rejected by Mr Maule Rector.

Also to call Watts who could have proved that Mr Seagrave the present Rector refused to Marry Wm Paine to his present Wife which was the cause of their being married at Barton.

Also to call Scriven who could have sworn that he sent a request to Barton Parishioners 1791 to meet Ashby at the Mill in their Perambulation & that he received for answer they would attend, which they did not.

It is clear from this paper that Castle Ashby lost its appeal against the removal of the Dunkley family, as is
proved by an inspection of the Quarter Sessions Record Book. It seems from the evidence that the most likely cause of this case was the long-standing feud between the two parishes - possible caused by Slater having his son baptised at Earls Barton nearly fifty years earlier. If this was so, it must have proved an expensive feud for both parishes.

Although the settlement gained by Dunkley was due to his year as a servant with Mr Paine, the appeal against the removal order had nothing to do with that service, but hung entirely on the parish in which he slept. In 1827 Samuel Gudgeon was examined as to his settlement and stated that in 1823 he had been hired by Cosford, a miller of Heyford. There is a note on the side of the examination which reads

House stands in two parishes, Floure and Heyford but Deponent always slept in that part which is in the Parish of Heyford.

In the contemporary books on settlement appeals, very few cases connected with parish boundaries appear. In a summary of 54 Geo. III cl70 we have a mention of people giving evidence 'to the boundary between such district, parish, township or Hamlet'. The only Northamptonshire case found is one quoted by Burrow in which a man worked for a year at a farm on the road between Towcester and Daventry. The Quarter Sessions were uncertain in which parish the farm lay but told the King's Bench that it was in one of two. The appeal court considered this too uncertain and had the case sent down to the Quarter Sessions again. This time the lower court 'on examination of Witnesses decided that the farm lay in the parish of

---

30 D3229/33/2.

31 Burn, Justice, (23rd edn, 1820), 4, p.683.
Nether Heyford'. The case then returned to the King's Bench and was determined on the man's service and no further mention was made about the parish boundaries. One can only assume from the sparsity of such cases that most parishes were clear as to their boundaries and that few buildings straddled two poor law authorities. In the 20th century, probably very few of the population, except perhaps people living in villages, are aware of the parish in which they live, still less of the exact boundaries of their parish. The settlement laws must have made our ancestors much more aware of parish boundaries than we are today, and were probably one reason why so many parishes beat the bounds regularly.

There is an intriguing footnote in the Webbs' book on the old poor law quoting from 'Diary, Reminiscences and Correspondence of Henry Crabb Robinson' by Thomas Sadler, 3rd edition, 1872, p.264.

I spent several hours at the Clerkenwell Sessions. A case came before the Court, ludicrous because of the minuteness required in the examination. Was the pauper settled in parish A or B? The house he occupied was in both parishes, and models of both the house and of the bed in which the pauper slept were laid before the Court that it might ascertain how much of his body lay in each parish. The court held the pauper to be settled where his head (being the nobler part) lay, though one of his legs at least, and great part of his body, lay out of that parish.32

The Case of Edward Treadgold 1780

There is no barrister's brief for this case but we have a

bundle of documents connected with it. Amongst these is a rough copy of the evidence of Wm Carwell 'who lived fellow servant with Pauper all the time says Pauper came into Kinning's service about 9 years ago a few days after Michaelmas being hired as he believes at the first or second Mop at Daventry'. In his evidence Carwell stated that the pauper tried to frighten him into refusing to give evidence at the Sessions. He also states that Kinning's house is in the parish of Norton', and that he is very sure that the Pauper was never out of his Masters service at Michaelmas without his Masters leave & does not recollect that he was ever absent a single day.

He also stated that the pauper seemed determined to fix his settlement at Staverton, the parish from which he had been removed, because Staverton had behaved very spitefully to him. He would be damned if he wouldn't behave so to them from whence & by his general behaviour the Witness observed Pauper may determine to fix his settlement at Staverton if he could.

Another paper connected with this case is a notice addressed to the parish of Norton requiring them to produce the Original Examination of the Pauper Edward Treadgold taken upon his Oath in writing before Michael O'Clare and Charles Addington, Justices of the Peace. This notice is addressed to Mr Oakden, solicitor for the parish of Norton, who also practised in Daventry. Norton was also required to produce the Rate Books for the parish, presumably to prove that Treadgold's master paid Norton rates. Taken with Carwell's evidence that

---

33 D9816.
Kinning's house was in Norton parish, we can assume that H.B. Harrison, solicitor for the respondent parish of Staverton, expected Norton to try to prove that Kinning lived in a different parish.\footnote{The Northampton Place-Names book gives Muscott as in the parish of Norton. Glover, Mawer, Stenton, Place-Names of Northamptonshire, p.27.}

This case raises some interesting points connected with the actual working of the appeal system. Amongst the case papers there is a letter from Harrison to the Revd Michael O'Clare.

Daventry 3rd October 1780
Revd Sir,
I am apprehensive that Treadgolds Examination which you and Mr Addington took and in consequence thereof removed him from Staverton to Norton may be necessary to be produced upon the Appeal next Thursday at the Sessions. I send my Clerk therefore on purpose to beg the favour of you, if you shall attend the Sessions, to put such Examination in your Pocket, or if you are at all doubtful whether you shall be there that you will be so obliging to give it to the bearer, and I will undertake, if you wish it, that it shall be safely restored to you,
I am, Revd Sir,
your most Obed',
H B Harrison

An entry for the same day in solicitor Harrison's Day Book reads

Journey Mr Burton to Maidford to attend Mr O'Clare with a letter desiring him to produce the Examination of Pauper on the hearing of this Appeal but Mr O'Clare said that he had given it to Mr
Oakden. Attended Mr Oakden several times for this Examination but Mr Oakden said he could not find it.\textsuperscript{35}

Michael O'Clare, the rector of Maidford, was one of the two Justices who signed the order by which the Treadgold family were removed from Staverton to Norton. The tone of the Day Book entry suggests that there was little love lost between the two solicitors: the contents of the Daventry collection seem to show that Oakden's practice was eventually taken over by Harrison and Burton. However the most interesting feature of this exchange is the light which it throws on the part played by O'Clare. One is normally told to expect documents connected with removals to be found in parish collections. Here we read that the Justice himself had kept the examination of the pauper. A similar suggestion is found in a case reported by Bott. In 1768 a pauper was removed from Shropshire to the parish of Kirkby Stephen: for poor law purposes this Cumberland parish is divided into a number of townships. Before it was decided exactly which of the several townships was the pauper's settlement, he was examined by two Justices. What is interesting about the case was that after this examination the original removal order from Shropshire was mislaid. Bott tells us that 'the order was either left with the Justices or delivered to one of the Overseers of the Township of Kirkby Stephen'. This seems to suggest that it would be quite natural for the Justices to have retained the paper.\textsuperscript{36}

A solicitors's Day Book for 27th September 1808 reads

\begin{quote}
Clerks journey to Napton to Mr Bromfield, one of the removing Justices for the examinations taken upon
\end{quote}

\begin{footnotes}
\textsuperscript{35} D7842.
\end{footnotes}
the removal but they were with Mr Grimes.\textsuperscript{37}

The next entry shows

clerks journey to Mr Grimes at Coton House for
copies of the examination taken upon the removal of
Newmans. Making copies of three examinations.

This again suggests that it was not uncommon for a
Justice to keep the examinations.

Unfortunately very little parish-chest material of this
period has survived for Staverton and none which gives us
any insight into the Treadgold case. As is normal with
these cases, we have no means of knowing what evidence
influenced the Quarter Sessions in their judgement. All
we are told is that the removal order was set aside and
discharged. So Treadgold had his wish and returned to
Staverton. One cannot help wondering how he was treated
by the Staverton overseers, or whether they tried
removing him to yet another parish.

\textbf{The Case of John Howe 1796}

The surviving document about John Howe is a case summary
in which solicitor Harrison set out the main details in
order to seek an opinion from Mr Dayrell, a barrister he
used in a number of appeal cases.\textsuperscript{38} We read that the
pauper was hired by a farmer in the parish of Eydon and
served two full years, and each time received his full
wages. He was then hired for a further twelve months and
served six of them in Eydon before his master removed
with his family (of whom we are told the pauper John Howe

\textsuperscript{37} D5784.

\textsuperscript{38} D7034.
was one) to Ashby St Ledgers. The pauper served more than forty days in the new parish but before the end of his year's service, he and his master 'agreed to dissolve the last contract and parted'.

It seems that Howe then returned to Eydon because the summary states that he had been chargeable to Eydon for some time. Eventually it was decided to have him removed to Ashby St Ledgers, and we learn that the parish officers there 'are desirous of prosecuting an appeal against these orders provided they can do so with any prospect of success'. This last comment is very understandable when the amount of costs they might incur are taken into consideration.

Towards the end of the Case Summary, it is suggested that the Justices removed Howe on the authority of 'the King and Croscomb, Michaelmas Term 19 George 2nd'. This is a case about a youth who was hired as a servant by a Dr Lucy and served him in the Liberty of St Andrew for a year, and received his wages. He continued to serve his master for a further three months until his master moved to a house in the parish of St Cuthbert. The youth went with him as part of his household and worked a further six months before leaving his master. The King's Bench considered that he had gained a settlement in St Cuthbert's parish as it was there that he served the last forty days of his service. Dr Burn, explaining the reasoning behind the judgement of the King's Bench, wrote that,

it is the constant practice for servants to go on upon the first agreement, without any new one. And if this were not the case, then a servant who had lived with his master 20 years in different parishes, without any new contract, must be settled in the parish where his master had lived in the
Mr. Harrison suggested in the Case Summary that the situation with Howe was not comparable because, as he did not finish his last years service, he did not qualify for settlement in Ashby St. Ledgers. This seems a strange argument as the servant in the Croscomb case also did not complete his years service. Bott, reporting this case, tells us that Lord Chief Justice Lee said that he could not distinguish this case from that of Silverton and Aston, a case of a servant who moved with his master to a new farm and completed his year's service in the new parish. Chief Justice Parker related the case to 8 & 9 W.III, which made it clear that service for a year was meant to discourage servants from running away: that if a master takes his servant from parish to parish, that servant would gain a settlement in the last parish in which he served for forty days.

Mr. Dayrell, started his opinion with the words 'I think the Justices have done right in removing the Pauper to the parish of Ledgers Ashby'. He wrote that:

> the circumstances of there being a new hiring at the end of a first and second years service makes no difference for if no new contract is actually made, the Law presumes a fresh hiring for a year under the same terms as the former...... I cannot therefore advise the Officers of Ledgers Ashby to appeal against the order of removal'.

It was no surprise to find that, although Ashby St Ledgers at the Epiphany Session had entered a petition to

---

40 Bott, *Decisions of the King's Bench*, pp.306-308.
41 Bott, *Decisions of the King's Bench*, p.296.
be allowed to appeal against the order, no subsequent appeal case was heard. However, even though the parish decided not to appeal, they must still have had a bill from Mr Harrison as in a Day Book for 1796 there are entries under the heading of Ashby St Ledgers.42 One of these, dated 2nd January reads

Attending you at Daventry upon this business when it was agreed to enter the appeal at the next Sessions and adjourn the matter until the Easter Sessions.

Another entry is dated 14th January and shows charges of £1-1-4 for the journey to Northampton and for the court fees. To this would have been added the cost of Mr Harrison's time and the fees to the barristers for entering the appeal which had to be done at the first Sessions after receiving the order. Later, if the barrister advised against appealing, they had to inform the court at the start of the next Sessions that they wished to abandon the appeal.

The Case of Thomas Russell 1777

Yet again the only document concerning this appeal is a Case Summary, but unlike the previous one we have no copy of the barrister's opinion.43 It appears that Russell worked for nine months for William Stallworthy of Hillesden in Buckinghamshire. We are told that on Michaelmas day 1774 or possibly the day following, but certainly before he received his wages, his master asked him if he would be willing to serve for another year. He answered that 'he had no objection if they could agree about Wages'. His master said 'he should not hire him

42 D8230.
43 D5953.
then but would meet him at Banbury Fair the Thursday following to fix the Wages'. The pauper considering himself engaged, had left his clothes at his masters house. At Banbury Fair he and his master agreed about wages and he was hired until the next Michaelmas.

About a week or ten days before the end of his year, his master asked him if he would be willing

to leave his Service or go and serve Mr John Dixon of Hillesden the remainder of the year who he told him would make good his Wages or rather better and at the same time told the pauper that the reason why he wished him to leave his service or to go to Mr Dixon was for fear he should gain Settlement there.

Russell agreed to this arrangement and so worked for Dixon until Michaelmas and received 'somewhat more for his week or ten days work than Stallworthy had deducted from wages'. We are also told that one of Mr Dixon's servants supplied his place with Mr Stallworthy. The barrister to whom this was addressed is asked whether he would advise the parish of Catesby to appeal against an order by which Thomas Russell was removed from Hillesden to their parish.

The case summary tells us that

It has been the Practice among the Farmers at Hillesden for several years so to hire their Servants as to prevent their gaining settlement thereat and it is plain the Cautions taken in this case by the master was for that very purpose.

It seems that in this case the barrister advised the parish to try the appeal. This is not surprising as there is a somewhat similar case quoted by Bott of a servant
hired for a year by a blacksmith. On several occasions during the course of his year's service the master gave his man leave to work for another smith for periods differing from a few days to a fortnight. In each case the servant was allowed to keep the money he earned, but at the end of the year's service his master deducted 'the proportion of wages for the time he was absent'. The King's Bench ruled that 'this is not a dissolution of the contract, but a licence to be absent, and both parties considered it so, by continuing together to the end of the year'.

In another case in 1766 the court heard that the man had been hired for a year, but not liking the parish had told his master that he was anxious not to gain a settlement. The master agreed that the man should leave his service some days before the end of his year. He then returned after the year was over to work for the same master as a day labourer. The King's Bench 'looked upon the leave and consent of the master as fraudulent and a mere evasion of the settlement' and so judged that he had indeed gained a settlement.

The only other information found about the Russell case is in a Day Book belonging to the firm of Harrison and Lamb. The entry dated 15th, 16th and 17th of January 1777, reads:

Making Copy of the Order of removal of Russell from Hillesden to Catesby and Journey Mr Parkinson to Aylesbury in order to enter the appeal against the Order. Out three days. Horsehire and expenses.

44 Bott, Decisions of the King's Bench, p.303.
45 Bott, Decisions of the King's Bench, pp.313-314.
46 D4059.
On 31st March Mr Harrison and Mr Lamb's servant visited Catesby to get the signatures of the parish officers on a notice of appeal, after which the servant travelled into Buckinghamshire to deliver the notice to the parish officers of Hillesden. Once again the book notes the work to be charged to the client, in this case 'Out two days. Horsehire and Expenses'. One cannot help feeling sorry for the officers of Catesby because the remainder of the entry for 31st March shows that they were also discussing the possibility of appealing against a removal order from Southam in Warwickshire. It seems that in this second case they did not proceed as there are no further references to Southam in the Day Book.

There is no indication in any of the papers of the name of the barrister to whom the Russell Case Summary was addressed. We do however know that the barristers used in the appeal were Mr Whitchurch who received two guineas for appearing in the case, and Mr Burham who received two guineas for entering the appeal at the previous Sessions. These two barristers presumably worked regularly at Aylesbury. Their names have not been found in connection with any appeals in Northamptonshire, but there is an interesting letter from a man whom one must assume was a Buckinghamshire solicitor, written to Edmund Burton in 1820 saying that 'one Counsel only is employed with us'. He gives the names of two barristers both of whom he recommends.

The Day Book shows the result of the Russell case, the Court Fee of 6/6 being paid 'on quashing the order of Removal'. As has been said previously, working from barristers briefs or case summaries, only gives a very one-sided view of a case. The Quarter Sessions probably took the view that, as Russell went to work for Dixon at

D6529.
his master's request, this amounted to leave of absence with his master's approval. They might also have considered that this was a case in which a deliberate fraud was perpetrated to stop Russell gaining a settlement. Whatever their arguments may have been, we know that the two farmers did not succeed in stopping Russell from gaining a settlement in Hillesden.

As early as 1763 when Mary Pascoe was examined by two magistrates, she stated that she was hired for a year by a grazier but that about a month before her year was up her master was persuaded by the overseers to turn her off to prevent her from gaining a settlement.48 In papers about a case in 1779, the solicitor stated that 'there is nothing unlawful' in hiring for less than a full year.49 However, J.S. Taylor has quoted Burn as saying that 'If a master turn away his servant to prevent his gaining a settlement, it is fraud and the settlement will not be defeated', but as Taylor adds 'it was not easy to prove fraud'.50

Russell's master did nothing illegal when he asked his man to work for John Dixon for the last week or ten days of his year's service. If his friend Dixon was short of a servant and Stallworthy could spare Russell, this was a kind act on the part of Russell's master. What may have turned the transaction into an obvious attempt to stop Russell from gaining a settlement is the fact stated by Russell that one of Dixon's servants took his place with Stallworthy. Thomas Hardy makes an interesting comment in Far from the Madding Crowd when the elderly maltster says

48 96p/190/16a.
49 D9820.
that he worked for 'fourteen times eleven months at Millpond St Jude's. Old Twills wouldn't hire me for more than eleven months at a time, to keep me from being chargeable to the parish if so be I was disabled'.51

As the last two cases discussed were both taken from Case Summaries it is perhaps worth saying here that, while reading through the various Solicitors' Day Books in the Daventry Collection, it became clear that when a parish received a pauper with a removal order, it was by no means uncommon for the case to be submitted to a barrister for an opinion, before the parish decided whether or not to appeal.52

The Case of William Newman, 1810

William Newman, his wife and their three children were removed by two magistrates from Barby to Pattishall. Two briefs have survived for the subsequent appeal case, the first a fair copy, the other a rough draft. The evidence given in them differs substantially. This is easily explained by the fact that the rough brief is for the respondent parish of Barby while the fair copy is for the appellant parish of Pattishall.

The draft brief states that Newman was hired 'at Fosters Booth Statute about a fortnight before Michaelmas' by Mr Lemon of Foxley to work from Old Michaelmas Day 1799.

51 T. Hardy, Far from the Madding Crowd (1874, 1985 edn.), p.65.

52 Over twenty instances have been found where 'Opinions' were sought. Considering the unlikelihood of such information surviving, this suggests that a far greater number were requested.
until Old Michaelmas Day 1800, and served his full time.\textsuperscript{53} It is only in a note in a later part of the rough brief that one reads that Foxley is in the parish of Pattishall, and that it is this service which is the basis for the removal order. The note also suggests that Pattishall may try to establish that Foxley is in Blakesley parish.\textsuperscript{54}

Newman's examination, taken on 23rd May 1810 before two Justices, has survived with the draft brief. In it he stated that he was hired by Lemon in the autumn of 1806. It is explained in the brief that on reading over his examination the pauper is now satisfied that he told the Justices the wrong date, being hired in 1799 'to serve til 1800 and a proof of such mistake the Pauper has been married 8 years in November'.\textsuperscript{55} It is interesting to note that Pattishall were also having trouble with the pauper as their brief states that 'The Pauper is perhaps one of the most stupid fellows that ever came before a Court'.\textsuperscript{56}

The draft brief then states that after his year with Mr Lemon, the pauper was hired by Mr Thos Wise of Barby 'at Daventry First Mop which was the Wednesday after Michaelmas day 1800, to serve until the Michaelmas following'. The Pattishall brief points out that this is a hiring for less than a year and therefore no settlement was gained. This shows clearly that, although Pattishall

\textsuperscript{53} D4476.

\textsuperscript{54} In the Northamptonshire Place-Names volume the only entry under Foxley is given as in the parish of Blakesley. Glover, Mawer, Stenton, \textit{Place-Names of Northamptonshire}, pp.39-40.

\textsuperscript{55} William Newman and Hannah Forster both of this Parish were Married by Banns of 4th November 1802. Barby Parish Register, 24p/10.

\textsuperscript{56} D5794.
is appealing against having Newman and his family removed to their parish, they agree that he has no settlement in Barby. Their appeal did not require them to prove that the removing parish was the actual settlement of the pauper. All they needed to do to win their case was to prove that he was not settled in their own parish.

Returning to the draft brief we learn that Newman left the service of his second master on Michaelmas Day 1801 and went to Rugby Mop - which is the day after Old Michaelmas.

He did not set himself but a few days afterwards he was hired by Mr Wakefield of Potcutt to serve until the Michaelmas following and afterwards married and has gained no Settlement since he lived with Mr Lemon.

If this were correct, Newman was hired a few days after 11th October 1801 and worked at Potcote until the 29th September 1802, clearly less than a years service.

We get a different story from the Pattishall brief which tells us that 'On Old Michaelmas Day 1801 the pauper hired himself to Mr Wakefield of Potcutt, parish of Cold Higham till next Old Michaelmas'. We are further told that he served his full year and received his full wages thereby gaining a settlement at Cold Higham. If Pattishall could prove this hiring to have been for a full year, they would be clear of all possible responsibility for the Newman Family as this settlement would have superseded that gained by service with Mr Lemon in their parish.

After reading through these two briefs it seems difficult to see why Barby were prepared to remove Newman to Pattishall, however his examination, with its muddled
dates, suggests a clear cut settlement at Pattishall due to his service with Mr Joseph Lemon of Foxley in the parish of Pattishall, whom he claimed to have served from 'a fortnight before Michaelmas 1806 until Michaelmas 1807. It is strange that the Justices, John Plomer Clarke Esq. and Henry Bagshaw Harrison, clerk, did not notice the discrepancy in his evidence as he stated that he had three children, the oldest of whom was aged 6. If this were true, the child and another aged 3 were either not born in wedlock, or Newman could not have gained a settlement due to his service with Mr Lemon, as he would have been a married man at the time - thus being precluded from gaining settlement by service for a year.\(^5\)\(^7\)

As has already been shown, Newman later corrected his statement saying that his service with Lemon started in 1799, but if this mistake had been discovered prior to the signing of the removal order, Barby might have saved the expense of an appeal case, as Newman's subsequent service in Cold Higham would have been revealed.

Barby mention only one witness in their draft brief. This is Jonathan Foster who 'well recollects the Pauper coming down to his house the day after Michaelmas day 1800 (after he had left his old master) to go to Rugby Mop which is the day after Michaelmas Day - Michaelmas

\(^5\)\(^7\) The order by which Newman was removed to Pattishall was signed by H.B. Harrison, rector of Bugbrooke, thought to be the son of H.B. Harrison, solicitor. The solicitor for Pattishall in this case was Richard Howe of Northampton, while Simon Oakden was acting for Barby. If as seems almost certain, Oakden's practice was later taken into the firm of Harrison and Burton, that would explain the presence of the brief for Barby. What is more strange is that they should also have had the brief drawn up by a firm in Northampton. However it seems probable that Attorney H.B. Harrison arranged for Howe to take the case because he felt that it was unwise for him to act in an appeal where the removing Justice was his son.
day that year was on a Saturday (or Friday) and Rugby Mop on the Monday.' From the brief for Pattishall we learn that Foster's daughter is the wife of the pauper.

Quite apart from all the technicalities dealt with so far, the most important aspect of this case, from the point of view of the basic premise of the law of settlement, is found in the barrister's brief for the appellant parish of Pattishall. This tells us that Newman, residing at Barby ever since his marriage and wanting to know where his Settlement was he applied to the Parish Officers of Barby and requesting them to take him to the Justices to prove his Settlement but they refused till he had received Relief and therefore gave him 1/- then took him to the Justices and procured the present Order of Removal.

The brief states that 'upon this Ground tis submitted the Orders be quashed by Reason of the Pauper not being actually Chargeable'. By the Act of 35 Geo. III c101, no one could be removed from the parish in which he was living unless he was in actual need of relief. A similar case will be studied in Chapter 6.

As is usual with most Quarter Sessions cases, we have no means of knowing what aspect of the Newman case affected the judgement of the Sessions. The evidence of the various dates of Newman's hirings is inconclusive. The removal order was quashed by the Quarter Sessions.

**Conclusion**

These cases are only a small selection of those found which mentioned service. Some of the remainder will be
dealt with in other sections as two or more types of settlement are often involved in the same brief. For example it was not uncommon for a youth to leave his apprenticeship and then to work as a servant: equally a servant might later rent a property of sufficient value to allow him to gain a settlement.

All the evidence studied makes it clear that service for a year was probably the main method by which people in the old poor law period, gained a new settlement.\(^{58}\) It seems certain that as time went on, fewer and fewer workers gained a settlement by service due to the precautions taking by parishes and by individual farmers to stop outsiders becoming settled.

There are many papers in the Daventry Collection which show that masters were anxious not to let their workpeople gain a settlement. One such is an entry in a solicitor's Day Book for 1798 where the entry for 10th September reads

> Attending Wm Folkes

> and advising him as to getting rid of his Servant to avoid his gaining a Settlement with him.\(^{59}\)

Another paper states that in 1786 the farmers and parishioners of Bugbrooke have all bound themselves not to

> retain hire or employ any man Servant (except those who are already legally settled in the said parish

\(^{58}\) 'Hiring for the year, for most of those too poor to rent for £10 per annum, or pay an apprenticeship premium, was virtually the only method to gain one's own settlement'. Snell, Annals, p.73.

\(^{59}\) D6714.
of Bugbrooke) or take any apprentice in a manner which would allow the servant or Apprentice to gain a legal settlement. They all bound themselves in the sum of £100.60

K.D.M. Snell has pointed out that 'the decline of yearly farm service is of considerable regional interest, and has a direct bearing on rural social relations'. He goes on to comment on hiring fairs and on the habit of hiring servants for less than a full year after about 1780.61 He has also written that the growing labour surplus made it unnecessary for farmers to secure the services of his workers by tying them to a year's contract.62

It is interesting, though not surprising, that the Bugbrooke document quoted above, only mentions men servants. A young woman was much less of a danger to the rate payers because in all probability she would marry and so take her husband's settlement. Even if she eventually became a charge on the village, she would be less of a burden than a man with a family. The cost of poor relief in the short term was obviously a serious problem for any parish, but, as hiring for a year declined, the chances grew of a parish needing to support a family over a very long period.

Hiring Fairs

Many different hiring fairs have been mentioned in the various documents studied during the research for this

60 D8100.


62 Snell, Annals, p.88.
thesis. A list of these, together, wherever possible, with the date on which they were held is included as Appendix 4.

In chapter 4 of her book *Servants in Husbandry*, Ann Kussmaul discusses whether servants found a new place at a Statute fair or whether the Statute was just there to legalise the hiring.\(^6\)\(^3\) Evidence from the documents studied for this thesis is inconclusive. In 1823 we saw that David Packer went to Daventry Mop in search of work but finding none, returned to his former master. In other cases, after a year's service the master and his servant agreed to meet at the hiring fair to finalize a new agreement. Possibly the farmer thought that he might persuade the man to accept lower wages by delaying the hiring. However in a few cases there is no doubt that the hiring took place at the master's house before the end of the previous year's service. In two other cases a servant was recommended to apply to a particular master as he was known to be in need of a servant. Also found are two cases where a servant was recommended to a new master by a relative. However there seems to be no doubt that right into the 19th century, some servants still went to hiring fairs to find a new master. There is clear evidence that in the Autumn of 1818 Elizabeth Warrop was approached at Buckingham Statute by a man who did not know her. He asked 'if she was for service'. She replied that she was; when the man asked her 'to what work she had been accustomed, she told him dairy work and he said that was what he wanted a Servant for'.

**Dr Burn was Mistaken**

James Burrow reports a most interesting case in 1766 in which the Court of King's Bench was asked to give a

\(^{63}\) Kussmaul, *Servants in Husbandry*, Appendix 4 and Chapter 4.
judgement on a case that had been heard by the Westmorland Quarter Sessions. What makes the case of special interest is the printed marginal note which tells us that 'Dr Burn presided at this present Session, which made the Order now in question'. This is of course Richard Burn, LL.D, the author of the famous set of books, The Justice of the Peace and Parish Officer, who was a magistrate in both Westmorland and Cumberland. The first edition of this great work was only published eleven years before this case, but was to be in its 15th edition by Burn's death nineteen years later.

The case concerns Anne Kellet who was hired at Christmas 1763 to serve until Whitsun 1764. She was then hired again by the same master to serve until Whitsun 1765. In January 1766 she left his service because she had become lame and could not work. The Magistrates removed her to the parish in which she had served, but the Quarter Sessions decided that she had not acquired a settlement there and so quashed the order of the magistrates subject to the opinion of the King's Bench. After the evidence was presented to the appeal court, it seems that a very long discussion of the case followed in which a large number of precedents were quoted by the barristers for each side, including discussion as to whether certain cases were before subsequent changes in the laws. Then Lord Mansfield, the Lord Chief Justice, is reported to have said

Dr Burn has great Merit: He has done great Service; and deserves great Commendation; and his Opinion is supported by the Arguments and Observations which he has urged in favour of it. But there are many Determinations the other Way; and upon the Reason of the Thing, the Man's Credit arising from his being

---

64 Burrow, Settlement Cases, pp.545-551.
hired for a Year is as strong in the one Case as in the other. Therefore the Determinations are better founded upon Reason, than the Objection to them is. Besides, they are in Favour of Settlements: Which is sufficient to turn the Scale, if it hung quite even.

Mr Justice Wilmot spoke likewise with great Regard of Dr Burn (as indeed all the World does;) and he thought the Doctor had reasoned very sensibly and ingeniously in Support of his Opinion.

The Court then quashed the order made by Dr Burn and the other Justices sitting at the Quarter Sessions. At the end of the report of the case, James Burrow wrote a note almost two pages in length explaining the finer details of the reasoning behind the judgement. Of one of the precedent cases sited he says that Dr Burn was misled by bad reporting, obviously trying to find excuses for the reversal of the great doctor's judgement in the case. He ends

I have added this Note, for the Satisfaction of Dr Burn; And I hope it will be acceptable to him: Some other Gentlemen may perhaps think it long and tedious.

This story has been quoted because, perhaps more than anything else, it shows how difficult it was for the Justices, and even for the Kings' Bench, to judge the correct settlement in many of these cases.
Chapter 3

Settlement by owning or renting a property

Settlement by Estate

It is easy to assume that all paupers were unemployed agricultural workers, men and women brought up in poverty in a village hovel, or the poor inhabitant of some urban slum. This is obviously true of many, but amongst the people needing relief there were often men who had known better times, or still more likely, the families or widows of such men.

One such widow was Elizabeth Bliss who, when examined about her settlement in 1818, stated that in 1810 her husband had bought a house for £50 at Farthingstone. We learn that Richard Bliss was a blacksmith and had borrowed some of the purchase money, no doubt confident that he would be able to repay the loan. Unfortunately he died only three years later. It seems that he may already have repaid his debt as Elizabeth, in her examination, stated that she was still living in the house five years after her husband's death, but the examination states that she was a charge on the parish - an actual pauper. If despite owning the house, she had no money, the parish would probably support her during her lifetime but would claim the house on her death as repayment for the relief she had received.

---

1 D593/29.

2 P. King, 'Pauper inventories and the Material Lives of the poor in the eighteenth and early nineteenth centuries', in T. Hitchcock, P. King and P. Sharpe, eds,
a parish would 'mark the paupers goods the parish brand' to proclaim them parish property which could not sold.\(^3\)

Other paupers were men whose businesses had failed or who, through injury or ill health, were prevented from supporting their families.

From 1723 a man who was able to buy himself a property for not less than £30, was assured of a settlement after forty days residence on that property, or at least within the same parish. Many contemporary books make the point that the law was interested in the man's credit worthiness, and that even if he had bought his property with the aid of a mortgage, it was assumed that no-one would have lent him the purchase price if he were not considered of good financial standing.

Inevitably not all cases were so straight forward. Many arose because someone had inherited a property, particularly if a father died leaving an estate to be divided between two or more children: cases of this sort often hinged upon the legality of the inheritance. As has already been shown in earlier sections of this thesis, it was uncommon for two cases to be exactly alike. Appeal cases soon showed that, on certain points, the wording of many Acts was unclear. In this section it is hoped to show that it was only by various judgements in the Court of King's Bench that the details of settlement on one's own estate was established by case law.

---

For many years, even if a man bought an estate for a price below the required £30, the parish could only obtain a removal order within the first forty days. Once he had fulfilled the residential requirement, even if that estate was only worth a very small sum, he was irremovable from that estate. For the average family, £30 was an extremely large amount to find. Joseph Arch tells us that his grandparents 'a thrifty hard-working couple, managed to save, 'little by little, coin by coin' until they were able to buy the freehold of a cottage which Arch himself later inherited.\footnote{J. Arch, \textit{The Story of his Life, told by Himself} (1898), pp.4-5.} Quite apart from the financial problems, it was often difficult to find a cottage to buy because, 'conscious of the provisions of the Acts of Settlement', some landlords had no inclination to build more cottages.\footnote{A. Armstrong, \textit{Farmworkers, A Social and Economic History 1770-1980} (1988), pp.57-58.}

It was perhaps because parishes felt that too many people were gaining settlement through the inheritance of small tenements, that the law was modified. By 9 Geo.I. c.7. it was enacted that, while a man was irremovable from an estate which he had purchased, regardless of how low a purchase price was paid, no-one should acquire a settlement due to the purchase of an estate of less value than £30. This change in the law meant that once he left that estate, a man would be subject to the normal removal laws and could then be sent to his last parish of settlement.\footnote{R. Burn, \textit{The Justice of the Peace and the Parish Officer} (14th edn, 4 vols, 1780), 3, p.473.}

This seems a reasonably straight-forward piece of legislation, but it was soon to be modified by the Court of King's Bench. The Court held that the Act did not
cover inherited property. Case law soon established that
the owner of such an estate was entitled to gain a
settlement. This meant that where someone inherited a
small cottage or a small piece of ground, even though
that property, if sold, would be of less value than the
required £30, the new owner gained a good settlement.

In a case where a man had a legal right to inhabit a farm
as the executor of his mother's will, Mr Justice Yates
stated in the Court of King's Bench that the Act of 13 &
14 Charles II c12 was aimed at people 'intruding into
Parishes, as Strollers and Vagabonds, and with the bad
Intentions mentioned in the Preamble of that Statute',
but that a man acting as executor for his mother's estate
was a bone fide resident in the parish and so entitled to
gain a settlement there.7

While reading poor law documents one feels that the only
object in the minds of Church Wardens and Overseers of
the Poor when considering the removal of paupers, was a
desire to keep down the Poor Rate. With a growing
population of elderly people and less child mortality,
the burden on the poor rate caused the cost of relief to
rise to levels that became unacceptable to the average
rate-payer.8 Officers forced to receive the people
removed to their parish, were anxious not to add yet
another family to their no doubt large list of paupers.
However, reading reports of the comments of the King's
Bench appeals, one senses a desire on the part of the
Judges to have the paupers treated fairly. Of course in
many cases the King's Bench took a stand on a minor point
of law, turning down appeals on mere technicalities. But

7 J. Burrow, A Series of the Decisions of the Court of
King's Bench upon Settlement Cases, one volume version,

8 E. Gauldie, Cruel Habitation, a History of Working
Class Housing 1780-1918 (1974), pp.33-34.
in other instances, one is aware of a much more humanitarian attitude, as will be shown by various examples.

The Case of William Jennings 1771

There was little of the milk of human kindness in the hearts of the Officers of the parish of Byfield when they removed William Jennings in 1771. A rough draft has survived of a barrister's brief for the appeal by the parish of Woodford against the order: this tells us that Jennings had gained a settlement by service in Woodford thirty-four years earlier.9 During his time there, he had married one of the daughters of Walter Humphries of Byfield and at the end of his year's service had moved to live with his wife and his father-in-law in a cottage owned by the latter.

It seems that Walter Humphries was elderly and infirm and so his daughter and his new son-in-law kept house at their own expense. Humphries agreed to pay 3/- a week towards the cost of his food, his washing and his accommodation but, during the following two years, failed to pay any of his promised contribution to the family expenses. Being short of money he decided to sell the house but did not inform his daughter and son-in-law of his intention until he had agreed a sale for £24 and accepted 1/- in earnest. When he told his daughter, she stated that she thought the price offered was well below the market value and that she and her husband would have paid her father £30 if he had consulted them.

Eventually the 'earnest' was returned and William Jennings took the house deeds to Mr Hiccock, an attorney

9 D4341.
in Daventry, for him to draw up a deed of sale to William and Jane Jennings for £30. It seems that Mr Hiccock was not a rapid worker as he took almost a year to produce the required title deed. However during the waiting period, William gave his father-in-law five guineas with which to pay off some pressing debts. By the time the sale was agreed, Humphries' debt for board and lodging stood at £15-12-0. This sum added to the £5-5-0 already given to Humphries, meant that £20-17-0 of the purchase money had already been paid. A further eighteen months would have seen the whole £30 paid off, so making the purchase price of the house enough to gain William Jennings a good settlement in Byfield. Unfortunately Humphries died only 'two to three months' after the title deed was signed.

The solicitors for Woodford calculated that by the time of his death, a total of £27-18-0 had been paid to Humphries in the form of services at the rate of 3/- a week. This sum, together with the original payment of five guineas and funeral expenses of £1-15-0, amounted to a total of £34-18-0, well above the £30 needed to establish Jennings as settled at Byfield. Jennings himself is said to have pointed out that if he had not paid for his father-in-law's funeral, this would have been a charge on the parish.

Unfortunately, in 1769, Jennings sustained a dislocated hip in an accident. The brief gives no detail of this except to state that he was consequently quite unable to work. He immediately put his house on the market at £25. The brief states that the solicitor thought this price 'was too little'. The sale was eventually agreed for only £20 as the purchaser was 'as most people are, willing to take advantage of others in necessity'.

In normal circumstance the fact that the house changed
hands for £20 would immediately show the justices that Jennings had not gained a settlement. However, when the parish officers asked the purchaser to let them take the title deeds to the Justices as evidence, he refused to allow it until they had given him 'a note for £25 before he would trust them with the deeds'.

Several interesting facts appear in this section of the brief. It seems that Jennings cannot have been living in the house before he sold it as we are told that it was 'now let at £1-11-6 per annum to Parish Officers and was so let by the Pauper at the time he sold it'. It is suggested that the respondent parish, as well as stating that 'the estate was not really and bona fide worth £30', will try to prove that the purchase money was not actively paid, and that 'this was a fraudulent purchase between the father and the son with a view of gaining a Settlement'.

On the question of whether or not the purchase money was handed over, it is clear that only five guineas actually changed hands. On the other hand it is equally clear that Humphries received labour in lieu. Richard Burn quotes the case of Rex v. Fritwell where a man rented two farms at a total of £45 per annum. He actually lived in a different parish in a house owned by a relative. No money rent was payable but he agreed to supply his relative with all the dung produced by his cattle on his two farms, for the relative to spread on his own land. Lord Chief Justice Kenyon said that he gained a settlement in the parish in which he lived because 'though the pauper paid no rent, it is stated that there was an equivalent; there was a quid pro quo; the pauper brought all his dung from his other tenements, and this relative had the benefit of it'. One cannot help feeling that Lord Chief

---

10 Burn, Justice, (23rd edn, 1820), 4, pp.493-494.
Justice Kenyon would have taken the same view of the services provided for Humphries by William Jennings and his wife.

We are told that Jennings will say that 'in his opinion the Estate was well worth £30' and that he would never have taken less than that sum for it until he was unable to support himself after the accident, and will add that 'tis hoped that his very long Possession ousts all presumption of Fraud'. In 1758 a case came before the Court of King's Bench in which doubt was thrown on a man's right of possession of his house. The father of the wife died and the couple went to live in the house the father had owned. No Letters of Administration were taken out, but other members of the family did not challenge their right to the house. When, almost thirty years later, the parish had the man's widow removed on the ground that he had no legal title to the property, the Quarter Sessions quashed the order and an appeal was made to the Court of King's Bench. Mr Justice Denison said that the man was in Possession of an estate of his own for above 20 Years. 'It is not material HOW he came into Possession: For 20 Years Possession will, alone, give him a Settlement'.\(^{11}\) In the case of William Jennings, one feels that he also could have expected that his long residence would establish his title to the house, as well as absolving him from any suggestion of having fraudulently moved into the parish of Byfield.

It is surprising that no mention is made of the Case of Rex v. Dunchurch. This case, only six years before, concerned a house bought for £19.\(^ {12}\) It was stated that a further £15 was spent on the property, but the Court of King's Bench held that the original purchase price was


£19 and that the additional £15 did not affect it. Of course, when Jennings bought the house from his father-in-law, the price agreed was the required £30 and all that was really in question was whether that amount was paid.

Perhaps the most interesting statement in the brief is contained in the final section.

NB. The Parish of Byfield met with great difficulty in prevailing upon the Justices to sign the order of Removal and were advised by Mr Burton, one of the Justices, not to incur that expense for the Parish of Woodford would certainly appeal and that he did apprehend under these circumstances that the Court would adjudge it a good purchase and that the Pauper gained a Settlement thereby.

It is disappointing that it has been impossible to discover William Jennings's occupation. Was he more than a mere labourer? He was certainly a man capable of marshalling his facts. It must surely have been from him that the solicitor for Woodford learnt of the remarks made by the Justice of the Peace before the removal order was signed.

Unfortunately no documents about the case survive in the parish chest material for either parish, so we have no means of knowing what this appeal cost. The Quarter Sessions Record Book does however show that Woodford won its appeal and William Jennings returned to Byfield.

The Case of Banbury Sleath 1785

From the rough brief which has survived for the appeal against the removal of Banbury Sleath, his wife Mary and
their children, we learn that in 1760, Sleath had gained a settlement by service in the Warwickshire parish of Hillmorton. He then entered the service of a Mr Denny of Barby in Northamptonshire, but about three weeks before the end of the year he had to leave his master because of illness. His master 'made a deduction in his wages because he did not serve out his whole year'.

It seems that the previous year Sleath had bought a house in Hillmorton for £20 which he at first rented out, but which he later occupied himself. Shortly afterwards he rented a close in Hillmorton known as Garner's Piece from a Mrs Garner of Swinford at a yearly rent of £2-19-0. He was told by the parish officers that he was taxed on Garner's Piece and, as he could not read, he accepted what was told him and paid the poor rate and all other parish dues. After a few years Mrs Garner died and Sleath agreed with Mr Thos Garner to pay £2-10-0 in rent and to continue to pay all taxes. However after some time, the parish officers informed him that he was not taxed himself and that the landlord was taxed for the close. Sleath therefore refused to pay any more tax and was never again approached for any payments by the officers.

A case somewhat similar to this is reported where, in the Court of King's Bench, Mr Justice Aston stated that while it was agreed that a person must be both rated and actually pay the rate, 'it is clear that his name need not be inserted in the rate' and that the parish have sufficient notice that he is living there if 'the officers have received the rate of this man for two or three years, and therefore must have known him'. So it appears that the payments of the rate alone would have given Sleath a good settlement in Hillmorton.

---

13 D4374.

14 Burn, Justice, (23th edn, 1820), 4, p.553.
A man named John Frear having at some point lent Sleath the sum of £16, told Sleath that he would buy his house for £26-5-0. As a result, the pauper left the title deeds with Frear; but no money changed hands and the pauper continued to reside in the house. The brief tells us that he was still living in the house when, on the first day of March, the parish officers obtained an order to remove him and his family to Barby. If this last fact was indeed true, it is very surprising that Hillmorton asked the Justice to remove the family to Barby. No person could be removed from his or her own property as was shown earlier.

In the William Jennings case we heard that one of the Justices warned the parish of Byfield that they would incur the costs of an appeal if they insisted in removing him. Despite this the parish officers decided to go ahead with the removal. Perhaps a similar situation happened over Banbury Sleath in Hillmorton. It is hard to believe that a Justice would be willing to sign an order of removal for a man living in his own house. Admittedly the evidence we have from the rough brief is what was compiled on behalf of Barby parish. In many of these settlement briefs, it is tempting to suggest that the desire to win in an appeal might make a parish colour the evidence to suit their own case. But at the hearing at the Quarter Sessions they had to be prepared to defend any evidence they brought forward.

There seems to be no grounds for Hillmorton's suggestion that Sleath had gained a settlement in Barby. We are told that he served somewhat less than a full year with Mr Denny. As has already been shown in the previous section of this thesis, service for even a few days less than a year, could not give a settlement. In the second half of the brief we have a list of the people who are to be called to give evidence for Barby. Despite the fact that
we are told that he served for about three weeks less than a complete year, no mention of this fact is made in the section of evidence to be produced. This seems to suggest that Barby is certain that they have a strong case to prove Sleath's settlement in Hillmorton.

The strength of their case rests on three counts, the incomplete year's service in Barby, the fact of his residing on his own estate at the time of the removal, and the suggestion by Sleath himself that he had paid the poor rate and other parish dues while resident in Hillmorton. The parish of Barby won their appeal.

The Case of William Hinks 1785

It seems that in about 1774 William Hinks married the mother of his bastard daughter Ann. It is possible that the marriage was forced on him by the parish officers of Barby because shortly afterwards he ran away, leaving his wife with her father John Hammond of Barby. After spending years in America, Hinks returned to England and roved from place to place and accidentally coming to the Alehouse in Barby in July last without any intention of going to or residing with his wife, the parish officers seized that opportunity of taking him before the Magistrates, examining him as to his Settlement and removing him and his Wife (who was actually chargeable) out of their parish.\textsuperscript{15}

The parish of Twycross in Leicestershire appealed against the order. In the barristers brief for Barby as respondents in the appeal, we learn that the wife Mary has a second daughter aged three: in her examination Mary

\textsuperscript{15} D9812.
has sworn that the father of this child was her own father John Hammond. It seems that Hammond had been dead for two years at the time of the appeal case.

After his death Hammond's two daughters took possession of a small cottage he had owned in Barby. One daughter is stated to be co-habiting with a man named Thomas Vincent in Coventry. The pauper's wife resided in the cottage but contracted to sell her share to Vincent. She received the purchase money but because of the absence of her husband could give no title to the property. One of the case papers quotes the Act of Parliament 13 & 14 Cas. II as stating that a man cannot be removed from what he came to settle upon as his own.

For the Hinks family, the problem was that, although Mary and her children had lived in the cottage for at least nine years, Hinks himself had never resided in the parish. Nolan stated clearly that a wife 'cannot acquire a settlement by residence in her husband's life-time'.

In the 1736 case of Rex v. Widworthy a man died leaving two sons. No letters of administration were taken out, but the son John continued to live in the house. There was no agreement with the brother: the case merely stated that one brother took goods, while the other kept the house. The Court of King's Bench held that this was not a clear agreement. So despite living in the house, the son John did not gain a settlement. In the present case, Mary Hinks actually agreed to sell her share of the house. Admittedly, because, as a wife, Mary Hinks could not sign a deed and her lawful husband was not in England, there was no actual conveyance of the premises.

---


On the other hand, the wording of various judgements suggests that the Court of King's Bench would have accepted the transfer as legal.

In the case Rex v. Wyley we have a man who built a cottage on the waste belonging to the Earl of Pembroke.\textsuperscript{18} He lived in the cottage for nearly thirty years, dying three years before the case was heard. After his death his married daughter lived in the house for nine months before selling it. She and her husband were removed from that parish, but the Court of King's Bench held that they had gained a good settlement at Wyley and were therefore irremovable. Although there was no evidence that the Earl had authorised the building of the cottage, after thirty years he might have found that the law would not allow him to eject the family.

Quoting this case some seventy years later, Lord Chief Justice Kenyon said that it was 'an authority to show that the Court ought not to permit the title to the estate to be determined on an order of removal'.\textsuperscript{19}

In the case of Hinks and his wife, the two sisters were joint heirs of Hammond; but Mary Hinks had received the purchase money from her sister. However it seems that she had lived in the cottage for more than forty days before the money was paid. She should therefore have gained a

\textsuperscript{18} E. Bott, \textit{A Collection of Decisions of the Court of King's Bench upon the Poor's Laws} (2nd edn, 1773), p.370.

