

Correspondence.

"Audi alteram partem."

THE POOR-LAW BOARD, GUARDIANS, AND UNION SURGEONS.

To the Editor of THE LANCET.

SIR,—The subjoined correspondence with the Poor-law Board I think elicits a new principle of law, in the application of Art. 172 of the Consolidated Order to difficult cases of midwifery. It may be well to place before the profession—especially those holding poor-law appointments—the circumstances of the case recently in dispute.—I am, Sir, your obedient servant,
Didsbury, near Manchester, Sept. 9, 1850.

RICHARD ALLEN.

No. 1.

To the Chairman of the Poor-law Board.

SIR,—I beg to refer the undermentioned case for the consideration of your honourable board, and to request the favour of an opinion thereon.

I am a district medical officer in the Chorlton Union, and claimed, in my last quarterly account, the sum of two pounds, for attendance on Mary Linney, the particulars of whose case are as follow:—

On being called by an overseer's order, I found that a midwife had been in attendance about seventeen hours, and was unable to deliver. The difficulty arose from a shoulder-presentation, impacted through delay. Turning was with great difficulty accomplished. Besides this, the after-birth was adherent throughout, and the removal of it attended with dangerous flooding. I was detained about ten hours.

The guardians reduced my claim to twenty shillings, and I then wrote the accompanying letter, to which I have received no other answer than a cheque for the amount of account, *minus* twenty shillings.

Is this the right construction of Articles 182 & 183 of Lumley's Consolidated Order?

I have the honour to be, Sir,

Your obedient servant,

Didsbury, Aug. 8, 1850.

RICHARD ALLEN.

COPY OF THE LETTER TO THE CHORLTON BOARD OF GUARDIANS.

To the Chairman.

SIR,—I am informed that the board decided, on Friday last, to reduce my claim for attendance on Mary Linney from two pounds to one. In respect to that decision I beg to make the following remarks:—

The contract originally made between the board and myself, I apprehend, still holds good, in reference to midwifery cases. Now, that contract recognises only two sets of cases, and two corresponding fees—viz., ordinary cases, at ten shillings; and difficult labours, or special cases, at two pounds.

With all deference, therefore, to your opinion, I would submit, that the board is not competent to pay a fee of twenty shillings for any case of midwifery under the existing contract. Besides, Article 182 of the Consolidated Order, as I read it, simply empowers the board, on the one hand, to contract for midwifery cases at any stipulated amount ranging between ten shillings and twenty; and, on the other, it enables the medical officer to claim for cases of destitution and urgency, "without orders,"—the latter to fall within the contract terms of the former.

Either the sum agreed upon under Article 182, or the special provision of Art. 183, applies to Mary Linney's case, no intermediate fee being allowed.

On this point I may state that the case was one of the greatest difficulty in practice.

I am, Sir, your obedient servant,

Didsbury, July 25, 1850.

RICHARD ALLEN.

Answer from the Poor-law Board.

Poor-law Board, Somerset House, Aug. 15, 1850.

SIR,—I am directed by the Poor-law Board to acknowledge the receipt of your letter of the 8th inst., complaining that the guardians of the Chorlton Union have refused to pay you the sum of two pounds, which you claim for attendance on Mary Linney, under the circumstances stated; and to inform you that the subject will be brought under the guardians' consideration by the board, who have, however, no power to direct its payment, if the guardians do not admit that the case is one provided for by the regulations. I am, Sir, your obedient servant,

W. G. LUMLEY, *Assist.-Secretary.*

No. 2.

To the Chairman of the Poor-law Board.

SIR,—I beg to thank your honourable board for the prompt reply, dated the 15th inst., No. ³⁸⁴⁰⁸/₅₀, and to observe, that in reference to the "board having no power to direct its payment, if the guardians do not admit that the case is one provided for by the regulations," the guardians have tacitly acknowledged the difficulty of the case, by awarding twenty shillings, which acknowledgment, I apprehend, removes the case from Article 182 to 183 of the Consolidated Order, and renders them legally liable for the full amount claimed.

I have received the cheque on account, which included the twenty shillings.

The question here involved is more important than the amount contended for, inasmuch as the same principle of payment has frequently been adopted by the guardians under similar circumstances.

I have the honour to be, Sir,

Your obedient servant,

Didsbury, Aug. 19, 1850.

RICHARD ALLEN.

Answer from the Poor-law Board.

Poor-law Board, Somerset House, Aug. 27, 1850.

SIR,—I am directed by the Poor-law Board to acknowledge the receipt of your further letter of the 19th inst., relating to your claim to a fee of two pounds, under Art. 183 of the general regulations, for your attendance on Mary Linney.

Since their letter to you of the 15th inst., the board have communicated with the guardians of the Chorlton Union respecting Mary Linney's case. I have been informed by them that they were unanimous in opinion, upon hearing the statement of their relieving-officer, that the case was not within the terms of Art. 183 of the Consolidated Order. At the same time, they were of opinion that it was not an ordinary case of attendance in childbirth, although not one of great difficulty; and that upon your explanation, the guardians felt themselves warranted in awarding twenty shillings, being the maximum amount allowed by Art. 182.

The board cannot agree with you, that by this proceeding the guardians tacitly acknowledged the difficulty of the case, so as to bring it under Art. 183; on the contrary, they expressly stated that it was not within that article; and further, they awarded you a fee under Art. 182.

The board consider that the guardians have put a wrong construction upon Art. 182, which admits of the payment of fees for midwifery only according to the agreement entered into by them and the medical officer at the time of his appointment; but the board are of opinion that the guardians could avail themselves of the provision to Art. 172, in such a case as the present appeared to them, where some extra-remuneration might be fairly given to the medical officer.

I am, Sir, your obedient servant,

OWEN, *Clerk to the Board.*

No. 3.

To the Chairman of the Poor-law Board.

SIR,—The decision of the Poor-law board, on the case of Mary Linney, suggests the following observations in reply thereto:—

That all obstetrical and special surgical cases are provided for under Articles 177, 181, 182, & 183.

That all other cases, with one exception, are classed together, and fall within the contract terms of the various boards of guardians and their respective medical officers.

This exception is to be found in Note 49, Art. 181.

Permit me, without presumption, to call your attention to the bearing which this note specially obtains, on the application of Art. 172 to the case of Mary Linney.

Medical cases only of extraordinary trouble are here specified as capable of being dealt with under Art. 172. Obstetric cases obtain their specific amount of remuneration under Articles 182 & 183; while surgical cases of extraordinary trouble are dealt with under Articles 177 & 181.

I would therefore submit, with all deference, that if Art. 172 confers such powers as your decision implies, there can be no sort of necessity for Articles 181 & 183. Indeed, the latter article, important to the medical officer, is virtually of no effect, and the imperative word "shall" is no longer of any force. Firstly, the guardians are to determine between difficult and non-difficult cases; and secondly, the difficulty being admitted, it still remains optional whether they should remunerate under the special regulation of Art. 183, or strain the powers of