\textsuperscript{19} Burn, \textit{Justice}, (23rd edn, 1820), 4, p.514. This is an excellent example of the way case law affected the interpretation of the law of settlement. The Lord Chief Justice was citing a case heard in the King's Bench Court over seventy years before as the authority on which a judgement should still be based. It is interesting to note that in one copy of this book, a lawyer (or possibly a Justice of the Peace) has added copious notes about similar cases both in the margins and on the blank sheets provided at the end of the volume. On the page about this case the remark just quoted was underlined.
settlement, or would have done if she had been a spinster, a widow, or a man. The fact that her husband had not lived in the cottage for forty days before the removal order was signed, prohibited them from gaining a settlement. Despite this, it seems clear from other judgements that her title to the cottage was adequate from the point of view of the laws of settlement. But the more difficult question is that of her husband's absence; could the wife's residence in her own cottage gain her absent husband a settlement?

In the case of Rex v. Sundrish, where a man had inherited a house, Mr Justice Probyn stated that the removal laws were

manifestly against Persons who came into Parishes on Purpose to gain a Settlement ... it is his own; and he is NOT removable from his own. And if a Man stays forty Days in any House in a Parish, from which he is not removable, from that Time, he is settled there.\(^{20}\)

But William Hinks had not resided in his wife's cottage for forty days; he was in America, but his wife lived in the house which was legally his by his right as her husband. In the case of Rex v. Aythorp Rooding we have a similar situation.\(^{21}\) William Gates deserted his wife and children, who then went to live in a copyhold tenement owned by the husband in Aythorp Rooding. The parish officers gave her notice to depart before she had resided there for forty days. On her remaining in the house, the Justices made an order removing her to her husband's legal settlement on the grounds that she was likely to become a charge on the parish. On appeal, the Quarter

---


\(^{21}\) Burn, *Justice*, (23rd edn, 1820), 4, pp.533-534.
Sessions judged that she was irremovable from her husband's property and quashed the order.

When the case was removed to the Court of King's Bench Mr Justice Denison made the point that the husband's settlement remained the same because he had gained no settlement in that parish where his wife was living, nevertheless, the Wife is not removable from his Estate: for she is not within the Intent and Meaning of the 13th & 14th Charles II c.12, nor is it agreeable to the Liberty of Mankind, that a Person should be removed from their own Estate'.

Chetwyn in his report of this case writes that, 'The husband himself would not have been removable from his own, if he had gone thither'.

So here we have an almost comparable case. Hinks was entitled to the cottage which his wife owned in Barby. Therefore it was his estate. Even if he had gained no settlement there, the judgement in Rex v. Aythorp Rooding suggests that his wife and family were irremovable. However by the time Hinks returned, his wife had agreed to sell her share of the cottage, but because of his absence his wife had not been able to complete the sale. Therefore it seems that he was irremovable when the Justices signed the removal order. It appears that the Quarter Sessions agreed with this argument as the Record Book shows that the removal order was quashed.

After a removal

Much has been written about the removal of families, but no-one seems to have raised the practical question of

22 Burrow, Settlement Cases, p.414.
23 Burn, Justice, (23rd edn, 1820), 4, p.534.
what actually happened to them when they arrived at their place of settlement. One can perhaps wonder whether a parish might have a small cottage kept vacant, but this seems unlikely. We read of houses bought or even built by parishes in order to have accommodation for the poor, but where we find documentation about this type of house, it is normally mentioned as being occupied.24

In the case papers connected with the removal of the Hinks family there is an account of 'Expenses paid by Wm Wheatley for Wm Hinks and family'.25 The first item is dated 2nd July 1785 and reads

Mary Hinks and two Children board and lodging at my house 3 weeks and 3 days £1-1-0.

The date seems a little strange as the removal order was only signed on 1st July. Presumably Wheatley is giving the starting date rather than the final date.

Having spent 6/8½ on clothes for Mary Hinks, on the 25th he lists his own expenses on visiting Markfield workhouse as 3/6, and two days later the entry reads 'My Man and horse with Hinks family to Markfield workhouse 4/6'. An entry dated 17th August lists a pair of shoes for Mary Hinks costing 2/-..26

24 G.W. Oxley, Poor Relief in England and Wales 1601-1834 (1794), p.64.

25 A transcript of the account is given in Appendix No 5.

26 'As well as the costs to the removing parish of examining and removing the pauper family and their possessions, which it assuredly did not welcome and which were a very strong disincentive to act (these costs could often far exceed relief payments), it was the case that heavy expenses might, and usually were incurred by the parish to which the removal was made, in maintaining the paupers'. K.D.M. Snell, 'Pauper settlement and the right to poor relief in England and Wales', Continuity and Change 6
The final item reads 'Wm Clark the Workhouse Keeper at Markfield for Bed and board for seven weeks at 6/- per week'.

We are lucky that one of the surviving documents about this case is the notice of appeal by Twycross against the order removing the Hinks family. This is actually signed by William Wheatley as Overseer of the Poor for Twycross. It is dated 11th July, during the period while Mary and her children were living in his house. We know that the request to the Quarter Sessions that the appeal should be heard, was given at the General Quarter Sessions in Northampton on 14th July. The actual appeal was heard at the Michaelmas Sessions approximately ten weeks after Mary Hinks and her children were removed to the Markfield Workhouse. So in this case we know that when Mary Hinks and her two children were removed to Twycross, they were actually housed for over three weeks, in the home of the Overseer of the Poor.

That finding accommodation for families removed into a parish was not an uncommon problem is confirmed by an undated letter found in the Cranford St Andrews parish collection. This was written by two parishioners of Irchester. While acknowledging a man, his wife and family as their parishioners, it requests that they may be allowed to remain where they are 'until we can find a home for them suitable for their accommodation'.


Settlement by Renting a property

The law allowed a person to gain a settlement after forty days occupation of a property where the rent paid was not less that £10 per annum. Few cottages would be likely to 'exceed a rental of 20s, and those of respectable mechanics and tradesmen not above twice or thrice that sum'. So 'the whole of the labouring classes throughout the country' came under the restrictions of the settlement laws.29

While it is suggested that the £10 limit was set with London prices in mind, it being a very high cost for rural accommodation, in Cambridgeshire between the years 1753 and 1823 the analysis of 499 settlement examinations showed that 55 claimed settlement through renting for not less than £10 per annum. E.M. Hampson suggests that they were usually men who had 'come down in the world'.30

What is certain is that it was not uncommon for a family to be removed despite - at an earlier period - having rented a property above the required level. As has already been demonstrated, nothing about the laws of settlement was simple. This seemingly straight-forward legislation was inevitably interpreted and modified by case-law.

In a case heard in the Summer of 1717, a man was stated to have rented a tenement for £10 per annum. The difficulty arose because, although one whole tenement, it


actually lay in two parishes.\textsuperscript{31} The Court accepted this as a good settlement but did not establish what would be the law if the two holdings had not been part of a single estate. Burn pointed out that 'there are considerable farmers who do not rent £10 a year in any one parish, and it would be hard to adjudge that therefore they gain no settlement'.\textsuperscript{32} It was not until 1735 that the Court of King's Bench gave a ruling on this point in the case of Rex v. Sandwich. 'It hath been a question whether two distinct tenements taken at different times (where neither of them alone amounted to £10 a year in value) should make a settlement. But it is now settled that it does'.\textsuperscript{33}

Burrow reports that Lord Hardwicke, speaking during this case, said that 'the Intention of the Act is, that if a Person be of sufficient Ability to occupy a Farm or Tenement of the Value of £10 a Year, it shall exclude the Presumption of his being likely to be chargeable to the Parish'.\textsuperscript{34}

In 1735 Mr Justice Page summed up the position clearly when he stated that

A Man is not a better Man for renting one £10 per Annum than two fives: And he contributes to the Poor, for the whole Ten, somewhere or other. From the Nature of the Thing and the Reason of the Cases, a Man that is able to rent and does rent £10 a Year shall be settled in the Parish where he lives.\textsuperscript{35}

\begin{footnotesize}
\textsuperscript{31} Burn, \textit{Justice}, (14th edn, 1780), 3, p.461.
\textsuperscript{32} Burn, \textit{Justice}, (14th edn, 1780), 3, p.462.
\textsuperscript{33} Burn, \textit{Justice}, (14th edn, 1780), 3, p.462.
\textsuperscript{34} Burrow, \textit{Settlement Cases}, p.46.
\textsuperscript{35} Burrow, \textit{Settlement Cases}, p.46.
\end{footnotesize}
In the case of Rex v. Llandverras a man rented a tenement for £10 per annum but immediately sublet part of the house for £8 a year. It was argued that the part which he had himself occupied for forty days was only worth £2 a year. But the Court of King's Bench held that he was liable for the full £10,

and had credit for the whole; and therefore he is as much settled as if he had rented a tenement of £10 a year and let lodgings. The act does not require a person renting a tenement of £10 a year to occupy it; it is enough if he rents it and resided forty days in the parish.36

Writing of the £10 rule, Burn states that 'The ground the Act goes upon, is a person's having credit to hire a tenement of that value'.37 Even if he is asked to give surety for the rent, he can still gain a settlement because he could not get the surety if he was not credit worthy. The criterion is ability to be trusted with a debt. Nolan when quoting this same case points out that the under-tenant could not gain a settlement as his rent is less than £10 per annum.38

Burn also makes the interesting point that at the end of forty days, a man who had contracted to pay £10 per annum will have gained a settlement even though he has in fact not paid a single penny of that rent.39 This is unlike the servant hired for a year who can gain no settlement until the year is completed, but is similar to the case of the apprentice who also gains a settlement at the end

36 Burn, Justice, (23th edn, 1820), 4, pp.480-481.
38 Nolan, Relief and Settlement, 1, p.530.
of his or her first forty days under the control of the Master.

One complication that arose from these statutes was that of defining a tenement. Case law finally established that the term applied to almost any property. Land certainly qualified, but it was soon established that a settlement could be gained through possession of an advowson, of tithes, or of a right to hold a market toll; a mine and its machinery could also gain a man a settlement if worth more than £10 per annum. In 1712 the case of Evelyn v. Rentcombe established that a watermill was a tenement and that renting one for £10 per annum 'must gain a settlement within the statute'. It was about another twenty-four years before a case established the same for a windmill. But as with so many aspects of the laws of settlement, we have a case where the opposite view was taken. Nolan reports a case of a man who built a post mill at a cost of £120. This did not gain him a settlement as it was considered that he could remove it at any time.

The Case of John Phipps 1814

The brief for the appeal by Thornby against an order removing John Phipps and his family to their parish, shows a very typical case of a dispute over the payment of rent. Phipps had already established a settlement for himself at Thornby by renting a farm in the parish. We

40 Burn, Justice, (23rd edn, 1820), 4, p.450.
41 Burn, Justice, (23rd edn. 1820), 4, p.450.
42 Nolan, Relief and Settlement, 1, pp.513-514.
43 There are many records of post mills being moved from place to place. See R. Wailes, The English Windmill (1967), Chapter 20, for details of mills that were moved.
44 D2870.
are given no details of this, but are told that on Lady Day 1813 he took a public house in Cold Ashby to which he and his family moved, paying a rent of £9 per annum. The case for the appellant parish of Thornby was that, as the place was normally let for £12, Phipps had gained a settlement in Cold Ashby and should not therefore have been removed. Thornby produced evidence that Mr Grose, a Maltster at Harlestone, rented the place for £12 per annum and had for several years underlet it for the same figure. Since the pauper left the public house he had again underlet it at an annual rent of £12.

The brief suggests that the parish officers of Cold Ashby had persuaded Mr Grose not to let the place for an amount that would gain Phipps a settlement in their parish. In the brief the barrister is told to call Mr Grose to give evidence about the true value of the place. John Phipps will give evidence that he at one time occupied a farm at Thornby under Mr Crawley at a rent of £150, rising to £200. Of the public house in Cold Ashby he will say that it had been empty for three months and that he paid as much as it was worth. There are two cryptic notes apparently scribbled by the barrister, 'Three old Chairs' and 'sold enough to break me'.

We have to take into account that the brief states that Phipps wants to retain his settlement at Thornby and will stress the fact that the rent was only £9. He may well have coloured his picture of the place for his own ends. On the other hand it seems fairly clear that Cold Ashby had made sure that the rent would be under the required £10 per annum. Although the brief for Thornby states that the pauper will be called to give evidence about the length of time he resided in Cold Ashby, it does not suggest that he should be questioned about the value of the property.
Burn quotes the case of South Sydenham v. Lamerton in 1717 where a man took a lease of a property at only £7, but where the real value of the property was £13. The Court of King's Bench judged that 'the quantity of the rent is not material, but the value of the tenement' and 'if the tenement be worth £10 a year, it makes a settlement: for the settlement depends on the value of the tenement, not on the rent'. Mr Burton of Daventry, the solicitor for Thornby in their appeal against the removal of Phipps and his family, obviously knew his case law, probably by studying Burn, as he quotes the case of South Sydenham v. Lamerton in the brief. There are a number of documents in the Daventry Collection which show that Burn's book was in regular use by the barristers and solicitors.

It seems that the Justices in Quarter Session were convinced that the public house Phipps rented was not of a higher value than the rent he paid. The Record Book shows that the removal order was confirmed: Phipps retained the settlement he wanted in Thornby, and Cold Ashby were rid of an unwanted pauper family. It was perhaps fair that, as Phipps had previously rented a farm at Thornby for £150, his settlement should be there rather than in the parish in which he had lived for only one year and paid a mere £9 in rent. In the case of Phipps and his family, the result does not seem to fit with the case law as found in Burn and other similar books on the law of Settlement. It is tempting to wonder whether the result would have been different if the case had gone to the Court of King's Bench.

---

45 Burn, Justice, (14th edn, 1780), 3, p.465.

46 'I have not been able to look into the case of Scotch and Irish Paupers, not having received the Supplement to Chetwyn's Burn'. Letter written to the solicitor Edmund Singer Burton in 1824, by Thomas Reeve Thornton, a very active Justice of the Peace who signed many poor law documents. D7538/35.
The Case of Sarah Ann Thomason 1824

As with so many settlement cases, this consists of several different elements. First we are told that Sarah Ann Thomason has done nothing to gain her own settlement. Because of this, the case immediately falls into the class of a person taking the father's settlement. But we are also told that she is pregnant and that the child is likely to be born a bastard. It is fair to say that if the parish officers could have arrested the father of the child, this might have ended in a forced marriage and a removal to the settlement of her new husband.47

As the case stands, the main element is, however, the settlement of Sarah Ann's father, Samuel Thomason of Weedon Beck. We are told that seventeen years before he had rented a house in Litchborough for £5 per annum. This alone would not gain him a settlement, but at the same time he also rented eleven acres of land in the same parish from his brother Edward Thomason for which he paid a yearly rent of £20.

These facts seem to give a classic settlement in Litchborough as the parish in which he was resident, the rent of house and land being far in excess of the £10 rent required for a settlement. However, when Sarah Ann was removed to their parish from Weedon, the parish officers of Litchborough, understandably reluctant to receive a woman with a bastard child, decided that they had found a way of fixing her settlement at Weedon Beck.

It seems that after living and farming in Litchborough for several years, her father went to work on a farm at Weedon Beck which belonged to his brother-in-law, Mr Bazeley of Everdon. The brief for Weedon Beck states that

47 D883.
Thomason was taken on as a labourer, and lived in a house on the farm, receiving weekly wages, and could be discharged at any time from his brother-in-law's service. Apparently Weedon Beck were trying to prove that he did not in fact live rent free but paid Bazeley for the house by supplying him with straw.

Samuel Thomason continued to farm his eleven acres of land at Litchborough for some nine months after he started to work for Bazeley. When his wheat was harvested, Bazeley carted the crop to Weedon Beck. It was Thomason who threshed it and who received the money when it was sold; it was he also who received payment for the straw from Mr Marriott of Whilton Locks.

In this case we have a good example of the work undertaken by solicitors during the initial stages of a case of this sort. It seems that Thomason was interviewed by Mr Howe of Northampton, the attorney for Litchborough. The brief states that

> It is supposed that the pauper's father has unintentionally led the Appellants into an error by informing Mr Howe that Bazeley, his Brother-in-Law, had the straw & chaff but which is not true. Thomason says that Mr Howe came upon him unawares and he did not then recollect how it was disposed of but now he perfectly remembers that Mr Marriott of Whilton purchased the straw and he received the money.

This seems an unimportant matter until we discover in the brief for Weedon Beck, a reference to the case of Rex v. Fritwell quoted earlier in this chapter, where a man paid no money for the house he occupied but provided his relative with all the dung from his animals.⁴⁸

---

Unfortunately for Litchborough, Samuel Thomason, having as it must have seemed, presented Mr Howe and his clients with a strong case, then changed his story. It would be wrong to suggest fraud on his part. Anyone, suddenly asked for information about an event which happened ten or more years before, could be excused for being unsure of the facts. In the brief for Weedon Beck we read that they will not call Thomason to give evidence as he 'has made this mistake in his examination by Mr Howe' but will 'prove the renting at Litchborough by Mr Edward Thomason the landlord'.

Perhaps if Mr Howe had received the true version of the story when he approached Thomason, Litchborough would not have tried the appeal against the removal of Sarah Ann Thomason. What is certain is that they lost their case at the Quarter Sessions, and her settlement was fixed at Litchborough.

The Case of Elizabeth Brothwell 1810

Only a draft brief has survived for an appeal by Daventry against an order removing Elizabeth Brothwell and her infant son to Daventry. It is a reasonably straightforward case of a man renting a property at Luton in Bedfordshire, and then moving to London and taking furnished lodgings in the Liberty of Saffron Hill, parish of St Andrew's Holborn. What makes the case interesting is the diverse locations involved and the light it throws on the work needed in an appeal of this type.

Elizabeth Brothwell was a young widow, born in Luton but that, not having been baptised, 'it would be difficult if not impossible to prove the fact'. It is not clear why

\[49\] D1670.
this should have been mentioned; a widow who had not
established a new personal settlement since the death of
her husband, was legally an inhabitant of his last parish
of settlement. As he is stated to be 'lately dead', it
seems that no new settlement could be claimed for her.
Possibly they hoped to prove that she was under-age when
she married, in which case she would have had to have her
parents' consent, or the marriage would have been
illegal.

James Brothwell, her late husband, was born in Daventry.
In 1804, being then 20 years of age, he was hired by Mr
Wells, a barber of Luton, and married Elizabeth there two
years later. At Christmas 1808 the couple moved to London
where they rented a furnished lodging in Saffron Hill at
a rent of 4/6 per week, an amount that was in excess of
the £10 required to gain a settlement. The brief quotes
from the case of Rex v. Whitechapel where it was
established that 'the renting of a furnished lodging at a
weekly rent was a Tenement under the Statute and
sufficient to enable the pauper to be settled'.

There is plenty of evidence in the Daventry Collection
that firms used agents in London to conduct business for
them. No doubt in this case an agent would enter the
appeal against this order at the Middlesex Sessions. They
would also presumably try to establish the true facts
about the Brothwell's time as tenants of a furnished
lodging. Someone else, most probably an articled clerk,
would have had to visit Luton to try to obtain evidence
about their period in Bedfordshire.

The list of people to be called to give evidence only
consists of the pauper Elizabeth Brothwell herself, and
her father-in-law James Brothwell. As the husband was
born in Daventry, it is probable that the solicitor had
no trouble in obtaining these witnesses. Nevertheless, a
case that had such far-flung locations must have added to the cost of this appeal. As there is no Sessions of the Peace and Oyer and Terminer Book for 1810, we have no means of knowing the result of this case. If, as seems likely, Elizabeth's settlement was established as in Saffron Hill, the poor girl would be sent back there to a parish which had no wish to receive her, while her father-in-law and, quite possibly, other members of her late husband's family were living in Daventry. However as her husband was only twenty-six years old when he died, she was probably of a similar age, so that she is perhaps less to be pitied that some of the elderly widows who received similar or worse treatment within weeks or even days of being bereaved.

The Case of Thomas Smith 1816

Mention has already been made in the section on apprenticeship of the case of Thomas Smith and his family who were removed to Weedon Beck from the parish of St Sepulchre in Northampton. Although the removal order is dated 12th July 1816, it was not until 8th September that the Vestry Clerk of Weedon Beck wrote a letter to his solicitor stating that the parish were 'of opinion that a Case should be stated & take an Opinion of Counsel on the Indenture'.

The Opinion, signed by barrister J. Beauclerk, states that he considers that the indentures by which Smith's father was apprenticed to a man in Weedon Beck were void. This was obviously also the verdict of the Quarter Sessions because on 12th October, Weedon Beck had their

---

50 See page 36.

51 D822. A second copy of the brief, D1017, contains substantially the same information.
appeal against the removal order allowed.

The index of Quarter Sessions cases shows that St Sepulchre must have arranged for another removal order for Smith and his family, this time to Wolverton in Buckinghamshire, the place stated in the Case Summary to be the legal settlement of Smith's father. No papers exist connected with this second removal but the papers for the original case give us many of the details.

About one year before the first removal order was signed, Smith's wife rented from her brother an unfinished house in the Northampton parish of St Sepulchre, at a charge of £10 per annum. Immediately afterwards she agreed to let her brother reside in the house as a lodger. He was to pay 2/- per week, for which sum Smith and his wife would provide him with furniture, and wait upon him. We are also told that the pauper and his Family 'paid two shillings per week only during all which time the Brother of the Pauper's wife lived with them'. So over a period of a year, the rent paid and the sum owed by the brother would together have amounted to a few shillings more than the agreed rent of £10 per annum.

We are next told that since the family were removed to Weedon Beck, 'the house has been finished and is now let for £9 per annum'. Barrister Beauclerk gives his opinion that

as to the Settlement by renting a Tenement in St Sepulchres Parish I think that part very weak & if it stood alone should not advise an Appeal, because

---

52 This case, like that of Phipps, turns on the real value of the property rented. However, in this case the appellant parish, Weedon Beck, is afraid that the property was worth less than the agreed rent, while in the Phipps case, the appellant parish contend that the Public House should have commanded a rent over the £10 limit.
it certainly has strong marks of Fraud attached to it, is hardly to be contended that the House in an unfinished state was worth £10 and yet when completed only let for £9. It may be well however to be prepared upon it. If the Pauper paid the rates and taxes it could strengthen the point.

It is obvious that Beauclerk was afraid that St Sepulchre would be able to prove that the rent agreed for the house was fraudulent by showing that after completing, the house was let for less than the statutory £10.

The fact that Smith took his brother-in-law as a lodger would in no way have invalidated his claim for a settlement. In the case of Rex v. Llandverras already quoted, a man rented a tenement for £10 per annum but immediately sublet the major part of the property for a rent of £8. Lord Mansfield giving judgement in the Court of King's Bench stated that 'if it be a bona fide taking, he may underlet it as he pleases'.

The Quarter Sessions Record Book shows that Wolverton appealed against the order removing Smith and his family to their parish. However, Barrister Beauclerk's assessment of the case seems to have been upheld, as Wolverton failed to win its appeal, and the parish of Northampton St Sepulchre was finally rid of this unwanted pauper family.

Conclusion. Renting a property.

Towards the end of the reign of George III, Parliament made an alteration in the law governing settlement by renting a tenement. George Chetwynd, in his edition of

---

53 Bott, Decisions of the King's Bench, p.358.
Burn's *Justice of the Peace and Parish Officer* wrote that

A very material and, it is conceived, a beneficial alteration has recently been made ... by statute 59 Geo. III c.50 (entitled "An act to amend the laws respecting the settlement of the poor, so far as regards renting tenements" and passed 2nd July 1819) reciting that "many disputes and controversies have arisen respecting the settling of poor people in parishes in England, by renting of tenements".\(^{54}\)

This new statute meant that no person could gain a settlement by renting for £10 per annum unless such tenement shall consist of a house or building within such parish or township, being a separate and distinct dwelling-house or building ... *bona fide* hired ... at and for a sum of £10 a year for the term of one whole year.\(^{55}\) The new law also required that the tenement should be occupied for a full year and the rent for that year actually paid. It may have simplified appeal cases, but it also made it more difficult for a poor man to gain a settlement. This was particularly hard because, as has already been shown, by this time, settlement by farm service had also become extremely difficult. Settlement could be gained by the better-off, but, for the poorer members of society, the settlement laws must have made mobility much more difficult.

In the case of South Sydenham v. Lamerton, Bott sums up the law on renting when he quotes Lord Parker as saying that 'a man who is entrusted with a tenement worth £10 a-year, is of such credit, and must have such stock as makes him not likely to become chargeable to the

\(^{54}\) Burn, *Justice*, (23rd edn, 1820), 4, p.446.

\(^{55}\) Burn, *Justice*, (23rd edn, 1820), 4, p.446.
parish'.

Conclusion. Owning a property

The Act 9 Geo. I. c.7 was aimed at prohibiting a person from gaining a settlement through ownership of a very small estate. Michael Nolan quoted Lord Chief Justice Lee as saying of the case of Mursley v. Grandborough that 'before 9 Geo. I. c.7 everybody that came into a parish and made any purchase whatever, was irremovable.' The effect of this was that any person living for 40 days on his own property of necessity had gained a settlement; or, as Burn quoted Mr Justice Fortesque as saying in 1719, 'Not removable, and gaining a settlement, are the same thing.'

The 1817 Report of the Select Committee of the House of Commons on the Poor Laws stated of settlement by estate that 'it is obvious, beside the question of value, which, in case of purchase, must amount bona fide to £30, involves necessarily some of the most intricate questions respecting real property and testamentary bequests and devices'. It then went on to recommend that settlement by renting for £10 should be abolished.

While reading reports of cases involving inherited property, one feels that the judges of the Court of King's Bench tended to lean towards the rights of a person to gain a settlement through their inheritance. As an example, in the case of Rex v. West Shefford, Burrow reports that Mr Justice Dennison stated that he thought that the question of inherited property had been settled

---

56 Bott, Decisions of the King's Bench, p.356.
57 Nolan, Relief and Settlement, 1, p.493.
58 Burn, Justice, (23rd edn, 1820), 4, p.535.
by the case of Mursley and Grandborough in which

it was holden by Lord Chief Justice Pratt, Mr Justice Eyre, and Mr Justice Fortesque, that 'any Person who has an Estate of Freehold, Copyhold, or for Years, by Act of Law (as Descent, Marriage, Executor, Administrator, or Purchase) may dwell upon it as his own; and is not removable; and gains a Settlement, if he continues forty Days, though under £10 per annum'.

This is an interesting statement because the date when Mr Justice Dennison was speaking was 1751, nearly thirty years after the passing of 9 Geo. I. c7. It seems that the Law Lords were determined to grant a settlement to people who were 'owners', even if the estate was of a minimal value. Repeatedly one finds one of the judges stressing the right of someone to reside 'on his own estate', as for instance the case of a man who bought an estate but let it to another man and never lived on the estate himself. He did however live in the parish and so gained a settlement in that parish.

All through the reports of King's Bench judgements, one finds the judges emphasising the importance of ownership. This was of course a period when the great landowners, and even small landlords, were persons of importance, but it is none-the-less impressive to find the law lords upholding the rights of men owning or renting even very small properties. A report on the case of Rex v. Sundrish in 1734, quotes the court as saying that 'Where a man lives upon his own, is a case of a very tender nature, and the law will not unsettle him: Persons to be removed under the statute of c.2 are those that wander from place

59 Burrow, Settlement Cases, pp.310-311.
60 Burrow, Settlement Cases, p.326.
to place, and not those who live upon their own estate'. 61

However, not all judgements resulted in the owner of a small property gaining a settlement. In 1764 the case of Rex v. Salford was heard about a man who could not be removed because he owned the house he inhabited. His son moved out when he married and was then removed to the parish in which his father was settled before he bought the property for £29, one pound less than the amount required to gain a settlement. The court decided that the father could not be moved while he lived in his own house, but that he had not gained a settlement there. So when the son left his father's house he could be removed to the parish in which his father was legally settled before the purchase of the house.

Burrow reports that 'Lord Mansfield took this Occasion of observing upon the Insufficiency of the present System of the Poor Laws'.

Here is an Instance where the Parties have been at much more Expence than the Keeping of the Paupers would amount to: They have been before the two Justices; then at the Sessions; then before this Court, after a Removal of the Orders of Certiorari; and here are three Counsel on one Side: And all this, in a Case where Salford have had the Labour of the Father for 36 Years, and of the Son from his Birth till he became unable to labour. 62

In his comments on the 1756 case of Rex v. Marwood, Burrow wrote 'For a Man ought not to be hindered from living upon his own and being irremovable from it, As

61 Burn, Justice, (23rd edn, 1820), 4, p.498.
62 Burrow, Settlement Cases, p.519.
Long as his Property continues, and he continues to reside upon it'.\(^{63}\) Two years after this, a case was taken before the Court of King's Bench about a man who had moved to a parish with a certificate from his parish of settlement. The court judged that after twenty years occupation of an inherited property the family had gained a settlement in their new parish despite the restrictions placed on a certificated man by 9 & 10 W 3. Reporting on the case, Burrow states

> But an Estate of a Man's OWN, from which he cannot be removed, has been, by Construction, (and a very reasonable one too) holden to be Within the Act: for it would be a very hard Thing, to remove a Man from his Own Estate.\(^{64}\)

In another case a man for nineteen and a half years, inhabited a cottage illegally built on the Waste. Then his mortgagee inhabited it for a time - so the court held that even though it was an illegal cottage, the possession of over 20 years was enough to mean that he gained a settlement.\(^{65}\)

In 1768, James Burrow in his great work on settlement cases, gave his own interpretation of the meaning of the Act 9 Geo. I. c.7 as it affected inherited property when he wrote that 'No Person shall acquire any Settlement, by Virtue of any Purchase for a Consideration of less than £30 Value bona fide paid, for any Longer Time than such Person inhabit thereon'. He added that 'in Case of Descent, a Settlement is gained, though the original

\(^{63}\) Burrow, Settlement Cases, p.389.

\(^{64}\) Burrow, Settlement Cases, p.450.

\(^{65}\) Burrow, Settlement Cases, p.632.
Purchase be under £30 Value.⁶⁶

Despite this, it seems that there was still some uncertainty about this legal point for many years to come, as Michael Nolan, writing in 1808, raises the question and quotes from the case of Rex v. Martley.

In a very recent case, Mr Justice Lawrence remarks, that the Justice's power to remove, is founded on 13 and 14 Car II c.12 which extends to any person who shall come to settle in any tenement, under the yearly value of £10: and these words never having been deemed to relate to persons living on their own estates, whether acquired by purchase or otherwise, or at whatever value; it followed that every person residing irremovably for forty days in that parish where his own property was, gained a settlement.⁶⁷

The Attitude of the Judges of the King's Bench

Although the settlement laws sometimes seem to have been aimed at making it impossible for the poor to gain a new settlement, the judges seem to have tried to interpret the law in the most generous manner possible. Certainly in the case of a man owning a very small property, the judgements seem to have erred on the side of the poor man. In one apprentice case the Court stated that it would have been hard if, after serving many years, a child had not gained a settlement due to a mistake by a Justice's Clerk.⁶⁸ So in the case of ownership, we have seen instances of a similar regard for the pauper.

---

⁶⁶ Burrow, Settlement Cases, p.367.
⁶⁷ Nolan, Relief and Settlement, 1, p.493-494.
⁶⁸ Burrow, Settlement Cases, p.250.
There seems little doubt that the Act 9 Geo. I. c.7, was meant to curtail settlement by purchase. But the Law Lords of the King's Bench refused to allow it to be interpreted to include the removal of a man from his own property. In a case in 1756, Mr Justice Foster even felt strongly enough about a settlement case that to justify the judgement of the court, he stated that 'his Right is under Magna Carta; "None shall be disseised of his freehold"'.

Numerous instances are reported of a Law Lord complaining about the costs of appeal cases but perhaps the most telling remark is that made by Lord Mansfield in 1772 when he stated that 'The Court should lean in favour of Settlements'.

Tailpiece

Before leaving the question of renting and owning property, it is perhaps not inappropriate to quote a short letter found with the barrister's Opinion for another case involving the occupation of land. This is from the father of the pauper giving evidence of his own settlement. It also shows the level of literacy to be found amongst men with the financial capability for renting land.

Sir, I Recvd yours and In ansure To my Leven in Buckly Is I think 15 years This Spring. But as to my ocopien The Land I canot Say how Long but after I

69 Burrow, Settlement Cases, p.414.

70 Burrow, Settlement Cases, p.705.

71 D9822.
159

had been at Newport 40 Days I was a Inhabitter and have paid to curch and poore Ever Since

your humbel Sarvant

Joseph Ward
Chapter 4.

The Consequences of Illicit Love.

Bastardy.

Much demographic work has been undertaken in recent years on the prevalence of bastardy in the period under discussion. In particular, the Cambridge Group's quantitative work on parish registers has involved studies by historians like Peter Laslett showing the pattern of illegitimate births over a period of some four hundred years.\(^1\) However, work based on baptismal entries gives us no insight into human joy or misery caused by the birth of a love child, but when we study the records generated by the poor laws, details emerge of the way a man could be pressurized to marry the woman who was carrying his child, pressurized not only - as one presumes - by the woman herself, but more especially by the overseers of the poor.

P. Johnson points out that the diaries of two Somerset parsons 'show them negotiating marriages to avoid the birth of bastards', but it seems unlikely that parish

pressure was based on moral consideration, as at this period many famous men were proud of their illegitimate offspring.\textsuperscript{2} Poor Law documentation makes it clear that the main concern of overseers of the poor was to marry the girl off speedily, in the hope that her new husband would be able to support her without parish assistance. Strangely there is no evidence that parish officers realised that the marriage would almost certainly result in the birth of more children.\textsuperscript{3}

Little information has so far emerged about the way the two parties were actually treated and how the parish officers would manipulate the situation to ensure that the desired marriage took place. The work undertaken by people such as L. Stone show that illegitimacy rates varied greatly through a period of years. Yet despite all that has been written on the subject, little mention has been made of the possible impact of the settlement laws on the likelihood of a pregnant girl marrying the father of her child.

In this chapter the stories of the actual men and women will be studied, but as well as trying to put a more human face to the study of illegitimate births, it is hoped to show that poor law documentation may well suggest new angles for demographers to consider.

A study of Quarter Sessions judgements shows that in a proportion of cases, a removal order was confirmed for a man and his wife, while one or more of their children were excluded from the order. This section will explain the probable reasons for this exclusion. It is also hoped

\begin{itemize}
\item\textsuperscript{3} T.R. Malthus, \textit{An Essay on the Principle of Population or a View of its Past and Present Effects on Human Happiness} (1798), p.432.
\end{itemize}
to clarify the law as it related to bastards by discussion of a number of actual cases where evidence has survived, to show the effect that bastardy had on the lives of young men and women of the period. It will also give some impression of the way the couple would be treated by a hostile, or perhaps only financially worried, Overseer of the Poor.

The Oxford English Dictionary defines the word Bastard as 'one begotten and born out of wedlock, an illegitimate or natural child'. In the context of the Poor Law, this seemingly simple definition was not always acceptable. In Wilkie Collins' novel No Name, Mr Vanstone's children are described as 'Nobody's children'. This is the exact term, filii nullius, used in the Court of King's Bench when bastard children were mentioned.

The problems associated with bastardy were very varied. George Chetwynd in his 1820 edition of Burn's Justice of the Peace explains the situation of a child conceived before marriage:

> If a child be begotten whilst the parents are single, and they will endeavour to make an early reparation for the offence, by marrying within a few months after, our law is so indulgent as not to bastardize the child, if it is born, though not begotten, in lawful wedlock.\(^5\)

The fact that a man married a woman who was already pregnant, was to be taken as an acceptance of paternity by the man. The law stated that a single woman whose child was likely to be born a bastard must be asked to

---


\(^5\) R. Burn, The Justice of the Peace and the Parish Officer (23rd edn, 5 vols, 1820), 1, p.238.
name the father of the child. The parish officers could then obtain a warrant for the arrest of the man. If he could not give surety to indemnify the parish against charges for the child, he should be encouraged to marry the woman, or, in the event of his refusing, be sent to the county gaol. The length of his stay in gaol does not seem to be stated, but he was to appear at the first Quarter Session held after the birth of the child. This could in many cases mean at least six months in prison. However, if the woman miscarried, or 'shall appear not to have been with child at the time of her examination', he should then be released from prison.

It seems that this treatment was not necessarily meted out in all areas. In his autobiography, the Lancashire mechanic Benjamin Shaw, mentioned that several of his family had illegitimate children. He himself had married his sweetheart Betty when she told him that she was with child. In 1815 he wrote about 'our son William who had 2 Chance Children fathered on him, when he was only 19 years old'. But it seems that it was two years before young William married the mother of one of these children.

In 1818 his daughter Bella had to move to Dolphinholme in the parish of Ellel for the birth of her illegitimate child. This was the place in which her father had gained a settlement by his apprenticeship between 1791

---

7 Shaw, Family Records, pp. 52-53.
8 Shaw, Family Records, p.57.
and 1794. As soon as the child was born Bella returned to live with her parents in Preston, but did not marry the father of her child until four years later.  

So it seems that the overseers in Preston had made Bella move to her parish of settlement before the child was born, but did not force the father to marry her. Lawrence Stone writing of men 'forced to the altar by the pressure of parents, neighbours, clergy, magistrates and the threat of legal action' has suggested that 'in the cities these pressures were more easily evaded'. Preston could not be classed as a city but it is probable that, as a result of the rapid growth of the town due to the textile industry, many young women, like Shaw's daughter, were legally settled in other areas. There is also the possibility that the father of the child did in fact have a legal settlement in the town. If this was the case, it was obviously in the interest of the overseers to fix the settlement of the child outside their parish. So perhaps for a mixture of reasons, it was easier for the parish officers to make a pregnant woman move to her parish of settlement before the birth, rather than go to the trouble and possible expense of forcing the father of the

---

9 Shaw, Family Records, p.7. Shaw was a mechanic. In view of the long autobiography written by Shaw, it is interesting that Michael Sanderson writes that the mechanic, the man who looked after the machinery in a factory, had to be far more literate than the engineer who was in charge of the steam engines. M. Sanderson, 'Literacy and social mobility in the industrial revolution in England', Past and Present 56 (1972), pp.94-95.

10 Shaw, Family Records, pp.56-57, p.60.


12 It is interesting to note that in his study of parishes in Lancashire, J.S.Taylor particularly mentions Preston as having many sojourners who were legally settled in other areas. J.S. Taylor, 'A different kind of Speenhamland', Journal of British Studies 30 (1991), p.193.
child to marry her. But as will be seen that in late eighteenth-century Northamptonshire, great pressure was used to force couples to marry.

If a married woman gave birth to a child, that child could not immediately be declared a bastard, even if it was known that she had been unfaithful to her husband. A man could not disown a child born to his wife unless it could be proved that he could not be the father. Burn states that 'by the common law, if the husband be within the four seas, that is, within the jurisdiction of the king of England, if the wife hath issue, no proof is to be admitted to prove the child a bastard, unless the husband hath an apparent impossibility of procreation, as if the husband be but eight years old, or under the age of procreation, such issue is bastard, albeit he be born within marriage'.

At first reading this seems like an extract from a Victorian novel about the supposed heir in some titled family, but because of the poor laws, problems of this type could affect the most humble citizen. The law eventually decided that, even if the husband and wife were both resident in England, 'if there is sufficient proof that he had no access to her, the child will be a bastard'.

The Case of Hannah Hobley 1795

This case is typical of many. When Hannah found that she was pregnant, she told the officers of the parish of St Michael, Coventry, that the father of her unborn child was John Hobley, which subsequently led to his being

---

13 Burn, Justice, (15th edn, 1785), 1, p.179.
14 Burn, Justice, (15th edn, 1785)), 1, p.179.
It seems that Hobley, being unable to indemnify the Parish and in order to regain his liberty, consented to marry the Pauper and immediately after the ceremony was over, ran away and left her.

The parish officers of Coventry removed Hobley's new wife to the parish of Byfield in Northamptonshire which they adjudged to be his legal settlement. With the case papers for the appeal by Byfield against this removal order is an examination of John Hobley. As this is dated two weeks after the date of the removal order one can only assume that Hobley had been found again or had decided to return to his wife. As in many cases where bastardy is mentioned, the main justification for the appeal had no relevance to the birth of the child. In both this case and that of Patrick Wheeland which will be dealt with later, the husband's settlement depended on whether he had been hired for a year as an unmarried servant.

The Case of John Townsend 1772

In another case about twenty years earlier, John Townsend was forced to marry Ann Baseley. A note written by the

---

15 D9833.

16 This is not the only case where a man absconded immediately after the marriage. In 1775 the parish officers arrested Edward Humphries and persuaded him to marry Sarah Minton. When fourteen months later, Sarah was examined about her husband's settlement, she stated that she could give no information about the whereabouts of her husband 'having never heard from him since her said marriage'. D3245. S.P. Menefee in Wives for Sale (1981), p.62, quotes a man as saying that 'he had been compelled to marry her six years ago by the parish officers, in consequence of her having sworn a child to him: that he had never since lived with her'.

solicitor for the parish to which they were removed states that the marriage took place due to 'both of compulsion, menaces and bribes', presumably from the Parish Officers of the removing parish of Staverton. In the barristers brief for the subsequent appeal, Mr Harrison, the attorney for Hellidon wrote

The Order of Removal is dated the same day as Paupers Examination which appears by such Examination & Certificate of his Marriage to be on the very same day of his Marriage and consequently before the marriage was consummated. Did the wife take a Settlement derivative from the Husband before the said Marriage was consummated & if not had the Justices power to remove her before it was? 17

One cannot help feeling that Mr Harrison would have found it difficult to sustain this argument if, as seems almost certain, the bride was already pregnant. Judging by the number of cases of men leaving newly wed wives on the church steps, and still more cases of parish officers having couples removed immediately after the wedding ceremony, one is left with the feeling that Mr Harrison was very uncertain of the strength of his client's case. Only a year before this case, Lord Mansfield giving judgement in the King's Bench is reported to have said of one case that

it did not appear there were any Merits; and probably there were none: For, if there had really been any, the Parish of Awliscombe would scarce have caught at a Straw, as they have done; but would have relied upon their Merits. 18

17 D1032.

If the barristers concerned had heard Lord Mansfield's strictures, they might well have warned Mr Harrison not to continue with such a suspect line of argument.

The Case of Mary Hinks 1785

The case of the Hinks family has already been discussed in connection with her occupation of a house previously owned by her father. The papers connected with this case state that three years earlier, Mary gave birth to her second daughter, although her husband had been absent from her for some years. She claimed that her own father was father of this second child. From the brief for the respondent parish of Barby, we learn that her husband had been in America for nine years, and so was not within the four seas. It seems that it would have been possible for the parish officers to prove that this child was a bastard and that her husband had no access to her bed, but having been born in their parish, the child was in any case their responsibility.

The only people who might be interested in proving the child to be illegitimate were the officers of Twycross in Leicestershire to whose parish the family were removed. As nothing connected with this removal has survived with the Twycross documents, we have no means of knowing whether the officers realised that, even if they had to accept Hinks, his wife and the eldest child, they could certainly have tried to unburden themselves of the younger child by proving her illegitimate. As it happened, the Quarter Session records show that Twycross won their case against the removal of the whole Hinks family.

19 D9812.
The Case of Thomas Malin and his wife Mary 1782

In September 1781, Mary Lester, a single woman, gave birth to a son in the parish of Hardingstone. After the birth, she was taken before a Justice of the Peace and swore that Thomas Malin was the father of the child. The Justice then issued a warrant for the arrest of Malin who was finally apprehended about three months later on the 5th of December. The draft brief for a subsequent case tells us that Malin was kept in custody over night 'during which time Mr Marriott, one of the overseers of Hardingstone, endeavoured to persuade Pauper to marry Mary Lester and threatened him in case of a refusal to send him to Gaol'.

Mr Marriott, as an inducement, promised Malin that the parish would pay for the marriage licence, for the clergymen's fees and for a wedding dinner. So, we are told, 'being intimidated with these threats' and 'much against his inclination' Malin agreed to marry Mary. The marriage took place at Hardingstone the next day and the couple were immediately removed to Daventry by an order signed by the Rev. John Eccles, clerk, and the Rev. Benjamin Preedy, DD.

The rough brief raised an interesting point: the removal order was dated 'the Sixth day of December in the 21st year of the reign of his Majesty King George the third'. This date places the removal in December 1780, whereas the marriage and the birth of the bastard child were both in the year 1781, and so, as the brief states 'there could be no such people as the pauper's wife and son at the time the order bears date'. One can sympathise with the Justices who made mistakes over regnal years: it is in fact unusual to find the date on a removal order given

20 D9815.
in that manner. It is impossible to find out who made this mistake as the original order does not survive; we have only a tidily written copy filed with the brief.

It is tempting to suggest that the Quarter Sessions would ignore a mistake of this sort, but reports of cases heard in the King's Bench suggest that an order might well be overturned on a technicality such as this. However in this case there is a much more serious fault in the order. It calls for the removal of Thos Malin, his wife Mary and their son Thomas aged about four months. From the point of view of the law, the child Thomas was the bastard son of Mary, born before her marriage to the child's father. Obviously the parish officers of Hardingstone hoped that Daventry would accept the family without questioning the date of the child's birth, or the marriage of the parents.

It seems most likely that when asking for a removal order, the Hardingstone officers did not inform the Justices that the marriage had only taken place earlier that day. Despite the complexities of the settlement law, it is indisputable that a child born before the marriage of the parents was, and remained, a bastard, and therefore a charge on the parish in which it was born. A magistrate who was aware that the child was born before the parent's marriage, would have been very unlikely to sign such a removal order.

As ever with the poor laws, the apparent simplicity of the child's settlement could prove complicated if the child was very young. The law was that a child should 'go with the mother for nurture until the age of seven years as a necessary appendage of the mother and inseparable from the mother' and 'which none can be supposed so fit
to administer as the mother of it'. This rule did not absolve the parish 'in which the child was dropped' from its financial responsibility. Despite the fact that the child would not live in their parish for seven years, the parish in which the child was legally settled had to find the money for its maintenance.

Chetwynd, in his 1820 edition of Burn's *Justice of the Peace*, states that the cases of this type are identical to that of a widow with young children being supported by her parish. If she should then re-marry and moved to a new parish, the children, if under the age of seven, would move with her. The first parish would have to continue to support the children of the first marriage, though the mother would take the settlement of her new husband and so, if she herself needed relief, this would have to be provided by her new parish.

However, as K.D.M. Snell explains, 'separation of mother from illegitimate child could occur after the child was seven years of age, if the mother found herself chargeable and settled in a different parish from her child's birth place. But in such cases, stigma falls on the settlement laws rather than relief administration'. While it is true that the law considered a child of seven to be old enough not to require 'nurture' from the mother, it was still possible for a parish to continue to send relief to the mother's parish even after the child was of that age. Again to quote K.D.M. Snell, for the married couple 'the terms of poor relief became more favourable; it was easier to gain aid for children under

---


the poor law; employment and charity were offered more readily'.

In the present case, because Malin had agreed that he was the child's father, he would be expected to pay maintenance: he had been pressurised to marry the mother for that purpose. But despite the fact that he would be responsible for the boy's upkeep, the law would not allow the boy to be removed as his legitimate child. If, at a later date, Malin himself was in need of relief, the parish in which Malin was settled would not be expected to pay maintenance for his bastard child born in another parish.

One of the papers about the case suggested that Mary Lester was under age when the marriage took place. If this line of argument had been followed up, the chances are that the marriage would have been judged to be void unless it could be proved that her parents had given their consent to the marriage. In 1759 a man was removed with his wife and child. During the subsequent case, the barrister for the appellants stated that the man was only twenty years of age when he married without the consent of his father. Burrow quoted one of the barristers for the removing parish as having said that

it is highly unreasonable, that a virtuous young Woman and her innocent Children should be turned adrift, and be considered as a Whore and Bastards.

Despite this, the King's Bench decided that the marriage was void.

At the Quarter Sessions the removal order for Thomas

______________________________

24 Snell, Annals, p.355.

25 Burrow, Settlement Cases, p.487.
Malin and his wife was confirmed but was quashed for the illegitimate child, so obviously the question of Malin's wife being under age at the time of the marriage was either proved to be incorrect or was not brought out evidence.

The Case of Richard Wykes 1787

Like so many of the cases relevant to this section, the legal settlement of Wykes had no connection with bastardy, but it was his bastard daughter who caused him to be the subject of a removal order. The brief for this case gives many details and an unusual insight into his arrest as the adjudged father of the child.

The main basis of this case are the various periods as a hired servant undertaken by Wykes. We are told that after leaving the service of Jonas Welch of Wormleighton in Warwickshire, he went to London, thinking to find work as a baker, to which trade he had been apprenticed. The case summary states that Mary Burden, who had been a fellow servant with Wykes, told him she was pregnant before he left Warwickshire. The inescapable inference seems to be that he left the Midlands to avoid being expected to marry the girl. He did however return but not until the child was some three months old. In the brief for the appellants we read that the Parish Officers of Chipping Warden

        took him into custody & by a behaviour most wicked & atrocious (and for which the Appellants will most certainly indict them if they do not succeed in their present appeal) prevailed upon him to marry said Mary Burden.

        26 D9805b.
Having read much about the harsh treatment meted out by parish officers desirous of securing a husband for the mother of a bastard born in their parish, one wonders just what Chipping Warden was supposed to have done to Wykes to cause this comment.

The case summary goes on to say that Wykes was told that he must either marry Mary or go to prison.

He at first said he would not marry her, but afterwards said he would be at no expense, upon which George Douglas and his son Benjamin, who were both in office, Benjamin being Constable and George, Overseer of the Poor, promised they would pay all expenses.

Accordingly George Douglas sent the landlady's servant at the Griffin, to Upper Boddington for his wife where at she then lived, to come to be married, but the waters were so high she dare not come over.²⁷

George Douglas himself fetched her and also sent to Mr Asprinwall of Aston for a licence and brought him also to Chipping Warden to marry them. But when he came and found that the party had neither of them lived the last month at Warden, Mr Asprinwall declined marrying them, and said they must be married at Boddington whereat she had lived for some time.

It seems that the next day, 8th December 1786, Wykes was taken on horseback to Boddington by George Douglas where the couple were married by the curate. After the ceremony the bride was taken to Chipping Warden by George Douglas.

²⁷ Maps show that a tributary of the river Cherwell runs between the two parishes.
It having been agreed that the couple should be removed the same day, Wykes himself was taken to be examined as to his settlement by Mr O'Clare. However in an examination of the pauper taken by solicitor Harrison during the subsequent appeal, it is stated that the pauper and Benjamin Douglas were 'delayed at Woodford and did not come home till midnight'. It seems that Mr O'Clare may have refused to sign the order removing the couple to Sulgrave because, next day, Wykes was taken first to Mr Fox who also declined, and then to Dr Bignell who recommended it should be deferred on some account or other which the pauper cannot well explain, he and his wife then being both maintained free from expense and labour for about three weeks.

According to the report of the subsequent appeal by Sulgrave in the Quarter Sessions Record Book, the order was finally signed by William Henry Chauncy, Esquire and Charles Fox, Esquire. It was dated 15th December, seven days after the marriage took place. So it seems that Mr Fox finally agreed to sign the order, perhaps after discussing the case with Mr Chauncy, a Justice who seems to have been knowledgeable about the legal side of the poor law.28

It also seems that Wykes was kept in custody for three days before the marriage could be arranged. The parish also had to pay for the marriage licence, for the clergyman and all other expenses. If Wykes is to be believed, he was kept in idleness at Chipping Warden for

---

28 As well as the fact that many poor-law documents have been found bearing his signature, with the papers about the case of Richard Warner, which was dealt with in Chapter 1, there are two letters written to solicitor Harrison by Mr Chauncy which show that he is well versed in the intricacies of the law. D9857.
three weeks. Possibly this could be explained if the removal was delayed at the request of Sulgrave while they tried to arrange accommodation for Wykes and his wife in their parish. We also read

George Douglas not being able to buy a new ring for the wedding, he borrowed one of Mrs Luttock of Boddington for the ceremony but the bride declaring she would not go to Church without a ring of her own, he excused himself by promising her a crown to buy herself one which he paid her after the marriage.²⁹

It is not surprising to find that Wykes stated that Benjamin Douglas told him that his father said that the cost of the wedding and of keeping the couple until they were removed, amounted to £9. Wykes reported George Douglas as stating that 'if they would marry, he did not regard the expense'.

Various documents among the case papers and the Quarter Sessions Record Books, show that the parish of Sulgrave appealed against the removal order. Subsequently the case was removed to the Court of Kings' Bench where the order was quashed. On the 4th of June 1787, Chipping Warden obtained an order removing Wykes, his wife and child to Wormleighton in Warwickshire, but once again the removal order was quashed. So Chipping Warden probably had to keep Mary and her child, and also her new husband.

In the brief for the appeal against this second order,

²⁹ It seems that a ring was an important item to a girl about to marry. In 1794 Elizabeth Lewis persuaded the officers of the parish of St Luke, Chelsea, to help her to marry a man from a different parish, asking to be provided with 40/-, a gold ring and a wedding dinner. J.S. Taylor, Poverty, Migration, and Settlement in the Industrial Revolution: Sojourners' Narratives (1989), p.28.
the previous case of Thomas Malin and his wife Mary Lester is quoted, because here again, a parish had tried to remove a married couple together with their bastard child born some months before the marriage. The solicitors for Wormleighton was the firm of Harrison and Burton who seem to have transacted all legal business for Daventry, including the case of Thomas & Mary Malin. In view of the number of forced marriages due to bastardy, one cannot help wondering whether any solicitor faced with a removal order of a young married couple with a small baby would not make enquiries as to the date of the marriage and the child's birth. In this instance, solicitor Harrison would be very aware of the possibility of deception of this sort having saved the parish of Daventry from a similar case only five years earlier.

The brief states that 'notwithstanding the officers of Chipping Warden well knew that the bastard was born in their parish & belonged to them', whatever the outcome of the appeal as regard to the parents, 'the Order must be quashed as to the Bastard & as the Appellants trust with costs as the Court did in a case exactly similar 4 or 5 years ago between Daventry and Hardingstone'.

The other interesting feature of the case is a report that after working for Jonas Welch of Wormleighton for a year, having been paid his full wages, his master's wife said that 'he is the son of a very respectable grazier now no more', and that she told him that if ever he was passing that way again he was welcome to a bed and food. This remark makes the point that it is not just the very poor who became entangled in the settlement laws.\(^\text{30}\)

\(^{30}\) It is perhaps relevant that the marriage entry in the Boddington Parish Register shows that Wykes could sign his name, though his wife only made her mark.
The Case of Elizabeth Clarke 1750
This case deserves a short mention as differing somewhat from the other cases cited. Elizabeth was a farm servant working in the parish of Badby, and when she became pregnant, she left her master's service without working out her full year. She went to her friends in Braunston; from there she was removed by two Justices to the hamlet of Flecknoe in Warwickshire, which is a district of the parish of Wolfhampcote. Instead of appealing against the order, the parish officers immediately removed her to Badby in Northamptonshire. In Edmund Bott's Decisions upon the Poor's Laws we read that an order not appealed against is binding on the parish to which it is addressed. Therefore Wolfhampcote should not have had her removed: they had either to accept the charge for the pauper and her child, or had to bear the cost of an appeal against the order. It is no surprise to read that the order was quashed.

This case is also interesting in that no man seems to have been charged with being the father of Elizabeth's child. Also the solicitor for Badby expressed some anxiety because the first order was addressed to Flecknoe rather than to the parish of Wolfhampcote; he feared that this technicality might complicate their appeal.

The Case of Patrick Wheeland 1785
When Patrick Wheeland was apprehended as the father of the bastard child of Mary Swingler of Crick, he was not willing to marry the girl. It was only after he had spend more than a month in Northampton Gaol that he agreed to

31 D9818.

32 E. Bott, A Collection of Decisions of the Court of King's Bench upon the Poor's Laws (2nd edn, 1773), p.238.
the marriage.\footnote{D9814.} Like the parish officers of Hardingstone, the officers of Crick arranged for Patrick Wheeland, his wife and their child, to be removed from Crick to Dunchurch in Warwickshire as if the child was legitimate. The brief for Crick in the appeal by Dunchurch against this removal order, states that

Previous to Pauper marriage said Mary was delivered of a Bastard Child in Crick whom the Justices removed with Pauper and his Wife to Dunchurch as the place of its last legal Settlement but as the Child is now dead this mistake of the Justices as to the Settlement of such child is immaterial.

In law this was no doubt of little significance, but the lawyer in drawing up the brief seems to have had little thought for the two young people tied by a marriage into which one if not both of them had not wanted to enter. Something of Wheeland's anger is shown by another section of the brief which states that the officers of Crick are apprehensive that Pauper who has a very bad character will (in order to revenge himself on the Parish of Crick for being the means of his committment and marrying the Girl) will contradict what he has sworn before the Justices.

In her article on Bigamy in Essex, Pamela Sharpe writes that 'Another reason for marital separation which comes out of the records is childlessness'.\footnote{P. Sharpe, 'Bigamy among the labouring poor of Essex', The Local Historian 24 (1994), p.141.} As an example she quotes the case of Susan Smith whose husband left her just two months after their marriage, as she said "to shift for herself she not having any child". It seems
unlikely that a man would turn his wife out for being barren after a mere two months. However if he had been forced to marry her thinking that she was carrying his child, it is easy for one to understand the subsequent separation of the couple.

The Case of Thomas Halley 1789

Yet again, Halley's legal settlement had no connection with bastardy. However the brief gives details about his arrest as the adjudged father of a bastard child. Halley was hired at Braunston Statute in 1787 and had completed a full year's service with his master Mr Edmunds of Braunston. Four days later he was apparently still working for Edmunds, who sent him to Rugby with a load of wheat. On the return journey he was apprehended between Rugby and Dunchurch by William Clarey, Overseer of the Poor and Mr Iliff, Thirdborough of Kington in Warwickshire. They had a warrant for his arrest on a charge of bastardy. He was allowed to drive the team and waggon as far as Dunchurch where a special servant was hired to return it to Mr Edmunds.

We are told that Iliff kept a Public House at Kington to which Halley was taken. After trying in vain for two or three days to prevail upon him to marry the child's mother, he was taken before the local magistrate and, as he could produce no sureties, was committed to the House of Correction. It is not certain how long he remained there, but we are told that the warrant for his arrest

35 D9831.

36 The brief states that Halley had completed his year's service with Mr Edmunds. This point was important as even a servant accused of fathering a bastard child could not be removed from his master. K.D.M. Snell, 'Pauper settlement and the right to poor relief in England and Wales', Continuity and Change 6 (1991), p.384.
was dated 1st October and it was not until the 22nd of the month that,

being tired of his confinement and preferring matrimony to perpetual imprisonment, he compromised with the officers, of which much might here be said if it was considered at all material to the present question, actually married his now wife.

Straight after the ceremony the couple were taken before two Justices and were removed to Braunston the same day.

It seems that such a swift removal could occasionally have its problems. In the parish chest material for the parish of Castle Ashby there is a case summary asking for counsel's opinion. It seems that the parish persuaded Joseph Harris to marry the woman who was carrying his child. After being married the next day at Finedon, the couple spent the weekend with friends, before going to Astwood in Buckinghamshire where he had gained a settlement by a year's service. Astwood refused to accept the couple as inhabitants until they received a removal order, so Harris returned to Castle Ashby leaving his wife in Astwood.

Counsel's opinion was being sought as to whether it was legal for them to have removed a man from their parish when he had only spent one night in the parish in the custody of the Constable, and had returned for only two hours to obtain the removal order. Unfortunately no other documents survive, but as there is no case about the couple in the Index of Northamptonshire Quarter Session Cases 1754-1834, one has to assume that the barrister felt the removal was legal, and that Astwood did not appeal against it.

37 58p/125.
The case of James Asser 1781

We are told that after serving his apprenticeship as a woolcomber, James Asser 'roved about the county'. It seems that he was aged forty when he started work in West Haddon and met Frances Malkin of Long Buckby.\textsuperscript{38}

Under promises of marriage he obtained improper liberties, and afterwards refused to marry her and she being as she believed pregnant by him she voluntarily went before Dr Freeman and swore that she was breeding by the Pauper.

For want of sureties, Asser was committed to Northampton Gaol, but after about a week 'being tired of his new Habitation' he told the parish officers of Long Buckby that he would marry the girl if they would pay the Gaol fees and release him.\textsuperscript{39}

After his release he was taken before Dr George Freeman, the Justice who had committed him to prison. It seems that Dr Freeman was a Bishop's Surrogate: it is certain that the marriage licence is signed by him. It was also Dr Freeman who married the couple at West Haddon parish church.

Soon after the Ceremony was over Dr Freeman took the Paupers Examination as to his Settlement and finding it to be Tur Langton in Leicestershire, he and Mr Bateman, another justice, removed them thereto.

Tur Langton appealed against the removal order on the

\textsuperscript{38} D9823.

\textsuperscript{39} 'In the eighteenth century it was the practice to make unhappy prisoners pay certain fees to the gaoler out of their own pockets'. D. Marshall, The English Poor in the Eighteenth Century (1926), p.218.
grounds that Asser was already married before the ceremony carried out by Dr Freeman. The brief for Long Buckby as respondents in the appeal, states that when Dr Freeman granted the marriage licence, Asser said that there was no pre-contract or impediment to his marriage to Frances Malkin. However on the outside cover of the brief there are several notes presumably written by Thos White, the barrister whose name and fee of two guineas are entered on the cover. The notes read

Sent to Gaol, handcuffed on prisoners allowance

Said he was Married to a woman in Durham

Made him marry - handcuffed again

Married Eleanor Hall 7 years ago - living at Concet

I told the overseers I had a lawful Wife

The brief for Long Buckby suggests that the parish officers of Tur Langton will try to produce 'a Certificate for the pretended marriage' or the woman herself. The brief goes on to speak of 'a case of a most vicious nature' and suggests that if the first marriage can be proved, Asser will be 'not only proved guilty of Felony but of perjury'. The brief goes on to say that

tis hoped that the Court will insist upon and require the most positive Proof that can be made of the fact not only by production of a Certificate of the pretended marriage but the oath of the person who took such Certificate & examined it with the Register, that the Pauper is the identical person therein named, that his Wife to whom he was then married is now living.
Obviously Long Buckby hoped that no such first marriage could be proved, because they would be implicated as having forced Asser into a bigamous marriage.

By checking the International Genealogical Index it has been possible to establish that a man named James Asher married Eleanor Hall at Auckland St Helen on the 30th May 1774. Despite the slightly incorrect surname, it seems reasonable to say that James Asser was speaking the truth when he claimed to have married Eleanor Hall seven years earlier. What it has not been possible to establish is whether in fact she was still alive in 1781. We are left with the possibility that he was in fact correct in claiming to have a wife alive in Consett. This would mean that Dr Freeman, rector of Long Buckby and Bishop's Surrogate, was responsible for putting pressure on a man to commit bigamy.

The whole involvement of Dr Freeman in this case seems somewhat suspect. Firstly he was the incumbent of the parish whose officers were forcing Asser to marry Frances Malkin, and he signed the order committing Asser to prison. He then issued a marriage licence for the couple and travelled three miles to the man's parish to perform the ceremony himself, this despite having just been told that Asser already had a wife living. Finally he examined the pauper and was one of the two Justices who signed the removal order.

Richard Burn, writing of the duties of a Justice of the Peace, states that no Justice should sign a removal order for his home parish if there is any danger of an appeal case resulting from the order. Burn quotes the case of Great Chart and Kennington in which a removal order was quashed because one of the Justices was a rate-payer in
the removing parish. One cannot help wondering whether any comments were made about Dr Freeman's conduct at the Quarter Sessions. Amongst the case papers there is a subpoena calling for George Freeman to attend the Quarter Sessions 'in the case of the removal of James Asser'.

Perhaps the most surprising thing about the Asser case is, however, the judgement given in the Quarter Sessions Record Book for Michaelmas 1781. From this we learn that the removal order was confirmed for James Asser himself, but was quashed for the woman

she having a prior husband living.

None of the case papers give any details about Frances Malkin such as her parish of birth or settlement so it has been impossible to ascertain whether this statement is true or not. It is possible that the clerk to the Sessions made a mistake when entering up the case. In a later section of this thesis, it will be shown that a number of faults have been found in the Record Books which will tend to support the suggestion that this also was an incorrect entry.

One sentence in the brief has already been quoted: Frances Malkin 'being as she believed pregnant'. This seems to suggest that she was not in fact pregnant at all. If this is true, the forced marriage is even more unpleasant to contemplate. In the Wheeland case already quoted, the child was born before the marriage but died before the date of the Quarter Sessions hearing. It is probably impossible to produce any statistics as to how often this type of situation happened, but knowing the very high mortality among tiny babies and young children, it seems probable that the two cases mentioned here were

---

40 Burn, Justice, (14th edn, 1780), 3, p.27.
by no means unusual.

The fact that it seems that Asser was actually handcuffed at the time of the marriage ceremony is not the only case of this known. L. Stone writes that 'there is evidence of a man being brought to his wedding in handcuffs to make sure that he did not abscond before the ceremony'.\(^{41}\) A second such case is reported by Parson Woodford who on 22nd November 1768 wrote 'I married Tom Burge of Ansford to Charity Andrews of Castle Cary by Licence this morning. The Parish of Cary made him marry her, and he came handbolted to Church to stop him from running away'.\(^{42}\) Woodford received 10/6 for performing the ceremony.

There is no reason to suppose that Asser was an actual pauper at the start of this case, but after a period in prison and the uncertainty about his settlement, it is most probable that by the end of the case he would be. So Long Buckby would have to support him until he was able to find new employment.

Dorothy Marshall quotes an undated case of a man imprisoned for refusing to maintain a bastard child which he denied was his. As a result, his own wife and three children became a charge on the parish. It was eventually decided, as it was less expensive to pay for one bastard child than a family of four, that he should be released from prison.\(^{43}\)

\(^{41}\) Stone, *Family, Sex and Marriage*, p.631.


Conclusion

A large number of bastardy cases are recorded in the Northamptonshire Poor Law Index, Series One, the majority of which were found not in the parish-chest material. The Daventry Collection documents which have so far been indexed, include for the period 1755-1834, 279 cases of bastardy; over the eighty years this only averages between three and four a year. However of that total, the majority are part of consecutively numbered runs of poor law documents for the years 1816-1822. For example numbers D1881 to D2116 are a mixture of settlement examinations and bastardy papers of which 125 are about bastardy. Appendix 6 is a bar-chart which shows for example, that of the total of 93 papers found for the years 1815-1819, a mere 15 were among the parish chest material from the first 71 ancient Northamptonshire parishes that have been indexed; the remaining 78 were in the Daventry Collection. The appallingly low rate of survival of parish-chest documents is illustrated by the fact that of these 71 parishes, 32 have no personal poor-law material such as certificates, examinations, apprentice indentures or bastardy papers.

While it is well known that the survival rate of parish-chest material is very low, the Daventry Collection does perhaps give us some idea of the magnitude of the loss. The chart shows that the highest number of bastardy papers found is for the period from 1815 to 1834. It is tempting to suggest that the end of the Napoleonic Wars was responsible for the sudden increase, but the scale of the growth is not mirrored in the surviving parish chest material. Despite the large and important army depot at Weedon Bec, the number of bastardy papers for the immediate region of the depot, covering the years 1815-1834, compared with the distribution over the whole area, does not suggest that the barracks was the main cause of
bastardy, though girls returning to their home village to give birth may well have increased the numbers. It seems that the survival of so many documents in this solicitors' deposit is yet another indication of the importance to historians of the Daventry Collection. It also helps to emphasise the involvement of the solicitors in the running of the poor law.

What is surprising about these figures is that they do not agree with the findings published by Peter Laslett.⁴⁴ He writes of a general downward tendency during the years 1800 to 1831. Yet the evidence of the bastardy examinations found in Northamptonshire, shows a marked increase during those years. Even if the chance survival of the Daventry Collection documents is ignored, there is certainly no sign of the decrease mentioned by Laslett. In view of the number of couples forced into marriage by parish officers, it seems possible that the decrease in baptisms of bastard children found by Laslett is not due to a change in sexual behaviour on the part of the young people, but more due to pressure by officialdom.

J.S. Taylor has written that 'the law gave parish officers and the poor strong motivation for fraud and unethical stratagems'. He goes on to list shot-gun marriages as one of the abuses but adds that they were 'uncommon everywhere, but more frequent in London'.⁴⁵ Perhaps it is only from surviving barristers' briefs and other solicitors' documents that we can find evidence to refute this statement. An undated paper found in the Daventry Collection tells the story of John Wilson who was offered £5 by parish officers to marry the mother of an illegitimate child. When he showed some reluctance,
his friend was also offered £5 'if he would assist in making the match'. Later Wilson was to say that he was 'not sober at the time'. E.P. Thompson quotes the case of William Bacon who, in 1748 was 'carried to Stogumber Church by the officers of the parish' and 'being very high in Liquor he doesn't know whether he was married or not'. "In December 1783 overseers at Chipping Norton (Oxfordshire) pleaded guilty to bribing John Gibbs, a septuagenarian pauper "of weak intellect" into marrying Hesther Shepard "in order to escape the cost of keeping her"'. These three examples seems to point to the fact that it was not merely in Northamptonshire that pressure was exerted to find husbands for single mothers.

Lawrence Stone has also made a suggestion about the economic incentives for the man to marry the mother of his illegitimate child. A man adjudged to be the father of a bastard child,

was forced to choose between marriage, imprisonment, and the payment of an allowance, which varied from one to seven shillings a week for seven years. It also meant that if he was without means, his marriage would make him eligible for a child's allowance from the poor rate in his own parish.

Evidence from case summaries and barristers' briefs found in the Daventry Collection suggest that many of the appeals against removal orders heard at the Quarter Sessions or at the Court of King's Bench included an

---

46 D4472.
49 Stone, Family, Sex, Marriage, pp.630-631.
element of bastardy: that the removal which formed the basis for the appeal may well have been as a result of the conception of 'a child likely to be born a bastard'. But once the couple were safely married, the removal was to the parish in which the husband had last gained a settlement. It was the proof of this settlement on which the case turned. In all probability the Justices, whether signing a removal order, or sitting in judgement at the Quarter Sessions, may not even have known that the whole case was triggered because of a pre-marital affair.

While this does not affect the numbers of children born outside wedlock, it certainly must imply a far greater incidence of pre-marital conceptions. Peter Laslett suggests that intercourse may in some instances have been a normal and accepted pre-cursor to marriage.\textsuperscript{50} If we take into account the activities of various overseers of the poor, it seems possible that pre-marital intercourse must have been much more common than even Laslett suggests.

Evidence from the various classes of poor law documents, and from other historical sources, show that parish officers were under great pressure to keep down the cost of poor relief in their parishes. If we assume that their pressure on the unmarried pregnant women was increased - in particular in the period after the end of the Napoleonic Wars - this could well account for the decrease in the number of illegitimate births listed in parish registers for the period, but not in the number of bastardy papers generated.

There seems to be ample proof from the removal appeals that have been considered, to show that bastardy was a major problem for parish officers. It is easy to understand their desire to marry off the hapless girl as

\textsuperscript{50} Laslett, \textit{Family Life}, p.128.
quickly as possible, preferably to a man who was settled in another parish. In the cases discussed it has been the man on whom pressure was brought, but J.S. Taylor quotes the case of Esther Gillingham who was warned by the parish officers of Fulham that they would commit her to the Bridewell for a year and a day if she did not agree to marry the father of her child.\textsuperscript{51}

As we have seen, a child born before the marriage of the parents was legally a bastard and so the responsibility of the parish in which he or she was born. Despite this, it was obviously to the advantage of the parish to make the couple marry in the hope that the father would be able to support the family, and thus relieve the charge on the poor rate.

Even if the man himself became a pauper at a later date, his settlement might be in a different parish; the woman would not be a charge on her original settlement; they would only be required to support the child. An unmarried mother was almost certain to be a charge on the poor rate, but even if a marriage was arranged to a man settled in their own parish, the officers might still never have to pay towards the child's keep if the father was able to support both wife and child. No doubt in the many cases where a man married the mother of his child, this was what happened.

Out of a total of seventy barristers' briefs or case summaries found in the Daventry Collection, twelve mention bastardy, yet in only one is this the actual cause of the appeal. That case concerning John Malin will be dealt with in the next section of this chapter. Of the others, as has already been mentioned, a number of the removal orders were triggered by the arrival or imminent

\textsuperscript{51} Taylor, \textit{Poverty, Migration & Settlement}, p.28.
arrival of a bastard child. In assessing the possible number of removals caused by pre-marital pregnancy, we have to take into account that the 70 cases are only the ones where the removal order was appealed against, and for which the case papers have survived.

Of the cases discussed so far, none of the men seem to have been willing to marry the girl until pressure was exerted by the parish officers. No doubt the cases where a man willingly married the girl, did not result in immediate removal orders and so no case papers were generated. Quite apart from the fact that most of the men seem to have been extremely reluctant to marry the women involved, we also have cases like that of Hobley who, having been forced into the marriage, then apparently left the bride standing on the church steps.

Richard Wykes almost certainly ran away to London to avoid his responsibilities. He does not strike one as a strong character. He admitted to having served his apprenticeship to the bakery trade, yet when he met his future wife he was working as a farm labourer. Hinks, on the other hand, one can hardly blame for the fact that his wife had a child by her own father while he was serving abroad, but one wonders why he left her in the first place.

If we feel less than sympathetic about the men who were reluctant to marry the women they had made pregnant, one also has little respect for the parish officers whose treatment of the men was not over-kind, and whose methods of ridding themselves of a bastard child were certainly not always legal. We have seen several cases where the parish officers obtained removal orders for a man and his wife and child, despite the fact that the child was born a bastard in their own parish. There is also the case of Richard Wykes where more than one Justice was reluctant,
or actually refused, to sign a removal order. The brief does not give us any explanation of their refusal, but presumably they were not happy about the case.

It is a refreshing change from the unpalatable behaviour of the overseers, to think of Mary Burden refusing to marry without her own wedding ring. No doubt she was fully aware of the determination of the parish officers to marry her off, and so she used that knowledge to hold them to ransom.

It seems certain that James Asser agreed to marry Frances Malkin in order to obtain his freedom from prison but expected that his story of a wife in Consett would free him from the necessity of marrying her. One may sympathise with him for being incarcerated in an 18th-century prison, but if the barrister's brief is to be believed, he had actually promised Frances marriage to obtain what the brief calls 'improper liberties'.

It is almost certainly no accident that all but one of the case papers found are for the period before 1795. In the case of Richard Wykes, the case papers say that immediately after the marriage ceremony, Wykes was taken to Mr O'Clare to be examined to his settlement, it being agreed that they should be removed the same day.

The implication of the entry seems to be that Wykes had been told that the immediate removal was to be part of the agreement. After 1795 that would not have been possible as from that date, no-one could be removed unless they were actually in receipt of poor relief, except in the case of unmarried pregnant women who were automatically considered to be in need of help. So the habit of removing a couple almost from the church steps,
had to be discontinued. From that date also the number of bastardy orders seems to have risen sharply. This could of course be merely due to the fact that more recent documents perhaps had a better chance of survival.

It seems more likely that when a couple could only be removed when chargeable, there were fewer orders signed. For example in the case of Thomas Haley, he was still in employment when he was arrested by the parish officers. He was fortunate that he was removed to the parish in which he had been working, but we cannot know whether his master accepted him back or not. Many men in this situation were removed to a different parish and so had no possibility of returning to their employment.

In cases of this kind, when removal immediately after marriage was the norm, a parish faced with a couple who had a tiny child, may have known - or at least suspected - that they were being saddled with the family to save the mother and child becoming a charge on the removing parish.

So the changes in the law in 1795 must have made the path easier for the young husband. But perhaps a benefit brought about by the New Poor Law Act of 1834 was that from that time, a bastard child took the settlement of the mother, thus stopping some of the unseemly practices used to rid a parish of a bastard child.

**Bigamy.**

If it was true that James Asser's wife Eleanor was alive in Consett at the time of his marriage to Frances Malkin, then the marriage into which he was forced was certainly bigamous. Yet it seems hard to label him a bigamist when he was taken handcuffed to the church. Several other
cases found, show that by no means all cases of bigamy were intentional.

Burn wrote that if a person who has a husband or wife still living, should then marry again in England or Wales, he or she can be indicted for a felony. If however the person should marry first in England or Wales and then contract a second marriage outside this area, no indictment can follow. But Burn also explained that a husband or wife whose partner had left the country and not returned for seven years, could not be charged with a felony on contracting a second marriage 'and this, altho the party in England hath notice that such husband or wife is living'. Chetwynd, writing in 1820, stated that it had not been established whether that partner is 'bound to use reasonable diligence to inform himself' of whether the partner was alive or dead. But both authorities state clearly that, although no prosecution could follow the second marriage, that marriage is void.

The Case of John Townsend 1772

We have already seen that John Townsend married Ann Basley at the insistence of the parish officers. When they were removed by two Justices from Staverton to Hellidon, the barrister's brief for Hellidon in their appeal against the order, sets out a normal case connected with Townsend's time as a farm servant. However on the last page of the brief, written in a different hand, is a section about Townsend's wife. This states that in 1757 she was married at Staverton to Eusaby Baseley. Six months after the marriage he

52 Burn, Justice, (14th edn, 1780), 3, p.309.
53 Burn, Justice, (23rd edn, 1820), 3, p.637.
54 D1032.
enlisted himself for a Soldier. She then bought him off - he enlisted a second time at Coventry.

There is no indication of the date of this second enlistment but the note explains that since then his wife had not seen him. It is reported that his brother had news of him about ten years earlier, but, as is pointed out in the note, under an act of parliament, seven years absence either in England or abroad ensured that no prosecution would follow a second marriage. The note then goes on to state that

The Paupers marriage of her was both of compulsion, menace & bribes & if you think the Court will take cognizance thereof, you will please to examine particularly thereto.

If Townsend's wife had not heard from Eusaby Baseley for ten years, it would be of little use for Hellidon to raise the question of bigamy during the court case. However, as has been shown, her second marriage to Townsend was void in law, so her settlement would remain that of Eusaby Basley, her first husband. On the other hand, as her legal husband had not been 'within the four seas' her child would be declared a bastard despite her marriage to Townsend. Unfortunately the Quarter Sessions judgement just states that the removal order was quashed so giving us no idea of how the Justices arrived at that judgement.

The Case of John Malin 1813
This is a case of a very different nature though again about a bastard child. It is of particular interest as the surviving brief is not for a parish but for an individual. John Malin was the appellant against a filiation order. We learn that Malin worked from Michaelmas 1809 to Michaelmas 1810 as an unmarried
servant with Mr Edmund Ivens of Wolfhampcote, Warwickshire. For the same period Mary Burrows was working for Mr Martin Ivens of Upper Shuckburgh, the next parish.

The brief states that there was no intercourse between John and Mary until Christmas 1810. She then said that she was pregnant by him and having told him that her husband was dead, they married in February 1811. However, when the child was born at Stowe on 30th May 1811 he said that he could not possibly be the father.

Subsequent enquiries by the parish of Stowe showed that Charles Burrows, the husband of Mary Burrows, was still alive and serving in the army in the East Indies on the 24th March 1811. Her marriage to Malin was obviously bigamous, because Burrows had only enlisted in 1808, so that she could not claim a seven years separation.

Mary Burrows was therefore removed by the Justices to Saddlington in Leicestershire, her husband's settlement. In view of her husband's absence beyond the four seas, the child was declared a bastard and parish of Stowe then obtained a filiation order from the Justices naming John Malin as the father of the child.

If Malin was correct about the first occasion when intercourse took place between them, it is hardly surprising that he decided to contest the filiation order, but it must have been no easy thing for a labouring man to face up to the full panoply of the law at the Quarter Sessions. One presumes also that he had to pay for the services of solicitor Edmund Burton.

The first filiation order was signed by two Justices on

55 D9759.
10th February, 1811. Being prepared to honour his obligation to Mary, Malin - as he thought - married her soon afterwards. It was only when the child was born at the end of May that Malin began to suspect that he had been cheated. It seems that the arguments must have continued for some considerable time as it was only in 1813 that the case came before the Quarter Sessions. Perhaps almost inevitably, Malin lost his case. No doubt the Justices felt that as he had admitted his relationship with Mary at Christmas 1810, and had subsequently gone through a form of marriage with her, he could well have fathered a child on her, and so perhaps they felt that it was not unreasonable for him to pay for this particular child. But also, as we have already seen, by marrying Mary he had in law accepted that he was the father of her unborn child.

The Quarter Sessions Record Book shows that at the Easter Sessions, 1813, an order was confirmed by which John Malin had to pay £2-9-0 for the lying in and maintenance of the child. He was also ordered to pay 2/- a week as long as the child was a charge on the parish.

The Case of Elizabeth Hutchins c.1790

While Mary Burrows must have realised that she was committing bigamy, Elizabeth Hutchins appears to have done so quite innocently. The only surviving document is a summary of the case found with the parish-chest material for the Northamptonshire parish of Castle Ashby. It seems to have no connection with that parish but is an almost exact copy of the résumé of the case as published in the Chetwynd edition of Burn's Justice of

56 58p/131.
the Peace published in 1820. It seems possible that Cold Ashby was faced with a case of a similar nature and the copy of the Hutchins case was made for comparison.

Elizabeth Hutchins was married to Thomas Hutchins seventeen years before, his settlement being at Oxenden, Northamptonshire. Two years later he was convicted of a robbery and 'condemned but reprieved on his enlisting as a soldier'. Five years later, having heard that Hutchins was dead, Elizabeth married Thomas Ponton of Lubbenham. After their marriage, they went to Theddingworth, and Ponton applied for a certificate from Lubbenham for himself and his wife, which was duly granted. After a daughter Hepziba had been born to them, Elizabeth's former husband, Thomas Hutchins, returned to England.

It seems that two Justices removed Elizabeth and her child to Hutchins' settlement, the parish of Oxenden. On appeal, the King's Bench ruled that Elizabeth's second marriage was void and confirmed that her settlement was therefore Oxenden, but that the child Hepziba was born a bastard at Lubbenham and was therefore legally settled there.

Assuming that her story was correct, one can feel sympathy for Thomas Ponton, Elizabeth and their daughter. Although Hutchins had only been abroad for five years, we must accept that Elizabeth really believed him to be dead. On the other hand there is a somewhat similar case in 1790. Mary Lucas stated that ten years earlier her husband was condemned to death for sheep-stealing, but was pardoned on condition that he joined the army. Although Mary knew that he had been discharged as a result of a bad wound, she assumed that her husband's

---

57 Burn, Justice, (23rd edn, 1820), 4, pp.573-574.
58 D4497.
crime wiped out the marriage. Perhaps Elizabeth Hutchins had a similar if incorrect understanding of the law.

The Case of Mary Smith 1789

This is not strictly a case of bigamy but certainly falls within the category of illegal marriage. Mary was the wife of Samuel Dunkley of Byfield. When her husband died she went to live in London, where she married Robert Smith, who was her deceased sister's widower. Although Smith was the owner of some land in Northamptonshire, the couple remained in London. Presumably they were aware that their marriage was within the proscribed degrees of affinity and that they might have been called before the ecclesiastical court if they returned to Northamptonshire.

One rather delightful point about Mary Smith is that when, after over ten years of marriage, her husband abandoned her and their children, in her examination before a Justice of the Peace she stated that Robert supported them by working as a smuggler. The fact that

59 D1664.
60 This is not unlikely as the parish register for Honiton in Devon shows that in 1747 the incumbent refused to marry a man to his deceased wife's niece. In Northamptonshire, a couple who were already married were taken to the ecclesiastical court and the marriage was annulled because the man had married his mother's sister. The letter from the incumbent to his bishop explaining his distress at what he had inadvertently done in marrying the couple, is still with the marriage licence issued on 15th January 1717/8.
61 Ten years later another wife said in her examination that her husband left her 'and said he was going into the smuggling trade'. Taylor, Poverty, Migration and Settlement, pp.31-32. 'Even though smugglers were hunted by revenue officers, they were not necessarily unpopular with the local ruling elite both because they imported desirable luxury goods and because they brought wealth to the local
she reported this may have been a desire on her part to blacken her husband and perhaps curry favour with the magistrate.

Conclusion

With divorce being virtually impossible for any but the extremely rich, it is hardly surprising that many poor people resorted to bigamy. In the case of women left with small children and reduced to living on parish relief or possibly in the poor house, the chance of a new start with a breadwinner to ease the burden, must have been an irresistible temptation.

In 1866 a writer signing himself as Jannoc states that after the end of the Napoleonic Wars, many soldiers and sailors returned to find that their wives had remarried, after assuming themselves to be widows. The complicated legal redress open to them was certainly beyond the means of the majority of people and a much easier and quite as effective a way was found out to set things right. It was declared to be lawful to sell a wife in open market, the first husband being free to marry again, and the second marriage standing good, ipso facto.

Magistrates, like prudent men, did not choose to interfere, and there are, no doubt, at the present day, many who firmly believe in the legality of such

It seems from what S.P. Menefee has written in his detailed book *Wives for Sale*, that wife-selling was by no means uncommon in the past. This would have been another way out of an unsatisfactory marriage, particularly as Menefee suggests that many of the known cases of wife selling involved the wife's acknowledged lover rather than a chance bidder at an auction.

In her atmospheric novel set in her home county of Cheshire, Beatrice Tunstall makes the sexton say in 1839 that 'I had a wife myself in days ago, afore I was sexton. But I sold her to a Welshman at Kettlewych Wakes for a load of turf and a bit of kindling thrown in'.

Thomas Hardy had shocked Victorian England when the first chapter of his novel *The Mayor of Casterbridge* told of the sale of his wife at a fair by the drunken Michael Henchard. S.P. Menefee tells us that 'Critics cried that Hardy had passed the bounds of credible fiction', but his own book listing as it does nearly four hundred cases, shows that Hardy had not invented the idea of wife sales. Two cases found recently in Northamptonshire suggest that it was even more prevalent than Menefee

---


63 B. Tunstall, *The Shiny Night* (1931), p.64. In view of her great interest in the history of Cheshire, and the fact that two of her other novels were concerned with the Macclesfield area, it seems possible that she knew about the two wife sales that took place in that town. See Menefee, *Wives for Sale*, p.224, Case 94 and p.232, Case 162.


himself has shown. 66

Menefee mentions only a small number of cases where men were prosecuted for the sale of a wife. In the Rutland Quarter Sessions Minute Book for 1819 the case is reported of Richard Hack, described as being 'a person of most wicked lewd lascivious depraved and abandoned mind and disposition and wholly lost to all sense of decency, Morality and Religion'. The charge against him was that he did 'unlawfully indecently wickedly and willfully apply and persuade one Charles Garfitt to sell and dispose of and cause to be delivered to him the said Richard Hack, one Lucy Garfitt then and still being the wife of him the said Charles Garfitt for filthy Lucre and gain to wit the price or sum of £10'. Despite the grandiose language of the indictment, Hack was fined a mere one shilling, though he had also to pay the expenses of the court.67

Despite the extensive study in which he gives much detail of the cases he has found, Menefee gives no instance of a case where the sale of a wife was mentioned in connection with the poor law, and no cases have as yet been found in records in Northamptonshire. K.D.M. Snell despite his wide study of settlement papers writes 'I have never encountered wife selling in examinations, although one might expect to find it there'.68 However E.P. Thompson writes of a dispute between two parishes about the maintenance of three children which came before the sessions in Lincolnshire in 1819. 'It was held that at law the paternity must be with the wife's lawful husband,

66 Northampton St Sepulchre Parish Register, 241p/4, p.78; Badby Parish Notebook, 22p/79, p.102.


68 Snell, Annals, p.355, n.102.
John Forman, even though he had sold her to another man. It is hard to believe that there were not many more cases of this sort, but unless the solicitors working papers or the barristers' briefs have survived, probably the only record we should have would be a notice in the Quarter Sessions records that either the husband or the wife had a previous partner. As with the case of James Asser, it would be almost impossible for us today to establish the facts behind such a statement unless secondary evidence such as a newspaper report could be found.

The studies of wife sales by both Menefee and Thompson have proved that for a proportion of the populace this constituted an acceptable form of divorce - in fact the only form of divorce open to them. But here again, if the couple were unable to support their family and had to ask for relief, the 'wife' could be removed to the possibly distant parish of settlement of her legal spouse, while the children were labelled as bastards and assigned a settlement in their parish of birth.

When we look at the question of bigamy there are the cases such as Eusaby Baseley whose wife had heard nothing of him for ten years, or Elizabeth Hutchins who, we are told, had heard that he was dead. Writing on bigamy, Pamela Sharpe says that 'there was no established system for informing relatives of deaths in the militia'.

No doubt this was also true of the regular army. When Mary Burrows became pregnant her husband had been abroad for less than three years. Although she told Malin that her first husband was dead, this is not mentioned in the barrister's brief: one cannot help feeling that she was quite well aware that she was contracting a bigamous

---

69 Thompson, *Customs in Common*, p.452.

70 Sharpe, 'Bigamy', p.142.
Eleven months after her marriage to Malin, she enquired from the War Office for news of her first husband. It is difficult to accept that many women would be able to write such an enquiry, or even know to whom it should be addressed. At the time Mary was living in the house of Wm Ivens, no doubt a member of the same farming family by whom she was previously employed. Did they help her to compile the letter, or was she helped by the overseers of the poor or the solicitor for the parish? In the letter she stated that she had last heard from her husband on the 24th of December 1810, so there is no doubt that she was aware that he was in all probability still alive when she became pregnant and when she entered into a bigamous marriage with John Malin.

One interesting document found in the Daventry Collection shows that bigamy was apparently not the only deviation indulged in. On the 24th of June 1772, a man was taken before the magistrate, the Rev. Charles Addington. Although he was said to be John Garrit, Mr Addington apparently found that he was really called John Gazey. He and his wife Margaret had been sent to the parish of Hellidon in Northamptonshire with a removal order from an unspecified parish in Bedfordshire. We still have a copy of the letter written by Mr Addington to the Constable of Hellidon and the Keeper of Northamptonshire Gaol stating that Gazey 'has at this time three wives living' and that he was sending the man for safe keeping in the gaol.  

Despite the fact that the Bedfordshire Record Office has a complete index of all the personal poor law papers which survive in the office, no other documents have been found connected with this man. However from the Quarter

---

71 D3527.
Sessions books it is clear that the removal order was quashed. A check of the International Genealogical Index has shown three marriages for men named John Gazey during the eight years before the signing of the removal order: one in Oxfordshire, one in Warwickshire, and a third to a Margaret in Northamptonshire. Could these be John Gazey's three marriages?

If one looks up the reference for bigamy in Richard Burn's *Justice of the Peace*, one finds that he wrote

> I shall take the liberty to transfer the offence which is commonly treated of under this title unto the title *Polygamy*, which signifies more properly the having two or more wives or husbands at the same time.  

So it would seem that John Gazey was probably not the only man to have three wives alive.

In her article 'Bigamy in 19th century England', Stella Colwell shows that while the Act of 1603 provided for the death penalty, by the eighteenth century

> it is rare to see this enforced; gaol, a fine and handbranding being the usual recourse. The size of the sentence depended much of the time on character references and the whim of the court. The fine was usually one shilling and gaol terms varied from an hour to many months.

Although cases of bigamy would normally be tried at the Quarter Sessions, no case has been found in the period

---


1754-1834 covered by the index of Northamptonshire Quarter Sessions Cases. Only in one instance has any reference to prosecution been found in any of the briefs where bigamy has been mentioned; the exception is the case of Asser where the brief states that 'the Pauper, if such first marriage should be established will be not only guilty of Felony but of perjury'. The charge of perjury presumably alludes to the fact that he signed the declaration that there was no impediment to the marriage before the marriage licence was issued. Yet despite all this no prosecution seems to have followed. Perhaps the most interesting case discussed so far is that of John Malin. It must have been quite rare for a man himself to fight the parish officers in a case of this nature. Occasionally one finds a yeoman or husbandman who considered that the poor rate was too high, but all the evidence suggests that Malin was only a farm labourer. It is good that the brief for one such case has survived.

So we have seen that in the period covered by this thesis, forced marriages were common when parish officers managed to find the father of a child likely to be born a bastard. This must have materially reduced the number of illegitimate births. The situation of the wives of soldiers was very unsatisfactory with a man being away from his family for many years. Poor communications, and probably also the lack of ability to write, must have meant that many women had no means of knowing whether they were wives or widows. Even the law accepted these problems by allowing that a bigamous marriage after a separation of seven years would not result in prosecution. But while this helped to solve the problem for some, it made new and more serious problems for any family who needed poor relief, causing the offsprings of these common law unions to be classed as bastards and so, after the age of seven, causing them to be separated from
Their natural parents.

Most of the work on the various forms of illegal marriage seems to have been based on material gained from newspapers, and other documentation of popular cultural practice, while the studies of bastardy have been mainly based on parish register entries. None of these sources give a detailed insight into the effects of the law on the people involved. While shortage of documentary evidence is bound to hamper research into both bigamy and bastardy, it seems clear that in the study of both these subjects, much more work on settlement documentation needs to be undertaken.
Chapter 5.

Of Certificates and their usage.

For many decades, until the law was changed in 1795, it was possible for parish officers to obtain a removal order for any person whom they considered might, in the future, become in need of parish relief. It was difficult for any but the well off to move from their home parish, thus making obvious problems for men trying to find employment. Because of this, as early as 1697, a statute made it possible for parish officers to provide an inhabitant with a certificate which acknowledged him and his family as legally settled in their parish.

The document had to be under the hand and seal of the majority of the Church Wardens and Overseers of the Poor, and their signatures attested before two Justices of the Peace by two responsible witnesses. The document being signed was not in itself enough; it had to be given into the hands of the officers of the parish in which the man wished to live. As Nolan explained, the Act required that the certificate 'be delivered to the parish officers of the certificated parish, in order to prevent the party's removal from thence, or his acquiring a settlement there'.¹ For the parish receiving the certificate there were obvious advantages, but 'because the certificate rendered the immigrant and even his offspring into perpetual responsibilities of the certificating parish,

¹ M. Nolan, A Treatise of the Laws for the Relief and Settlement of the Poor (2 vols, 1808), 2, p.39.
parishes were reluctant to grant certificates'.

It would seem that a certificate should have prevented any possible appeal case about the family in question, as their settlement was established by documentation. Nevertheless, as has already been shown, some solicitors always managed to find a possible stratagem by which to challenge a pauper's settlement. On the other hand, E.M. Hampson has written that 'by far the most common sources of complexity, involving resort to legal counsel, were the questions of hiring and certification'.

The Webbs pointed out one problem connected with certificates when they wrote that anyone applying for one was 'made dependent on the good pleasure not of one, but of all the Churchwardens and Overseers, together with two Justices of the Peace, who were indisposed to be willing to allow the departure of any energetic labourer of good character'. K.D.M. Snell writes that 'parish officers were disinclined to allow certificates for other than short-distance movement', while P. Styles states that there was 'no obligation on parishes to issue certificates at all' adding that Derby All Saints never granted certificates. This view is borne out by Burn who quoted a case where the Court of King's Bench was asked

---


to compel the Churchwardens and Overseers of the poor to sign a certificate. 'The Court rejected the motion as a very strange attempt', so establishing that no parish could be compelled to give a certificate.\textsuperscript{6}

The Case of Richard Sharpe 1782

In 1776 Richard Sharpe was legally settled in Priors Marston in Warwickshire as a result of a year's service in the parish.\textsuperscript{7} About three weeks after Michaelmas, he hired himself to Richard Hornsby of Great Bourton in Oxfordshire and served him until the next Michaelmas, a period of less that a full year's service. However he then hired himself to Hornsby for a second year thus, apparently, after only another three or four weeks of service, gaining himself a settlement in Great Bourton.

It seems that after some time Sharpe and his family must have returned to Priors Marston as in 1782 they were removed from there to the parish of Great Bourton. Although there seems to be no question that Sharpe had served a full year as an unmarried servant in Great Bourton, the settlement of his master had to be taken into consideration. Hornsby, whose settlement was in the parish of Cropredy, also in Oxfordshire, applied to his parish for a certificate which the officers of Cropredy granted him and signed on the 2nd July 1777.

It is clear in all the contemporary legal texts that a servant or an apprentice of a man living in Parish A, but under a certificate granted by Parish B, cannot gain a settlement in the Parish A. Nolan explained the intention

\begin{itemize}
\item \textsuperscript{6} R. Burn, The Justice of the Peace and the Parish Officer (14th edn, 4 vols, 1780), 3, p.337.
\item \textsuperscript{7} D9828.
\end{itemize}
of this exclusion.

The principle of the act is 'that the certificate-man shall not be an instrument of burthening the parish in which he resides under the certificate, with an apprentice' or hired servant; but that the adventitious parts of his family may be excluded from settling there, as its natural members are by the act of William.\(^8\)

He goes on to state that the Certificate extends to anyone who was part of the person's family at the time it was signed. This seems to rule out any chance of Sharpe being judged as having gained a settlement by his service with Hornsby unless it could be proved that the Magistrates did not sign the certificate until his 365 days of service was complete. The brief which has survived is for the parish of Priors Marston who had arranged the removal of Sharpe to Great Bourton; naturally one would expect them to set out the most favourable case for his having gained a settlement in the appellant's parish. However when we study the document we find that the date on which Sharpe started his service with Hornsby was given as 'a fortnight or three weeks after Michaelmas 1776'. This gives us an approximate date between about the 15th of October and the 22nd of October of that year. A copy of the certificate granted to Hornsby is attached to the brief. This shows clearly that it was signed by the two Justices of the Peace on the 11th October 1777.

There can be no doubt that the certificate was not valid until it had been signed by two Justices of the Peace. Writing on this subject, Bott quotes the case of Rex v. Wooton St Laurence when Lord Chief Justice Mansfield gave

---

\(^8\) Nolan, *Relief and Settlement*, 2, p.43.
judgement that a certificate cannot bind a parish unless it has been signed by two Magistrates,

The Justices are not obliged ministerially at all events to allow and sign a certificate. They have a discretion not to allow it if it be liable to objection. The Act requires a conclusive certificate to be under the checks and guard therein particularized.

Lord Mansfield ended by saying that a certificate not signed by the Justices 'is not a certificate within the act'.

So it seems that if Sharpe had served for the full 365 days before the removal order was signed by the Magistrates, his settlement would have been assured. But as has been seen, H.B. Harrison, the solicitor for Priors Marston was uncertain of the date on which Sharpe started his year's service, giving an approximate date of 15th October as the earliest date on which his year could have been completed. The date of 11th October, when the Magistrates signed the certificate, seems to rule out any possible settlement for Sharpe in the parish of Great Bourton.

Harrison tried to argue that as the parish had taken from July to October to get the certificate authorised by the Magistrates, they might equally well have taken a considerable time to deliver the certificate to Great Bourton. He goes on to point out that the statute of 3 Geo. II expressly laid down that the certificate must be signed by two Magistrates and then delivered to the parish it was meant to indemnify. In the case of Rex v. Wensley we read that the pauper was apprenticed to a man

---

9 E. Bott, A Collection of Decisions of the Court of King's Bench upon the Poor's Laws (2nd edn, 1773), p.129.
named Hallam of Chesterfield. The parish officers had told Hallam some time before he took the apprentice, that he must obtain a certificate from his legal parish which he accordingly did. However the parish officer of Chesterfield never spoke to him on the matter again and so, although he had the certificate in his possession, he never delivered it to the officers until some time after the apprentice had left him. Giving judgement in the case Lord Chief Justice Kenyon ruled that the Act required the certificate to be delivered before it could be effective.\(^{10}\)

In another case Lord Chief Justice Ellenborough, speaking of a certificate said that 'if it remain in the pocket of the certificated person, that is not sufficient to prevent a settlement being gained under him'.\(^{11}\) Unfortunately for Priors Marston, both these judgements were after the date of their case. But there can be little doubt that solicitor Harrison was correct in his reading of the law. On the other hand, one cannot help wondering why, as the solicitor of Priors Marston, Harrison had not managed to find proof of the date of the delivery of the certificate to the other parish. Surely he could have interviewed all the possible messengers, or found the person who had handed the certificate to Hornsby? As in many other cases, it appears that Harrison is clutching at straws, and was presumably hoping that Sharpe's master had failed to deliver the certificate to the parish officers. He rightly states that the Court of King's Bench liked to err on the side of allowing a settlement.

The parish of Bourton has had the Benefits of Paupers service and the courts have always leaned in

\(^{10}\) Burn, Justice, (23rd edn, 1820), 4, pp.589-590.

\(^{11}\) Burn, Justice, (23rd edn, 1820), 4, p.592.
215

favour of Settlement and uniformly have ordered that they should be favoured as much as may be and it seems very hard that by the interposition of this Certificate just at the moment and to which the pauper was neither a party nor privy, should be deprived of his Settlement when perhaps he might originally hire himself for the very purpose of gaining himself a Settlement.

Harrison certainly showed compassion for Sharpe, but seems to have forgotten that Cropredy had granted a certificate to indemnify Great Bourton against any charges for Hornsby, and by the same token, from charges for any person adjudged to be part of his family, including his servants.

The Case of James Vere 1758

In 1758, James Vere was examined by two Leicester Magistrates and, having been judged to be liable to become a charge on the parish of Lutterworth, was removed with his wife and their seven young children, to the Northamptonshire parish of Staverton. It seems that he was born in Lutterworth and was apprenticed to Richard Henshaw, a Pipemaker of the town for seven years, with money from a local charity. After he had served Henshaw for about three and a half years, his Master 'being reduced in Circumstances and having little to do in his trade' told Vere that 'he might quit his apprenticeship' and that he would give him his Indentures 'but did not then nor at any time since give him up his Indentures'. The pauper said that he had not seen the indentures since they were executed by himself, his Master and the parish officers.

12 D9623.
There upon the pauper accordingly with the consent of his Master hired himself to one Cave a Relation of Henshaw for about half a year & then left Cave's service for some time except being frequently with him for about a month in Harvest time & afterwards he hired himself to Thos Cave for a whole year & served him accordingly at Staverton & received a whole years Wages, And which year's services at Staverton expired about 6 months next after the expiration of the 7 years mentioned in the indentures of Apprenticeship.

Eight years before the date of the removal order, Vere and his family were living in Rugby in Warwickshire. The barrister's brief for the appeal against the removal order tells us that Vere 'following his trade of a Pipemaker applied to the parish officers of Lutterworth at their vestry' for a certificate for himself, his wife and his two children. The parish officers were disinclined to admit that his legal settlement was in their parish because of the time he had spent as a servant in Staverton. However the brief tells us that Mr Gibson, 'one of the Church Wardens and a principle inhabitant of Lutterworth' made the point that Vere was still bound by his indentures of apprenticeship when he was working in Staverton 'the indentures not being cancelled or stayed by Writing'. The parish officers therefore agreed to issue Vere with a certificate admitting him to be legally settled in Lutterworth. The brief states that the certificate was in the possession of the parish officers of Rugby who would produce it in court.

Despite this certificate, in 1758, Vere, his wife and their children were removed from Lutterworth to the parish in which he had served for a year as an unmarried
servant. If before granting Vere a settlement certificate, Lutterworth had suggested that he had gained a settlement at Staverton under the indentures, having served the last forty days of his apprenticeship in that parish, they would probably have had a good case. The fact that they had allowed Vere a certificate seems to have cancelled their right to reject his settlement in their own parish.

Only some twelve years earlier a case was heard in the Court of King's Bench about the parish officers of Maidstone in Kent, who gave a certificate to Richard Burden, his wife Mary and their four children, acknowledging them as legally settled in their parish. It later became known that Mary was not his wife as he had a former wife living whom Maidstone were forced to accept as a legal inhabitant. They tried to deny Mary's settlement with them on the grounds that 'it would be hard that they should be forced to take two wives'. But the Court ruled that 'The parish that certifies must take care for whom they certify; and the certificate is conclusive'.

The solicitor acting for Staverton in the Vere case had obviously been studying relevant cases, as reference to Richard Burden and his two wives is made in the brief. It is hard to see how the officers of Staverton could fail to win their appeal against the removal order. Lutterworth had granted Vere and his family a certificate after the date of his service in Staverton.

One other question is raised in the brief. We read that Dr Hutchinson, before signing the removal order, examined Vere on oath. The parish officers then took the pauper before Mr Harper who signed the order. Vere said that

---

although Mr Harper asked him 'a few questions' he did not make him take the oath again.

Also the pauper says that there were some small alterations or amendments made in the order after it had been signed by Dr Hutchinson which amendments we take to be the Interlining of the Words (On Oath) between the 18th and 19th Lines, those Words seemingly being wrote in a different hand & with different Ink from the rest of the order.

This certificate has survived in the Quarter Sessions Roll for the Michaelmas quarter of 1758. This clearly shows that the original sentence read 'upon the examination of the said James Vere', but the two words 'on oath' are written in a different hand above a small arrow set after the word 'examination'. Even after nearly two and a half centuries the ink still appear to be a lighter shade.¹⁴

Yet another fault suggested by the solicitor of Staverton is that the order speaks of 'two of his Majesties Justices of the Peace for ye said County aforesaid'. The brief states that

The Last County named is the County of Northampton and therefore on ye face of ye order it must appear that the Justices either were Justices for ye County of Northton, or otherwise is an absolute Uncertainty for what County they were Justices at the time of making ye order & therefore Order void for ye Uncertainty.

¹⁴ Leicestershire Record Office, Quarter Sessions Roll, QS.3/177, Michaelmas 1758. No pagination.
It certainly seems that the unnamed solicitor who drew up the brief was justified in his criticism of the careless way in which the order was worded. The surviving brief for Staverton concludes with the statement that

Ye Order was quashed on the face of it for insufficiency without going into ye Merits of ye Case whereupon the said Mr Harper & one Mr Simpson soon after the Michaelmas Sessions made fresh order of removal of the pauper & his wife & children from Lutterworth to Staverton to which Staverton appealed at ye last Epiphany Sessions, when upon some Doubts arising (tho we can see no reason for any) it was agreed to refer the Matter in Dispute to Mr Serjt Hewit for his sole Determination.

This second removal order signed on the 11th October 1758 has survived in the Quarter Session Roll for the Epiphany Sessions of 1759. The Sessions Minute Book shows that the case was respited to Easter where the entry read that it was again respited

Serjeant Hewitt to reconsider his former opinion in the meantime upon the cases of High and Low Bishopside & Dacre cum Brome, and St Peters in Nottingham and Wilford. The opinion to be reconsidered at the Expense of Lutterworth.

Each of these cases concerned a certificated man who moved to a new parish and then took an apprentice. The Court of King's Bench ruled that the apprentice gained a good settlement in the parish in which he served the last forty days of his apprenticeship 'for a Certificate

---

15 Leicestershire Record Office, Microfilm 56.
extends to no other Parish than that to which it is given'.

It is a little difficult to decide why these two King's Bench cases were relevant to the Vere appeal. In his case, he was the apprentice who obtained a certificate for himself after he had served his full apprenticeship. The brief for Staverton makes no suggestion that his Master had been a certificated man. The findings of the two cases about a certificate not being valid in a third parish does not seem to be relevant.

At the next Sessions in July 1759, almost a year after the original removal order was signed, the Quarter Sessions Minute Book reads 'Order discharged and fifty Shillings Costs to be paid by Lutterworth to Staverton'. At the bottom of the second removal order someone, no doubt the Clerk to the Sessions, has written 'discharged upon the merits'. It is an unusual bonus to find evidence of why the Sessions arrived at a particular verdict, but we are nevertheless unable to state on exactly what 'merits' it was judged. We can only be sure that Staverton did not win their case on the technicalities noted by their solicitor.

The Case of William Cooper 1843

The date when William Cooper and his family were removed from Daventry to Wolfhampcote in Warwickshire appears to fall outside the period covered by this thesis, but information about William Cooper stretches back many years, so far in fact that the start of the case actually pre-dates the relevant period.

The case was an appeal against the removal in 1843 of William Cooper and his family from Daventry to the parish of Wolfhampcote in Warwickshire. He was born in Daventry, the son of John Cooper and his wife Mary. In his examination he states that his father was legally settled in Wolfhampcote in Warwickshire; he also lists the occasions when he had himself received relief from his father's legal settlement.

J.S. Taylor, writing of a London pauper family, has stated that 'what was important was not that they had received relief, for sojourners often were given casual relief by parish officers, but that the relief they had received was sustained and included a regular weekly allowance'. In a case before the Court of King's Bench, Lord Chief Justice Kenyon made the point that he could see no evidence of a settlement in parish C, 'the bare fact of the pauper's having been relieved there being no proof of it, as they might have been relieved as casual poor', and that 'if the paupers were in want of relief while they were in C, the overseers were bound to give it, whether the paupers were settled there or elsewhere'. In the case of William Cooper, as he and his family were given relief on a number of occasions by Wolfhampcote while still living in Daventry, this could certainly not be classed as 'casual relief'.

The surviving evidence about this case consists of quite a large number of papers, which detail the case for the Respondent parish of Daventry. In this we read that the pauper's father, John Cooper, was the son of William

---

18 Burn, Justice, (23rd edn, 1820), 4, p.593.
19 D892.
Cooper and his wife Mary, who moved to Daventry under a certificate from Wolfhampcote, dated 26th January 1737. There is a note to the effect that the certificate was not signed by any Magistrates, therefore was not legally binding on the Warwickshire parish, and so was not produced as evidence. The document goes on to say that 'from the year 1737 up to the present date, the Pauper and his Ancestors have constantly resided at Daventry and each of them on many occasions had received relief from the parish of Wolfhampcote'.

Another document is an order for Daventry to produce the certificate 'showing William Cooper, grandfather or great grandfather of the Pauper'. Even though not signed by two Justices of the Peace, the certificate must have been strong circumstantial evidence in favour of Daventry's case. But much stronger evidence is given in the papers which state that the pauper's mother will say in court that her husband, while living in Daventry, had received relief from Wolfhampcote on several occasions during his life-time and that she herself

now resides in Daventry and is in receipt of weekly relief from Wolfhampcote which she has continued to receive for years since the death of her husband.

Wolfhampcote were required by Daventry 'to produce the parish books' so that the court could see the truth about the relief given to the various members of the Cooper family. If the evidence he gave to the Magistrates was correct, the fact that Wolfhampcote had given him relief in the past meant that unless they could prove that he had gained a settlement since that relief was given, they had to accept him as legally settled in their parish. The brief for Daventry suggests that the Wolfhampcote officers hoped to win their case
by proving that the Pauper served an Apprenticeship at Daventry; which is the fact, but the Indenture happens to be void, not having the requisite - or any - stamp upon it. It was prepared by Mr Saunders, the Schoolmaster of Daventry, who is no friend to fiscal duties.

But supposing that the indentures had been strictly legal, the circumstance of relief after the date of it, to the Pauper, by the Appellant Parish, during his residence at Daventry, would have been an answer to it.

The fact that a person had received regular relief from a parish was usually taken as evidence that the officers accepted that the pauper had a good settlement in their parish. One of the documents about the case reports that the Quarter Sessions discharged the removal order on the grounds that the examination of William Cooper 'did not disclose sufficient legal evidence of relief administered by the Appellant parish to the pauper whilst residing out of such parish'.

However the Justices must have been somewhat uncertain of their verdict as they asked for the case to be removed to the King's Bench.

If the original settlement certificate of 1737 had been properly authorised by two Justices of the peace, the question would have arisen of whether it would still have been valid and whether Daventry could have forced Wolfhampcote to accept the whole Cooper family as settled there. In the parish documents for the Northamptonshire

---

20 It is interesting to note that a similar case about a settlement being confirmed through the receipt of relief, is documented by Richard Gough as having been heard at the Shropshire Sessions in 1701. It seems that a man's settlement in the parish of Wem was accepted because he had received relief there. R. Gough, The History of Myddle (1834, 1981 edn), pp.258-260.
parish of Braybrooke, there is a removal order dated 1793 by which John Neal and his wife and child were removed to the nearby parish of Great Oxenden. The order states that he had been living in Braybrooke under a certificate from Great Oxenden dated 1756. The printed removal order was specifically for the removal of a certificated family. It states that 'John Neal hath not gained any settlement since the date of the certificate'. In this case John Neal was the person to whom the original certificate was granted and so there is no question that it still gave him a good settlement in Great Oxenden.

William Cooper was the grandson of the man originally covered by the certificate. It has been quite difficult to trace any case of a similar nature. As has already been shown, the family of a man residing under a certificate were prevented from gaining a settlement in that certificated parish except by serving as a parish officer, or by renting or purchasing a property over a certain value.

It is an indisputable fact that a man who had gained no settlement in his own right, had to take the settlement of his father. Likewise if the man's father had gained no personal settlement, his son would have to take the grandfather's settlement. So as neither William Cooper nor his father John Cooper had gained a personal settlement, they both derived their settlement from William Cooper who moved from Wolfhampcote 106 years earlier.

Whether Wolfhampcote would welcome to their parish an unknown man with a wife and five children under the age of five, is much more problematical. The Court of King's Bench had on occasions mentioned the fact of a parish

\[21\] 47p/140.
having had the labour of a man for many years and yet being determined to rid themselves of him and his family when he fell on hard times. In this case the Cooper family had worked in Daventry for over a hundred years.

The Case of Thomas Leaton 1834

Although the removal order which generated the documents connected with this case was dated 1834, the settlement certificate on which the problem hinged was by then one hundred and eleven years old. The main surviving request for an 'opinion' is not addressed to a barrister but was written to Messrs Adams and Bennett, a Market Harborough firm of solicitors. It sets out the case and asked for answers to a number of questions about the legal settlement of the Leaton family.

George Leaton moved to Benefield near Peterborough in 1723 under a certificate from the nearby parish of Woodnewton. He married the following year. One of his children was Henry Leaton, whose son Thomas, born in 1775, was to become the subject of the 1834 removal order.

The case summary, plus questions about the Leaton family, is in the handwriting of the rector, the Rev. John Miller, as are a number of letters about this and another settlement case. It seems that Mr Miller was well versed in the laws of settlement as his questions are very pertinent. It is possible that he was also the Overseer of the Poor, but it has been impossible to establish this.

---

22 This case was not found in the Daventry collection, but in the parish chest material for the Northamptonshire village of Benefield. 30p/20; 30p/44.
The first question asked of the solicitors is as to whether the certificate 'is applicable to any direct descendant of George Leaton'.

In his answer, the solicitor stated that as George Leaton was a single man when he moved to Benefield with the certificate,

I therefore think the Certificate would not extend to his Grandchildren or interfere with their gaining a Settlement in Benefield by Hiring and Service.

It seems that this solicitor was not very experienced in dealing with settlement cases. Books such as Burrow's Decisions of the Court of King's Bench show a number of cases where this problem was raised. In 1745 a pauper was removed from Bray to Shottesbrooke. He was aged twenty and had been born in Bray where his father was resident, having been granted a certificate by Shottesbrooke. It seems that the son was hired and served for a year in Bray. The Justices of the Peace had held that by so serving he had gained a personal settlement in Bray, but the Court of King's Bench ruled that although the son was not born when the certificate was granted to the father, he was still governed by it. He and his father could only gain a settlement in Bray by serving as a parish officer or by renting a tenement of at least £10 per annum or by owning property in the parish. As Peter Styles has pointed out, 'it was fundamental to the system that a certificate gave a man no right to a settlement in the parish to which he had come.'

Burn obviously considered that being granted a certificate was a benefit to the family as writing of the

---

23 Burrow, Settlement Cases, pp.259-260.

24 Styles, 'Evolution of settlement', p.49.
same case, he explains that because 'the son has the advantage of the certificate, and cannot be removed until actually chargeable, so he ought on the other hand to be bound by the terms of it'.

The second question propounded by Mr Miller concerned the father of Thomas Leaton who was said to have served an apprenticeship in the parish of Titchmarsh. As his master was living in the parish under a certificate, this would effectively prevent his apprentices from gaining a settlement. However, it is suggested that the master may have bought a property in the parish.

The opinion given on this point was that a man could not discharge a certificate by purchasing a property in the certificated parish. Yet again the Market Harborough solicitor was incorrect. Burn explained that although the Act of 9 & 10 Wm III only listed two ways of gaining a settlement in the certificated parish, yet 'a man may not be removed from his own, whether it come to him by descent, devise or purchase; and continuing thereon 40 days, he shall thereby gain a settlement, provided that in case of purchase the consideration bona fide paid amount to the sum of £30'. While explaining a similar case, Burn stated that 'Parliament never intended to put a certificate man in a worse condition than another person'.

Eventually Mr Miller, the rector, found that George Leaton, the pauper's grandfather had rented a property at £29 per annum and had so gained a good settlement in Benefield and had thereby discharged the settlement certificate from Woodnewton.

---

26 Burn, Justice, (14th edn, 1780), 3, p.344.
27 Burn, Justice, (14th edn, 1780), 3, p.483.
Even without this proof that the certificate had been discharged, the children and grandchildren of George Leaton would not have been bound by the certificate of 1723. In a case of 1792, Lord Chief Justice Kenyon stated that

> the family consists of those who live under the same roof with the *pater-familias*; those who form (if I may use the expression) his fireside. But when they branch out and become the heads of new establishments, they cease to be part of the father's family'.

Nevertheless this judgement did not alter the fact that the children and grandchildren still keep the grandfather's settlement unless they acquire their own. So it seems certain from the original information presented by Mr Miller, that William Leaton, the pauper of 1834, was settled in Woodnewton, his grandfather's settlement: that settlement being established by the certificate granted one hundred and eleven years earlier. The discovery that the grandfather had actually discharged the certificate by renting a property over the required £10 per annum, probably saved Benefield from acting on the opinion of the un-named solicitor.

The life-expectancy of a certificate.

Lord Kenyon's judgement seems to rule out a certificate having a very lengthy 'active life'. In 1793 a case came before the Court of King's Bench in which a certificate more than thirty years old was produced in court. Chetwyn in his 1820 edition of Burn's *Justice of the Peace*, wrote that 'the mere production of it was held to be sufficient and the respondents were not obliged to show that the

---

certificate had been kept in the parish chest'. The wording of this report seems to imply that it was not common for such old certificates to be produced as evidence in settlement cases, though E.M. Hampson quotes the case of a widow who, on the death of her husband, a 'certificate man' was removed from the parish in which she had spent the last forty-four years of her life.

Careful study of the various contemporary law texts has shown that despite the fact of a certificate being a legal admission of a man's right to settlement in a particular parish, there were still cases where a certificate caused a dispute over settlement.

It has occurred to the court to determine the effects of certificates most frequently in the case of apprentices, but the principle applies equally to all parts of the certificated person's family, Apprentices and hired servants, who come into and reside in the parish under a certificate, are prevented, like all other persons, by 8 & 9 Wm III from acquiring a settlement.

In a case in 1805 the question of a son or daughter actually named in a certificate was raised. The judgement was that, despite Lord Kenyon's ruling in 1792, 'a certificate continues as to any person who is expressly named therein, until discharged by some act immediately affecting himself'. This must have extended the 'life' of a certificate by many years, particularly when it

29 Burn, Justice, (23rd edn, 1820), 4, p.567.
31 Nolan, Relief and Settlement, 2, pp.42-43.
32 Burn, Justice, (23rd edn, 1820), 4, p.569.
became more difficult for many poorer people to gain a personal settlement due to the reduction of farm service for a year, and of apprenticeship. The oldest certificate mentioned in any document studied, is in a settlement examination of a man of eighty who in 1829, claimed that an Oxfordshire parish had granted him a certificate in 1781, forty-eight years earlier.33

It is however, rare to find a case where the actual legality of the certificate is questioned. In a case where only four parish officers signed a settlement certificate sent to the parish of Tamworth but where it was proved that the parish normally had four Churchwardens and six Overseers of the Poor, the four did not constitute the major part of the officers.

Burrow reports that at the Court of King's Bench the judges

thought it a hard Case upon Tamworth: But they held themselves to be bound down by positive Law. The Statute is express and positive, "that the Certificate must be under the Hands and Seals of the Churchwardens and Overseers, or the major Part of them".34

A study of removal orders shows that members of any trade were not secure from illness, accident or financial failure, though there are probably fewer removals for craftsmen than for labourers. It is interesting to speculate as to whether parish officers were more willing to give certificates to tradesmen and craftsmen than to unskilled men. A total of 582 settlement certificates have been included to date in the Poor Law Index at the

33 D1062.

34 Burrow, Settlement Cases, p.774.
Northamptonshire Record Office. Of these, a great many give no indication of the man's occupation. Of the 115 where it is given, the vast majority are for craftsmen, only seven being for labourers and one for a serving man. Of course this may be accounted for by the fact that the parish officers were perhaps more inclined to state the occupation of a blacksmith or shoemaker than of a labourer, but the figures given at least suggest that more research is needed on this point.35

None of the cases discussed show a certificate given to a woman. However the data in the Poor Law Index shows that out of a total of 582 certificates indexed, 35 were for women and were fairly evenly distributed throughout the period. No occupation is given for any of the women.36

The introduction of the certificate was designed to help men who wished to move to another parish in search of work. But as Townsend wrote in 1786, 'With a certificate, indeed, the poor are permitted to reside in any parish where work is to be had, but then a certificate is not easily obtained'.37

In many cases, as in that of Rex v. Wensley quoted earlier, Hallam had already moved to his new parish and was then told by the parish officers that they required to be indemnified against charges for him.

The section on certificates in various editions of Burn's Justice of the Peace tends to be very much shorter than those on other subjects connected with the laws of

35 A list of the occupations and the number of certificates found for each category is included as Appendix No.7.

36 See the bar-chart included in Appendix No.7.

37 J. Townsend, A Dissertation on the Poor Laws by a well-wisher to mankind (1786), p.29.
settlement. In the 14th edition of 1780, the section on apprenticeship takes up more than twenty-four pages, the section on service takes up thirty-eight pages, while that on certificates is slightly less than thirteen pages long. This no doubt mirrors the fact that certificates helped to reduce the need for lengthy appeal cases. Despite the fact that briefs which mention certificates have been found in the Daventry Collection, there can be little doubt that the system of allowing certificates worked well, and no doubt stopped the majority of disputes between parishes as to the certificated man's legal settlement.
Chapter 6

Mistakes and Malpractices

Illegal Removals

Study of the complexities of the laws of settlement shows us that, in certain cases, even the judges of the Court of King's Bench could not always agree on the proper decision. It is less surprising that parish officers, even after taking the advice of the local attorney, should find that their removal of a family had been wrong. However there are certain cases where one is left with a strong feeling that they must have been aware that, by hiding some of the facts from the Justices of the Peace, they were conniving at an illegal removal. Chapter 4 of this thesis has already dealt with cases where the illegitimacy of a child was not declared when a family was being removed. In this chapter different forms of illegal removal will be dealt with, together with other questionable actions taken by various parish officers.

The Case of Thomas Short 1783

The surviving document about this case is a rough draft of the barrister's brief for Daventry in their appeal against the removal of Thomas Short and his wife Hester to their parish. From it we learn that Thomas Short,
having worked for several masters, moved to Daventry in January 1775 to serve Mr Thomas Furness for 4/- per week plus his board and lodging. He continued in this service until the following Michaelmas. His master then hired him for a year at a wage of seven guineas but on about the 2nd of April 1776 Short enlisted in a Dragoons regiment in which he rose to the rank of Sergeant. When he was 'regularly discharged' he returned to Preston Capes in Northamptonshire, the parish in which he was born. The date of his discharge from the army is not given but we learn that on the 24th of July 1783 he and his wife were removed from Preston Capes to Daventry by an order signed by Wm.H. Chauncey, Esq and Michael O'Clare, clerk.

It seems that he had not asked the parish officers for relief but did ask if they could rent him a parish house. This they refused to do. Then, despite the fact that he was able to maintain himself and his wife, the parish officers applied to the Justices of the Peace for a removal order. From the brief we find that the order stated that he is 'likely to become chargeable and not that he actually is so'. It also points out that the law was that, having been a soldier, he should have been free from being removed unless he was actually in need of relief. In Burn's Justice of the Peace it states that by 3 George III C.8, soldiers shall not be 'removable to their place of settlement until they shall become actually chargeable'. This rule remained in force until 1795 when legislation disallowed all removals until

---

2 G.W. Oxley writes of parish officers who found themselves providing housing for paupers as trustees of property given into their care by charitable trusts. 'Other parishes were so convinced of the advantages of making direct provision for the housing of paupers that they bought or built houses specifically for this purpose'. G.W. Oxley, Poor Relief in England and Wales 1601-1834 (1974), p.64.
relief was requested.  

The brief makes the point that the Act of Parliament was made to help officers and ordinary soldiers who had served their country, while other men were serving apprenticeships. The freedom from removal, unless they were in actual need, was granted with the express purpose of allowing them to settle in those boroughs where a man might not set up in trade until he had taken up his freedom.

The brief also points out that Short could not possibly have gained a settlement at Daventry by his service to Thomas Furness because during the first period he was only hired by the week, and, although he was later hired for a full year, he only served about six months of that period. Unfortunately no examination of Short has survived and so we have no means of knowing what information was given to the Magistrates. It certainly seems that, if the brief is to be believed, he had no settlement in Daventry.

On the last page of the draft brief it states that the pauper will give evidence that one of the Justices, Mr Chauncey, gave it as his opinion that Short, 'as a soldier not actually chargeable, was irremovable'.

It seems possible that this was not the only mistake which occurred in connection with this removal. The documents state that Short was examined twice about his settlement, once at the house of the Rev. Mr O'Clare in Maidford, and then at the house of Mr Chauncey at Preston Capes. The solicitor for Daventry suggests that this was irregular enough to require the removal order to be quashed. The Brief also suggested that the order should

---

3 R. Burn, The Justice of the Peace and the Parish Officer (23rd edn, 5 vols, 1820), 4, pp.613-614.
be 'discharged with full costs in order that such costs may operate as a punishment to the Officers for harassing men who have behaved well in their Countrys Services without cause'.

Unfortunately the entry for this case in the Quarter Sessions Record Book is incomplete. The words 'This Court' are followed by four blank lines, so we have no way of finding the result of this case.

The Case of Susannah Cure 1818

On the 4th of February 1818 an order was signed for the removal of Susannah Cure, wife of Thomas Cure, and her children from Daventry to Harpole. It seems that Susannah had previously been removed from Daventry to Harpole in 1812. On that occasion, after an appeal by Harpole, the order was confirmed by the Quarter Sessions, but some time later, the family returned to Daventry. When the second removal order was signed in February 1818, Harpole did not appeal.

It is a little difficult to piece together all the threads of this case but one document shows that at Easter 1818, Kilsby entered an appeal at the Northamptonshire Quarter Sessions. This was against an order dated the 14th of March for the removal of Thomas Cure, his wife Susannah and their four children, Edward aged 12, Ann aged 10, William aged 6 and Sarah aged 2½, from Harpole to Kilsby. The appeal was respited until the Thomas à Becket Sessions in July. The surviving document, which is unsigned, is in the form of a demand by the solicitor for the appellants, that the respondent parish of Harpole should produce at the Sessions the removal

\[ D885. \]
orders dated 2nd January 1812 and 4th February 1818, each of which, as has already been stated, were for the removal of Susannah and various of her children.

In the surviving brief it is stated that Harpole did not appeal against the order dated 4th February 1818. There is ample evidence in reports of appeal cases heard in the Court of Kings Bench, that a removal order, if not appealed against, is binding on the parish to whom it is addressed. As far back as 1700 this was established in the case of Chalbury v Chipping Farringdon, when a man was removed from a Warwickshire parish to Chalbury in Oxfordshire. There was no appeal against this order but two Oxfordshire Justices removed the man to Chipping Farringdon in Berkshire. When the case was heard by Court of King's Bench, Lord Chief Justice Holt stated that

> sending the poor Man to another Place, is falsifying the first Order, which cannot be done but by Appeal, for the Order of two Justices is a Determination of the Right against all Persons till it be reversed.°

He went on to say that Chalbury should have appealed against the original order and if they got it set aside, returned the man to Warwickshire. Then the man could have been legally removed to Berkshire. The effect of this judgement was to establish that when an order was not appealed against, the pauper was deemed to have gained a settlement in that parish and the parish could not have him removed to any other parish. Burrow, in his summary of a case about removal orders wrote that 'An Order of Removal discharged by the Sessions upon the Merits is

---

° W. Salkeld, Reports of Cases Adjudg'd in the Court of King's Bench with some Special Cases in the Courts of Chancery, Common Pleas and Exchequer, from the First Year of K.William and Q.Mary to the Tenth Year of Queen Anne (2 vols, 1732), 2, p.488.
conclusive as between the same two contending Parishes. If confirmed, it concludes the charged Parish against all the World'.

In the case of Susannah Cure, Harpole lost their appeal against the first order of 1812, so establishing that their parish was adjudged to be the legal settlement of Susannah and her children - which in law meant that it was the settlement of her husband Thomas Cure.

Having read these papers, it is no surprise to find another document signed by Wm. Tm. Smyth of Northampton addressed to Edmund Burton of Daventry, the solicitor for Kilsby, and dated 10th October 1818.

We have taken the opinion of Counsel on this case on the part of the Respondents and we find the point decidedly against us altho we confess it under the circumstances very hard. If therefore you will at the ensuing Sessions move to quash the Order of Removal we will consent thereto and we beg to suggest in so doing it will not be necessary to consult or retain counsel.

This is obviously a face-saving letter as Smyth's parish had an appeal given against them for the same family only six years earlier. The report of the case in the Quarter Sessions Record Book states that Cure was a soldier in the Marines. One has to assume that he had asked the parish of Harpole for relief, as otherwise the appellant parish would surely have mentioned that, as a soldier, he was irremovable. If he had not required relief this would have been yet another reason for asking the Sessions to

---

quash the removal order as in the case of Thomas Short.

As Thomas Cure was a soldier and was not mentioned in the first removal order in 1818 dated 4th February, it seems likely that he had only returned to Daventry after that date, possibly just before the order of 14th March was signed. Harpole had not appealed against the arrival of Cure's wife and children, so it must surely have been the return of the soldier from the wars that caused Daventry to apply for a second order only five and a half weeks after the first removal. If this supposition is correct then it seems that it would have been impossible for Cure to gain a new settlement in so short a time and the law was firmly on the side of Kilsby when Harpole obtained the order removing the family to their parish. As Taylor writes, 'Those who survived the fighting and the diseases often returned to social insecurity'.7 So Cure was yet another man who found that life was not easy when he left the armed forces.

If the parish officers of Harpole had told the two Justices, T.S.W. Samuel, Esq and K.M.R. Tarpley, clerk, about the two earlier orders, they would certainly not have been willing to sign. The Poor Law Index for Northamptonshire shows that T.S.W. Samuel signed twenty-five poor-law orders in the six years before this date, and he rarely missed attending the Quarter Sessions. Tarpley, who later signed many documents, seems to have been a new Justice in 1818 and so would almost certainly have taken the senior man's advice over a case of this sort.8


8 This case is another example of the inaccuracy of the Quarter Sessions Record Books. When the case was first entered at the Easter Sessions of 1818, it is stated that the order was for the removal of the Cure family from
Slightly earlier a man and his family were removed from Somerset to the parish of Broadchalk in Wiltshire. At the appeal against this at the Quarter Sessions, the order was confirmed. The man moved to Downhead, also in Wiltshire. Subsequently two Justices of the Peace had the man removed from Downhead back to Broadchalk, citing the earlier order as proving that he was legally settled in Broadchalk.

Broadchalk then appealed against this second removal on the grounds that the order did not state that one of the Justices was a member of the quorum. At the appeal the barrister for Downhead said that it was not an original order but was made 'in pursuance of an order of sessions'.

Salkeld in his report on the case states that

“If the poor Man goes to the Parish from whence he is removed, the Sessions must see their Order obeyed; but if he goes to another Parish not concerned in the Appeal, then it is proper for two Justices of the Peace to remove him to the Parish where he was settled by the Sessions by original Order; but then it must appear therein that one of them was of the Quorum.”

So on this technicality the order was quashed despite the fact that the first order had established his settlement.

Kilsby to Harpole against which Kilsby was entering their appeal. This staggering mistake was repeated at the next Sessions as was the information that the removing parish was appealing against their own order. No entry has been found for the final quashing of the order which was agreed to by Smyth's letter to Burton.

9 E. Bott, A Collection of Decisions of the Court of King's Bench upon the Poor's Laws (2nd edn, 1773), p.244.

10 Salkeld, Cases in the King's Bench, 2, p.414.
as at Broadchalk.

The Case of William Newman 1810

When we consider the problems that could be caused for a family if their settlement was in doubt, it is hardly surprising to find that some men tried to clarify the situation. In Chapter 2 we saw that William Newman had a wife and young children to support when he was removed by two Justices of the Peace from Barby to Pattishall. We saw that in order to know his place of settlement, he applied to the Parish Officers of Barby and requested them to take him to the Justices to prove his settlement, but they refused until he had received Relief, and therefore gave him 1/-, took him to the Justices, and procured the present Order of Removal.\(^{11}\)

Perhaps not surprisingly, there is no mention of the fact that Newman was not chargeable in the brief for Barby as respondents in the subsequent appeal case.

The Case of William Wilcox 1808

Two years earlier Barby had been involved in another appeal, but in that case as the appellant parish. Wilcox was hired as a servant in 1806 by Mr Lord, a farmer and grazier of Barby.\(^{12}\) According to the brief for Barby this hiring was not for a full 365 days. However in view of the Newman case two years after this, it is interesting that Wilcox is said never to have been a charge on the removing parish of Grandborough in Warwickshire. Like Thomas Short, Wilcox asked the parish

---

\(^{11}\) D5794; D4476.

\(^{12}\) D4495b.
officers if he could rent a parish house, but

the day he went to the Magistrates, the officers
told him they could not swear him to his settlement
until they gave him a Shilling, this Witness has
never had any Relief from the Parish of Grandborough
except receiving this Shilling.

This seems particularly unkind of Grandborough as Wilcox
states in evidence that he was born within the parish.
However there is a note with the brief to the effect that
he was the illegitimate son of Agnes Marriott and the
removal order shows that he had a wife, with the
possibility of the subsequent arrival of a large family
of children. It may well have been because they
considered the removal to be illegal, that the Justices
at the Warwickshire Quarter Sessions quashed the removal
order.

The Case of Mary Smith 1789

Mary Smith being apprehended by the Beadle in
the Parish of Saint George Southwark in the
County of Surrey as a Vagabond wandering abroad
begging and brought before me, one of his
Majesties Justices of the Peace for the said
County, to be examined touching the Place of
her last legal Settlement, on her Oath saith,
That she is the Wife of Robert Smith who is
gone away from her.\(^{13}\)

Thus the wording of the start of an order removing Mary
Smith and her three young children from Southwark to the
parish of Charwelton in Northamptonshire. It is difficult

\(^{13}\) D9563a; D1664.
to imagine the misery of that journey for her with her two daughters aged 10 and 4 and her baby son only 7 months old. Neither would her arrival at Charwelton have been a happy event as the officers of that parish soon found that she had no legal claim on them but was, in all probability, legally settled in the adjacent parish of Byfield. Unfortunately for both Mary and the officers of Charwelton, the vagrancy order by which she had been sent, made no mention of Byfield.

The first account we have of her story comes in her examination before John Clarke, one of the Justices of the Peace for Northamptonshire. From this we learn that she had married a Byfield man, named as Robert Smith, at St Bride's Church in the City of London some eleven years previously. About six weeks before her removal as a vagrant, her husband, 'being very ill went to Margate with a Gentleman whose name this Examinant does not know, for the recovery of his health'.

It seems that Mary was at first able to maintain her family, but eventually her husband's absence caused her to apply to the parish for help.

Being in great distress she applied to one Mr Price .... who she was informed is one of the Parish Officers of St George's Parish

We read that Mr Price refused her any relief but told her to ask alms of any person she might see in the street. After following this advice she was told to visit William Mason Esq, who examined her as to her settlement and had her removed as a rogue and vagabond.\textsuperscript{14}

\textsuperscript{14} J.S. Taylor rightly states that 'Begging was the best passport to a vagrancy classification'. See Taylor, Poverty, Migration and Settlement, p.88. By having Mary removed as a vagrant, Price avoided the possibility of an appeal against a removal order and the resultant cost to
The main paper that survives for this case is a case summary sent for his opinion to a barrister named John Silvester of Chancery Lane, by the solicitor for Charwelton. From this document we get a slightly different version of Mary Smith's interview with Mr Price of Southwark. We read that he

gave her a Shilling for her support that night, and ordered her to come to him again in the morning, and directed her to ask any person she might meet in the Street for Alms, alleging that it was necessary she should do so before he could remove her to her parish.

By telling her to beg, Mr Price was making it possible for her to be removed as a vagrant. This made it unlikely that Charwelton would be able to appeal against the order.

It seems that Mary Smith told the Magistrate that her husband, before moving to London, had rented and lived in a tenement worth £10 per annum in the parish of Charlton in Northamptonshire. However when she arrived in Charwelton parish she explained that Mr Mason, the Justice, had misunderstood her. Robert Smith had occupied land in Charwelton parish but had actually lived in the parish of Byfield.15

When Harrison and Burton, the solicitors for Charwelton, his parish.

There is a hamlet named Charlton in the county, but the only parish of a similar name is Charwelton. Despite the fact that the Examination of Mary Smith mentioned Charwelton, in the Case Summary it is at all times written as Charlton. The Northamptonshire Place Names book gives Charlton as an old alternative for Charwelton. Another incident where these two names were confused will be dealt with later in this chapter. Glover, Mawer, Stenton, Place-Names of Northamptonshire, p.56.
wrote to Silvester requesting his Opinion, they included a note about a case heard before the Court of King's Bench. In 1775, only fourteen years before, Edward Arnold and his wife and family were removed as vagrants from Sussex to the parish of Ringwould in Kent. Ringwould entered an appeal against the vagrancy order at the Sussex Quarter Sessions. The appeal was dismissed subject to a judgement of the Court of King's Bench as to whether

an Appeal lies, from a Vagrant-Pass, to the Court of Quarter Sessions; or whether the Parish of Ringwould should not take the Vagrant back, that the Overseers may pursue the Directions of the 17 Geo. II c.5 by carrying the Vagrant before two Magistrates, in order to remove.16

The opinion of the Court of King's Bench was that the Court could not remove a vagrant back to the parish where he was only a vagrant, nor to any other. 'If his settlement is not at Ringwould but elsewhere, they may apply for an Order of two Justices to remove him to it: and that is the only method by which it can be done'.

So it seems that Charwelton could not send the Smith family back to Southwark. John Silvester's judgement was that the only way to change a vagrancy pass would be for the party herself to appeal.

I am of Opinion that the Pauper has not committed any Act of Vagrancy and that the Justice ought not to have passed her as such.

He goes on to say that the conduct of Price was truly reprehensible but that he sees no way of convicting him of any offence.

16 Burrow, Settlement Cases, pp.842-846.
The wording of the case summary sent to Silvester seems to suggest that Harrison and Burton had little hope that he would give them any encouragement in their efforts to rid Charwelton of an unwanted family. Perhaps because of this they also mention another matter in their request for an Opinion. Mary was the sister of Robert Smith's first wife. If she is to be removed, the solicitors ask, should this be as the wife of Robert Smith or under her previous name of Mary Dunkley. The barrister dismisses this idea.

The Marriage is undoubtedly good until annulled by sentence in the Ecclesiastical Court and the Sessions have no power to try the validity of such a marriage.

So it seems that Charwelton were to have to maintain Mary and her three children or face the possible costs of an appeal. Indeed the only other reference that has been found to Mary and her family is found in the Quarter Sessions records of about seven years later. In 1796 Charwelton appealed against an order removing Mary and her eleven year old daughter Esther from Byfield to Charwelton. The Quarter Sessions Record Book shows that removal order was quashed and that the parish of Byfield were required to pay Charwelton £4-15-0

which appears to this court to have been reasonably paid by the Churchwardens and Overseers of the Poor of the said parish of Charwelton towards the Relief of the said Mary

---

17 Under the law at that time, it was illegal for a man to marry his deceased wife's sister, and is given as an unlawful marriage in the Table of Kindred and Affinity in the Book of Common Prayer. Perhaps it was fear of this law which had sent Mary and her future husband to live in London where they would not be known. See Major Barbara by Bernard Shaw for a 20th century comment on this law.
Smith and her said daughter between the Time of such undue Removal as aforesaid and the Determination of the said Appeal.

Of illegal removals

Of the removals studied in this chapter there can be little doubt that in the first four cases the Magistrates were wrong to remove the paupers. However in the case of Mary Smith, if the means of removing her from Surrey to Northamptonshire were not perhaps strictly illegal, it was only made possible because Mr Price encouraged her to beg. This was certainly not according to proper practice - though one has to suspect that it often happened. There is surely a parallel between this and the fact that in each case the parish officers gave 1/- to both Newman and Wilcox before they took them before the Magistrates.

It is perhaps indicative of the financial pressures under which parishes were working, that they were willing to try almost any device to rid themselves of any pauper, especially if it insured them against a possible appeal case.

Technicalities

Such was the desire to rid a parish of a pauper family that almost any device was considered acceptable. We have already seen that some cases were adjudged only on the technicalities so that the actual facts of the case were not considered. Study of the judgements given in the Court of King's Bench show that it was by no means uncommon for the result of an appeal to be decided on what appear to be somewhat trivial points of law. An example already seen was the case of the man whose
settlement was decided because neither of the removing justices was a member of the quorum. In the Daventry Collection there are several instances of this type of judgement, or of solicitors fearing that a technicality may lose them their case.

The Case of Elizabeth Clarke 1750

Elizabeth Clarke has already been mentioned in the chapter on bastardy. Having been removed from Braunston to Flecknoe in Warwickshire, she was then immediately removed again to Badby in Northamptonshire. The inclusion of her case in this section is due to a note written by the solicitor for the appellant parish of Badby. It is pointed out that the order removing Elizabeth from Braunston to Warwickshire was directed to the Church Wardens and Overseers of the Poor of Flecknoe, a hamlet in the parish of Wolfhamcote.

But that, we hope, is not very material as the Churchwardens & Overseers of the Poor of the parish of Wolfhamcote are by Implication the Churchwardens & Overseers of the poor of the Hamlet of Flecknoe which lyes within & is part of the parish of Wolfhamcote.\(^{18}\)

In the Daventry Collection there is another document which shows that this type of mistake was taken very seriously by the solicitors of the day. It seems that a man named George Tompkins had been removed from the parish of Great Rollright in Oxfordshire to the Northamptonshire parish of Charwelton. Having received a notice of appeal against the order from the solicitor for Charwelton, Oliver Aplin, acting for Great Rollright,
The Parish Officers of Great Rollright have brought me your notice of Appeal herein. I perceive that the name is spelt differently in the order of Removal and Notice of Appeal, in the order it is Charleton, in the Notice it is Charwelton. You will oblige me much, by informing me whether you appeal against the order on account of the Misnomer in the order, or whether you appeal to the merits of the case.

I should be sorry to put the contending Parishes to the expense of bringing them to Oxford on that ground alone, as that might be remedied by another mode. This is the sole ground for my asking the question and which I trust you will not think an unfair one. I will thank you to send me your answer by return of Post. I understand the place is commonly called Charleton tho' spelt Charwelton. As Magistrates Clerk I made out the order myself, and should be sorry that anything should arise on that grounds alone.\(^\text{19}\)

At first reading it seems strange that Aplin should even contemplate that Charwelton would base an appeal on such a small technicality. Solicitors had an eye for the tiniest irregularity, knowing full well, that the courts were likely to uphold them in their appeal. As a copy of the brief for Charwelton's appeal has survived, we know that the question of the name of the parish was not raised at the hearing.

\(^{19}\) D4505.
The Case of Mary Tucker 1763
While Mary Tucker was completing a full year's service in the parish of Easton Neston, her sister Elizabeth was working for a family named Perridge in the parish of Greens Norton. As Elizabeth was leaving due to her marriage, her mistress asked if her sister Mary would take her place. Mary agreed but said that she would prefer to have a few free days after leaving Easton Neston 'as she had not seen her friends since she left her last place'. So Elizabeth delayed her departure from Greens Norton until Mary arrived.\textsuperscript{20} The surviving documents show that Mary did not start work at Mrs Perridge's house until six days after Michaelmas, and though she remained in that household until the following Michaelmas, she did not complete a full years service.

She then returned home to her newly widowed mother at Blakesley, but shortly afterwards 'was afflicted with a severe Illness'. As her mother was unable to support her, she 'applied to the Parish Officers of Greens Norton for Relief'. The officer to whom she applied 'did not know what to answer to such an Application' but consulted the Rev. Mr Price, JP, the rector of Greens Norton, who advised him not to give Mary any relief.

She then returned to her mother at Blakesley and a few days later was taken by the Parish Officers to be examined by the Rev. Mr Addington. It seems that he filled in a removal order, signed it and then

\begin{quote}
sent it and the pauper by the Officers to Mr Price who after making some alterations as obliterating throughout the order the word Neston & instead thereof inserted therein the word Hulcott, unknown to Mr Addington, signed &
\end{quote}

\textsuperscript{20} D9832.
gave it to Blakesley Parish Officers who brought the Pauper to Easton the next day.

The solicitor who drew up the brief for Easton Neston in their appeal against this removal order, pointed out that there were a number of irregularities in it. Firstly he lists the obvious one that Mr Price made alterations to the document after it was signed by Mr Addington. Secondly he stated that the pauper declared that her examination was only taken on oath before Mr Addington; that Mr Price did not ask her any question, nor did he sign the examination. The brief for the appellant parish of Easton Neston cum Hulcott gives a reference to a case heard in the Trinity Term 12 William III, This stated clearly that the examination of a pauper must be carried out before two Justices of the Peace 'because both are to make the judgement of removal'. Burrow quotes Mr Justice Page remarking in 1739 that,

I remember a Case where it was determined that Both Justices must be present; and that it is not sufficient for one Justice to examine the Matter and transmit it to the other, and that other to sign the Order without examining into the Matter himself.21

As so often happens, the result of the Quarter Sessions only tells us that the removal order was quashed. It seems probable that this was due to the illegality of the order, as the report of her 'service' at Easton Neston and at Greens Norton, seems to show that the only year's service she had worked was in Easton Neston. But the faulty legal technicalities were certainly enough to call for the order to be quashed. There is no evidence of a

---

21 Burrow, Settlement Cases, p.137. Despite this judgement, in practice it was not uncommon for one magistrate to examine a pauper.
later attempt by Blakesley to remove Mary Tucker from their parish. So it seems that this was a case where the actual settlement of a pauper was governed not by the normal Laws of Settlement but by the technical faults of the two removing Justices.  

It will be remembered that in Chapter 5 of this thesis, in the case of James Vere, the solicitor stated that the Justice of the Peace had altered a removal order after it had been signed by another magistrate. It was also pointed out that the wording of the county names was unclear. In a similar case where Magistrates removed a pauper over the county boundary, Burrow quotes Mr Justice Page as saying that 'the Order ought to appear to us to be good: Which this does not; for the Word "aforesaid" equally relates to both Counties'. In his summary of the case Burrow wrote

> It is quite uncertain for which County they are Justices; and the Court can intend nothing: The Justices must show that they have Jurisdiction. For this Defect, therefore, the Order was quashed.

It is difficult to believe that the Quarter Sessions or the Court of King's Bench should take notice of what seem to be small unimportant mistakes, but the law has to take

---

22 The Rev Charles Addington first appears in the Justices of the Peace section of the Northamptonshire Poor Law Index in the year 1758, though he does not appear to have been a very regular signatory of poor law orders. The signature of the Rev Thomas Price first appears in 1755 and has only been found twice except for the removal order in this case. Neither of them can been considered to be very experienced Justices.

23 See page 200.


25 Burrow, Settlement Cases, p.331.
account of these small facts. Even today we hear of appeal cases that turn on such details. No doubt it was in part because of these technicalities that writers such as Bott, Burrow and Nolan published their books on settlement cases. Burn's *Justice of the Peace* went into nearly thirty editions within the period of the Old Poor Law. These frequent new editions were necessitated by the many small changes in the law which took place, and because of the legal precedents established by cases heard in the Court of King's Bench. In the editions written by Burn himself, there is usually a section giving the recommended wording of each poor-law order that the Justices should use. This does not seem to have been included in some of the later editions, possibly due to the use of printed forms.

**Genuine Mistakes**

In Chapter 4 of this thesis a case was discussed which showed that the writer of a removal order entered the regnal year incorrectly giving a date a year early, thus legally removing a man with his wife and child, though by the year given, there could be no such wife and child.

It is perhaps more surprising to find mistakes of this kind in Quarter Sessions documents. While checking through the Northamptonshire Record Books, it was found that the Easter Sessions for the eleventh year of George III was followed by the St Thomas the Martyr Sessions for the thirteenth year of George III, only to revert to the eleventh year of George III for the Michaelmas Sessions. This is less understandable than the mistake made in the removal order because all Quarter Sessions documents at that period were dated by regnal year: one

---

26 Northamptonshire Record Office, Quarter Sessions Record Book, 1770-1771, pp.367, 371 and 375.
would expect the writer to have been very familiar with this type of dating. On page 143 of the Record Book for 1816 the case of Potterspury and Towcester has been crossed out, a marginal note stating that it was 'Entered before on page 141', but the next case to be discussed will show that the Clerk of the Sessions made a far more serious mistake in the year 1815.

The Case of William Orton 1816

On the 22nd of February 1815 two Justices of the Peace removed William Orton and his wife from Kilsby to Welton. They understood that in 1802 at Daventry Mop, the pauper was hired by Mr Farn of Welton, but when Welton appealed against the order, Kilsby discovered that Orton had not gained a legal settlement at Welton by that service. As the appeal had already been entered, Kilsby agreed that the order should be quashed by consent at the midsummer Sessions of 1815.27

On 3rd January 1816, a letter was addressed to Edmund Singer Burton of Daventry, the solicitor for the parish of Welton. It is signed by Chr. Smith, the Clerk to the Quarter Sessions and reads 'I do not remember the order being quashed by consent'. It would seem that Kilsby having unsuccessfully removed the paupers from their parish to Welton, were subsequently - and quite legally - removing them to Adstone. However if the first removal order had not been quashed it was still in force and consequently binding on Welton. This would have meant that the removal to Adstone was clearly wrong.

It seems that the Quarter Sessions respited the case until the Summer Sessions in 1816, when Council reported

27 D8261.
that the Clerk of the Peace had omitted to enter in the Records of the Sessions the Order of the Court for quashing the removal order. We are told that Council for Kilsby 'tendered evidence to prove that the Quarter Sessions had quashed the order', but despite this 'the Court refused to receive such testimony', and quashed the order.

We next find that solicitor Burton has sworn an affidavit before a Commissioner of Oaths, setting out the details of the case in support of a Motion of Mandamus. This is a writ issued by the Court of King or Queen's Bench in a case where 'the party hath a right to have anything done, and hath no other specific means of compelling its performance'.

A second affidavit has survived. This was signed by John Plomer Clark, one of the Magistrates who signed the second removal order, saying that he had heard the first order quashed by consent at the Midsummer Quarter Sessions in 1815. It is perhaps not surprising that Mr Clarke was the one Magistrate to remember the case. Not only did he sign the second order, but his home, Welton Place, was in the parish to which the first order was addressed.

Despite arranging to have their case heard at the Court of King's Bench, the matter was not decided, the Court refusing to act. Their judgement was that, before trying the appeal against the second removal order, the Quarter Sessions should have been asked 'to compel the Clerk of the Peace to perfect the Record of the Court by making the proper entry which had been omitted'. So it seems that the matter could not be resolved. No such entry appears in the Quarter Sessions and the name of William

---

28 Burn, Justice, (23rd edn, 1820), 3, p.304.
Orton does not feature in the records again.

Looking back on this case over a period of nearly two hundred years, one wonders why the three parishes involved did not agree to ask a senior barrister for a ruling on Orton's settlement, having agreed to abide by his judgement.

This is not the only mistake or omission found in these Record Books. An example is the case of Thomas Short discussed earlier in this chapter, where no verdict was entered in the Record Book. In other places, several pages have been left blank which seems to imply that information about an adjourned sessions had not been entered up.

Having found the various mistakes in the Quarter Sessions Minute Books, it is not difficult to accept that the Orton entry was omitted. What is more difficult to understand is the fact that the Clerk of the Court refused to correct his books, knowing as he must have done, that the matter would be brought up before the Sessions and the mistake made public.

Fear and Smallpox, the killer disease

The Case of Elizabeth Butler 1777

Throughout this thesis we have studied the ways the poor were dealt with by parish officers - sometimes with kindness, but on other occasions with harshness. Parish officers had a thankless job. No doubt they were pressurised by the parishioners to keep down the poor rate. In this, the last case to be discussed, we have parish officers showing little of the milk of human
kindness to a poor family, but who may well have been motivated by fear.29

It seems that Elizabeth Butler and her children were removed by the Justices for Warwickshire from the parish of Wormleighton to Neithorp in Oxfordshire. After an appeal, the order was quashed. A week later the family had not been removed back to Warwickshire, when the parish officers heard that one of Elizabeth's sons was ill with smallpox 'which was then very much in the town'.

The officers went to the house but finding the door locked

threatened that if she refused to open the Door and consent to have herself, family and Goods immediately removed from thence to Wormleighton they would break the Door open and throw her Goods into the Street and take and leave her in Bourton or some other open Field and that if she returned to see after her Goods, they would whip her or send her to Bridewell.

As a result of this tirade she opened the door. John Hearn, one of the parish officers and another man began to take down her possessions and put them into a waggon despite her pleading with them to send a message to the parish officers of Wormleighton whom she was sure would come and agree to pay for her keep in Neithorp. She reminded Hearn that Wormleighton was free of smallpox. He would not listen to her but took the family and their goods to the open fields of Fenny Compton which adjoined the parish of Wormleighton. Here their goods 'were thrown out of the waggon' and Elizabeth and her children left with them in the open air 'to shift for themselves'.

29 D5960.
Elizabeth sent one of her sons to Wormleighton to the house of Mrs Walton. It seems that Mrs Walton's son was one of the parish officers of Wormleighton, 'who by mere accident' had met the Pauper and her family as they were being removed from Neithorp. He had remonstrated with Hearn and told him that 'there were not ten people in Wormleighton who had had the Small Pox'. Hearn however had refused to take the family back to Neithorp despite the fact that Walton had offered to pay all expenses even 'though they should amount to £100'.

It seems that Mr Walton consulted Mr La Roque, the minister of the parish, who recommended that an apothecary should be consulted. After he had visited the child out in the field, the apothecary confirmed that the boy had got the disease.

Mr Walton arranged for victuals and drink to be sent to the field and then took the family into the town. Their possessions were left in the open until the next day 'some of them damaged in the improper and careless manner in which they had been pulled down, loaded and unloaded'.

The Case Summary with the request for barristers opinion tells us that the boy recovered from the small pox and no other people in Wormleighton caught the infection. However the solicitor, asked the barrister

whether from this most cruel and barbarous treatment of Pauper and her family and the great danger and expense which might have been brought upon the Parish of Wormleighton and the Circumstance of this Case, the Parish Officers of Neithorp cannot now in any and what manner

---

30 Elizabeth had five children, two daughters aged 13 and 3, and three sons aged 11, 9 and 7. We have no knowledge of which son was ill.
be punished.

It is understandable that the Neithorp officers probably did not regard with pleasure the Butler family, who had been sent to their parish with a removal order, causing the parish the work and costs of an appeal to the quarter sessions in another county. Even after winning their case, the family was not immediately taken back by Wormleighton. But these annoyances did not excuse what can only be classed as malpractice, of forcing a family which included a sick child to move out of their home at a moment's notice. Still less did it warrant their being abandoned in a field, not even a field in their parish of settlement.

One can easily sympathise with John Hearn in his fear that the boy's condition should spread the infection to more of the population of Neithorp. Yet although smallpox was often fatal, there were many people who survived. Wolfgang Amadeus Mozart and his sister were in Vienna in 1767. Both children caught the illness from a young princess who did not recover. Luckily for the world of music, both the Mozart children, though seriously ill, did survive.31

Oxley suggests that, virulent as smallpox was, doctors could offer help to sufferers from the illness, and that the population as a whole could be protected by isolating patients. Overseers arranged for medical attention for the sufferers and organised their isolation. 'In many parishes, even small villages, this was done by using some isolated house as a 'pest house', where infected persons could be sent to remain until the doctor certified their recovery'.32

32 Oxley, Poor Relief, p.71.
In his biography of Edward Jenner, Richard B. Fisher writes that in the early eighteenth century, smallpox was known to kill between 1 in 5 and 1 in 8 of the population. In severe epidemics that figure rose to as high as forty percent.\textsuperscript{33}

It seems possible that the harsh treatment of the Butler family took place before inoculation against smallpox became common. In numerous documents in Northamptonshire it is possible to find information about overseers who tried to arrange for protection for their parishioners. As an example, in 1789, Bozeat spent £45-2-6 having all the villagers inoculated, while the parish registers of Flore show that in 1797 over 400 were inoculated.\textsuperscript{34} Only a year earlier at Market Harborough in Leicestershire it was agreed in Public Vestry that the poor and those Only belonging to this parish shall be Inoculated for the Small Pox at the Expense of the parish ... the Apothecary shall be paid Two shillings & sixpence for Each patient’.\textsuperscript{35}

The fact that Mr Walton stated that 'there were not ten people in Wormleighton who had had the Small Pox', and had offered to pay all expenses even 'though they should amount to £100', suggests that this was at a time when smallpox inoculation had not become common.\textsuperscript{36}


\textsuperscript{34} 40p/16 p.27; 129p/4.

\textsuperscript{35} Leicestershire Record Office, DE 1212/6.

\textsuperscript{36} Inoculation against smallpox was becoming more common in some places by 1771, when 4829 people received free treatment at the Smallpox Hospital in Gloucester. This date is of course over twenty years before Jenner first used vaccination in the fight against the disease. See Fisher, \textit{Jenner}, p.19.
Razzell in his history of smallpox suggests that in the 1720's as many as 15 1/2% of the populations of towns died of smallpox and as many as 24% of villagers.\textsuperscript{37} Even if these estimates are perhaps somewhat high, there is no doubt that smallpox was greatly feared. Razzell also makes the point that the cost of burying twenty five victims of the infection was nearly as great as the cost of inoculating a parish of 545 people, so offering free inoculation to all parishioners was economically sensible.\textsuperscript{38}

It was inevitable that parish officers should be frightened of smallpox, particularly before the days of inoculation. It is clear that once that option became available, they used large amounts of money in an attempt to protect the lives of all the villagers, including of course their own families. So despite the ill-treatment of Elizabeth Butler and her children, it is clear that not all parishes were so harsh, though Market Harborough obviously had no intention of inoculating sojourners.

\textbf{Conclusion}

It was the concern of a solicitor to try to rid the parish he was representing of a family of unwanted paupers. If a technicality could do this, he would certainly use it. One cannot help feeling that there is a very thin line between the search for technicalities and fraud. It seems that contemporary opinion felt this. Nicholls wrote about 'frauds, ill-feeling, and expensive litigation', while Lord Chief Justice Hardwick speaking in the Court of King's Bench in 1735 is quoted by James Burrow as having said that 'Fraud infects every Thing in


\textsuperscript{38} Razzell, \textit{Smallpox}, p.91.
Books such as Burn and Burrow list many cases where such details were the cause of appeals: perhaps in this field more than any other, the complexity of the Laws of Settlement is shown. As in the case of James Vere in Chapter 5, a second and sometimes even a third removal order was signed and a second appeal paid for, in an effort to rid a parish of a pauper family. It seems that 'parishes were sometimes prepared to spend more in law suits to prove that they were not responsible for a person than would have sufficed to relieve him and his family'.

---


Chapter 7

The Man of Power and the Paupers

The Justices of the Peace

Dorothy Marshall has written that 'by the eighteenth century the tradition had long been established that if anything wanted doing in the counties, the Justices of the peace were the obvious people to entrust with the task', while G.M. Trevelyan described the Justices of the Peace as 'the most influential class of men in England'. More recently Peter Dunkley has written that the magistracy 'constituted the most essential component in the machinery for the enforcement of law at the local level.¹ So who were these men?

It was normal for a nobleman to be appointed to the bench for the county in which was his principal seat, but it was by no means unusual for him to be a magistrate for more than one county.² As a group we are told, 'they were wealthy, well educated, ambitious, in reasonable accord with national policy both religious and political ...


² In 1825 an apprentice indenture for the parish of Aynho had to be signed twice, by two Justices of the Peace for Northamptonshire and two Justices of the Peace for Oxfordshire. Thomas Fawcett, clerk, and William Ralph Cartwright, esquire, signed both sections. 21p/113/5.
they were the leaders of their counties'. As over the years the amount of work undertaken by the magistracy increased, the noblemen were joined on the commission by the landed gentry, and later by many clerks in holy orders.

As early as 1344 a statute directed that Justices should include some who were learned in the law. 'The idea seems to have been that the presence of a number of distinguished lawyers would act as a kind of leaven among the greater number of lay Justices. This little cadre of Justices skilled in the law were named in every Commission as "of the Quorum".' The original purpose of the quorum had been to limit the authority of untrained magistrates by reserving special powers to men with legal education'. Osborne adds that eventually membership of the Quorum was so expanded that the majority of the Justices, most of them laymen, were invariably included.

Richard Burn wrote that 'those of the quorum were wont to be chosen specially for their knowledge in the laws: and this was it which led makers of several ancient statutes expressly to enact that some learned in the laws should be put into the commission of the peace; and (to say the truth) all statutes that require the presence of the quorum, do tacitly signify such a learned man'. Many documents state that one of the magistrates was 'one of the quorum' and as we saw in Chapter 6, in one case a removal order was quashed because this was not stated.

---

6 R. Burn, The Justice of the Peace and the Parish Officer (14th edn, 4 vols, 1780), 3, p.18.
Attorneys were prohibited from serving as magistrates if they were still practising solicitors, 'though the prohibition was flouted by some of their number'.

The appointment of parsons to the bench became common from the second half of the eighteenth century. Osborne tells us that 'a few of the bishops frowned on Parson Justices' and that in some counties the Lord Lieutenant would not appoint any. In Northamptonshire many local clergy were appointed. In his autobiography, John Mastin, vicar of Naseby, writing of 1803, tells us that 'this year a new commission for the peace was to be made for the county of Northampton when the Right Honbl. the Earl of Northampton Lord Lieutenant did Mr Mastin the honour of inserting his name', but it seems that Mastin 'could not reconcile Mrs Mastin to his acting as a Magistrate'. Osborne tells us that 'in the first quarter of the 19th century, attention was drawn to the undesirability of the clergy acting as Justices. It was said there was something incompatible in the holding of the two offices - meting out justice and the care of souls'.

It has to be remembered that probably one of the most famous magistrates, Richard Burn, who, in 1754 published his handbook *The Justice of the Peace and the Parish Office*, was Vicar of Orton in Westmorland. The work was to go into many editions during his lifetime and was continued by his son and other editors for over a hundred years.

---


8 Osborne, *Justices*, p.166.

9 J. Mastin, manuscript 'Autobiography'. Northamptonshire CRO, ZB 1276.

The Justices of the Peace and the Settlement Laws

In his Ph.D. thesis, C.N. Howard discusses the numbers of Justices who attended the various Quarter Sessions, going on to say that 'It was on these men, appearing regularly at session after session, that the bench relied for continuity in its functions'. As the thesis is about county government it is understandable that this statement ignores completely the week by week routine work done by the magistrates at parish or local level. Howard writes about Earl Spencer's involvement in national politics between the years 1780 and 1834 when he served such offices as First Lord of the Admiralty, ambassador to Vienna and Home Secretary. Checks of the Quarter Sessions Record Books show that during the period 1788-1830 George John Spencer was chairman of the Sessions 109 times, yet if one studies the entries in the Northamptonshire Poor Law Index only six documents were signed by him. It has to be admitted that the index is very far from complete for the county, but has a slight bias for the western district close to where Earl Spencer lived. Against this one has to set the signatures found for other magistrates, many of whom appear in the index over thirty times. Some of the men such as T.C. Maunsell, signed well over a hundred documents but rarely attended the Sessions more than once a year. One feels nothing but praise for Earl Spencer for managing to attend the sessions so regularly, but it does not alter the fact that, at least so far as the day to day running of the poor law was concerned, it was not the attendances at the

---


12 Howard, Justices, pp.78/9.
sessions which counted.\textsuperscript{13}

In the earlier chapters of this thesis we have seen something of the involvement of the magistrates in settlement cases, as for instance the rather unfortunate part played by the Rev. George Freeman in the case of James Asser in Chapter 4. The important recurrent involvement of the bench was in the regular meetings of what have become known as the Petty Sessions.

In the Daventry Collection there are a number of bundles of documents, each containing magistrates' orders connected with the poor law and with minor crimes such as stealing turnips or firewood. It is common to find a number of these documents all signed by the same Justices on the same day. Yet the parishes requesting these orders were widely spread over the surrounding district. These, together with numerous entries in solicitors' day books, diaries and account books, show that the Justices Meetings (as they seem to have been known in the west of Northamptonshire) were normally held either weekly or fortnightly. Osborne writes that 'the informal, and unrecognised, nature of these Petty Sessions is confirmed by the almost complete absence of records of their proceedings'.\textsuperscript{14}

Certainly no records for these meetings have been found in Northamptonshire for the period prior to 1834. Our

\textsuperscript{13} For a detailed study of the magistracy in the county see R.W. Shorthouse, Justices of the Peace in Northamptonshire 1830-1845. Reprint from Northamptonshire Past and Present 5, nos 2 & 3, (1974).

\textsuperscript{14} Esther Moir states that the term 'Petty Sessions' was in use in some areas from the sixteenth century, but Osborne tells us that it was not until 1889 that it was accorded statutory definition: 'A court of summary jurisdiction consisting of two or more Justices sitting in a petty sessional Court House'. E. Moir, The Justice of the Peace (1969), p.44; Osborne, Justices, p.205.
knowledge of them can only be deduced from letters, and solicitors' working papers. It seems certain that in the Daventry area, when the different overseers of the poor gathered together in a central place to meet the Justices, a solicitor was also present.

One of the few documents which mention the Justices' meetings is the settlement examination of James Flint who stated that in about 1797 he was bound apprentice at a Justices' meeting at Lutterworth in Leicestershire. This is the earliest reference found to a Justices Meeting.\textsuperscript{15} From the start of the nineteenth century there are numerous documents demanding that an individual was to appear before the Justices 'at 12.0 Noon on Thursday next at the Wheat Sheaf in Daventry'.\textsuperscript{16}

The actual work

A great many of the documents signed at the Justices meeting were settlement examinations and removal orders, but mixed with them are appeals by paupers asking the magistrates for help after being refused relief by their overseer. Quite a number of orders have survived demanding the presence of an overseer at the next meeting.

Another typical complaint is that of Reuben Packwood of Watford who on 8\textsuperscript{th} October 1822 complained to the magistrates that he had been hired as a servant in husbandry for fifty one weeks at wages of £12 and had duly performed that service. His mistress Alice Bland, of Murcot in the parish of Watford, had refused to pay him and he requests the Justices to make her appear before

\textsuperscript{15} D2036.

\textsuperscript{16} D964.
them.\textsuperscript{17}

Two documents have been found about men who were fined for swearing in the presence of a magistrate. One man is accused of swearing three profane oaths before a Justice in 1731 and was fined three shillings, one shilling for each occasion.\textsuperscript{18} This seems an extremely high fine when one considers the average wages received at that period, but a second paper seems to imply that this was the standard fine as Thomas Bromfield was fined 1/- for one oath before John Plomer Clarke in 1822.\textsuperscript{19}

A letter exists which was written to this particular Justice of the Peace in which a writer who signed himself Veritas accused him of not swearing to a certain pauper's settlement.\textsuperscript{20} It is sad that no other documentation exists to enlighten us about this. John Plomer Clarke was probably the most hard-working of all the bench. In the Poor Law Index he is shown to have signed two hundred and ninety one poor law documents during a period of twenty five years. This of course does not include orders about petty crimes. Some idea of his assiduousness is shown by the fact that he had various order forms printed with his name.\textsuperscript{21} The Index shows that he signed orders for thirty five different parishes covering the two Hundreds of Fawsley and Guilsborough, together with two other orders, one for the Hundred of Chipping Warden and one for the Hundred of Willybrook.

Another interesting magistrate is Wm.H. Chauncy. He has

\textsuperscript{17} D8239.
\textsuperscript{18} D7964.
\textsuperscript{19} D1883.
\textsuperscript{20} D9867.
\textsuperscript{21} D9931.
already been mentioned in Chapter 1 in connection with the removal of Richard Warner from Edgcote, the parish in which Chauncy resided. The case papers give no indication that he was in fact a magistrate. Quite correctly, he was not one of the signatories to the order removing the pauper from Edgcote.  

It is of course possible that despite his higher office, Mr Chauncy was also the Churchwarden. It is clear that Mr Chauncy did not feel that being a magistrate need debar him from 'involvement' in a settlement case for his own parish. Solicitor Harrison's account shows that he visited Mr Chauncy about the case on four occasions.

In a letter, Mr Chauncy expresses regret that their chosen barrister is ill, but requests Harrison that 'if there is any Counsel unengaged I would certainly have you employ one' and goes on to say that he hopes the court will not quash the order or Edgcote will 'have the pauper settled with us at last'. In another letter he writes

I think you had better send fresh notice requiring the Banbury Officers to produce the Order of removal in 1758.

---

22 In about 1742 a removal order was quashed by the Court of King's Bench because a Justice of the Peace had signed the order removing a pauper from the parish in which he himself lived, and so 'had acted as a judge in his own cause'. N. Landau, The Justices of the Peace 1679-1760 (1984), p.358.

23 As no poor law documents survive for Edgcote it has not been possible to confirm or deny this suggestion. However a document has survived for Braunston parish where the signature of John Clarke, Justice of the Peace, appears to be identical to that of John Clarke Churchwarden. 46p/76/10. Burn does not include magistrates in his list of people who are either exempt from being chosen as churchwardens, or who should not be chosen. Burn, Justice, (15th edn, 1785), 1, p.335.

24 D9857.
Wm. H. Chauncy was certainly not alone in having had some legal knowledge. Gleason writes that at an earlier period, it was not uncommon for young men to enter one of the inns of court to continue their general education after leaving Oxford or Cambridge. While rarely qualifying as barristers, they yet learnt something of the law, so preparing them to fulfil their subsequent appointment to the bench. In 1803, magistrate H.K. Bonney not only reprimanded the overseer of Peterborough when he sent two copies of the order when removing a pauper, (one of which the removing parish should have kept), but also pointed out that as the woman was only 'deemed chargeable' whereas she should not have been removed unless actually chargeable.

In Chapter 1 where the Edgcote case was dealt with in some detail, the barrister's Opinion given by Mr Morris was discussed. Francis Burton, one of the removing Justices wrote that 'I will submit to Mr Morris's opinion' but goes on to express grave doubts about it and adds 'I hope the Quarter Sessions agree'. Subsequent events showed that the barrister, when told of this disquiet, agreed that he had probably given a wrong judgement. So again we must assume that here we have another magistrate who had a high degree of understanding of the law.

In many places in this thesis there has been reference to the handbooks for Justices produced by Richard Burn and others. In the Daventry Collection documents have survived which show that Burn's books were used by the magistrates. One letter mentions George Chetwynd, Esq, JP, barrister at law, who published the 23rd edition of

---

25 Gleason, Justices, p.45.

26 261p/242/23.

27 See Appendix No.2.
Burn's *Justice* in 1820, to which he added a supplement in 1823. The letter is written in 1824 to solicitor Burton by Thomas Reeve Thornton, JP. It mentions that he has not received the Supplement to Chetwynd's Burn.

In a letter from the clerk to the quarter sessions dated 1810, and addressed to Burton as the clerk to the magistrates in the Daventry area, states that

> Mr Markham presents his Compliments to Mr Burton & herewith sends the last Edition of Burn's Justice which was ordered by The Court of Quarter Sessions for the use of the Magistrates in Petty Sessions at Daventry.

This is the earliest reference to the term petty sessions so far found in Northamptonshire. Although still known as Burn's *Justice*, this would have been an edition published many years after his death.

A Cumberland magistrate, after asking the Clerk to the Justices to buy several volumes of statutes, added that as there had been many changes in the law, 'I think it will be proper to order the last edition of Burn'. Burn himself wrote that 'The statutes at large, from the very nature of the things, have in process of time become very cumbersome, and very intricate. They are not to be purchased but for a larger sum of money, nor to be understood without a greater expense of time, than a wise

---

28 T.R. Thornton appears in the Poor Law Index over two hundred times and attended the Sessions once or twice each year.

29 D7538/35.

30 D9437.

man would often choose to employ in that way'.

The Justices and the Paupers

E.P. Thompson has written that 'the poor laws, if harsh, were not administered directly by the gentry; where there was blame it could fall upon the poor-rate-paring farmers and tradesmen from among whom the overseers came'. It seems possible that he has underestimated the involvement of the magistracy in poor law administration. Admittedly it was the overseers who paid out the small sums of relief to the actual paupers, but judging by the documentation found in the Daventry Collection, when it came to the question of settlement, the local Justices may well have been involved at the parish level.

In 1827 the Rev. C.D. Brereton suggested that the magistrates interfered too much in the work of the overseers of the poor. Certainly documents in the Daventry Collection show that they were often closely involved, but there seems to be no evidence of antagonism between the overseers and the Justices. P. Dunkley however has written that 'when the labourers were threatened with extreme want, the Justices very often showed themselves resolved to thwart parochial efforts to drive down relief even further'. As Cobbett pointed out, the laws told the magistrates that 'lest the overseer should neglect his duty; lest despite my command to him, any one should suffer from hunger or cold, I

32 Burn, Justice, (12th edn, 1772), 4, p.427.
33 E.P. Thompson, Customs in Common (1991), p.44.
35 Dunkley, Crisis of the Old Poor Law, p.69.
command you to be ready to hear the complain of every sufferer from such neglect. I command you to summon the offending overseer and to compel him to do his duty'.

Osborne suggests that by the second half of the eighteenth century half the magistrates were clergy. 'By reason of their education many of the clerical Justices were well fitted for the duties that fell to them'. Numerous letters show the involvement of incumbents such as those signed by the Rector of Benefield about pauper Thomas Leaton already mentioned in Chapter 5.

It is also suggested that the magistrates never had any contact with the poor labourers except those who worked on their estates or lived in their estate villages. This was surely not true of the many Justices of the Peace who took an active part in administering the Poor Law. They must have had contact with many paupers asking for relief, with the mothers and fathers of bastard children, and with men and women examined as to their settlement. They heard them tell their own story. They heard appeals from people who stated that the overseers had refused them relief.

E.P. Thompson has written that for the magistrates 'a ghostly image of paternal responsibilities could be maintained at very little real outlay in effort'. Some 'valued the status of the magistracy, while lacking the industry or inclination to participate in its judicial or executive functions'.

---


37 Osborne, Justices, p.166.

38 Thompson, Customs in Common, p.44.

39 Langford, Public Life, p.397.
While it is known that there were large property owners who fought to keep down the numbers of paupers in their own parishes, it is surely true that not all Justices of the Peace were without heart, and without sympathy for the poor. This does not take account of men like Lord Spencer who made himself personally responsible for all the poor relief needed on his lands. Nor is Thompson consistent in his condemnation of the Justices as in the same book he quotes 'a benevolent Suffolk landowner and magistrate' who gave financial aid to a man trying to defend his common rights.

In Chapter 6 we saw details of the treatment received by the Butler family when the son contracted smallpox. In the solicitors' Day Book for 1777 the entry for 19th August, under the heading "Lord Spencer" reads

Drawing Case respecting the illtreatment Elizabeth Butler and her family had met with from the Parish of Neythrop. Very long.

If Lord Spencer was considering taking upon himself to bring a case against the parish officers of Neithrop, this does not suggest a lack of interest and sympathy for the pauper. We have also to consider the Duke of Bedford whom Esther Moir tells us built five hundred low-rent cottages on his estates in 1849.

Obviously there were bad as well of good Justices. Paul

---

40 'The whole of the parish of Wormleighton belongs to and is the property of Earl Spencer who takes upon himself (as his Ancestors before him have immemorially done) the whole maintenance of the poor'. D9805b.

41 Thompson, Customs in Common, p.141.

42 D4059.

43 Moir, Justice of the Peace, p.105.
Langford quotes what a Dorset yeoman wrote about one magistrate, who was also Commissioner of Taxes and rector of his parish: 'he was feared, dreaded and universally disliked by almost all his neighbours'.

It is undoubtedly true as E.P. Thompson suggests that a magistrate 'who in his own closed parish aggravated the problems of poverty elsewhere, by refusing settlements and by pulling down the cottages on the common, could at quarter sessions, by granting the occasional appeal against the overseers of other open parishes, or by calling to order the corrupt workhouse master, place himself above the lines of battle'.

Yet is this not perhaps too cynical an attitude; can we assume that all the upper classes were as unfeeling as that? Esther Moir asks 'what was the attraction of office ... the wish to rule, the desire to serve the community?'. What of such men as John Plomer Clarke who attended the Justices Meetings almost every week throughout a twenty five year period? Are we to assume that this was purely because he enjoyed being a magistrate? It is easier to accept that this may have been true of the men who merely put in an appearance at Quarter Sessions, but must we assume the worst for all hard-working Justices who administered the law at local level?

A letter has survived written by Thomas Hall from Shackerstone in Leicestershire in 1773 just addressed 'My Lord'. It is written to support a complaint which is due to come before the nobleman respecting the workhouse at Ashby de la Zouch. It speaks of the inhuman treatment

---


45 Thompson, *Customs in Common*, p.44.

shown to the paupers by the Master. The writer states that he has had paupers coming before him as a Justice of the Peace 'when they have, to my astonishment and pity, swarmed with vermin'. It seems that if paupers were found to have complained about the Master to the bench, he often 'debarred them of common Maintenance and support'. The letter also accuses the local tradesmen of supplying goods of various types to the workhouse at inflated prices. This letter is surely not a magistrate 'doing the right thing' in the public arena of the quarter sessions. This is from a man who took the trouble to write a letter of over six hundred words to a nobleman to whom he felt he had to say I 'entreat you to pardon the Freedom I take'.

Let us be charitable to those powerful men and hope that they remembered the oath they took when taking office.

"That you take nothing for your office of Justice of the Peace to be done, but of the King, and fees accustomed, and costs limited by statute"

"You shall do equal right to the poor and to the rich".  

The Laws of Settlement and the Solicitors

In the preface to his study of Attorneys during the eighteenth century, and writing of their working papers, Robert Robson states that they have been

47 D3240.

48 Part of the oath which had to be sworn by all new Justice of the peace. Burn, Justice, (14th edn. 1780), 3, p.25.
extremely useful in creating an impression of the nature and of the importance of the attorney's work, even when, as is often the case, the attorney's personal papers have been destroyed and only those belonging to his clients have been preserved.49

Perhaps it is the comparative rarity of the working document which has led to an under-appreciation by historians of the important part played by solicitors in the day to day running of the poor law system. Most writers have commented on the large incomes made by various attorneys due to their work on settlement appeals, but these same writers have implied that most of the work leading up to the removal of a pauper, and subsequent work involved for both parishes in quarter sessions appeals, was undertaken by the Overseers of the Poor.

Dorothy Marshall writing about the eighteenth-century overseer said that 'he was usually quite unqualified for his task, and in some instances could not even write but was reduced to making his mark'.50 Of the involvement of parish officers in settlement disputes and the fact that they probably did not understand the law, she mentions that 'on occasions a leading man in the parish would write to a Justice who was a friend of his, to know if he could throw any light on the subject'. As with many other writers she has little to say of the involvement of solicitors in the removal of sojourners.

The large assortment of solicitors' working papers in the Daventry Collection shows us that the solicitors were involved at a much earlier stage than has hitherto been

49 Robson, Attorneys, p.xi.

suspected. Already in this thesis we have seen examples of the complexity of the laws. In Chapter 2 we saw that even Richard Burn, the writer of one of the most important handbooks for both magistrates and solicitors, while chairman of the Quarter Session for Westmorland, allowed a judgement to be passed which the judges of the King's Bench decided was completely wrong. Even in the King's Bench, the final appeal court, the judges were not always in agreement as to the law. So how can one expect the local husbandman or shopkeeper to have undertaken the tasks involved in settlement cases?

Shall we have him removed?

In several documents that have survived in the Daventry Collection, there are entries showing that some parishes took the advice of the solicitor before applying to the magistrates for a removal order. One example is a solicitor's Day Book for 1774 where an entry for the parish of Daventry reads 'Taking Examination of Wm Baker as to his Settlement and filling up orders of Removal of him & his wife to Paulespury'. Similarly, under the heading 'The Parish Officers of Daventry', an entry in a book dated 1794 reads 'Attending you - taking Paupers examination & advising with you thereon when it was agreed to remove him' Further entries show that subsequently there was an appeal against this order. It was probably simple for Daventry to consult a solicitor whose office was in the town, but it seems that distant parishes also asked advice at this early stage.

---

51 'After hearing arguments on both sides, the Court were divided in opinion'. Burn, Justice, (23rd edn, 1820), 4, p.629.

52 D8097.

53 D3446.
In an account book for 1822 we find an entry which reads 'Received of the Overseers of Preston Capes for examination of Mary Howard as to her settlement and making orders of Removal to Olney, Bucks, 14/-.' Other entries imply that an appeal also followed this removal as on April 12th we see the charges for a visit to Olney, including 3/6 for copy of an entry from a burial register.

This is not the only case where, despite asking for legal advice before seeking to remove a pauper, a parish was still faced with an appeal case. In a Day Book for 1775, the entry for 15th July reads 'Taking Examination of Sarah Humphries as to her Settlement and filling up order of removal'. This removal certainly caused an appeal as a number of entries about work for this case have been found. Firstly we have a payment of £1-1-0 to the barrister to retain him, plus the normal payment of 2/6 to the barrister's clerk. Then comes an entry which shows one of the problems that might beset a parish. It reads

```
Drawing and 2 fair Copies of Notice to be inserted in the Coventry and Northton Mercury 'That if any Person could give Information of Edwd Humphry they should be handsomely rewarded'.
```

Two days later we have an articled clerk's journey to Braunston 'to get a Certificate of Paupers marriage which the clergyman refused'. It seems that later the parish clerk actually visited the solicitor at his office to allow the copy to be made and was paid 1/- for his trouble. In 1818 Great Oxenden seem to have removed a pauper without consulting their solicitor because his

54 D7831.
55 D7842.
56 D9567.
account shows him explaining the legal evidence against them and also telling them that there was 'little probability of supporting the order of Removal'. As the barrister had already been retained and the appeal entered at the last sessions, this was probably an expensive mistake.\(^5\)\(^7\)

Although numerous similar entries have been found, it is probable that in most cases legal advice was only sought when the parish were doubtful about the advisability of asking the magistrates to remove a pauper. However judging by the details found in the day-books, it was normal for the officers to call for legal help as soon as a pauper was sent to them from another parish.

**The pauper removed to your parish**

An entry in a day book dated 14th April 1810 is headed Parish of Dunchurch. 'Journey to Dunchurch to examine a Pauper which was removed to your parish to see whether you ought to appeal or not. Horsehire £1-1-0.' The use of the word 'which' in this entry may be attributed to carelessness on the part of the writer, but one regularly gets the impression that the attorneys regarded the pauper as no more than a parcel - albeit an annoying one - to be transported from one place to another.\(^5\)\(^8\)

Also in 1810 we have an account for a settlement appeal sent by Edmund Burton to the parish officers of Ashby St Ledgers: the first entry reads 'Attending you and advising respecting the Order of Removal from Floore and taking your instructions to enter Appeal, 6/8.' At no point in the account is there any mention of the name of

\(^{57}\) 251p/97/3.

\(^{58}\) D5784.
the pauper and it was only through checking in the Quarter Sessions records that it appeared that it was the removal of a woman. These nameless entries are extremely common in all the day books and diaries found.

However an account sent in 1827 to the parish officers of Hillmorton in Warwickshire reads 'Attending you and also Mrs Waring a pauper in your Parish'. It is most unusual to find a pauper addressed in this manner. However the account goes on to mention 'making a copy of the Will'. It then lists 'Drawing out Statement of circumstances for the opinion of Mr Nolan'. A number of quotations from Mr Nolan's handbook for Justices have been used in this thesis, but few references have been found to him in his professional occupation as a barrister. As ever it is sad that no other information can be found about Mrs Waring and as to why she figures as a pauper. The mention of a will seems to suggest that she was perhaps the widow or daughter of a man of some substance.

An account book of a Leicestershire firm dated 1827 shows how a solicitor involved in the early stages of a case could be misled by incorrect evidence. The Ullersthorp officer asked him to examine a pauper named Job Wigley 'previous to his being examined before the Magistrates'. He was judged to belong to Kibworth Harcourt as a result of a year's service there. After the removal order was signed by the magistrates and an appeal threatened by Kibworth Harcourt, the solicitor visited the pauper's previous master. Here he discovered that the man had served less than a full year 'which he omitted to state in his first examination by me and the Magistrates'. Subsequently the removal order was quashed and Ullesthorpe were faced with a bill from their solicitor

59 Warwickshire Record Office, DR 367/42/4.
A similar case is found in 1814 when the solicitors, R. Abbey & Son, advised Northampton All Saints to remove a pauper to Kingsthorpe. After their solicitor had re-examined the pauper, All Saints agreed not to defend the appeal at the Quarter Sessions. 

These instances of paupers giving incorrect evidence when examined may have been due to genuine mistakes, as when in Chapter 3 of this thesis we have Thomason who gave the defence solicitor incorrect information because 'Mr Howe came upon him unawares' and he could not remember. They may equally well have been deliberate falsehoods meant to secure a settlement in the parish they preferred.

Two settlement examinations have survived for William Crofts, a labourer living in Long Buckby. In the first dated 27th March 1822 he stated that twenty years earlier he was hired for a year by Richard Dodds of Braunston, miller and baker, at the wages of £14 per year 'which time he duly served and received his Wages for accordingly'. Just two months later he was again examined but this time stated that twenty-two years earlier he had been hired by George Barrs of Little Burton Mill, Warwickshire, at the wages of £10 per year 'which whole year he served and received his Wages for accordingly'

---

60 Leicestershire Record Office. DE 783/54.

61 Northampton All Saints, Overseers disbursements, 1814-1815. NPL, uncatalogued.

62 D883.

63 J.S. Taylor suggests that paupers tried to manipulate their settlement so that they could end their days in a chosen parish. J.S. Taylor, Poverty, Migration, and Settlement in the Industrial Revolution: Sojourners' Narratives (1989), pp.53-54.
and that 'he hath not since done any Act whereby to gain a Settlement elsewhere'. In both cases he signed the examination. We have no means of knowing whether this was Croft trying to establish himself in Braunston or whether he did not appreciate that his service in Braunston had not gained him a settlement there. What is clear however is that the two magistrates who signed the first examination must have presumed that he was telling them the truth.64

Dealings with the Parish Officers

Occasionally the wording of an account gives an indication of the amount of time spent by a solicitor on a case, as well as an insight into the attitudes of solicitors and parish officers. As an example, the first entry in an account sent by the firm of Harrison and Burton to the Parish Officers of Daventry in 1787 reads 'Several attendances upon the Officers, and advising respecting the best means of getting rid of Pauper who had been bound Apprentice to Matthew Hyde'.65 This document also confirms that the parish was consulting the solicitor before obtaining a removal order.

A Day Book entry for 31st March 1777 reads 'My Clerk attended the greatest part of this day (by the desire of the Officers) at the Vestry to know their determination with respect to the tryal of this Appeal, but there being so few people there, it was put off'.66 Under the heading Daventry & Staverton, we have on 14th January 1788 'Attending Mr Malpas & Pauper till 12 o'clock at

---

64 D1887; D1888.
65 96p/337/2.
66 D4059.
night upon this business.'  

In 1788 we find solicitor Harrison attending the Quarter Session on behalf of the parish of West Haddon. It seems that a pauper named Abraham Powell, with his wife and two children, was removed from Dodford to Thorpe but the removal order was quashed at the sessions. Solicitor Harrison's account book shows that West Haddon officers, 'being apprehensive of a removal to your parish', instructed him to examine the pauper. While the Powell family were again the subject of a removal order it was not to West Haddon but to Whilton. This second appeal was also quashed but there is no record of a further removal.

Sometimes the solicitors must have felt exasperated by the parish officers. Ravensthorpe had apparently received a pauper with a removal order. After three meetings with the officers, Harrison was still uncertain whether they meant to try the appeal or not, and so sent Mr Lamb, who was probably one of his articled clerks, to visit the parish and 'to enquire whether the Officers meant to proceed in the Appeal and take Examination of Pauper'. It seems that they had decided against the appeal because two days later we read 'Drawing two fair copies of Countermand of notice of Appeal'; however when a clerk journeyed to Ravensthorpe, the officers 'refused to sign them or have them delivered meaning to try it'.

An account dated 1820 and sent by their solicitor to the parish of East Haddon, show that he advised the parish not to appeal against an order removing a pauper to their parish. After several meetings, and despite his advice against it, they insisted that he should enter an appeal.

---

67 D8781.
68 D8781.
69 D9567.
at the next sessions. However the account shows that 'at length it was determined to abandon the Appeal'. The bill for this amounted to £4-0-6. The next year East Haddon again received a pauper with a removal order, this time from Lutterworth in Leicestershire. On this occasion the parish knew they were on safer ground because they themselves had actually apprenticed the man to his uncle at Lutterworth. But they again had the expense of entering an appeal before the other parish agreed to the removal order being quashed. This time the costs for East Haddon amounted to £17.7 0.

In 1774 the parish officers of Kislingbury received a notice of appeal against the removal of a pauper from their parish. On the reverse side of a copy of the removal order, two of the parish officers have signed a note authorising solicitor Harrison to defend the order at the Quarter Sessions. This is the only instance found of a signed notice of this type. It is also one of the earliest documents found connected with this attorney, and one wonders whether he was comparatively newly qualified and so was being extra cautious.

In 1798 several entries for different parishes show the solicitor consulting with the overseers of the poor and advising them how to act in a case of bastardy. The same document shows the parish officers of Lavenham being advised about accepting security for the maintenance of a bastard child.

There is an interesting entry in the same day book which reads 'Advising with Mr Bittan as to a Person lawfully gained a Settlement in their Parish who had served office.
of the Tything man'. Despite the very extensive collection of documents studied for this thesis, this is the only mention of a man gaining a settlement by serving as a parish officer.\(^7\) The various handbooks for magistrates mention this as a means of gaining a settlement, but it appears to have been a very rare occurrence. No doubt a parish would not appoint a man to an office unless they felt that he was unlikely ever to be a charge on the poor rate. Burn wrote that 'if any person who shall come to inhabit in any town or parish, shall for himself, and on his own account, execute any publick and annual office or charge in the said town or parish, during one whole year, he shall be adjudged to have a legal settlement in the same'.\(^7\)

Another slightly more common means of gaining a settlement is that of paying the Poor Rate. In Chapter 3 we have already seen the letter in which the writer states that after living forty days in Newport he paid Poor Rate and Church Rate.\(^7\) Another example in a day-book dated 23rd September 1808 shows a clerk's journey to 'subpoena Mr Nathaniel Sutton to prove payment of poor rate', this time by the pauper himself.\(^7\) This means of gaining a settlement was effectively abolished by 35 Geo. III, c.101 which ruled that the rate had to be levied on a property of a yearly value of £10, paying rent on which would in itself give a good settlement.\(^7\)

\(^7\) Tate gives two instances where collections of papers were searched but no case was found of an outsider gaining a settlement through serving as a parish officer. W.E. Tate, *The Parish Chest* (1946), p.32.

\(^7\) Burn, *Justice*, (14th edn, 1780), 3, p.450.

\(^7\) D9822.

\(^7\) D5784.

\(^7\) Burn, *Justice*, (23rd edn, 1820), 4, p.559.
Very occasionally one finds a triumphant statement of success, as in a Day Book for 27th November 1807. 'Clerks Journey to Everdon to inform the Parishioners they had succeeded in this appeal'. In a draft of an account to be sent to Charwelton by Edmund Burton in 1816 he stated 'Letter to you to inform you that I had succeeded in the appeal'. Despite this personal rejoicing, Burton did not fail to charge the parishioners 3/6 for the letter.

Another solicitor perhaps expressed the feeling of his clients when he wrote to the parish officers saying 'Order confirmed and you got rid of pauper'.

Finding the evidence

Earlier in this thesis we have seen that a parish receiving a pauper with a removal order might well never have heard of him or his family. When one considers the long time-span covered by some settlement claims, such as that of Cooper, whose case took into account his grandfather's settlement, it is hardly surprising that officers might well deny all knowledge of the man removed to their parish. His stay in the parish was perhaps merely one full year as a servant at an outlying farm when he was not much more than a boy. This may well have been the case when, in 1841, the overseer of the Somerset parish of Chewton Mendip, wrote to his opposite number in Daventry that 'Having examined some of the oldest and most intelligent inhabitants, they have never heard the name here, and having likewise referred to the Parish

---

78 D5784.
79 D4562.
80 103p/203.
81 See the case of Joseph Sherriff, p.57.
Registers, I find there never was any entry of the surname Eales'.

An account dated 1822 seems to be from an agent in Buckinghamshire in reply to a letter requesting a 'search for indenture of Apprentice Harrison to Goosey'. The remainder of the entry gives us a cameo of life before the majority of our church and parish records were stored in county record offices.

Journey to Cosgrove to procure from the Rev. H.L. Mansel his key to Church Chest. Attending Mr Oliver for his key & afterwards attendance at Church and searching the Chest. £1-1-0.

In all probability the agents used in this type of enquiry would be another firm of solicitors. A number of documents have been found showing that this was a common occurrence. One interesting letter is from a firm of solicitors at Doctor's Commons, London, asking Mr Burton to make enquiries about a boy apprenticed twenty years earlier 'by either Daventry or Hellidon', to a shoemaker in London. Questions such as whether the indentures were or were not approved by two Justices suggests that this was in connection with a settlement case. It seems that despite journeying to Hellidon and interviewing the various parish officers, nothing was found, but Mr Burton ran up a bill of well over £5.

It is obviously impossible to cite all the work done by

---

82 D7997.
83 D7536.
84 Henry Longueville Mansel was a magistrate. Only a handful of entries for him appear in the county Poor Law Index, two of which are for attendance at the sessions.
85 D7539.
solicitors, but surviving accounts for the firm of R. Abbey and Son of Northampton show that they were undertaking many different tasks for the parish officers of All Saints parish, including trying to obtain money due for the support of bastard children from reluctant fathers. In a case in 1815, the husband of a pauper removed by All Saints is shown as being in the army. Arrangements were made for him to be sent to Northampton to be examined by the two solicitors for the opposing parishes before being re-examined under oath before the Justices of the Peace.86

A typical day-book entry is one for 4th January 1810.

Clerks journey to Warwick to search the Registers of St Mary's for Reader's baptism but could not find it. £1-1-0. Paid for search 2/6. Horsehire 6/6 Expenses 7/6.

On 9th January we have an entry for the clerk's second journey to Warwick 'to try to get some further Evidence respecting the Place of baptism of John Reader, the Pauper's Husband' but again without success.87

There is also evidence from the Day Books, that the solicitors were consulted about many cases that never came to Quarter Sessions.

The making of an archive

For future historians the fact that the firm of Harrison and Burton never threw away even quite insignificant

86 Northampton All Saints, Overseers disbursements, 1814-1815. NPL, uncatalogued.

87 D5784.
papers, has resulted in an invaluable collection of documents, yet one is led to question why they had this policy. A short account from an unnamed firm of solicitors found in the parish collection of Stanwick gives us a probable insight into why so much was preserved. Dated 1830, it shows the solicitor

Attending Mr Geo. Gascoyen on his requesting us to Search for Brief & Papers in the Appeal between your parish and Marston Trussell in 1806 respecting a Family of the name of Poole, the latter Parish having threatened to remove some parts of the Family unless the certificate was produced'.

The account goes on to charge for a 'long search' followed by study of the brief and a number of letter and interviews before the problem was solved. From the wording of these entries it seems that the parish officers assumed that their solicitor would have retained the relevant twenty-four year old papers.

It seems probable that the solicitor involved in this search was James Murphy as another account sent by him to Stanwick has been found. Fortunately Murphy put far more detail into his accounts than we find in those of the Daventry solicitors. He shows that on Dec 2nd 1829 he spent two hours examining a pauper who had been removed from Hampshire to Stanwick. Again on December 6th he re-examined the pauper for two hours 'getting much more particular evidence'. He does not mention the length of the third interview but states that he 'found out other

---

88 299p/87/2.

89 The present situation is that the Law Society advises solicitors to keep all documents for not less than six years.
important facts which he had not mentioned before'.

Murphy also wrote to the Clerk of the Court for Hampshire asking him for information about the Sessions there, including the names of the Counsel who attended. After all this trouble the parish officers of Stanwick began to have doubts about the appeal, asking Murphy if he could guarantee that the case would cost no more than £50, only to be informed that he certainly would not do so.

Despite this the officers apparently decided to try the appeal because the account includes expenses at Winchester. These included nine days at £2-2-0 per day, together with the hire of horse and chaise (which he points out was cheaper than the fare would have been on the public coach). The final cost of the appeal amounted to £78-12-9, but Murphy was able to say at the end of the hearing that he had told the pauper that 'I had nothing further to do with him but that he must now be maintained by the parish of High Clere'.

As the pauper's family were still in Stanwick, High Clere had to send to Northamptonshire to collect them. This makes it clear that, while their costs may not have been as high as those of solicitor Murphy, they would have had a substantial bill, making it probable that the final cost of this one failed removal was well over £100.

The problem of communication

Conditioned as we are to the use of the telephone, the fax and the internet, it is difficult for us to

---

90 299p/87/1.

91 In 1820 Edmund Burton received a letter from another solicitor, giving him details of the running of the Sessions at Aylesbury and inviting Burton to an early lunch at Stony Stratford before setting out to Aylesbury. D6529.
appreciate the difficulties under which the solicitors of the past had to work. In the cases of bigamy discussed in Chapter 4, there were several instances of wives being uncertain as to whether their husbands were alive or dead. In the case of John Malin in 1813 it was found that the woman's husband had been alive and in Trickinopely two years before. These are problems which might occur even now, but in the day books and account of our solicitors we see the little inconveniences which we would rarely suffer today.

A typical entry dated September 1808 reads

Drawing notice of Appeal. Clerks Journey to Rugby to serve notice of Appeal & then to Hellidon to Subpoena Mr Nathaniel Sutton to prove payment of poor rates by the pauper he being from home obliged him to stay all night. Horsehire and expense.

Quite apart from the time taken over all these journeys, we have to take into account the expenses of hiring a horse and of feeding and housing both horse and man. It seems that in 1828 the solicitor for Nether Heyford was equally unfortunate as 'The only witness who was able to prove the settlement of the pauper's father was from home when I reached Foleshill and did not return until the next day'. This journey lasted for three days and the horsehire cost the parish £1-8-0. No doubt his charge of £4-4-0 for his own time compensated the solicitor

---

92 D9759.

93 D5784.

94 Road conditions also have to be considered. C.B. Herrup describes the difficulties facing travellers in eighteenth-century Sussex when certain roads became impassable in bad weather. Herrup, Common Peace, pp.17-19.
In 1777 there was an appeal against an order whereby Martha Wright was removed from Newnham to Staverton, a distance of about three miles. Despite this the enquiries about the background to the case caused Mr Lamb to have to visit Wiltshire to search for the birth and marriage of the woman. The note about this case in the day book shows that Mr Lamb was 'out 6 days', having made the journey on a hired horse.\textsuperscript{96}

In 1832, Robert Hewitt, solicitor for Duston found that a pauper named Jolly had worked for the late Colonel Samwell.

Understanding that the late Col. Samwell the paupers Master always entered the particulars of his hirings in a book, and considered such entries might be of service to our case, Journey to Duston to Mrs Samwell the Widow of the late Col: to examine such Book and taking long extract therefrom and collecting other evidence.\textsuperscript{97}

It appears that the Colonel died during the pauper's service as we read that the Colonel's agent in London had evidence of when the pauper was paid-off. A London firm of solicitors visited the agent several times on March 29th and 30th before being able to serve a subpoena on him at a cost to the parish officers of £1. On the 31st of March the solicitor was informed that the pauper was dangerously ill, so it was arranged with the appellant's solicitor that the case should be respited to the next sessions. A message was sent to London but by the time it

\textsuperscript{95} 165p/44. 
\textsuperscript{96} D4059. 
\textsuperscript{97} 109p/186.
reached the Colonel's agent, he had already left for Northampton. Solicitor Hewitt 'attended him at Northampton' and after 'requesting him to attend at the next Sessions paid him £5, 'his charges down and back'.

In an 1807 day book an entry for the 14th of July tells us that a clerk went to Warwick to enter an appeal at the sessions only to find that they had been 'adjourned til Wednesday the 29th day of July', for which date an entry shows the clerk's second journey to Warwick. Each entry of course includes the inevitable 'Horsehire and expense'.

In 1816, the parish of Weedon Beck having decided to ask for a barrister's Opinion on a case, one of the clerks went to Whittlebury, a small place in the south of the county to deliver the case summary to Mr Beauclerk. On his arrival there he found that the barrister had that morning departed to London. The parish had to pay £1-1-0 for the abortive journey, plus a London agent's charge of 10/8 for attending the barrister in town. There would of course also have been one or two days delay in the papers reaching the barrister.

Two other interesting communication problems have been found. The first is a letter from the Clerk of the Peace for Gainsborough. In his letter addressed to the Clerk of the Peace for Northamptonshire, he wrote 'be pleased to direct to me at Gainsborough in Lincolnshire by way of London and it will come in due course. For want of this direction your letter has been traveling the Country and at last came from London, or in all probability I should never have received it for all the Bye Posts are

---

98 D5784.

99 D4560.
extremely careless of letters'.

The second document is also a letter. It seems that in 1819 the parish of Ormskirk had to pay Daventry £11-9-6 due to them for maintenance of a pauper. The letter is from a solicitor who had received the money from the overseer, but before forwarding it to Edmund Burton, had to subtract from it £1-18-4 for his own expenses in collection the money.

I enclose you two halves of £5 notes which when you receive the second halves will make a Balance in my favour, but on account of the Difficulty at this Distance in making payments of small sums, I shall consider the account settled.

He added a request that Burton will 'acknowledge the Receipt of the half Notes'.

A different solution to this problem is shown in a letter found in the parish collection for Peterborough. The writer explains that money had not been sent because of 'the Difficulty of obtaining a proper chanell to remit it. A Friend of mine in Town wrote me to say that after much search he had obtained an order of Credit on the Peterborough Bank'.

---

100 D5443.

101 D6162.

102 In 1811, Parson Holland's wife had travelled to Bristol to consult a well-known surgeon and medical author. On June 26th 1811 he writes "I have been busy in writing letters and inclosing halves of notes for Mr Baynton for the cure of my wife's leg". W. Holland, Paupers and Pig Killers (1984), p.227.

103 261p/242/46.
The wealthy solicitors

The Webbs wrote that the 1662 Settlement Act 'must have cost the public, in the course of the next two hundred years, literally millions of pounds'. As early as 1775 the report of the Select Committee to Consider the Laws of Poor Relief and Settlement suggested that great expense could be saved if disputes between parishes in the same county could be stopped.

There can certainly be no doubt that vast amounts of money was spent on settlement cases. The list of accounts for separate appeal cases in Appendix No.3. gives evidence of the costs for one parish. However, when we study the details of the work undertaken by solicitors we cannot doubt that, while they obviously must have grown rich, they certainly earned their fees.

Many of the items mentioned in the accounts are comparatively trivial, though of course essential to the smooth running of a settlement appeal; but because of the time and distances involved, large bills were inevitable. In a Day Book of 1806 the entry for a case reads 'Clerks journey to Ecton to examine Sarah Malmsbury as to her Brother John Malmsbury's settlement. Out one day. Horsehire and expenses'. '4th April Clerks journey to Everdon to get notice of Appeal signed between them and Buckingham'. 'April 5th Clerks journey to Buckingham to serve same. Out one day. Horsehire and expenses'.

In some cases, as for example the appeal heard at

---


105 The Report of the Select Committee to Consider The Laws of Poor Relief and Settlement (1775).

106 D5784.
Winchester, heavy expenses were caused by the distances travelled, but even within the county large expenses were run up, not through the greed of the solicitors, but through the search for evidence. Many of the accounts studied are lists of large numbers of small journeys.

Verdicts and costs at the Quarter Sessions

In 1816 the parish of Charwelton had to defend an order removing a pauper from their parish. There was obviously some real doubt about the validity of the order as the rough copy of the solicitor's account reads 'Journey to Northampton to attend the Tryal of the Appeal ... Letter to you to inform you that the Court were equally divided'. However after the next sessions he was able to inform them that the order had been confirmed.\(^{107}\)

Similarly in 1808 the parish of Bugbrooke defended an order removing John Millar from their parish when again we read that the court was equally divided, and the case had to be re-heard at the next sessions. The solicitor's final bill amounted to £64-13-4. Despite the high total, only two amounts on the bill exceeded £3, these being the fee of £3-5-6 paid to the senior barrister, and £7-2-0 paid in court fees for four separate appearances at the sessions. It was 65 smaller items that caused the large total.\(^{108}\)

In 1811 an appeal was entered at the Sessions against the removal of Henry Webb, aged seven and Elizabeth Webb aged 4. They are described as the children of William and Ann Webb but no explanation is given for their removals. The case was respited three times. At the fourth hearing, the removal order was confirmed as to the boy Henry but quashed as to the girl Elizabeth. Because the parish of

\(^{107}\) D4562.

\(^{108}\) D4896.
Flore had incorrectly removed the girl to Staverton, the court ordered that Flore should pay the other parish £4-6-0 'which appears to this Court to have been reasonably paid by the said Churchwardens and Overseers of the Poor of Staverton towards the maintenance of the said Elizabeth Webb between the time of such Removal and the determination of the said Appeal'.

A document sent by the Sessions to Sudborough in 1826 states that an order removing Edward Roe and his wife from their parish to the parish of Haddon in Huntingdonshire had been quashed by the court. It also states that the parish officers of Sudborough were to pay to Haddon the sum of five Shillings and six pence which appears to this Court to have been reasonably paid by the Churchwardens and Overseers of the Poor of the said Parish of Haddon for or towards the Relief of the said Edward Roe and Anne his wife between the time of such undue removal and the determination of the said Appeal.

It seems that in an earlier appeal Everdon had themselves been awarded costs by the court. On December 4th 1806 an entry in a Day Book reads 'Clerks's Journey to Wappenham with the parish Officers of Everdon to demand £20-8-6 due upon an Order of removal suspended but they would not pay it'. Almost a year later on December 1st, 1807 we read 'Making Copy of the Order of Court requiring the Parish of Wappenham to pay to the parish of Everden the sum - expenses on the suspension of the Orders of removal'. Apparently this was paid on this second visit as the

---

109 Quarter Sessions Record Book, 1811, pp.282-283.
110 308p/54.
111 D5784.
clerk 'witnessed receipt of money and paid for Stamp 8d'.

One expense that appears frequently in the accounts is the cost of subpoenas. Whether this implies some reluctance on the part of witnesses, or was perhaps merely the natural caution of a solicitor ensuring that all the witnesses appeared, is impossible to decide. There are numerous entries for journeys to the Clerk of the Peace to obtain the subpoena but in a Day Book of 1788 we find a charge of 3d 'paid for Postage of the Subpoenas from the Clerk of the Peace'. The charge for serving each subpoena was 5/- and each recipient was also given a shilling - presumably the equivalent of our modern 'conduct money' to pay for his expenses in travelling to the court.\(^{112}\)

One interesting 1808 entry actually lists the mileage ridden by clerks while serving two subpoenas.

Service on Mr Phipps at Hinkley, 14 miles.
Service on Mr Hodges, Bugbrooke, 8 miles.\(^{113}\)

The delivery of subpoenas was obviously important, as was the delivery of notices of appeal. In most of the accounts one of the items shows that a solicitor had to appear at the sessions to prove the delivery of the notice of appeal. On one surviving notice of appeal there is a note dated 7th April 1781 'Delivered a true Copy of the within notice to Charity Miller at the house of Jas Meykin, Parish Officer of Bowbrickhill, the said Jas Meykin being then from home'. Signed Edmund Burton. This is presumably a copy of the notice he delivered.\(^{114}\)

---

\(^{112}\) D8781.

\(^{113}\) D5784.

\(^{114}\) D9822.
Clerk to the Justices

In the Daventry Collection there are a few letters addressed to H.B. Harrison or E.S. Burton as Clerk to the Justices, an example being the letter already quoted in this chapter, about the purchase of a copy of Burn's Justice of the Peace. Various papers show that the Justices Meeting was always held on a Thursday at the Wheat Sheaf Inn, Daventry. An example is a letter from Mr Burton's office dated 17th December 1834 which states that 'the next Meeting will be on Friday the 26th as Christmas day happens on the Thursday'.\footnote{D6262.} In two Day Books for the firm of Harrison and Burton, there are numerous entries reading 'Attended Justice Meeting'. Against these entries various sum of money are given, such as the entry for 10th May 1809 which reads 'Attended Justice Meeting, rec'd £2-10-6'.\footnote{D5784; D7831.} Many entries show smaller amounts such as 5/-.

When one considers the fact that many sets of documents were signed on the same day by the same Justices and are all written by the same hand, one is surely justified in suggesting that Mr Harrison, and later Mr Burton, were present at what should perhaps be called Petty Sessions, and that it was the solicitor, not the Justices, who wrote out the various orders for the Justices to sign. This supports the comment by J.S. Watson that 'for legal guidance the Justices had their clerk of the peace - or rather his deputy, for he usually left the work to be done by the leading firm of local solicitors'.\footnote{J.S. Watson, The Reign of George III 1760-1815 (1960), p.46.}

In Chapter 6 we have already seen the letter written by

\footnote{D6262.}
\footnote{D5784; D7831.}
\footnote{J.S. Watson, The Reign of George III 1760-1815 (1960), p.46.}
an Oxfordshire solicitor about a removal order, in which he stated that 'As Magistrates Clerk I made out the order myself'.\cite{D4505} In view of the fact that few of the magistrates were legally qualified it seems likely that they welcomed the presence of an attorney at meetings. This of course is still true today when the Magistrates' Clerk is in court to advise the Justices on points of law. This is stressed as so many of the books on the Poor Law suggest that the magistrates acted alone and had little knowledge of the law.

K.D.M. Snell writes of the fees charged by the Parish Clerk for an examination. In a footnote he says that these might be between 3/- and 7/- for the examination in the late 18th century - with extra charges for copies.\cite{K.D.M. Snell, Annals of the Labouring Poor, Social Change and Agrarian England 1660-1900 (1985), p.18} The evidence found in the solicitor's papers in the Daventry Collection seems to suggest that this work was undertaken not by the parish clerk but by the Magistrates' Clerk. Tate writing about the work of the Parish Clerk, mentions fees payable for the reading of banns, for weddings and funerals; for looking after the church clock, singing the lines of the hymn, and looking after the church itself on a day to day basis. He makes no mention of the clerk's involvement with the poor law.\cite{Tate, Parish Chest, pp.131-134} This seems to be borne out by William Holland who employed his clerks for much of the time as gardeners, each one in succession being known as Mr Amen.\cite{Jack Ayres, (ed.) Holland, Paupers and Pig Killers, notes on 1799, p.306.}

\begin{thebibliography}{9}
\bibitem{D4505} D4505.
\bibitem{Tate, Parish Chest, pp.131-134.}
\bibitem{Jack Ayres, (ed.) Holland, Paupers and Pig Killers, notes on 1799, p.306.}
\end{thebibliography}
Working with barristers and other solicitors

Not all letters received by solicitor Burton were conciliatory or friendly. In 1817 it seems that he had been somewhat dilatory, as the solicitor for Cathorpe wrote:

This is the 3rd Letter I have written to you for Copy of Wright the Pauper’s Examination which you have not Noticed in any way You cannot now blame me for saying that unless I receive it in a week I shall apply to the Magistrates for it.122

In 1807 the Clerk to the Magistrates for the Peterborough area appears to have been definitely obstructive. In answer to a letter from a Lincolnshire solicitor requesting a copy of the examination of a pauper he wrote:

I beg to acquaint you, that as it is not usual in our part of the Country, to furnish our Opponents with the Merits or Demerits of our case, I must decline sending you the Copy of such Examination. Upon an Appeal at the next Sessions you will there have an Opportunity of seeing the Original.

Despite this disobliging beginning, he then hopes that the recipient ‘will oblige me by making my Respects to my old School Fellow John Bourne’.123 Not all correspondence between solicitors was of this type. The Northampton solicitor Richard Howes’ 1824 letter to Edmund Burton was in a more light-hearted vein.

Be so good to send me Copy of the Examination of the Pauper ... I will pay you at the Sessions either

122 D8410.
before or after you have been beaten.\textsuperscript{124}

Another somewhat amusing letter from a solicitor in Leicester to the Rev. John Miller, of Benefield near Oundle, also raises interesting moral questions.

Mr Shapless is sharp enough in sending off Paupers - and not very particular in his enquiries as to any Settlement they may have gained in his own parish - the Clerk to the removing Magistrates is Solicitor for that Parish.\textsuperscript{125}

One can only hope that the various clerks to the Justices were careful to be as impartial as possible in the advice they proffered at Justices meetings.

There is a great deal of evidence that the solicitors had to pay a retainer to their chosen barrister. If they failed to do this they might well find that he had already been retained for the opposing parish. This is shown by a letter of 1826 from barrister Holbech stating that 'I am already retained in this appeal for the Respondent Parish'.\textsuperscript{126} A year later, in a letter headed Cold Higham & Stowe, Holbech wrote

\begin{quote}
I have entered a retainer for Stowe at next Quarter Sessions in Northampton. I take this opportunity of mentioning that I have a Retainer for Boscutt against your parish of Badby at the Next Quarter Sessions'.\textsuperscript{127}
\end{quote}

\textsuperscript{124} D883(7).
\textsuperscript{125} 30p/37.
\textsuperscript{126} D7484/4.
\textsuperscript{127} D7593/8.
Apart from their role in representing a parish at the Sessions, barristers were regularly being requested for Opinions during the early stages of a case. In Chapter 1 of this thesis we saw that a Barrister's Opinion was asked for in the case of Richard Warner. Many documents and solicitors' Day Books show that this was a common occurrence. In the Devon Record Office at Exeter, a large collection of Opinions, seven of which were for settlement cases, show that the situation in that county mirrors that found in Northamptonshire.

In 1826 a barrister named William Burton, who appears to have been the brother of the Daventry solicitor, wrote a letter to say that he had won his case. It seems that Mr Dwarris, the opposing barrister, was not aware of a similar case which Burton quoted as a precedent.

Your opponent Mr Weston travelled up from Northampton to witness his own extreme discomfiture, for the court confirmed the order. I never saw a face so disappointed in my life, & my only fear is that he will never give Dwarris another brief.

The Webbs wrote of 'counsel with perverted ingenuity spending at least half the time of the Court splitting hairs as to pauper settlements', while J.R. Poynter has written that the poor law can be described as 'a multitude of practices within (or sometimes without) the framework of a complicated aggregation of law'. He also described the settlement laws as a 'perpetual war of

---

128 See Appendix No.2.
129 Devon Record Office (Exeter) 74B/B 192.
130 D9136.
parish against parish which the Law of Settlement had long created as a sort of national sport'. It certainly seems to have consisted of a battle of intellects fought out between opposing barristers, lawyers and parish officers. But for the poor, it must have contained little of sport, though it seems certain that many of the people caught up in the machinations of the law, pitted their brains against the various officials who had power to order their lives.

While it is impossible to stress too strongly the complexities of the settlement laws, we should perhaps remember that it was for this ingenuity and hair-splitting that the barristers were paid. We must also remember that a writer at the time said that the law of settlement 'has occasioned more doubts and difficulties in Westminster Hall, and has (perhaps) been more profitable to the profession of the Law than any other point in English jurisprudence'.

Solicitors' Records

J.S. Taylor has written that 'The Law was not simple, and generations of lawyers derived income from litigious parish officers, intent on saving their parish from as many paupers as possible'. The day books and account books show that the income of the firm of Harrison and Burton was not merely derived from settlement cases. It is clear that they did a great deal of legal work for the local landed gentry. It is certainly not true of them

---


that their main business was settlement appeals as is sometimes suggested about other solicitors. Also apart from their own working documents, evidence of the bundles of charters, indentures, wills etc found in the Daventry Collection are ample proof of the wide scope of their practice.\footnote{Robson lists a wide range of work undertaken by a Sheffield attorney in the eighteenth century. This seems to have been mainly for tradesmen, and though mentioning court rolls and rentals, makes no mention of the aristocracy as is the case with Harrison and Burton. Robson, Attorneys, p.68.}

Study of the work of solicitors is not easy. Although many record offices have deposits made by firms, on examination many of these consist mainly of bundles of deeds, or papers connected with wealthy, often titled, families. The Lancashire Record Office, in answer to an enquiry for solicitors' working papers, wrote that, while they had various collections from legal firms, 'few contain the practice's own administrative records'. This yet again helps to show the importance of the Daventry Collection.

**Who were the Overseers of the Poor?**

Richard Burn, writing about overseers of the poor, explained that 'anciently the maintenance of the poor was chiefly an ecclesiastical concern' and that 'a fourth part of the tithes in every parish was set apart for that purpose'.\footnote{Burn, Justice, (14th edn, 1780), 3, p.311.} It seems that this money was to be in the control of the minister, assisted by the churchwardens. Burn also explained that the tithes were later appropriated by the monasteries who at the same time accepted their duty to help the poor. It was not until 14 Eliz. c.5 that the appointment of specific Overseers of
the Poor was called for by Act of Parliament, but because of this historical connection, it seems that churchwardens were also considered by the statutes to be overseers of the poor. Difficulties arose particularly in the northern counties because of the extremely large areas covered by some ecclesiastical parishes. M. Blaug writes that parishes varied in area from 'thirty acres to thirty square miles, in population from a few dozen to tens of thousands'. Examples of this are the Cheshire parish of Prestbury which in 1831 had 47,257 inhabitants in 33 townships or chapelries covering an area of 62,740 acres, and the Lancashire parish of Whalley which had a population of 97,785 including the borough of Clitheroe and 46 chapelries and townships, in an area of 108,140 acres.

As the inhabitants of these and similar large parishes 'could not nor cannot reap the benefit of the act of the 43 Eliz.' it was enacted that the poor could be maintained by the village or township in which he or she actually lived. No new name was found for the officers in charge of poor relief nor for the townships. Each area was still designated a parish, and churchwardens and overseers of the poor were appointed by the magistrates.

---


139 'If a Vill in a Parish have particular Officers, it is sufficient: And they shall be considered as distinct Parishes in Respect of their Poor'. J. Burrow, A Series of the Decisions of the Court of King's Bench upon Settlement-Cases, one volume version, (1768 - 1777), p.20.
Even in counties where the ecclesiastical parish was quite small, there was still a need for some civil parishes. In Northamptonshire, a number of such places existed in the period under discussion in this thesis. In the Government returns of 1818 it states that there were 310 parishes in Northamptonshire together with 24 tythlings or hamlets. There was often confusion if an order was made out to a Ecclesiastical parish when in fact the poor law authority was vested in a township within that parish. Even in some towns it was found necessary to divide the ecclesiastical parish because of the size of the population. This was true of Brackley which had only one parish church, St Peter's. Study of poor law documents shows that there was also a civil parish known as St James, Brackley.

In the parish collection of Brackley there are exactly one hundred settlement certificates of which thirty eight were sent from St Peter's to St James' or vice versa. Of the forty-four removal orders in the same collection only thirteen were from one part of the town to the other.

In the Report of the Select Committee on The Poor Laws of 1817, a witness spoke of the parishes of Gravesend and Milton in Kent. He reported that they were one town divided only by the main street, with 'a perpetual interchange', and that there had been 'much litigation between the two parishes about settlement'.

Many larger parishes appointed additional Overseers, the law allowing the appointment of two, three or four excluding the Churchwardens. Occasionally one finds a small township where only one churchwarden and one overseer was appointed. In court cases the legality of a document was sometimes called into question because it

\[140\] Report of the Select Committee on The Poor Laws, (1817), pp.129-130.
lacked the normal number of signatures of parish officers, but as the churchwarden was also by law an overseer of the poor, this was considered legal if it was the normal practice of that parish.\footnote{In a case before the King’s Bench in 1818 a barrister suggested that an apprentice’s indenture was not legal as it was only signed by one Churchwarden and one Overseer of the Poor. Evidence was given that for the last forty years there had never been more than one man appointed to each office in the parish in question. Burn, Justice, (23rd edn, 1820), 1, pp.112-113.}

Dorothy Marshall has written that 'the law had directed that the Overseers of the Poor were to be chosen from among the substantial householders, but in practice gentlemen and persons of substance preferred to pay a fine rather than undertake so troublesome a task'.\footnote{Marshall, \textit{English Poor in the Eighteenth Century}, p.10.} She also suggests that to appoint as overseer a man unwilling to serve but who would pay a fine, was a good way of raising money for poor relief.\footnote{Marshall, \textit{English Poor in the Eighteenth Century}, pp.185-186.}

From David Eastwood we learn that in some places magistrates would not allow the appointment of innkeepers or shopkeepers to the position of overseer of the poor, believing that 'there was a fundamental conflict of interest between their profits as retailers and their control over public relief to would-be consumers'.\footnote{D. Eastwood, \textit{Governing Rural England} (1994), p.40.} David Davies wrote that the overseers in rural areas were mainly farmers and tradesmen, who 'having business enough of their own to mind, will not bestow the necessary time and attention on the affairs of the poor and of their
In small hamlets two day-labourers were occasionally considered suitable if they owned or rented a small piece of land, and women were not debarred from holding office. Though they normally got a man to serve for them, and presumably paid a fine, Tate states that at Kilmington in Devon, there were twelve women wardens between 1556 and 1606, and Emmison notes that a woman held the office in Bedfordshire in 1818.

Chetwynd in his 1820 edition of Burn's *Justice of the Peace* gives a list of people not eligible to be overseers. These include amongst others, churchwardens, clergymen, peers and members of parliament, barristers and attorneys. Justices of the Peace are also excluded 'as having the control of overseers accounts'. Despite this one can find documents signed by a man as churchwarden and overseer.

Because of the heavy burden of work, some parishes appointed paid assistant overseers. The Select Committee report of 1819 states that allowing assistant overseers to be appointed 'arose from the inconvenience resulting from the office of overseer being annual and the injustice of extending beyond that period a burthen, that often required the unrequited sacrifice of his whole time

---


148 In an 1828 apprentice's indenture, John Gadsby was mentioned as churchwarden of Lowick and 'the said John Gadsby' is also listed as overseer of the poor. 199p/157/7.
It seems that not all the people approved of the idea as there is a letter written in 1818 by William Cooper of Crick and addressed to John Plomer Clarke, JP.\textsuperscript{150} He states that he is 'considerably the largest levy payer in the Parish', and informs Mr Clarke that 'at Vestry Assembled for the purpose of choosing Overseers of the Poor for the year ensuing there were two chosen and a third nominated to serve as standing Officer without the knowledge and consent of the Principal inhabitants in general'. Writing in the name of the freeholders he asked for the appointment of 'a third or standing Officer' to be delayed until another Vestry can be called.

Another document shows that Crick appointed Thomas Hobbs as 'a Standing Overseer'.\textsuperscript{151} There is no evidence of why this document was written or to whom it was addressed. However as Thomas Hobbs was deputy overseer of Crick in 1819 it is probably related to the letter written by William Cooper mentioned above. As this document gives some insight into the process of choosing the overseers, it has been included as Appendix No.8.\textsuperscript{152}

The fact that new overseers were appointed each spring meant that many of them were new to the job and had much to learn. In 1843 in connection with the case of William Cooper (already discussed in Chapter 5) Thomas Hall gave evidence that he was overseer at the time that Cooper

\textsuperscript{149} Report of the Select Committee on The Poor Laws (1819), p.4.

\textsuperscript{150} D959.

\textsuperscript{151} The first reference to an assistant overseer in the Eaton Socon records is in the accounts for 1798/9. Emmison, 'Eaton Socon', p.89.

\textsuperscript{152} D954.
asked for relief. 'Witness enquired of Mr John Turner the late overseer whether he was to relieve him'.

The work of the overseers

Despite the fact that in settlement cases the solicitor seems to have taken the bulk of the work from the shoulders of the overseers, these men still had a great deal to do. In large parishes in particular, the work of collecting the poor rate must have taken up much time.

It is not uncommon to find a document about an Overseer who has been accused of not granting aid to a settled inhabitant of his parish, such as the overseer of Ashby St Ledgers who was ordered in 1833 to appear before the magistrates for refusing relief to Edmund Noon. However one is still left with the feeling that the majority of the parish poor were treated kindly and fairly. This feeling perhaps becomes less strong as one progresses through the first thirty years of the 19th century, when one finds more complaints about the overseers.

Gilbert White wrote in 1788 that 'We abound with poor; many of whom are sober and industrious'.

---

153 D892.

154 Laslett expressed very neatly this part of the overseers' duties when he writes that poor relief 'was a Christian duty as well as a legal obligation'; that the overseers had to collect from the better off, for the benefit of those 'who must suffer, perhaps might even die, if they were not so relieved'. P. Laslett, The World We Have Lost (1965, 3rd edn, 1983), p.149.

155 D10,066/24.

156 For examples of the generous treatment of settled paupers see Emmison, 'Eaton Socon', p.92; Snell, Annals, p.105.
swarms with children', while in 1800 William Holland wrote that in his Somerset parish, 'our Poor Rates are four times the sum they were two years ago'. As this rise in costs seems to have been universal, it is not to be wondered at if the overseers became less generous in their assistance. David Davies wrote in 1795 of a family deserted by the father and so thrown on the parish, that this 'sometimes happens from the fault of the overseers in refusing timely relief'. He added 'such is the folly of bearing hard upon the poor!'.

Obviously conditions must have differed greatly from parish to parish and according to the attitude of the particular overseers. As Dorothy Marshall wrote 'the men who were chosen to serve in these capacities were untrained in the business of public administration'. Perhaps the biggest constraint upon them was the realisation that 'they, or more frequently their widows, would in their turn possess insufficient landholdings or other resources to support themselves in old age or prolonged sickness'.

Dorothy Marshall suggests that 'overseers employed any means to get rid of married labourers without their gaining a settlement; but once such a settlement was gained they seem to have conceded the necessity of granting some extra relief to labourers with large

---

158 Davies, Labourers, p.22.
An early list of disbursements made by George Checkley, the overseer for Daventry dated 1749, shows that he paid 5/- for a midwife, a shilling to a man described as 'very ill', and 2/3 to the nurse who had tended a dying woman for three days. In another list dated 1786 we read that when a pregnant woman was removed to Flore, the parish officers spent 6/- for Child Bed Linen, £1-10-0 for various expenses for her laying in month, together with 5/- for the midwife and £1-13-0 board for the woman and her children during a period of sixteen weeks.

Out-of-Parish Relief

Many writers speak as if no person without a legal settlement was ever allowed to stay in a parish, but a search of parish documents soon shows that many poor people who had moved away were given relief without being forced to return.

J.S. Taylor has written that 'it was probably the most competent poor who left the township in an attempt to better their fortunes'. Certainly some letters written by such people to the overseers of their parish of settlement, are well argued accounts of their problems which, as T. Sokoll has pointed out, tactfully suggest that it would be cheaper for the parish of settlement to send money to the writer, than have the expense of a

---

162 D5737.
163 D7609.

A letter dated 1826 written by the Assistant Overseer of Eydon is worth quoting.

The Overseers have sent you a pound Note hoping that you will stop where you are if you can for the times are very bad here & work scarce for there are a great many on the rounds here both Summer and Winter therefore we hope you will do as well as you can.\footnote{166}{120p/118b.}

In 1830 the vicar of Thornborough wrote to the overseers of Farthinghoe saying that the Pargeter family had requested him to inform them that 'they are so much distressed this Severe Winter for Fewel, and almost every necessary Article of Life'.\footnote{167}{123p/17.} He then asks that they may be allowed 'something more than their present Pay'. Joseph Paine of Daventry, said when examined about his settlement in 1833, that he served his apprenticeship to a blacksmith in Norton. He had never gained another settlement but seven years earlier had received relief from Norton while living in Newnham.\footnote{168}{D4662.}

In 1834 Joshua Towers, a shoemaker living in Daventry, was examined as to the settlement of Elizabeth, the widow of his son John.\footnote{169}{D4654.} He stated that his son had never gained his own settlement but that he himself was settled in the parish of Flore as a result of a year's service with Henry Sharpe. He and his family had been removed to
Flore twenty-two years earlier but had also been sent relief by Flore for a period of six months while still living in Daventry. It is significant that the majority of the records of relief away from the legal settlement, are dated near the end of the Old Poor Law period, when the distress amongst the poor was extremely bad, but relief out of settlement was certainly not unknown in the earlier period.\(^\text{170}\)

Thrapston is listed as having a population of 854 in the 1821 census return. Two letter books have survived covering the years 1824 to 1830.\(^\text{171}\) They appear to consist of copies of all letters sent and received by the overseers. These give conclusive proof that not all paupers were removed to their parish of settlement. A check of a two year period shows that letters were received from about twenty different families whose settlement was in Thrapston but who were living in other parishes. A typical letter is one from George May who wrote from Kettering that he had 'been Very Bad with the fever this Summer'. He asks if he should 'come home to Thrapston', adding 'I don't want any Assistance when I am well. I can maintain myself and the two Children comfortably'. The next letter in the book is from the Thrapston officers sending him a 'one pound note'. Obviously this is not a man who will continue to ask for help once he is fit.

Laslett writes of families who were, 'for varying periods in poverty of some sort, in need of relief'.\(^\text{172}\) This was

\(^{170}\) 'January 14th, 1800. I receiv'd your Letter... with a pound note which came seasonable for Susanah Powell and she seems to be satisfied with Her allowance which I will pay her weekly 4/- as she wants. It will by barley bread for they eat nothing else'. 261p/242/13.

\(^{171}\) 325p/193; 325p/194.

\(^{172}\) Laslett, World We Have Lost, pp.45/6.
certainly true. In many settlement examinations men state that they had relief for a short period from their parish of settlement, but were not permanently in need of help.

In one case, Thrapston asked the overseer of another parish to care for the pauper family as he would care for one of his own settled inhabitants, and is assured that Thrapston will pay all reasonable charges. In other cases it is obvious that a family had been a charge on the parish for a long period but had still not been forced to return to Thrapston.

Over a hundred letters were written or received over a two year period. When one adds to this the day to day care of the poor actually living in Thrapston, and the work involved in collecting the poor rate, it is hardly surprising that parishes appointed paid assistant overseers.

Despite this out-of-settlement relief, many other paupers were removed as has been seen throughout this thesis, so to redress the balance it is perhaps correct to quote a case where removal did not take place. We have seen in Chapter 4 that officers were not happy to let pregnant women stay in their parish. However in the case of a woman named as Miss Rebecca Franklin, we read that she was not settled in the parish of Etton and that the child was likely to be born a bastard.\textsuperscript{173} She refused to name the father of the child, but was allowed to 'continue in the said parish and be brought to bed therein' after she and John Franklin were bound in the sum of £60 to indemnify the parish against charges whatsoever which have been already incurred or which shall hereafter arise or be incurred, for

\textsuperscript{173} 117p/54.
or by reason of the Maintenance, Clothing and support of the said Rebecca Franklin and for or by reason of the Birth Education & Maintenance of the said Child or Children with which she is pregnant.

There can be little doubt that Miss Rebecca Franklin was supported by a financially stable family. One cannot help feeling that the outcome would have been very different if her family had been mere labourers.

It seems that for many of the poor, their greatest difficulty was to pay the rent. In 1816 Thomas Morris wrote to his parish of settlement. 'All he required was rent money, for he was able to find enough work to feed his family'.

John Gunnell, a pauper living in Manchester in 1832 wrote to the overseers of Oxenden asking for them to pay his rent. 'Manchester is now become a Scene of Distress through the Veilent Raging of the Cholera it is this Day stated that there has been 100 Deaths this last Week (God knows how soon it may be our Last) and it seems every Day to gain strength'.

Continuing with graphic details of the death of a neighbour, he must have sent off the letter confident that Oxendon would not ask him to return to them.

K.D.M. Snell makes the point that 'many were reluctant to apply for relief where they were not settled', while Elizabeth Gaskell in Mary Barton, gives us a more human face to the problems of a family living away from their legal settlement. Ben Davenport is dying. His wife and


175 251p/98/3.

176 It is not surprising to find letters of this type sent from Manchester as J.S. Taylor writes that the authorities knew of 15,540 sojourners living in Manchester in 1828 plus a slightly larger number of Irish people. Taylor, 'Speenhamland', p.188.
children are starving. 'Ha ye no money fra th' town?' asks Wilson.

No, my master is Buckinghamshire born; and he's feared the town would send him back to his parish if he went to the board; so we've just borne on in hope o' better times.

We learn later that her husband's Buckinghamshire parish had agreed to pay her rent. Mrs Gaskell knew the plight of the Manchester poor, and this incident in all probability is based on her own knowledge of an actual case.\textsuperscript{177}

In an account sent to Geddington by solicitor James Murphy, one entry reads 'to examine pauper as you were anxious to get him removed on account of his wife and expensive family & would spare no expense in doing it'.\textsuperscript{178} Further entries show that it was not always possible to obtain a removal order.

Making observation on the points of the case when it appeared the whole carried fraud upon the face of it & if you could produce any contradictory testimony whatever you might obtain an order of removal & certainly succeed.

It seems however that they could find no evidence and so were unable to obtain a removal order.

The examination of Thomas Mace, a blacksmith of Wrighton in Warwickshire is undated but appears to be for the year


\textsuperscript{178} 133p/119.
1779. He stated that he rented a house and blacksmith's shop in Wrighton for four or five years. During his time there the son of the then overseer of the poor, 'who was of age and acted for his father', visited Mace's landlord and demanded the poor levy for the two buildings. He was told to collect the money from Mace, who later paid the levy and saw his name entered in the rate book. The inhabitants of Wrighton, realising that payment of the rate would gain Mace a settlement in their parish, 'declined to employ him thinking that he must consequently leave their Parish thro necessity'. Mace wondered why his trade had fallen off suddenly, not realising the significance of the rate payment gaining him a new settlement, until the overseer himself offered to give him 'five or ten shillings if he would take again the 1s 6d which he (the Overseer's Son) had received of him for the levy'.

A much more common occurrence was for the overseers to persuade farmers not to hire any servant for a year who was not already a settled inhabitant of the parish. In Chapter 2 we have already seen an example of such an agreement made in 1786. Twenty-six parishioners of Moulton signed an agreement in 1773 in which eighteen others were mentioned. They agreed not to take an apprentice or hire a servant 'in such a manner as to enable him or them to gain a new settlement' in their parish 'so long as the present Statute continuing Settlements by Service or Apprenticeship stands unrepealed'.

Another method was used by a farmer in Winwick who

179 He gave his age as 35 and a baptism has been found for him in 1744. Bu(D)14/9: Daventry PR's, 96p/18.

180 See page 99.

181 214p/131.
employed John Bromwich for a period of eleven months. He was then taken on for a month’s work by the same farmer but was asked, during that period, to lodge in the next parish. The vestry of Finmere in Oxfordshire went so far as to offer £2 to any young man who hired himself for a year to a master resident in another parish. Much more rare is to find any mention of a man gaining a settlement by serving as a parish officer. A parish vestry would never vote into office a sojourner who was liable to become a charge on the poor rate. In a Day Book dated 1798 there is one entry for Monday 3rd December which sees the solicitor giving advice to the parish officers about a man who may have gained a settlement through serving as a Tything Man.

Problems of communication

Like the solicitors, the parish officers were also faced with the problems of sending money. In 1805 a letter was sent from March to the overseers of Peterborough.

As we are paying a Pauper here of the name of Bosworth a Widow woman belonging to your Parish 2s a Week, the Parish Officers will thank you to make us Dr for the 50/- until we have opportunity of Settling the whole Account.

It seems that one overseer also had trouble with the postal service as he was accused of 'lending a deaf ear to the distress of Suttons Family in neglecting to answer

---

182 D9820.
184 D6714.
185 261p/242/36.
Cheating the Overseer

Occasionally one finds suggestions of what we would now call 'benefit fraud'. A good example of this is found in a letter from Leicester dated July 2nd 1832 in which a man signing himself Thomas Dumin informed the overseers of Oxenden that a man and woman although receiving 'Parochial Weekly Pay' were at the same time 'living in Drunkenness, Riot & Debauchary to the great annoyance of the Neighbours'. He also states that the man as a Stocking maker is earning 9/- or even 10/- a week and that he and his wife also keep 'a public Baudy house' in the town and 'at present they have 5 Lewd Women in the House'. We have no evidence as to whether this was true or not as no other relevant document has been found.

A comment was sometimes made by solicitors when drawing up a barrister's brief, that the pauper changed his evidence after his settlement examination, often suggesting pressure by the officers of the parish to which he was removed. Things appear to have been a little different when, in 1792, James Parsons was removed from Horton to Preston Capes. The brief states that he 'gave a very different account of his hireing and service before the Justices who removed him'. The document goes on to say

Pauper having sworn to an untruth before the Justices hath been ever since much disturbed in his mind & in order as far as now lies in his power to

---

186 261p/242/45.
187 251p/100.
do away the ill effects of his impudence, has voluntarily confessed the truth to the Appellants and he says he certainly sho\textsuperscript{16} not have been guilty of so heinous an offence had not the Parish Officers of Horton by menaces & persuasions induced him to do it.\textsuperscript{188}

As has already been suggested earlier in this thesis, it is of course impossible to establish with any degree of certainty whether undue pressure was placed on paupers by either set of parish officers, or whether mistakes were made through ignorance, or faulty memory.

In 1817 Edmund Burton as solicitor for Welton in the brief for an appeal case wrote

\begin{quote}
The above are the facts which the Pauper swore before the removing Justices. Since his removal he has been persuaded by the Parish Officers of Marston to change his Statement and endeavour to fix his Settlement in Welton'.\textsuperscript{189}
\end{quote}

There is ample evidence in the barrister's briefs that in an effort to find out the truth about a pauper's settlement, the solicitor, no doubt helped by the overseers of the parish, would try to trace people who could act as witnesses at the sessions hearing. When the evidence suggested that the pauper Henry Jones had given false evidence, the solicitor or the overseers found two labourers 'who were well acquainted with the Pauper' and could confirm that he had not served his master for a full year. They also stated that before Jones went before the magistrates he asked what he must say to establish

\textsuperscript{188} D9805/c.

\textsuperscript{189} D4504.
his settlement in his chosen parish.190

We can also find evidence not of the poor trying to cheat the overseers, but of a dishonest overseer. It seems that Thomas Horton was overseer for Naseby from April 1812 to April 1813. When, as was required of all overseers, he presented his accounts to the men appointed to the office for the succeeding year, he stated that the parish owned him £25-15-2½ which sum he then received.191 It was later discovered that the amount should have been only £10-6-8½. It was also found that in the accounts he had listed an amount of £15-8-6 which he 'unlawfully deceitfully and fraudulently' claimed to have paid to Mr Orton.192 It seems that also in Bedfordshire two overseers were found to have succumbed to 'the financial temptation appertaining to the office'.193

Unfortunately what is more commonly found is the overseers who showed what Dorothy Marshall called 'a callous disregard for humanity when the interests of their parishes were involved'.194 The Webbs wrote that when faced with a pregnant woman or a labourer with a large family of small children, the officers of the parish were 'far too frequently persuaded by the village attorney that it had a fighting chance of defeating the

190 D9830.
191 D8863.
192 Mr Orton is almost certainly Thomas Orton, the important doctor of medicine who resided in Welford. In his autobiography in 1821 John Mastin, vicar of Naseby, mentions that Orton was sent for when he broke his collar bone. Mastin, Autobiography.
193 Emmison, 'Eaton Socon', p.93.
Order, and therefore rushing to lodge an appeal'.

Compromise

Despite the vast amounts of money spent on appeal cases by overseers attempting to rid their parishes of unwanted poor families, there is very little evidence that the two parishes involved ever met or discussed the cases. Although a few letters from the opposing solicitors have been quoted in this thesis, those that have survived suggest that the main contact between the two firms, was to ask for copies of the pauper's examination or to request that the hearing at the next Sessions should be respited. An example is a letter sent to Edmund Burton in 1818 by the solicitor for the opposing parish stating that 'I have only this day ascertained that a material witness in this appeal on the part of the Respondents cannot be procured time enough to try the Appeal on Thursday'. He goes on to ask that Burton will 'consent to a Motion for the adjourning this hearing' until the next Sessions and offers to pay any expenses that this will cause the appellants.

In the case papers about Joseph Sherriff dealt with in Chapter 1 of this thesis a letter survives from a firm of solicitors in Staffordshire used as agents for Edmund Burton. The writer suggests that if they had received instructions about the case sooner they might have negotiated a compromise with the other parish. No suggestion is made of what type of compromise the writer had in mind, so perhaps this was only an unsubstantiated comment.

---

196 D885(3).
197 D9420.
In 1784, Edmund Burton, as solicitor for the parish of Charwelton, wrote a letter to the parish officers of Hinckley about an apprentice who had asked his master to cancel his indentures. After stating that his advice to Charwelton was to accept the cancellation, Burton continued

I am fully aware that you Gentlemen will think this advice as somewhat extraordinary from a professional man, and own it so. I should if I was to consider my own Interest recommend the Parishes to a very different conduct but in this as well as in all other cases wherein I am consulted, I never lose sight of the advantages of the parties concerned by attending solely to my own.198

A document in the Devon Record Office shows a rare case of two parishes deciding to request an Opinion from a barrister, both parties agreeing to be bound by his judgement.199 In the event, the barrister refused to give a firm judgement, even after he had been asked to study the case for a second time. This is yet another confirmation of the complexity of the settlement laws.

A most interesting case is found in the Bedfordshire Record Office.200 It seems that widow Elizabeth Dickens was removed by the magistrates from the parish of Keysoe to the parish of Risely

Whereas the Inhabitants of the said two parishes of Keysoe and Risely are of Opinion that it is a Matter of great doubt whether she the said Elizabeth Dickens was last legally Settled in the said Parish

198 D10159.
199 Devon Record Office (Exeter) 74B/B 192.
200 Bedfordshire Record Office, P48/16/1.
of Risely or in the Parish of Keysoe aforesaid and being Apprehensive that it may be much more expensive to both of the said parishes to try and determine the merits of the said Settlement at Law than to keep Maintain and Cloath her at their joint and Equal Expense in as much as she is grown very old Therefore to avoid an Appeal and all Proceedings and Expense thereon or in Consequence thereof the Inhabitants of the said two parishes have respectively Agreed that she, Elizabeth Dickens shall be kept maintained and Cloathed as often as need shall require at the Joint and Equal expense of the Inhabitants of both the said Parishes.

Despite the fact that the whole document runs to over 1200 words and no doubt was accompanied by accounts from the solicitors for both parishes, it is hard to believe that the final costs were not very much lower than those for the settlement cases listed in Appendix 3. However one has to admit that this was about a woman 'grown very old', not a young couple with many small children. However the total legal costs reported to the Government makes one wonder why more overseers did not try for a compromise.

Working with other Overseers of the Poor

While compromises seem to have been rare, there is obvious evidence that overseers helped each other with the care of poor persons, resident but not settled in their parish. In 1832 Peterborough received a letter from the overseer of Grimstone in reply to one informing him about a man and wife. 'We should be obliged to you to give them something per week as you may think it necessary. The parish would be glad if you would trouble yourself to let us know the sum you are giving them. Send
the Account at any time you please which shall be attended to'. Another letter in the same parish collection tells of a man who had been 'very ill Many Weeks'. It goes on to suggest that it would be 'most convenient for you to send what you think Proper into the hand of Kirton Overseer to be given weekly as he may think Proper'.

In 1758 the overseers of St Mary's Warwick received a letter from Lincoln about a widow with five children who had asked for relief. 'I thought proper to acquaint you with it before I gott an order of removal, thinking you might find a cheaper way for her coming than me hiring a Cart & coming myself to deliver her. I do assure you it will be very inconvenient me to come leaving a large business to Servants'. One can understand the reluctance of the man to travel from Lincoln to Warwick, a distance of about eighty miles. Emmison gives details about the journey taken by an overseer when escorting a family from Bedfordshire to Norfolk, while D. Marshall makes the point that until 1814 'the Overseer was legally obliged to escort the persons to be removed back to their place of settlement. This is an interesting example of the tasks that could fall to the overseer during his period in office.

---

201 261p/243/3.

202 261p/242/49.

203 Warwickshire Record Office. DR 126/800.


205 In his History of Myddle, Gough tells of a man who was removed to a Gloucestershire Parish. Myddle sent him by water, paying a trowman seven shillings to bring him there and maintain him by the way. R. Gough, History of Myddle (1834, 1981 edn), Appendix, Fourth Case, p.255.
Did the overseers understand the Laws of Settlement?

It is clear that some labourers knew, or thought they knew, about the settlement laws. Some overseers understood the essentials. The case of Mace who was asked to take back the 1s 6d he had paid, shows that settlement due to paying the poor rate was understood in his parish.\textsuperscript{206} Agreements by farmers not to let their servants or apprentices gain a settlement is further proof.

E.M. Hampson has suggested that the overseers of the poor knew the law. 'One finds them, at least in the town parishes, checkmating their own learned counsel by quotations from legal case-books'.\textsuperscript{207} Certainly men who served as overseers on several occasions, or who were involved with a number of appeal cases, must have learnt something of the laws of settlement. As has already been shown, various papers survive that show that many parish officers were not completely ignorant, but when solicitors and even the judges of the King's Bench could disagree, no untrained person could hope to have a complete understanding.

As Osborne has written, 'If during their year of office they had not developed into lawyers, they had acquired at least in matters that concerned the welfare of the little community in which they lived, a fairly clear conception of "the rights of the law"'.\textsuperscript{208}

\textsuperscript{206} See page 303.


\textsuperscript{208} Osborne, \textit{Justices}, p.22.
A dangerous occupation?

In 1819, Thomas Hobbs, deputy Overseer of the Poor for Crick reported that 'he was grossly insulted & ill treated in the execution of his office by William Martin, a Pauper'. A magistrate signed an order for Martin to appear before him. In the previous year George Cowley, the Overseer of the Poor for Kilsby, went before the Justices and reported that Benjamin Matthews, a labourer with a family 'hath this day threatened to run away' and leave his family chargeable to the Parish. He also reported that Matthews 'hath also threatened to do him some bodily injury'. It seems possible that Matthews was present when this charge was made as no order seems to have been made. Perhaps Matthews received a sharp rebuke. We know nothing more about the incident.

There can be little doubt that some overseers were disliked by the poorer members of their parishes, but the quarter sessions index only shows four men who were actually accused of striking an overseer. We have no means of knowing whether this dislike spread to all overseers or whether it was the just deserts of the harsh officers.

The experiences of the Paupers

Removal Orders and Appeal Cases

W.E. Tate wrote that

Documents relating to settlement were, of course,

209 D975.

210 D593/20.
highly prized. A labourer's family would treasure up for years any scrap of evidence that he had rented a £10 tenement, served an annual office, been apprenticed in the parish, or even paid a shilling to the poor rate. Similarly, the parish officers carefully preserved any evidence that a parishioner was legally settled in another parish'.

There can be no doubt that the parish officers kept records, but evidence of similar caution on the part of the poor is harder to find. If such evidence had been common, the vast number of appeals against removal orders might not have been necessary.

In earlier sections of this thesis we have seen examples of the misery caused by the removal system, but to appreciate the complete disruption of life which must have been caused to a family when their case went to the Quarter Sessions, we need to understand how the system worked.

A parish had to appeal at the first Sessions after they received the removal order. This could sometimes mean that a request for leave to appeal had to be lodged with the court only days after the pauper was removed to their parish, giving them little or no time to establish the facts of the case. In 1789 a parish failed to enter an appeal at the next sessions, then claiming that they 'had not sufficient time to convene a meeting of the inhabitants, in order to take their opinion upon the subject, whether there were any grounds for the appeal'. However, the Court of King's Bench held that they had had two clear days between the pauper arriving in their parish and the date of the Quarter Sessions and would not

---

211 Tate, Parish Chest, p.203.
give them permission to appeal three months later. The rule was that a parish would lodge an appeal, but at the same time asked for the full hearing to be held over to the next sessions. Perhaps in the case of the removal of a woman, delays might have resulted because the whereabouts of her husband were unknown; or the removal was perhaps from a parish many miles away. Difficulties of communication might have delayed enquiries for another three months and so the appellants may have negotiated with the defendants to again ask for the case to be respited. This kind of delay resulted in a case being entered in the Record Books several times.

Study of the Quarter Sessions Index for 1755-1834 shows that, because of the multiple hearings, of the 2520 settlement appeal entries found, there were only 1842 separate settlement cases. It is almost certain that many of these 1842 cases were entered by the appellant parish which, finding that the pauper was in fact settled in their parish, would have asked the court to disallow the appeal - thus saving the time of the court.

The Number of Appeal Cases

Speaking of the changes to the poor law being considered in the early 1830s, Finlayson writes that 'the prospect of fifteen thousand parishes acting almost in fifteen thousand different ways was indeed a daunting one for any

---

212 Burn, Justice, (23rd edn, 1820) 4, pp.655-656.

213 In 1814, in an appeal about the removal of Mary Gare, the solicitors for both the appellants and the respondents asked for the order to be quashed. Quarter Sessions Record Book, 1814, pp.496-497.
would-be reformer'. Working through the Daventry Collection cases and studying books such as Bott, Burrow and Burn, one is left with the feeling that all fifteen thousand or so poor law areas were united only in their desire to rid themselves of all possible paupers.

In 1817 a Parliamentary Select Committee Report on Settlement, gave a figure of 4,700 appeals against removal orders entered at the various quarter sessions during the previous year. We have no means of knowing what proportion of orders were the subject of appeals, though 10% has been suggested by some writers. The report also published figures for the national cost of litigation and the removal of paupers for four different years. In 1776 it amounted to £35,072; in 1786 to £35,791, in 1803 to £190,072 and in 1815 to £287,000.

W.E. Tate wrote that 'Half the business of every quarter sessions consisted in deciding appeals on orders of removal, at an expense which, so it was alleged, would in many cases have covered the entire cost of the pauper's maintenance several times over and still left the contesting parishes a handsome profit'. A check of the quarter sessions records shows that, even if we count all the multiple hearings, Tate's statement about the number of settlement appeals was not true in Northamptonshire. The total number of cases entered in the index for the eighty year period amounts to 6786. This of course includes cases of breach of the peace, assault, felony, poaching, larceny and riot etc. The total entries for settlement cases was 2520, only thirty-

---


seven percent of all cases.

Discounting the multiple entries we have 1842 actual cases; spread equally over the period, this gives a yearly average of approximately 23 cases per year, for over three hundred parishes. However from Appendix 9 we get a very different pattern. As this shows a bar-graph of the numbers of Northamptonshire appeals to quarter sessions in five year totals for the eighty year period, we see that the number of cases rose sharply, reaching a peak in the period 1815-1819. Even so, if we remember that this is the total cases for the whole of the county, it suggests that some writers' estimates of the number of cases may have been somewhat exaggerated.217

K.D.M. Snell has suggested that books such as Burn and Bott meant that Justices of the Peace and parish officers were better informed, and so fewer cases resulted.218 Dr Snell also writes that rising poor law costs made Overseers of the Poor more careful about appealing, so the percentage of appeals against removal orders may have dropped. If this is correct, then it appears that there must have been an extremely large increase in the number of removal orders, as, at least in Northamptonshire, the number of appeal cases rose dramatically.

The effect for the pauper family
While checking various settlement cases heard at the

217 Appendix No.9 also shows figures for removal orders found in the Poor Law Index and covering the same time-span. It is interesting to note the similarity between the two graphs, suggesting that the proportion of removal orders which were appealed against remained constant, despite the different number of cases in different five-year periods.

sessions, omissions have been discovered in the Quarter Sessions Record Books. One case is that of Susannah Cure, whose illegal removal in 1818 is discussed in Chapter 6. On the 11th of January 1812 an order was signed removing her from Daventry to Harpole. An appeal was entered at the Epiphany Sessions and respited. It was again respited at the Easter Sessions. No entry can be found for the case at the Thomas à Becket Sessions, but the Michaelmas entry states that the case was respited at the previous sessions. After more delays, on the sixth occasion of the case coming before the sessions, the order was finally confirmed at Easter 1813, a year and three months after the signing of the removal order.

G. Taylor has written that 'litigation impaired the self-respect of the pauper'. Susannah Cure and her children were left in doubt as to their settlement for fifteen months. During this time of uncertainty she was indicted on a charge of abandoning her children. Having already spent some time in prison, she was discharged. Quite apart from the emotional turmoil suffered by a family in these conditions, for a man similarly removed, it must have been almost impossible for him to find employment. No doubt this was an exceptional case. Only one other that was heard six times had been found, but four cases have been found that were heard five times, as well as twenty that were heard four times, and sixty heard three times. Allowing for the many omissions found in the quarter sessions record books, it seems very possible that these numbers are decidedly low. Of the total appeals of 1842 cases heard, only 1164 were concluded at

219 See page 218.

220 This is by no means the only case where appeals were respited without an entry in the Record Book.

a single hearing.

As presumably it was only at the full hearing of the case that all the evidence was studied, the respited hearings probably took up little of the court's time. However it did involve the parishes in charges for both barristers and solicitors. It also left the paupers in limbo.\textsuperscript{222} Marshall quotes one William Pigot who petitioned the court saying 'it is not long since your petitioner was tossed to and fro from the parish of Bennington to Tewin, and from Tewin to Bennington att your petitioner's great charge and trouble, although the town of Bennington is the place of nativity of your petitioner whose friends have formerly lived in good repute and creditt in the said parish of Bennington'.\textsuperscript{223}

Returning after being removed

In the Quarter Sessions Index there are five entries for people who had returned to a parish from which they had been removed. In Burn we read that by 13 & 14 Charles II c.12, if a person who has been removed 'shall return of his own accord to the parish from whence he was removed, one Justice may send him to the house of correction, there to be punished as a vagabond'.\textsuperscript{224} However by 17 Geo. II c.5 it was enacted that they were to be subjected to 'hard labour for any time not exceeding one month'. It appears that this law was not often used as the five entries span the eighty year period. The entries for three of these cases show that they were discharged,

\textsuperscript{222} This is probably a very apt word for their situation. The OED defines it as 'Region on the border of Hell' and 'condition of neglect or oblivion'


\textsuperscript{224} Burn, \textit{Justice}, (14th edn, 1780), 3, p.491.
though it seems possible that they had already spent time in the House of Correction. In 1809 John Barker is said to have repeatedly returned to Braybrook. He is described as idle, but he is merely to be passed to his place of settlement.

In 1806 it seems that Martha Baker was sent to the House of Correction because the verdict of the sessions was a sentence of two weeks, but she was released as she had already served four weeks. However twenty months later she was again before the sessions as she had 'returned again'. This time she was merely discharged. Perhaps the sessions were becoming more tolerant of such people because in 1781 Hannah Burton had suffered much harsher treatment. The entry reads that she 'stood committed for Vagrancy by returning back to the Parish from which She was removed. To be privately whipped and afterwards discharged'.

It seems that occasionally even the Quarter Sessions found a situation for which they had no answer. In 1776 we reads 'It is ordered by this Court that William Smith who stood committed as being a Vagrant which was proved against him be discharged out of Custody as his Place of Settlement appears to be at Boston New England'.

More than one removal order

As well as the cases listed above, showing the delays that a single case might experience, there are also 83 cases where a pauper family was removed from parish A to parish B but who, after the order was quashed on appeal, were then removed to yet another parish. Obviously, for the parish officers, this was a case of trying to rid their parish of the financial responsibility for the paupers. But what of the pauper family? We have seen
that Mary Hinks and her children when removed to Leicestershire, lodged with the overseers of the poor for some weeks before being found a place in the poor house.

Dorothy Marshall reports a case where the parish of Lanwade obtained three separate removal orders for Thomas Cole, his wife and family. After all three orders had been quashed at three consecutive quarter sessions, the court ordered that Cole was to 'be sent back to Lanwade there to be received as a settled inhabitant'. On the consequences of removal, Marshall wrote 'though the person likely to become chargeable might not actually be so when the first removal was made, he was very often a pauper in the literal sense of the word before the Court had come to a final decision'.

Who were the paupers?

In every nation the welfare and contentment of the lower denominations of the people are objects of great importance, and deserving continual attention. For the bulk of every nation consists of such as must earn their daily bread by daily labour.

These are the first lines of the book written by the Reverend David Davies and published in 1795. Although he goes on to point out the great distress being suffered by agricultural labourers in his own parish in Berkshire, he does give grudging praise for the work undertaken in the name of the poor law.

---


It may be admitted that these laws are imperfect, and that they have been but imperfectly executed; yet I think it undeniable that they have on the whole produced a great deal of good.\footnote{Davies, Labourers, p.3.}

The Undeserving Poor

In 1817 'A Country Overseer' wrote that he found that many families who had previously paid the poor rate were now seeking relief themselves.\footnote{A Country Overseer, The Poor Laws – England’s Ruin (2nd edn. 1817), p.2.} He goes on to say that relief should be given as bread, soup etc to stop the money being spent on beer, perhaps implying that not only was there a danger of money being turned into beer rather than food, but that the call on the poor rate was fraudulent.

We have already seen that some overseers were dishonest. Conclusive evidence for a similar failing in the paupers is less easy to find. In a number of briefs, the solicitors have warned the barristers that they should not believe all the pauper has told them, but one has to take into account that this was not an objective judgement. In the case already mentioned of a pauper claiming a settlement in Kibworth Harcourt, it seems most probable that this was caused by a lack of knowledge of the law rather than a desire to mislead. This must have been true in many cases where ignorance or faulty memory caused a man to give confused evidence.

However in the Quarter Sessions Record Book for the Michaelmas Sessions of 1773 we read that the Rev. Charles
Addington, JP, indicted Sarah Langham with giving false evidence about her settlement. As so often happens with Quarter Sessions cases, we have no further details except that we read that 'she was discharged immediately out of custody'. Five other cases of a similar nature appear in the quarter sessions record books between 1755 and 1832. J.S. Taylor reports the case of a woman who having been removed in 1825 to the London parish of St Mildred Poultry was found by the parish officers 'to be an imposter' who 'had been removed to several parishes and received relief from them under false statements'.

In 1830 eleven of the parish of West Haddon wrote a letter to the Magistrates.

We the undersigned beg leave to state that the Pauper Wm Naseby (whose case we suppose will be brought before you on Wednesday) has been a long time considered by us as a great Imposter, that he has not the least assisted in the support of a large family for a long time and that we fully concur in the Overseer's having withheld their weekly allowance in order that he may appear before the Bench of Magistrates; the Surgeon's Certificate will also confirm our opinions, and we trust you will adopt such a plan that will relieve us from such an Imposition.

The Quarter Sessions Index shows that a William Naseby of West Haddon was charged with neglecting his family thirty eight years earlier. The parish registers suggest that this may well be the same man. Much of our information about such paupers comes from correspondence between the

---

230 Quarter Sessions Record Book, 1773, p.425.
231 Taylor, Poverty, Migration and Settlement, p.114.
232 D4130.
overseers of various parishes and their solicitors. Thomas Skeffington's examination for the parish of Leicester St Margaret's is straight-forward and typical of many others. He is aged forty and gained a settlement twenty years earlier in Little Benefield by service for three years with Mr William Cunnington. He has a wife and four children.\(^{233}\) It was only when he was removed to Benefield that more questions were asked. A letter has survived written by the Rector of Benefield to a solicitor in Leicester asking him to make enquiries about Skeffington. While admitting the twenty year old settlement, the writer adds that of his 'intermediate history we can hear nothing satisfactory'. For three years after leaving Benefield he lived with his father near Uppingham, but it seems that Skeffington gave no account of an eight year period. The writer suggests that 'the void must have been filled up by 7 years transportation, but this is mere suspicion'.

**The Deserving Poor**

Dorothy Marshall gives an analysis of the types of people who were the subject of appeals at the Cambridgeshire Quarter Sessions. Statistics for the period all show that by far the largest group were families with young children.\(^{234}\)

In 1813 the rector of St John's, Huntingdon wrote to the parish officers of St John the Baptist, Peterborough about Joseph Yates, glover and breechesmaker, who had lived in his parish for the past thirty seven years under

\(^{233}\) 30p/37.

a certificate from Peterborough.\textsuperscript{235} 'He is a quiet inoffensive, industrious man in the 69th year of his Age. The sight fails him; and his earnings are consequently diminished considerably'. The letter says that 'it is with some reluctance' that he asks for a small weekly sum. It is to be hoped that Huntingdon agreed to send him help rather than remove him back to the parish he had left nearly forty years earlier.

The authors of \textit{Captain Swing} make the point that the poor law started as help for people unable to earn enough to keep themselves because of age, ill health etc.\textsuperscript{236} The general impression gained is that overseers of the poor accepted this charge and dealt very fairly with the old people who were settled in their parish. K.D.M.

Snell has written that 'parochial organisation ensured a face to face connection of administrators and the poor'.\textsuperscript{237} For Joseph Yates the problem may have been that after thirty seven years away from Huntingdon the overseers may never have known him. The letter suggests that his earnings had diminished. If he were made to return he would no doubt have become completely dependent on parish relief.

Another letter found in the Peterborough parish collection was written in 1832 by Elizabeth Simpson, apparently an elderly widow living in Kent. It is produced here in full as a delightful example of its kind.

\textit{Sur, I have Rote to you before concarning my Monney but have had NO ancer from you for my Dortor and her Housban is not able to manetane me for they are

\textsuperscript{235} 261p/242/54.


\textsuperscript{237} Snell, \textit{Annals}, p.104.
nothing but Labering people and he has beane out of woork so Long and they would be Glad of the Monney and If you do not Send it I must be Brought home and the last that I Reciveed theare was 10/- left I Should be glad if you Will ancer this.\textsuperscript{238}

A Kent Justice of the Peace has added a note to the effect that the woman is alive and that he believed her letter to be true.\textsuperscript{239}

**Accidents and ill-health**

When writing of the poverty of the agricultural labourer, Cobbett made the point that 'a cut in the hand in whetting his scythe will make him a pauper'.\textsuperscript{240} There is ample documentary evidence that incidents of this type certainly made the labourer need help. A letter dated 1828 from a surgeon in Warwick is a good example.

I hereby certify that William Hunt has been unable to work for the last six weeks in consequence of a wound of the ankle joint, & also that his wife has been confined to her bed for nearly four weeks with a most severe attack of Erasifilas & still is unable to see.\textsuperscript{241}

A removal order had been signed twelve days earlier hence the need for the surgeon's certificate, the 1795 Act

\textsuperscript{238} 261p/243/13.

\textsuperscript{239} T. Sokoll reports a case of a widow ordered by her parish of settlement, to send a certificate 'that you are living'. T. Sokoll, 'Old age in poverty', p.132.


\textsuperscript{241} D5116/8.
having stipulated that Justices could delay an removal if the pauper or a member of his family was sick.

A letter of 1832 found in the Daventry Collection was written by John Robinson who had been asked to convey the enclosed petition to the magistrates.242 Unfortunately it gives no indication of the name of the petitioner whom we are told had 'maintained himself and family Soley from his own labour and neither him or any of his Family have Received any assistance for 64 years'. We are also told that 'the fracture of his limb occasioned 2 inches of the master Bone to be taken off so that the limb Remains in Irons and traveling a great pain'.

When Robert Litchfield was examined as to his settlement in 1835, he told the magistrates that eleven years earlier he had an accident and 'was confined with a broken thigh for thirty five weeks at Daventry during all which time he received relief from the Overseers of the Poor' of Welton, his settlement parish.243 A similar accident is mentioned in 1806 in a letter from a surgeon at Crowland in which he reports on a man who has not only lost his cow, but his son 'received a bad fracture of the thigh'.244 Another letter reports that a man needs help because he has been robbed of Geese, Turkeys and fowls.245 Under these circumstances, as Laslett has written, 'hunger was not very far away'.246

Reading these surgeons' reports, one is led to wonder what would have happened to a man with a broken thigh

---

242 D5045.
243 D4664.
244 261p/242/38.
246 Laslett, World We Have Lost, pp.34-35.
before the Act of 1795 forbade the removal of sick paupers? Would he have been loaded onto the contractor's cart so dramatically mentioned by K.D.M. Snell? One's instinct is to say that it would have been impossible, but when one considers the inhuman treatment meted out to the Butler family when the child contracted smallpox, one cannot be certain. Obviously everything depended on the individual overseers.

Another type of accident is mentioned by Dorothy Marshall who tells of a woman made destitute when her farm-house was destroyed by fire. No doubt fire must have caused much poverty as when in 1729 there was a very serious fire in Bozeat which destroyed forty-one dwellings. It seems that the fire was started when Widow Keech was baking upon the hearth in a Poor house amongst the Church Yard houses. In the report of the fire the vicar stated that 'Four farms were destroyed with the full Crops of Harvest ... the whole Loss Amounting to near Four Thousand Pounds'. J.S. Taylor tells us of a man, described as a merchant, who reported that when the ship in which he was sailing was 'cast away before daylight', he and the officers and men 'lost everything we had'.

An interesting insight into the life of a poor man is given in a letter dated 1799, found in the parish collection for St John's, Peterborough. We have already met Joseph Yates as an old men losing his eyesight. Fourteen years earlier he had written to the Peterborough officers saying that he was to be removed back to their parish

---

247 Snell, Annals, p.73.
249 40p/l.
250 Taylor, Poverty, Migration and Settlement, p.87.
unless you will be so kind as to defray the expenses of my daughter's funeral as died last May. The expenses are about 37/- it is out of my power to pay it. I don't wish to be any further charge to your parish.\textsuperscript{251}

He ends the letter with the significant remark that 'I can't get my bread if I come to Peterborough'. In view of the subsequent letter about him, one must assume that Peterborough paid the funeral expenses.\textsuperscript{252}

Eden quotes a Mr Hay MP, who wrote about the effects on the man removed prior to the changes in the removal laws in 1795:

he is at expense in removing his family and goods, or, perhaps, not able to carry them with him, is forced to sell them at a disadvantage. He loses his time, and is obliged to neglect his work which is his only support; so 'tis no wonder if by this treatment he is very much impoverished; and from being only likely to become chargeable, is actually made so'.\textsuperscript{253}

Pamela Sharpe has written that the poor were well aware of their rights to relief and they would defend them, by appeal to the magistrates if necessary.\textsuperscript{254} But the tone

\textsuperscript{251} 261p/243/9.

\textsuperscript{252} In Chronicling Poverty, we are shown many examples of letters written by paupers not resident in their parish of settlement. Hitchcock, King and Sharpe, Chronicling Poverty, Chapters 4, 5 and 6.

\textsuperscript{253} Eden, The State of the Poor, P.53.

of many letters written to overseers by paupers who were non-residents, suggests that they were less confident about their rights, but were probably nervous about the possibility of being removed back to their settlement. T. Sokoll writes of the 'inter-parochial arrangements below the level of the costly procedures stipulated by the settlement laws', suggesting that the relief given to non-resident paupers was lower than that allowed to people resident in their parish of settlement.255 Despite this, many paupers were anxious not to be removed as many had not been to their settlement parish for perhaps forty years. Others might never have visited their legal settlement, like a widow living near Birmingham, whose late husband had been settled in Essex.256

Widows and orphans

Many writers have mentioned the difficulties met with by families with large numbers of children when agricultural wages were low, particularly in the last years of the old poor law. Equally distressing must have been the position of the widow left to bring up a family of young children on her own. One such was Catherine Bull. In her examination in 1823 she stated that she had been married twenty-one years earlier to her wheelwright husband.257 When examined as to her settlement she stated that her husband had lived in the parish of Badby for fourteen years but when sick had been given occasional relief by Daventry where he had gained a settlement through apprenticeship. His time at Badby is confirmed as the baptisms of seven of her children are entered in the parish register.

255 Sokoll, 'Old age in poverty', p.130.
256 Sokoll, 'Old age in poverty', p.142.
257 D9920.
Catherine was now left with eight children, the youngest of whom was only two years old. William, her eldest child, was stated to be in service. The parish officers lost no time in taking her before the magistrates, the removal order being signed the same day as her examination, exactly seven days after the funeral of her husband. Her case was probably not uncommon. William Holland in his diary for 24th August 1800 mentions the plight of a family after he had buried a man who left nine small children.²⁵⁸

These examples show the truth of Dorothy Marshall's comment that the rural poor were never far from the poverty line. 'Sickness, or even too large a family of small children, or the inevitable feebleness of old age, was each sufficient to push an individual or a whole family over it and into the pauper class'.²⁵⁹ Or in J.S. Taylor's succinct phrase, they were 'only a week's wages away from pauperism'.²⁶⁰

Inevitably the labourer with a large family of young children would be liable to need relief. David Davies suggested that parish money should be given to families with three children or more who were too young to contribute to the family income.²⁶¹

It seems very likely that in both the case of Catherine Bull and of the family mentioned by Holland, some of the children would be apprenticed by the parish officers. In some cases children were sent to masters many miles from their homes. In 1815 the Report from the Committee on

²⁵⁸ Holland, Paupers and Pig Killers, p.44.
²⁶⁰ Taylor, Poverty, Migration and Settlement, p.167.
²⁶¹ Davies, Labourers, p.28.
Parish Apprentices stated that it considered that 'the purpose might be attained without violation of humanity in separating children forcibly and conveying them to a distance from their parents whether those parents be deserving or undeserving'. In Northamptonshire, while perhaps the majority of children were apprenticed near to home, a proportion had to travel as much as twenty-five miles.

Riches to Rags

Of course not all the people who were driven to ask for parish relief had been living on the brink of poverty. There is evidence that some paupers had gone bankrupt through the failure of their various business enterprises. It was not uncommon for a former apprentice to report, when examined by the magistrates, that after the business had failed, his master had run away. James Flint used a very common expression when he told the magistrates in 1819 that 'his master broke and ran away'.

In 1818 Ann Irlbut when examined as to her settlement said that four years earlier her husband had bought a house in Weedon Beck for £200 - a very large amount at that period. No doubt she felt that her future was secure but before long her husband had moved to Leicester and then to London. By the time of her examination he had deserted her.

We have no means of knowing what happened to this pauper,

---


263 D2036.

264 D593/27.
but quarter sessions records show that in the 80 year period covered by the index, nearly forty men were accused of deserting their families. It is unlikely that the parish officers were perturbed on moral grounds; they did not want yet another woman and her family dependent on parish relief. Already in this thesis we have seen the case of Hannah Hobley whose husband deserted her after a forced marriage. Perhaps something of this sort was in the mind of William Holland when he wrote in his diary for the 10th September 1802

there is a parish wedding... I do not like forced matches and so I questioned them much and they said they were willing and so now the job is done.

These marriages certainly took place, but while it is unlikely that they had a great influence on the number of paupers and the bulk of the removals, they may certainly have added to the number of men appearing at the quarter sessions on a charge of desertion.

My impression - it will never be anything other than a scholar's impression - is that paupers and parish officers behaved in a reasonably intelligent and responsible way. Paupers usually tried to stay off the rates, and parish officers usually relieved the distress of the settled and sojourning poor by a compromise between charity and economy that varied with the officer, the parish, and the specific situation.²⁶⁵

This quotation from J.S. Taylor is in stark contrast to much that has been written in the past. Dorothy Marshall wrote that a feeling grew up that the Poor were poor because they would neither work nor save, and because

²⁶⁵ Taylor, Poverty, Migration and Settlement, p.105.
they were at once lazy and extravagant.\textsuperscript{266} So what is the truth? Obviously there must have been as many differences as there were parish officers and paupers.

Thomas Lovell, writing in 1826 said 'Far be it from me to suppose that all the labouring poor are imposters; I believe there are yet many worthy characters among them', while Henry Fielding repeated the complaint of wilful idleness, but he also commented that 'the sufferings of the poor are indeed less known to us than their misdeeds'.\textsuperscript{267}

It is surprising, given some of the harsh treatment experienced by the paupers, that 'there seems to be almost no recorded protest by them or the early working class against settlement as a system despite the voluminous private and public protests they made about so much else'.\textsuperscript{268}


\textsuperscript{267} T. Lovell, \textit{Hints for Procuring Employment for the Labouring Poor for the Better Managing Parish Concerns and for Reducing the Rates}, (1826); Quoted by Poynter, \textit{Society and Pauperism}, p.30.

\textsuperscript{268} Snell, 'Pauper settlement', p.401.
Conclusion

In the introduction to his section on removal orders, Richard Burn wrote

In treating the subject, we will first set forth the statutes: Then the established form of an order of removal thereupon: And then take the same in pieces orderly and distinctly, thereby to discover the several shelves and rocks upon which numberless orders have been shipwrecked.¹

In this thesis an attempt has been made to follow Burn's lead in trying to explain the law, and it is certain that many shipwrecked removal orders have been discussed.

J.S. Taylor described the Laws of Settlement as 'a device for dealing with poverty, urban and rural' and 'arguably the most important branch of pre-1834 English law'.² Yet some of the most eminent writers have either completely ignored the subject, or have given confused or incorrect facts. It would be invidious to single out particular historians, for ignorance of the settlement laws is widely pervasive in the historiography. Indeed, with the exception of a few articles, settlement must be

¹ R. Burn, The Justice of the Peace and the Parish Officer (14th edn, 4 vols, 1780), 3, p.490.

one of the most neglected of all historical subjects. Yet the importance of the Laws of Settlement should not be ignored. Paul Slack writes that some people claim that settlement 'created an expensive bureaucratic maze, an unnecessary burden alike on justices of the peace, parish officers and the poor'.\(^3\) Oxley states that 'No aspect of the poor law produced so much litigation as did the settlement laws' but also points out that 'the settlement laws were an inevitable consequence of a localised system of poor relief'.\(^4\) Through legislation at various periods 'the laws of settlement were made more humane', though 'the constant additions of statute to statute on the subject of settlement served to confuse the legal issues'.\(^5\) These changes certainly added to the complexity of the laws and therefore to the amount of help parish officers required from their legal advisors. Much time was taken up at Quarter Sessions by settlement appeal cases, involving many parishes in huge costs. To this we must add the human misery that the settlement laws caused to the many unfortunate families caught up in what they must have seen as legal chicanery.

Peter Laslett suggested that 'at all times before the beginnings of industrialization a good half of all those living were judged by their contemporaries to be poor'.\(^6\) This proportion probably increased into the nineteenth century. It has been suggested that 'although no one has yet computed what proportion of the population was dealt with in one way or another by the law of settlement, they

---


must be reckoned in their tens of thousands'. This is almost certainly an understatement. It also seems probable that the costs of settlement appeals were in no small part responsible for the introduction of the New Poor Law in 1834, even though that law did very little to reform settlement.

The basis of the settlement laws was admirable: in time of need, every person, man, woman and child, had a right to help from the community. In 1662 when the Settlement Act was passed, 'the community' meant the parish or its subdivision, the township. It was to be this concept of belonging to a parish which was to cause so much anxiety to unnumbered paupers and parish officers, and was to cost the country as a whole immense sums of money in legal fees.

As to the attitude of the paupers themselves, it seems probable that in many cases their main reaction was one of resignation to the inevitable - a resignation stemming in many cases from the near starvation they suffered before demeaning themselves by asking for relief from the parish. Not all people were so resigned that they could not fight back, but despite this, parish authorities could control inhabitants' lives if through unemployment, old age, sickness, accident or other cause, they were no longer able to maintain themselves.

Was it all dread that filled the minds of ordinary parishioners? The Poor Law was suited to its period, the equivalent of social security to people of the present day. 'Residents of small communities had a good idea of the sort of assistance they might receive' which may have influenced the behaviour 'even of those who never, in

---

7 Slack, English Poor Law, p.29.
fact, had to resort to relief'. However harsh the settlement laws were, it was at least an insurance against starvation.

Because this thesis has concentrated on the legal aspects of settlement, many other facets have had to be ignored. While the cost of settlement appeals between neighbouring parishes has been touched on, much research into this needs to be undertaken. There is also a need for a comprehensive study of eighteenth- and nineteenth-century attitudes to the laws of settlement. Paul Slack has written that 'The effects of the laws of settlement have been much disputed, both by contemporaries and by later historians'. So perhaps we should question whether the settlement laws had any real beneficial impact on the overall cost of parish poor relief. Barry Stapleton has shown that as Odiham moved paupers out of the town, so other paupers arrived, moved there by other parishes. Perhaps the whole structure of 'settlement' could have been abolished without, in general terms, affecting parish economies, and of course there would have been very great savings by the avoidance of the costs of appeal cases. No-one can doubt 'the absurdity of removing a migrant from one parish to another in the same town, and of settlement squabbles between small, often neighbouring parishes in the countryside'. At least in

---

8 P.M. Solar, 'Poor relief and English economic development', Economic History Review 48 (1995), pp.7-8


10 Slack, English Poor Law, p.29.


12 Slack, English Poor Law, p.29.
cases of that sort, the family would remain in the same district, and might still have been able to obtain work from employers to whom they were known.

We have seen that in many cases the villagers dealt with in this thesis showed knowledge of parish boundaries, an integral part of the laws of settlement. It seems probable that such customs as 'beating the bounds' and Rogation-tide perambulations were used to instil in the minds of people the boundaries of their 'settlement'. In the case of William Dunkley, we read that evidence of 'beating the bounds' was given during the hearing of his case at the Quarter Sessions. It seems certain that settlement disputes led to feelings of animosity between neighbouring parishes, as overseers stooped to almost any depths to rid themselves of pauper families, even, in some cases, of families which had lived in the parish for many years.

The power of the parish or township as a unit of government was of course greatly strengthened by control over settlement matters, but a study is needed to show whether the settlement laws had any effect on the unity of the local community. We know little of how people were treated when a parish was forced to accept them on their arrival with a removal order. The treatment of sojourners by parish overseers has been discussed, but we need to know how these people fared in their contacts with the ordinary parishioners. Keith Wrightson has written that 'neighbours should live "quietly" and "in charity"', but we have no knowledge of whether an incomer was considered to be a 'neighbour'.

---

13 See Chapter 2.

'suspicion of outsiders seems to have been deep-seated and ubiquitous'.\textsuperscript{15} The pauper family arriving unknown in a parish was likely to be ignored or ostracized; might be deprived of the friendly approach and of the helping-hand in time of need. It would be interesting to know whether their neighbours, especially the rate-payers, resented them in the same way that the financially-troubled parish officers obviously did.

More study is needed to discover whether families eventually remained in the parish to which they were removed. Evidence has been found that some at least returned despite the removal order, as is seen in the case of Susannah Cure which was discussed in Chapter 6.\textsuperscript{16} No doubt 'people moved into and out of poverty, and were rarely for a lifetime subjected to and socialised by the dependent status of the pauper'.\textsuperscript{17} So when times were better, a family might move back to the place from which it had previously been removed. But in doing so, each member might become liable to be treated under the vagrancy laws unless in possession of a settlement certificate from another parish.

If a man was removed to a parish which he had never previously visited, such as the settlement of his grandfather, he can have felt little concept of 'belonging' and of parochial allegiance. In such cases a man must surely have felt that his 'home' parish was the one in which he had lived, not the one in which he was


\textsuperscript{16} In the parish collection for Daventry, there are orders for three other families who were all removed from the parish in the early 1780s and became the subject of a further removal a few years later.

\textsuperscript{17} Slack, \textit{English Poor Law}, p.48.
legally settled. John Clare was not removed out of his home parish by a removal order, but left because of the generous offer of a better cottage elsewhere. Two short extracts from his poem *The Flitting* leave us in no doubt of his sense of loss:18

I've left mine old home of homes  
Green fields and every pleasant place  
The summer like a stranger comes  
I pause and hardly know her face

There have I sat by many a tree  
And leaned o'er many a rural stile  
And conned my thoughts as joys to me  
Nought heeding who might frown or smile

The Legal Profession

We have seen one example in this thesis of a solicitor who gave incorrect information to a parish about the settlement of one of its pauper families.19 No doubt that particular man had not been employed in many settlement appeals. No such impression is given by the documents connected with the firm of Harrison and Burton. These two men were obviously deeply involved with settlement matters and very knowledgeable about the law. One feels that books such as Burn's *Justice of the Peace* had been carefully studied. It is also obvious that they had good relationships with the barristers who normally appeared at the Northamptonshire Quarter Sessions.

It is equally clear that these barristers spent much time in settlement appeals and must have been well versed in the law. When they attended appeals at the Court of King's Bench, they gained an insight into how the


19 See Chapter 5 for the case of Thomas Leaton.
judgements handed down caused modification of various aspects of those laws. We have seen in Chapter 3 that in situations when the law was in dispute, the judges seemed to have erred on the side of the poor man, stating that if possible it was right that a man should be granted a settlement. Indeed in Chapter 5 we saw solicitor Harrison stating that the Court of King's Bench liked to err on the side of allowing a settlement. In papers for the case of William Orton, there survives a letter from the barrister, J. Beauclerk, in which he reports on the hearing at the Court of King's Bench and even explains the different opinions given by two of the appeal judges. The fact that barristers were frequently asked for 'opinions' about possible settlement appeals, meant that details of judgements in the appeal courts must have reached solicitors far distant from London even before a new edition of Burn was available.

The majority of the paupers dealt with in this thesis also appear to have been aware of the settlement laws, though in many cases they were incorrect in their interpretation of them. There can be little doubt that most poor people understood the importance of remembering details such as apprenticeships, yearly service, or renting a property. Settlement was of paramount importance in the lives of the working classes. J.S Taylor has written that 'it is impossible to read many examinations without perceiving that some examinants laid down their settlement'; he also writes of 'a convenient lapse of memory or a "mistake" in chronology. 'It might be important to a man to secure a settlement for his children, even though he himself was sufficiently

---

20 See The case of Richard Sharpe in Chapter 5.

21 D8261. For details of the case see Chapter 6.

prosperous to be beyond any danger of interference',
though 'men even of a moderate affluence, might find
themselves in need of relief'.

It seems certain that E.P. Thompson was correct when he
wrote that 'the mature labourer with a family was afraid
of losing the security of his "settlement"'. We have
already seen examples of paupers trying to manipulate the
system. This must have taken place, though when being
examined as to his settlement, a man had to remember
that, if an appeal followed his removal, the solicitors
would spare no effort in checking every detail of the
evidence. Solicitor Harrison occasionally cast doubt on
the veracity of a pauper, but the general impression
gained while researching this thesis, was that the vast
majority of the people examined were telling the truth -
or at least what they believed to be the truth. However
carefully the poor may have remembered their period of
service or details of their apprenticeship, we are all
aware that time dims one's recollection. Also while
illiteracy was perhaps not as prevalent as is sometimes
suggested, probably few of the people wrote down the
details of how they gained a settlement. Certainly no
suggestion of this has been found amongst the many papers
studied.

Of course while reading settlement examinations we must
remember that not all people examined were removed.
Parish officers often required a man to give an account

---

23 P. Styles, 'The Evolution of the laws of
settlement', University of Birmingham Historical
Journal 9 (1963), p.43.

24 E.P. Thompson, The Making of the English Working

25 See Chapter 2, note 17 for a pauper who asked advice
on what answers to give to establish his settlement in his
chosen parish.
of himself. Norma Landau has suggested that 'the purpose of such examinations frequently seems to be proof of the settlement, proof desired by the examinee so he can rest assured that he can remain in the parish, or proof desired by the parish officers so that they can tax the examinee without adding to the number of persons claiming settlement in the parish'.

Many of the people who were examined were not paupers. In the parish collection for the town of Daventry, there are over 850 personal poor law documents such as bastardy orders, including 162 settlement examinations. Of these 33 are matched by orders, showing clearly that the people were indeed removed. But there is also a much larger number where no removal order has been found. A few are of men and women who give evidence establishing their settlement in the town, an example being John Grimsley who in 1757 stated that he had served his apprenticeship in Daventry. He was granted a certificate by Daventry on the same day as his examination.

Four other certificates guaranteed settlement in other parishes, one of which was dated four days before the actual settlement examination.

Many of those examined gave no evidence to suggest a possible settlement in Daventry. Despite allowing for possible lost documents, the numbers seem to imply that a fairly large proportion of those not claiming a settlement were not in fact removed. Four cases have been found of families removed after an examination and then apparently returning to Daventry, as a second removal order has been found dated several years later. It seems, therefore, that of the 126 people examined about their

---


27 96p/197/18; 96p/197/19.

28 96p/196/26; 96p/197/77.
settlement, the town allowed 85 to remain in the parish as long as they were not an actual charge on the poor rate.

A detailed study is needed to show the impact of settlement on the migration of labour during the eighteenth and early nineteenth centuries, both in industrial and rural areas. The Northamptonshire Poor Law Index shows that many of the people being examined had travelled great distances from their places of birth. No doubt a similar check of documents for industrial areas would show that an even higher proportion were long-distance 'incomers'. J.B. Smith wrote of Manchester in 1839 that 'There are thousands in this district who do not belong to our parishes and who dare not apply for relief lest the overseer should pass them to their own settlements in the agricultural parts of the country'. This quotation seems to disprove Polanyi's comment that the settlement laws 'bound labour to the parish'.

More work is needed on the distances travelled by servants hired for a year, and as to whether this had a major effect on the movement of families. It is suggested that few remained settled in the same parish for more than two to three generations. Barry Stapleton states that in Odiham, 'between 1650 and 1850 the majority of those heads of families receiving relief were not born or baptised' in the parish. Work is also needed to try to establish whether this was an effect of the settlement

29 Quoted by D. Fraser, (ed.), The New Poor Law in the Nineteenth Century (1976), p.3.


and removal laws.

It seems that there is some confusion about the settlement laws after the 1834 Act; indeed one historian has even written that the settlement laws were abolished by the New Poor Law Act of 1834! To appreciate the changes made to settlement by that Act, it is important for historians of the Victorian and Edwardian periods to understand the legal restraints of the settlement laws in the earlier period.

There is now a need for detailed discussion of the advantages or otherwise of the changes to the settlement laws during the early years of the New Poor Law period, and a detailed comparison of the settlement laws before and after 1834. Another area for study is the 'close' and 'open' village with specific reference to settlement laws. Before 1834 the laws certainly had an impact on 'close' parishes and on estate villages. We have seen evidence of groups of farmers signing agreements not to employ servants in such a way as to allow them to gain settlements. Research is needed to establish how often the signatories to such documents were tenants of one estate acting under directions of the landlord, and whether similar agreements are found in 'open' parishes.

---


The expansion of these subjects would obviously require at least another thesis involving a further detailed research programme; but it is clear that settlement has a direct relevance to subjects such as labour supply within the agricultural and industrial sectors. The structures of the labour market were based upon the prior existence of the settlement laws, making an understanding of those laws essential if the market structures and economic implications are to be properly understood.

We have seen that the master of the apprentice Warner was forced to have the boy transferred to another master. He had himself been threatened with removal by the overseers if he took an apprentice from another parish. This reminds us that the settlement laws affected the artisan as well as the agricultural labourer. Many poor children were apprenticed outside their home parish, but research is needed to establish whether parishes tended to apprentice boys to artisan trades in their own parish, knowing that 'time expended in training young people within its parochial boundaries was likely to be of future benefit to itself'. A boy apprenticed to a blacksmith or wheelwright might eventually prove of benefit to the local community through the settlement he gained by his apprenticeship. For a future well-rounded local society, the parish had need of the artisans, not only for their skills, but also to be future rate-payers and leaders of the local community.

The aim of this thesis has been to explain the laws of settlement, and in particular to testify to the immense legal and practical complexity of the laws, their operation, and of how they were interpreted by the Court.

---

35 See Chapter 1.

of King's Bench. It is hoped that this detailed study of settlement cases, as well as the light thrown on the role of the legal professions - hitherto almost completely ignored - will help to clarify the subject. The thesis has supplemented the pioneering work of J.S. Taylor, whose book has been almost the only significant contribution to advance the study of settlement. When one considers the importance of the settlement laws for the poorer members of the community, it seems that the impact of settlement should be treated as a major element in future historiographical discussion of the lives of the labouring people.

In a delightful comment on the complexities of the law, Burn, at the end of his discussion of the laws of settlement, stated that

Having gone through this subject of settlement, and I hope with some perspicacity and exactness, the first reflection which will arise in the mind of every reader, will be, to admire the subtilty of human wit'.

He continued by quoting from the Book of Ecclesiastes, 7, 29. 'Lo this only have I found, that God hath made man upright; but they have sought out many inventions'. Whether man behaved in a moral and upright manner over settlement is for the reader to decide, but with regard to settlement, however, few could dispute that contemporaries 'sought out many inventions'.

I hope that this study has helped to record and explain the fascinating details of the way the settlement laws were administered, and to throw light on the complex legal structure of the Old Poor Law.

37 Burn, Justice (14th edn, 1780), 3, p.489.
Appendix No.1.

Accounts for the Bosworth Case 96p/326

The Churchwardens and Overseers of the Poor of the Parish of Daventry, touching their Appeal against the order made for the removal of Mary Bosworth from South Mimms to Daventry to

H B Harrison D

1782

February

Several Attendances upon the Parish Officers in consequence of Pauper being brought by order from South Mimms to Daventry perusing said order advising them thereon and taking Paupers examination. 0 6 8

Attending Mr Checkley very often half a Dozen times at least and enquiring of him what he knew of the Settlement of Samuel Bosworth, Paupers husband who by virtue of his having served said Checkley had been adjudged to have gained a Settlement 0 3 6

Making Copy order of removal to send to my Agents in order for them to enter an appeal thereto in Court 0 3 6

March 15

Journey Mr Burton to West Haddon to make enquiries respecting the birth and apprenticeship of Paupers husband the Settlement of his father and to search the Register of West Haddon for his Baptism but the same could not be found on account of his being a Dissenter horsehire & expences 0 13 4

Paid Clerk of the Parish of West Haddon for such search 0 0 6
Apr. 12th  Journey Mr Burton to West Haddon to make further examination respecting Paupers Husbands birth and Settlement from thence to Brockhall to examine Paupers husbands sister respecting the same Horsehire & Exp's 0 13 4

Another Journey to West Haddon to take examination of Thomas Bourn Paupers husbands Brother in law and with whom he served part of his Apprenticeship Horsehire and expences 0 13 4

Drawing Petition to enter appeal and try the same at the next Sessions and fair Copy for Council 0 2 6

Paid Council to move 10/6 his Clerk 2/6 0 13 0

Attending him and Court 3/4 paid for the order of entry and adjournment 5/- Copy and service 1/6 0 9 10

Sessions fee 0 3 4

May 6th  Journey Mr Worley top Denton beyond Northampton to examine Paupers Brother respecting his Birth and apprenticeship & Horsehire and expences 0 13 4

8th  Journey Mr Burton from London to Barnet and from thence to South Mimms to make enquiries after Paupers Husband without seeing and examining whom it was found dangerous to proceed in the appeal but he could not be found there and the only information he could obtain was that he was at or in the Neighbourhood of Highgate Horsehire 5's. Expences 3/6 0 8 6

10th  Journey Mr Harrison and Mr Burton both from London to Highgate to make enquiries after Pauper which they did but could obtain no information 0 13 4

Dined at Highgate but will charge nothing for expences 0 0 0

£4 16 2
Drawing notice of adjournment of appeal  
Copy and service 0 1 6

Drawing Mr Burtons Affidavit of Absence of material Witness ingrossing same duty and Oath 0 6 7

Serving Notice of Adjournment and Motion 0 6 8

Drawing Affidavit of service of notice of Motion & adjournment ingrossing and Oath 0 6 7

Attending Court of Sessions to move for adjournment of the hearing of this appeal on account of the absence of Paupers Husband 0 6 8

Drawing and fair Copy of Brief for Council to move 1/6 Paid him therewith 10/6 his Clerk 2/6 0 14 6

Attending him & Court 0 3 6

Drawing and fair Copy of Brief for Council to consent 1/6 Paid him 10/6 his Clerk 2/6 0 14 6

Paid for the order of Adjournment 0 5 0

Copy and Service 1/6 Sessions fee 3/4 0 4 10

Drawing notice of hearing Appeal Copy and Service 1/6 Subpoena 4/6 0 6 0

September Making copy of Subpoena to serve on Paupers Brother 0 2 6

Journey Mr Worley to Denton to serve Paupers Brother John Bosworth with Subpoena Horsehire & expences 0 13 6

Attending at the Stamp Office in Lincolns Inn to search if Paupers Indentures of Apprenticeship were inrolled 0 3 6

Paid for such search 0 4 2

£11 11 4
Drawing Brief for Council 1 0 0
Two fair Copies thereof for Council 1 0 0
Paid Mr Silvester with his Brief 3 3 0
his Clerk 2 6 3 5 6
Paid Mr Leckmere with his Brief 1 1 0
his Clerk 2 6 1 3 6
Attending Council with their Briefs and
explaining the Briefs to them 0 6 8
Attending Court of Sessions when the
Appeal came on to be tried 0 6 8
Paid Court fees upon Allowance of Appeal
and for the order of the Court to quash
the order of the Justices 0 8 6
Sessions Fee 3/4 Porters 1/0 0 4 4
To several Attendances upon the Parish
Officers writing letters to my Agents in
London examining the several Witnesses
and for the postage of Letters &c to and
from London in the Course of this Business 0 6 8

£19 13 2

Barby Acc
8 - -

1783
March Allow'd at a Vestry
18th Rec'd on [Brobson's] Acc

£27 13 2
£15 15 0

£11 18 2

10 May 1783 Received the Contents

H B Harrison
Appendix No.2.

The Case for Barrister's Opinion sent by H B Harrison to John Morton in the case of Richard Warner 1772. The first two and a half pages of the document are a full copy of Warner's examination, plus the following comments by the solicitor. D9857.

Warner is now at Edgcott & continues there very much against the Consent of the Inhabitants & is harboured by his Father who lives in a Town House. The People of Edgcott are aware that if they remove him either to Claydon or Shalston, they will certainly incur the expense and danger of an appeal. At Shalston there does not clearly appear either a Years hiring or a Years Service. At Claydon both, but then it is observable he was under age when he bought his time out & performed such Service at Claydon & being a Parish apprentice it is doubted whether as such he was sui juris & capable (without the consent of the Officers of Edgcott who are no parties to, neither were they acquainted with the Transaction) of discharging the Apprenticeship, & if not, another doubt may arise, whether he acquired any Settlement at all at Claydon, not having an express leave from his Master to go to hire himself & live at Claydon, tho in that case it rather seems the Contract was binding upon the Master & he could not recall him, but how far it will operate so as to give the Apprentice a Settlement at Claydon.

Your Opinion is desired and also to point out what are the most advisable steps for the Parish of Edgcott to pursue in this Case - and particularly whether two Justices of the County may not in case Warner persists in staying at Edgcott, commit him to the House of Correction for returning to Edgcott after having been removed from thence to Banbury by Order in manner before stated, such order being unappealed to. Or whether as Warner's father now harbours him in his House, which is provided for the Father by the Parish and for which no rent is paid, The Inhabitants may with safety turn Warner by force out of the House, finding him another Habitation in the same Town large enough for himself, but not sufficient to accomodate Warner & his Wife & removing his goods thereto.
Mr Mortons Opinion D9857.

I am of Opinion that no Commitment ought to be made of Warner to the House of Correction, as Returning in disobedience to an Order of Removal unappealed to - Such punishment ought never to be inflicted, but where the Settlement of the Pauper cannot come in Dispute, but is bound and stopped by the Order.

Now it is manifest in the present Case, that the Paupers Settlement becomes disputable by Matter subsequent to the Order of Removal to Banbury, and consequently such Order unappealed to, is no way binding & conclusive, to a Settlement gained subsequent to such Order.

And I am of Opinion, that the Pauper gained a Settlement by his Hiring & Service at Claydon. If the Dissolution of the Apprenticeship was legal there can be no doubt but such a Service & Hiring gained a Settlement. But suppose such dissolution not strictly according to Law for any of the Reasons suggested in the Case, yet the transaction between the Master & his Apprentice was at least an Assent on the Master's part to his apprentice to live & provide for himself as he could. And then a Service under such a Permission will be a Settlement wherever it was continued for the last Forty days during the Continuance of the Apprenticeship. But I think the Dissolution of the Apprenticeship as above stated, that the Pauper became sui juris so as to be capable of Hiring himself & making himself liable to that Service of a Year, under the Acts relative to the Relief of the Poor & acquiring a legal Settlement thereby. Consequently I am of Opinion that the Pauper's present Settlement is at Claydon which I take to be in Bucks and not Oxon.

A Pauper placed in a Parish House is certainly removable therefrom into any other more proper Habitation in the Discretion of the Parish Officers. And I think they may remove such Pauper by any compulsive means, not attended with Bodily Danger in the Use thereof in Case of Resistance.

John Morton
London Feb' 15th 1772

Letter found with the other case papers. D9857.

Dear Sir,

I certainly shall submit to Mr Morton's Opinion and I hope in case of an appeal their Worships at Northampton will be of the same mind. Nevertheless I cannot possibly think the Consent of an Apprentice under age can
signify anything at all. Nor can I conceive that ye hiring at Claydon where there was no privity of the Master or explicit Leave given to that particular Service, was a good and valid hiring so as to gain a Settlement under the Indentures of apprenticeship. But be so good as to consult the King against the Inhabitants of Austrey 2 Burr. Settlement Cases 441 Hil. 31 Geo 2. Or you may see it in Burn by the name of Austrey & Grindon, Vol.3.pa.334 11th Edition.

Neither am I quite so clear as Mr Morton is, that a man may be removed from a parish house by force, unless he hath Collection, in which case he is such a Pauper as may be removed, no doubt; Or unless he hath been recently harboured in it. His possession is a Title till a better appears, and this possession is of the more consideration if it hath continued three years, and perhaps the longer it hath continued. Suppose you or I were from a charitable motive to lend a poor man a House to live in, and after he hath dwelt therein uninterruptedly for a Number of years and ungrateful enough to defend himself in his possession, do you think you or I could, or our Heirs could turn him out by force? And pray what gives the Overseers and their successors more dominion over a poor man not receiving Collection, than a common Landlord hath over his Tenant. [See ye Stat:5R2 c8] "None shall make any Entry into any Land or Tenement but where Entry is given by Law, and in such case not with strong hand, nor with multitude of People but only in peaceable and easy manner" Why then say you he detaineth this House by Force, having only a defensible Title against the Persons who have a Right to enter. But I apprehend the Stature of 31 Eliz c11 enables him to plead three years possession in case of Justices proceeding upon the forcible Detainer, and then the matter is at an end. I really cannot find any power given to parish Officers to put paupers out of parish Houses, altho there certainly should be such a power lodged somewhere. If you would have orders to remove I will sign them whenever you please.

I am Yr most Obedient
Fr Burton
Aynho 24th Febry 1772

Mr Morton's revised Opinion.

I have reviewed the above Case & my Opinion thereon, & think, if Warner was under the Age of twenty one when he parted from his Master at Banbury, that there was no legal Dissolution of the Apprenticeship & consequently that nothing done by the pauper in his Subsequent Hiring at Claydon has gained him any Settlement there & as I find the
cases show that there must be a particular & special Consent of the Master to constitute a Settlement under an apprenticeship by the Service of the last forty days, I think that Warner did not gain a Settlement at Shalston as being then an apprentice & therefore am of Opinion that his Settlement is now at Banbury under the order of Removal unappealed from. And that Warner is liable to be sent to the House of Correction as returning to the parish from whence Removed in Defiance of the Order.

John Morton
London Mar. 27th 1773

The Quarter Sessions Record Book 1754 - 1782
The order removing Richard Warner and his wife from Edgcott to Banbury and the subsequent order for their removal from Edgcott to Shalston were both signed by Francis Burton Esquire. Despite his obvious knowledge of the law of settlement, very few documents signed by him have been found while indexing personal poor law documents for the county. Only three other examples have been found of the signature of the Rev John Spencer, the other justice who signed the two removal orders. Both of them rarely if even attended the Quarter Sessions.
Appendix No. 3.

Solicitors Charges for various appeal cases

<table>
<thead>
<tr>
<th>Parish</th>
<th>Year</th>
<th>Solicitor</th>
<th>Account</th>
<th>Pauper</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daventry</td>
<td>1762</td>
<td>J. Godfree</td>
<td>£ 2 1</td>
<td>10½ Grace Wafforne</td>
<td>D8290</td>
</tr>
<tr>
<td>Daventry</td>
<td>1763</td>
<td>J. Godfree</td>
<td>£ 7 7</td>
<td>2½ Mary Pescow</td>
<td>D8290</td>
</tr>
<tr>
<td>Daventry</td>
<td>1764</td>
<td>J. Godfree</td>
<td>£ 3 17</td>
<td>0 Thos Perkins</td>
<td>D8290</td>
</tr>
<tr>
<td>Edgecott</td>
<td>1772</td>
<td>H.B. Harrison</td>
<td>£27 19</td>
<td>6 Richard Warner</td>
<td>D9857</td>
</tr>
<tr>
<td>Great Brington</td>
<td>1772</td>
<td>H.B. Harrison</td>
<td>£ 3 0</td>
<td>10 Mutton</td>
<td>D9857</td>
</tr>
<tr>
<td>Bugbrooke</td>
<td>1776</td>
<td>H.B. Harrison</td>
<td>£12 9</td>
<td>10 Edward Ashby</td>
<td>D4546</td>
</tr>
<tr>
<td>Daventry</td>
<td>1782</td>
<td>H.B. Harrison</td>
<td>£19 13</td>
<td>2 Elizabeth Bosworth</td>
<td>96p/326</td>
</tr>
<tr>
<td>Daventry</td>
<td>1787</td>
<td>Harrison &amp; Burton</td>
<td>£18 7</td>
<td>8 Thomas Cooper</td>
<td>96p/337/3</td>
</tr>
<tr>
<td>Daventry</td>
<td>1787</td>
<td>Harrison &amp; Burton</td>
<td>£ 7 6</td>
<td>0 Richard Ellard</td>
<td>96p/337/2</td>
</tr>
<tr>
<td>Daventry</td>
<td>1788</td>
<td>Harrison &amp; Burton</td>
<td>£13 15</td>
<td>4½ -</td>
<td>96p/337/5</td>
</tr>
<tr>
<td>Daventry</td>
<td>1808</td>
<td>E. Burton</td>
<td>£43 6</td>
<td>11 James Newman</td>
<td>D4896</td>
</tr>
<tr>
<td>Bugbrooke</td>
<td>1808</td>
<td>E. Burton</td>
<td>£64 13</td>
<td>4 John Miller</td>
<td>D4896</td>
</tr>
<tr>
<td>Preston Capes</td>
<td>1809</td>
<td>E. Burton</td>
<td>£ 6 12</td>
<td>0 James Gibbins</td>
<td>D4896</td>
</tr>
<tr>
<td>Charwelton</td>
<td>1810</td>
<td>E. Burton</td>
<td>£25 12</td>
<td>10 -</td>
<td>D4896</td>
</tr>
<tr>
<td>Ashby St Ledgers</td>
<td>1810</td>
<td>E. Burton</td>
<td>£49 17</td>
<td>4 -</td>
<td>D4896</td>
</tr>
<tr>
<td>Everdon</td>
<td>1810</td>
<td>E. Burton</td>
<td>£15 5</td>
<td>6 Checkley</td>
<td>D4896</td>
</tr>
<tr>
<td>Weedon Lois</td>
<td>1810</td>
<td>R. Howes</td>
<td>£18 16</td>
<td>8 John Humphrey</td>
<td>345p/128</td>
</tr>
<tr>
<td>Norton</td>
<td>1810</td>
<td>-</td>
<td>£ 9 0</td>
<td>2 -</td>
<td>D9250</td>
</tr>
<tr>
<td>Gretton</td>
<td>1815</td>
<td>-</td>
<td>£80 3</td>
<td>9 William Parr</td>
<td>142p/84/2</td>
</tr>
<tr>
<td>Cranford St A</td>
<td>1815</td>
<td>T. Marshall</td>
<td>£52 13</td>
<td>8 Thomas Tye</td>
<td>87p/30</td>
</tr>
<tr>
<td>Location</td>
<td>Year</td>
<td>Maker</td>
<td>Amount</td>
<td>Notes</td>
<td>Reference</td>
</tr>
<tr>
<td>-------------------</td>
<td>------</td>
<td>-----------------</td>
<td>--------</td>
<td>------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Charwelton</td>
<td>1816</td>
<td>E. Burton</td>
<td>£33</td>
<td>10 0</td>
<td>D4562/a</td>
</tr>
<tr>
<td>Weedon Beck</td>
<td>1816</td>
<td>-</td>
<td>£27</td>
<td>17 6</td>
<td>D4560</td>
</tr>
<tr>
<td>Hellidon</td>
<td>1816</td>
<td>E. Burton</td>
<td>£11</td>
<td>17 10</td>
<td>161p/148</td>
</tr>
<tr>
<td>Staverton</td>
<td>1816</td>
<td>E. Burton</td>
<td>£5</td>
<td>5 10</td>
<td>D4563</td>
</tr>
<tr>
<td>Yelvertoft</td>
<td>1816</td>
<td>E. Burton</td>
<td>£21</td>
<td>4 8</td>
<td>D4545</td>
</tr>
<tr>
<td>Desborough</td>
<td>1816</td>
<td>J.N. Goodhall</td>
<td>£26</td>
<td>7 0</td>
<td>103p/203</td>
</tr>
<tr>
<td>Desborough</td>
<td>1816</td>
<td>J.N. Goodhall</td>
<td>£36</td>
<td>17 2½</td>
<td>103p/204</td>
</tr>
<tr>
<td>Desborough</td>
<td>1816</td>
<td>J.N. Goodhall</td>
<td>£28</td>
<td>5 3½</td>
<td>103p/205</td>
</tr>
<tr>
<td>Duston</td>
<td>1816</td>
<td>R. Abbey &amp; son</td>
<td>£17</td>
<td>0 3</td>
<td>109p/185</td>
</tr>
<tr>
<td>Weedon Beck</td>
<td>1817</td>
<td>-</td>
<td>£27</td>
<td>17 6</td>
<td>D4560</td>
</tr>
<tr>
<td>Desborough</td>
<td>1819</td>
<td>P.O. Adams</td>
<td>£26</td>
<td>10 8</td>
<td>103p/209</td>
</tr>
<tr>
<td>Desborough</td>
<td>1820</td>
<td>P.O. Adams</td>
<td>£12</td>
<td>5 0</td>
<td>103p/210</td>
</tr>
<tr>
<td>Nether Heyford</td>
<td>1820</td>
<td>W. Flesher</td>
<td>£28</td>
<td>10 7</td>
<td>165p/44</td>
</tr>
<tr>
<td>Watford</td>
<td>1822</td>
<td>E.S. Burton</td>
<td>£20</td>
<td>17 6</td>
<td>D824/2</td>
</tr>
<tr>
<td>Nether Heyford</td>
<td>1822</td>
<td>T. Howes</td>
<td>£27</td>
<td>15 6</td>
<td>165p/42</td>
</tr>
<tr>
<td>Carlton</td>
<td>1824</td>
<td>Shuttleworth</td>
<td>£19</td>
<td>18 8</td>
<td>59p/81</td>
</tr>
<tr>
<td>Nether Heyford</td>
<td>1826</td>
<td>T. Howes</td>
<td>£3</td>
<td>19 6</td>
<td>165p/43</td>
</tr>
<tr>
<td>Weedon Lois</td>
<td>1826</td>
<td>T. Howes</td>
<td>£2</td>
<td>15 4</td>
<td>345p/118</td>
</tr>
<tr>
<td>Lower Heyford</td>
<td>1827</td>
<td>W. Flesher</td>
<td>£28</td>
<td>6 7</td>
<td>165p/44</td>
</tr>
<tr>
<td>Hardwick</td>
<td>1827</td>
<td>A. Sharman</td>
<td>£19</td>
<td>15 9</td>
<td>151p/55</td>
</tr>
<tr>
<td>Weedon Lois</td>
<td>1827</td>
<td>T. Howes</td>
<td>£37</td>
<td>9 10</td>
<td>345p/70</td>
</tr>
<tr>
<td>Titchmarsh</td>
<td>1828</td>
<td>J. Archbould</td>
<td>£18</td>
<td>3 9</td>
<td>328p/99/6</td>
</tr>
<tr>
<td>Kingsthorpe</td>
<td>1829</td>
<td>G. Abbey</td>
<td>£57</td>
<td>3 11</td>
<td>189p/127/13</td>
</tr>
<tr>
<td>Islip</td>
<td>1830</td>
<td>J. Archbould</td>
<td>£22</td>
<td>3 8</td>
<td>180p/493</td>
</tr>
<tr>
<td>Duston</td>
<td>1832</td>
<td>R. Hewitt</td>
<td>£42</td>
<td>10 0</td>
<td>109p/186</td>
</tr>
<tr>
<td>Nether Heyford</td>
<td>1833</td>
<td>T. Howes</td>
<td>£30</td>
<td>17 2</td>
<td>165p/45</td>
</tr>
</tbody>
</table>
Appendix 4.

A list of Statute or Mops, found during research for this thesis, in documents at the Northamptonshire Record Office. Details of the year, month or day on which the statute was held, are given when available, together with the Record Office reference number.

<table>
<thead>
<tr>
<th>Statute Name</th>
<th>Year</th>
<th>Day of the Week</th>
<th>Michaelmas Date</th>
<th>Reference Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banbury 1st Mop</td>
<td>c1780</td>
<td>First Thursday after Old Michaelmas</td>
<td>D9830</td>
<td></td>
</tr>
<tr>
<td>Banbury Mop</td>
<td>c1816</td>
<td>First Thursday after Old Michaelmas</td>
<td>D4505</td>
<td></td>
</tr>
<tr>
<td>Banbury Mop</td>
<td>1817</td>
<td>Thursday after Old Michaelmas</td>
<td>D6529</td>
<td></td>
</tr>
<tr>
<td>Bloxham Statutes</td>
<td>c1761</td>
<td>Tuesday before Old Michaelmas</td>
<td>D9857</td>
<td></td>
</tr>
<tr>
<td>Brackley Statute</td>
<td>c1763</td>
<td>Wednesday before Old Michaelmas</td>
<td>D9857</td>
<td></td>
</tr>
<tr>
<td>Braunston Statute</td>
<td>1787</td>
<td>Before Michaelmas</td>
<td>D9831</td>
<td></td>
</tr>
<tr>
<td>Buckingham Statute</td>
<td>c1763</td>
<td>A week or more before Old Michaelmas</td>
<td>D764</td>
<td></td>
</tr>
<tr>
<td>Buckingham Statute</td>
<td>1818</td>
<td>Before Michaelmas</td>
<td>D9832</td>
<td></td>
</tr>
<tr>
<td>Cuttle Mill Statutes</td>
<td>1760</td>
<td>Before Michaelmas</td>
<td>D4476</td>
<td></td>
</tr>
<tr>
<td>Daventry 1st Mop</td>
<td>1800</td>
<td>Wednesday after Michaelmas</td>
<td>D824</td>
<td></td>
</tr>
<tr>
<td>Daventry Mop</td>
<td>1817</td>
<td>Wednesday 15th October</td>
<td>D1032</td>
<td></td>
</tr>
<tr>
<td>Daventry Statute</td>
<td>c1763</td>
<td>Before Michaelmas</td>
<td>96p/190/16a</td>
<td></td>
</tr>
<tr>
<td>Daventry Statutes</td>
<td>c1761</td>
<td>A little before Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>East Haddon Statute</td>
<td>c1826</td>
<td>Before Old Michaelmas</td>
<td>D4476/1</td>
<td></td>
</tr>
<tr>
<td>Fosters Booth Statute</td>
<td>1799</td>
<td>Two weeks before Michaelmas</td>
<td>D824/4</td>
<td></td>
</tr>
<tr>
<td>Haddon Statute</td>
<td>1811</td>
<td>Two weeks before Old Michaelmas</td>
<td>D1502</td>
<td></td>
</tr>
<tr>
<td>Haddon Statute</td>
<td>1812</td>
<td>Before Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Haddon Statute</td>
<td>c1820</td>
<td>Two weeks before Old Michaelmas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Year</td>
<td>Event</td>
<td>Code</td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td>------</td>
<td>--------------------------------------------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td>Harlestone Statute</td>
<td>1806</td>
<td>Before New Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Harlestone Statute</td>
<td>1813</td>
<td>Before Old Michaelmas</td>
<td>D824/4</td>
<td></td>
</tr>
<tr>
<td>Harrold Mop</td>
<td>c1792</td>
<td>Ten days before Michaelmas</td>
<td>D2876</td>
<td></td>
</tr>
<tr>
<td>Hinckley Statute</td>
<td>c1799</td>
<td></td>
<td>D2050</td>
<td></td>
</tr>
<tr>
<td>Lutterworth Mop</td>
<td>1825</td>
<td>First Thursday after Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Lutterworth Statute</td>
<td>c1815</td>
<td></td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Lutterworth Statute</td>
<td>c1825</td>
<td></td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Lutterworth Statute</td>
<td>1829</td>
<td>Two weeks before Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>New Inn Mop</td>
<td>1803</td>
<td></td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Norton Feast</td>
<td>1815</td>
<td>Five weeks after Michaelmas</td>
<td>D4504</td>
<td></td>
</tr>
<tr>
<td>Pailton Statute</td>
<td>1809</td>
<td></td>
<td>D10048</td>
<td></td>
</tr>
<tr>
<td>Rugby Mop</td>
<td>1801</td>
<td>Day after Old Michaelmas (but Monday if Michaelmas is a Sunday)</td>
<td>D4476</td>
<td></td>
</tr>
<tr>
<td>Southam 1st Mop</td>
<td>1788</td>
<td>First Monday after Old Michaelmas</td>
<td>D9805c</td>
<td></td>
</tr>
<tr>
<td>Southam 2nd Mop</td>
<td>1788</td>
<td>Second Monday after Michaelmas</td>
<td>D9833</td>
<td></td>
</tr>
<tr>
<td>Southam 2nd Mop</td>
<td>c1794</td>
<td>Three days after Old Michaelmas</td>
<td>D2876</td>
<td></td>
</tr>
<tr>
<td>Southam Mop</td>
<td>1797</td>
<td>Monday after Michaelmas (Michaelmas being a Saturday)</td>
<td>D4495(b)</td>
<td></td>
</tr>
<tr>
<td>Southam Mop</td>
<td>1806</td>
<td>Tuesday after Old Michaelmas</td>
<td>D5794</td>
<td></td>
</tr>
<tr>
<td>Towcester Mop</td>
<td>1801</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Haddon Statute</td>
<td>1810</td>
<td>Before Old Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>West Haddon Statute</td>
<td>1816</td>
<td></td>
<td>D2074</td>
<td></td>
</tr>
<tr>
<td>West Haddon Statute</td>
<td>c1824</td>
<td>Before Michaelmas</td>
<td>ML4614</td>
<td></td>
</tr>
<tr>
<td>Wigston Statute</td>
<td>1799</td>
<td></td>
<td>D2067</td>
<td></td>
</tr>
</tbody>
</table>
Expences pd by Wm Wheatley for Wm Hinks and family

1785
July 2nd Mary Hinks and two Children board and lodging at my house 3 weeks and 3 days 1 - 1 - 0

19th Bought of Hanson of Atherstone for Mary Hinks Shift and handkerchief 0 - 2 - 6½

John Clark bought 4 yards of Linnen for Mary Hinks 0 - 4 - 0

25th My Journey and Expences to Markfield Workhouse 0 - 3 - 6

27th My Man and horse with Hinks family to Markfield workhouse 0 - 4 - 6

Aug 17th Bought Mary Hinks a pair of Shoes 0 - 2 - 0

Pd Wm Clark the Workhouse Keeper at Markfield for Bed and board 7 weeks for Hinks's family at 6 shillings per week 2 - 2 - 0

Wm Clark three weeks more at 6s per week 0 - 18 - 0

£2:2:0 alld

£4 : 17 : 6½
Appendix No 6.

Parish Collections

Daventry Collection

Bastardy papers found in the Northamptonshire Poor Law Index, Series 1, showing the survival rate in the parish collections and the Daventry Collection.
The number of certificates granted between 1691 and 1820, taken from the Northamptonshire Poor Law Index, Series 1.
Appendix No. 7. Part 2.

A total of 582 certificates granted between 1699 and 1794 have been indexed in the Northamptonshire Poor Law Index, Series 1. Of these only 115 indicated the trade or craft of the man. None of the 35 certificates granted to women mention an occupation.

<table>
<thead>
<tr>
<th>Trade</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baker</td>
<td>3</td>
</tr>
<tr>
<td>Barber</td>
<td>3</td>
</tr>
<tr>
<td>Basket Maker</td>
<td>1</td>
</tr>
<tr>
<td>Blacksmith</td>
<td>7</td>
</tr>
<tr>
<td>Butcher</td>
<td>5</td>
</tr>
<tr>
<td>Carpenter</td>
<td>3</td>
</tr>
<tr>
<td>Carpenter &amp; miller</td>
<td>1</td>
</tr>
<tr>
<td>Chairmaker</td>
<td>1</td>
</tr>
<tr>
<td>Clockmaker</td>
<td>1</td>
</tr>
<tr>
<td>Comber</td>
<td>1</td>
</tr>
<tr>
<td>Comber &amp; weaver</td>
<td>2</td>
</tr>
<tr>
<td>Cooper</td>
<td>3</td>
</tr>
<tr>
<td>Cordwainer</td>
<td>8</td>
</tr>
<tr>
<td>Currier</td>
<td>3</td>
</tr>
<tr>
<td>Dyer</td>
<td>1</td>
</tr>
<tr>
<td>Fellmonger</td>
<td>1</td>
</tr>
<tr>
<td>Flax Dresser</td>
<td>1</td>
</tr>
<tr>
<td>Gardener</td>
<td>5</td>
</tr>
<tr>
<td>Glover</td>
<td>1</td>
</tr>
<tr>
<td>Glover &amp; Breeches maker</td>
<td>2</td>
</tr>
<tr>
<td>Husbandman</td>
<td>1</td>
</tr>
<tr>
<td>Labourer</td>
<td>7</td>
</tr>
<tr>
<td>Mason</td>
<td>4</td>
</tr>
<tr>
<td>Miller</td>
<td>2</td>
</tr>
<tr>
<td>Saddletree maker</td>
<td>1</td>
</tr>
<tr>
<td>Schoolmaster</td>
<td>2</td>
</tr>
<tr>
<td>Servingman</td>
<td>1</td>
</tr>
<tr>
<td>Shepherd</td>
<td>1</td>
</tr>
<tr>
<td>Shoemaker</td>
<td>4</td>
</tr>
<tr>
<td>Sieve maker</td>
<td>2</td>
</tr>
<tr>
<td>Slater</td>
<td>1</td>
</tr>
<tr>
<td>Slater &amp; Plasterer</td>
<td>1</td>
</tr>
<tr>
<td>Staymaker</td>
<td>1</td>
</tr>
<tr>
<td>Tailor</td>
<td>10</td>
</tr>
<tr>
<td>Tailor &amp; Staymaker</td>
<td>1</td>
</tr>
<tr>
<td>Tanner</td>
<td>1</td>
</tr>
<tr>
<td>Tinker</td>
<td>1</td>
</tr>
<tr>
<td>Tobbacco Pipe Maker</td>
<td>1</td>
</tr>
<tr>
<td>Turner</td>
<td>1</td>
</tr>
<tr>
<td>Victualler</td>
<td>2</td>
</tr>
<tr>
<td>Weaver</td>
<td>8</td>
</tr>
<tr>
<td>Wheelwright</td>
<td>1</td>
</tr>
<tr>
<td>Whitesmith</td>
<td>1</td>
</tr>
<tr>
<td>Woolcomber</td>
<td>5</td>
</tr>
<tr>
<td>Worsted weaver</td>
<td>1</td>
</tr>
<tr>
<td>Yeoman</td>
<td>1</td>
</tr>
</tbody>
</table>

115
Appendix No.8.

A letter found in the Daventry Collection giving an insight into the proceedings of a Parish Vestry, and in particular into the appointment of Overseers of the Poor. Probably written c1818. D954

On Sunday March 22nd. Notice was given by the Clark of the Parish of Crick, that there would be a Vestry on Tuesday Evening, the Overseers would give up Their Accounts, and Chuse fresh Officers for the Ensuing year; The Bell Was Tol'd; and the People came; and It was Menshoned by Several Respecting Hiering a Standing Overseer; but Nothing was Decided; Mr Marson and Mr West, Standing First to Serve the Ensuing year; They by Reason of Their Age and Infirmityes was not Their; so it was Agree'd to Ajourn they Vestry; Till they Next Morning at Eleven OClock, Being March 25th. at witch time they Bell was Tol'd and the People came, and they Agree'd to Hier Thomas Hobbs they Preceeding Overseer to doo the Business the Ensuing year; and they Hiered him for Twenty Pounds; and he was to Make wat Shoes Mr Marson and Mr West gave they Poor But was to give none without Their Orders. It was Also Agree'd at the Vestry; that Afforesaid Thomas Hobbs Should Request the Gentlemen to Grant him a Warrant, and Nomenate him with the Other too Overseers at Wich Time he Entered upon his Office and Executed the Business one Month
The number of surviving removal orders, taken from the Northamptonshire Poor Law Index, Series 1.
Appendix No.9. Part 2.

Settlement appeals entered at the Northamptonshire Quarter Sessions. Only one hearing has been listed, to give the totals of cases as opposed to actual appearances at the Sessions.
**Bibliography**

**Original Documents in the Northamptonshire Record Office**

**Daventry Collection**

<table>
<thead>
<tr>
<th>Reference</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>D62/7</td>
<td>D4472</td>
</tr>
<tr>
<td>D593/20</td>
<td>D4476</td>
</tr>
<tr>
<td>D593/27</td>
<td>D4493</td>
</tr>
<tr>
<td>D593/29</td>
<td>D4495a</td>
</tr>
<tr>
<td>D611</td>
<td>D4495b</td>
</tr>
<tr>
<td>D764</td>
<td>D4497</td>
</tr>
<tr>
<td>D822</td>
<td>D4504</td>
</tr>
<tr>
<td>D824</td>
<td>D4505</td>
</tr>
<tr>
<td>D883</td>
<td>D4560</td>
</tr>
<tr>
<td>D885</td>
<td>D4562</td>
</tr>
<tr>
<td>D892</td>
<td>D4654</td>
</tr>
<tr>
<td>D954</td>
<td>D4662</td>
</tr>
<tr>
<td>D959</td>
<td>D4664</td>
</tr>
<tr>
<td>D964</td>
<td>D4896</td>
</tr>
<tr>
<td>D975</td>
<td>D4962</td>
</tr>
<tr>
<td>D1017</td>
<td>D5045</td>
</tr>
<tr>
<td>D1032</td>
<td>D5116/8</td>
</tr>
<tr>
<td>D1062</td>
<td>D5443</td>
</tr>
<tr>
<td>D1074</td>
<td>D5737</td>
</tr>
<tr>
<td>D1502</td>
<td>D5784</td>
</tr>
<tr>
<td>D1664</td>
<td>D5794</td>
</tr>
<tr>
<td>D1670</td>
<td>D5937</td>
</tr>
<tr>
<td>D1883</td>
<td>D5953</td>
</tr>
<tr>
<td>D1887</td>
<td>D5960</td>
</tr>
<tr>
<td>D1888</td>
<td>D6162</td>
</tr>
<tr>
<td>D2036</td>
<td>D6262</td>
</tr>
<tr>
<td>D2870</td>
<td>D6529</td>
</tr>
<tr>
<td>D3229/33/2</td>
<td>D6714</td>
</tr>
<tr>
<td>D3231</td>
<td>D7034</td>
</tr>
<tr>
<td>D3240</td>
<td>D7316</td>
</tr>
<tr>
<td>D3245</td>
<td>D7484/4</td>
</tr>
<tr>
<td>D3446</td>
<td>D7536</td>
</tr>
<tr>
<td>D3527</td>
<td>D7538/35</td>
</tr>
<tr>
<td>D4059</td>
<td>D7539</td>
</tr>
<tr>
<td>D4130</td>
<td>D7593/8</td>
</tr>
<tr>
<td>D4341</td>
<td>D7609</td>
</tr>
<tr>
<td>D4364</td>
<td>D7831</td>
</tr>
<tr>
<td>D4368</td>
<td>D7842</td>
</tr>
<tr>
<td>D4374</td>
<td>D7964</td>
</tr>
<tr>
<td>Code</td>
<td>Price</td>
</tr>
<tr>
<td>----------</td>
<td>--------------</td>
</tr>
<tr>
<td>D7997</td>
<td>47p/140</td>
</tr>
<tr>
<td>D8097</td>
<td>55p/111/1</td>
</tr>
<tr>
<td>D8100</td>
<td>58p/125</td>
</tr>
<tr>
<td>D8214</td>
<td>58p/127</td>
</tr>
<tr>
<td>D8230</td>
<td>58p/131</td>
</tr>
<tr>
<td>D8239</td>
<td>87p/28/8</td>
</tr>
<tr>
<td>D8261</td>
<td>96p/190/16a</td>
</tr>
<tr>
<td>D8410</td>
<td>96p/326</td>
</tr>
<tr>
<td>D8781</td>
<td>96p/337/2</td>
</tr>
<tr>
<td>D8863</td>
<td>96p/337/4</td>
</tr>
<tr>
<td>D9004</td>
<td>103p/203</td>
</tr>
<tr>
<td>D9136</td>
<td>109p/186</td>
</tr>
<tr>
<td>D9420</td>
<td>117p/54</td>
</tr>
<tr>
<td>D9437</td>
<td>119p/157/7</td>
</tr>
<tr>
<td>D9563a</td>
<td>120p/118b</td>
</tr>
<tr>
<td>D9567</td>
<td>123p/17</td>
</tr>
<tr>
<td>D9623</td>
<td>129p/4</td>
</tr>
<tr>
<td>D9759</td>
<td>133p/119</td>
</tr>
<tr>
<td>D9805b</td>
<td>146p/84</td>
</tr>
<tr>
<td>D9805c</td>
<td>165p/44</td>
</tr>
<tr>
<td>D9812</td>
<td>214p/131</td>
</tr>
<tr>
<td>D9814</td>
<td>241p/4</td>
</tr>
<tr>
<td>D9815</td>
<td>251p/97/3</td>
</tr>
<tr>
<td>D9816</td>
<td>251p/98/3</td>
</tr>
<tr>
<td>D9817</td>
<td>251p/100</td>
</tr>
<tr>
<td>D9818</td>
<td>261p/242/13</td>
</tr>
<tr>
<td>D9819</td>
<td>261p/242/23</td>
</tr>
<tr>
<td>D9820</td>
<td>261p/242/36</td>
</tr>
<tr>
<td>D9822</td>
<td>261p/242/38</td>
</tr>
<tr>
<td>D9823</td>
<td>261p/242/45</td>
</tr>
<tr>
<td>D9828</td>
<td>261p/242/46</td>
</tr>
<tr>
<td>D9830</td>
<td>261p/242/48</td>
</tr>
<tr>
<td>D9831</td>
<td>261p/242/49</td>
</tr>
<tr>
<td>D9832</td>
<td>261p/242/54</td>
</tr>
<tr>
<td>D9833</td>
<td>261p/243/3</td>
</tr>
<tr>
<td>D9855</td>
<td>261p/243/9</td>
</tr>
<tr>
<td>D9857</td>
<td>261p/243/13</td>
</tr>
<tr>
<td>D9867</td>
<td>285p/20</td>
</tr>
<tr>
<td>D9920</td>
<td>299p/87/1</td>
</tr>
<tr>
<td>D9931</td>
<td>299p/87/2</td>
</tr>
<tr>
<td>D10066/24</td>
<td>308p/54</td>
</tr>
<tr>
<td>D10159</td>
<td>325p/193</td>
</tr>
<tr>
<td></td>
<td>325p/194</td>
</tr>
</tbody>
</table>

**Parish Collections**

<table>
<thead>
<tr>
<th>Code</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>21p/113/5</td>
</tr>
<tr>
<td></td>
<td>22p/79</td>
</tr>
<tr>
<td></td>
<td>30p/20</td>
</tr>
<tr>
<td></td>
<td>30p/37</td>
</tr>
<tr>
<td></td>
<td>30p/44</td>
</tr>
<tr>
<td></td>
<td>40p/1</td>
</tr>
<tr>
<td></td>
<td>40p/16/27</td>
</tr>
<tr>
<td></td>
<td>46p/76/10</td>
</tr>
</tbody>
</table>
Other Northamptonshire Records.

All Saints Northampton Overseers disbursements.
   Uncatalogued.
Badby Parish Notebook, 22p/79
Barby Parish Registers, 24p/10.
Boddington Parish Registers, 36p/5.
Charwelton Parish Registers, 64p/1.
Daventry Parish Registers, 96p/18
Northampton St Sepulchre Parish Register, 241p/4
Settlement Examination, Bu(D)14/9.
John Mastin, manuscript 'Autobiography', ZB 1276.
Marriage Licence for Nathaniel Marriott, 15th January 1717.
Militia List for 1762, Chipping Warden Hundred.
Quarter Sessions Record Books, various years.
Will of John Bosworth, 17th September, 1757.
      Archdeaconry of Northampton.

Original Documents from other record offices.

Bedfordshire Record Office,
   P48/16/1.

Cheshire Record Office
   CRO DPB/1021/1.

Cumbria Record Office,
   WRP/83/Overseers.

Devon Record Office (Exeter),
   74B/B 192.
      Honiton Parish Registers, 22nd September 1789.

Greater London Record Office,
   MJ/SB Sessions of the Peace and Oyer and Terminer
      South Mimms Parish Registers.

Guildhall Library London,
   Index to Apprenticeship Registers, 1710-1774.
Leicestershire Record Office,
DE 783/54.
DE 1212/6
Leicestershire Quarter Sessions Roll 3/177,
Michaelmas 1758.
Leicestershire Quarter Sessions Roll for the
Epiphany Sessions of 1759, Microfilm 56.
Rutland Quarter Sessions Minute Book, 1815-1822.

Warwickshire Record Office,
DR 367/42/4.
DR 126/800.

Works written Pre-1900.


Bailey's British Directory or Merchant's and Trader's Useful Companion (1784)

G. Baker, The History and Antiquities of the County of Northampton (2 vols, 1822-1830).

R.V. Barnewell & E.H. Anderson, Reports of Cases Argued and Determined in the Court of King's Bench (5 vols, 1820).

W. Blackstone, Reports of Cases Determined in the several Courts of Westminster Hall. From 1746 to 1779 (2 vols, 1771).

E. Bott, A Collection of Decisions of the Court of King's Bench upon the Poor's Laws (2nd edn, 1773).


R. Burn, The History of the Poor Laws: with Observations (1764).

R. Burn, The Justice of the Peace and the Parish Officer (Various editions).
J. Burrow, A Series of the Decisions of the Court of King's Bench upon Settlement-Cases, one volume version, (1768 - 1777).

J. Clare, The Parish, A Satire (1820-1827, 1986 edn.).


W. Cobbett The Poor Man's Friend, or essays on the rights and duties of the Poor (1829, 1977 reprint) Part Two, unpaginated.

W. Collins, No Name, (1862, 1989 edn.).

D. Davies, The Case of Labourers in Husbandry (1795)


E. Gaskell, Mary Barton (1848).

R. Gough, The History of Myddle (1834, 1981 edn.).

T. Hardy, The Mayor of Casterbridge (1886, 1918 edn).

T. Hardy, Far from the Madding Crowd (1874, 1932 edn).


- Jannok, 'Selling a wife', Notes and Queries Series 3 (1866), 10. p.29.

T. Lovell, Hints for Procuring Employment for the Labouring Poor for the Better Managing Parish Concerns and for Reducing the Rates (1826).


G. Nicholls, A History of the English Poor Law (2 vols, 1860, 1904 edn.)

M. Nolan, A Treatise of the Laws for the Relief and Settlement of the Poor (2 vols, 1808).

R. Pashley, Pauperism and Poor Laws (1852).
W. Pitt, General View of Agriculture of the County of Northampton (1809).

W. Salkeld, Reports of Cases Adjudg'd in the Court of King's Bench with some Special Cases in the Courts of Chancery, Common Pleas and Exchequer, from the First Year of K. William and Q. Mary to the Tenth Year of Queen Anne (2 vols, 1732).


J. Steer, Parish Law being a Digest of the Law and the Relief, settlement and Removal of the Poor (1830).

J. Townsend, A Dissertation on the Poor Laws by a well-wisher to mankind (1786).

The Universal British Directory of Trade and Commerce (1791).


Government Publications.

The Report of the Select Committee to Consider The Laws of Poor Relief and Settlement IX (1775).

Report of the Select Committee on The Poor Laws VI (1817), pp.129-130.

Report of the Select Committee on The Poor Laws II (1819), p.4.


Works written post-1900.


E. Blom, Mozart (1935, 1944 edn).


<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>P. Dunkley</td>
<td>The Crisis of the Old Poor Law in England 1795-1834</td>
<td>1982</td>
</tr>
<tr>
<td>O.J. Dunlop</td>
<td>English Apprenticeship and Child Labour</td>
<td>1912</td>
</tr>
<tr>
<td>F.G. Emmison</td>
<td>'Relief of the poor at Eaton Socon, Bedfordshire, 1706-1834', Bedfordshire Historical Record Society 15</td>
<td>1933, pp.1-98</td>
</tr>
<tr>
<td>D. Fraser, ed</td>
<td>The New Poor Law in the Nineteenth Century</td>
<td>1976</td>
</tr>
<tr>
<td>E. Gauldie</td>
<td>Cruel Habitation, a History of Working Class Housing 1780-1918</td>
<td>1974</td>
</tr>
<tr>
<td>J.H. Gleason</td>
<td>Justices of the Peace</td>
<td>1969</td>
</tr>
<tr>
<td>J.E.B. Glover, A. Mawer, F.M. Stenton</td>
<td>The Place-Names of Northamptonshire</td>
<td>1933</td>
</tr>
<tr>
<td>R.L. Greenall</td>
<td>A History of Northamptonshire and the Soke of Peterborough</td>
<td>1979</td>
</tr>
<tr>
<td>D. Hall</td>
<td>The Open Fields of Northamptonshire</td>
<td>1995</td>
</tr>
<tr>
<td>E.M. Hampson</td>
<td>'Settlement and removal in Cambridgeshire, 1662-1834', Cambridge Historical Journal 2 (1926-8), pp.273-289</td>
<td></td>
</tr>
</tbody>
</table>


B. Osborne, Justices of the Peace 1361-1848 (1960).

G.W. Oxley, Poor Relief in England and Wales 1601-1834 (1974).


M. Sanderson, 'Literacy and social mobility in the industrial revolution in England', Past and Present 56 (1972), pp.75-104.

P. Sharpe, 'Bigamy among the labouring poor of Essex', The Local Historian 24 (1994), pp.139-144.


B. Shaw, Major Barbara (1907).


The Parish Chest (1946).


English Social History (1942).

The Shiny Night (1931).

The English Windmill (1967).

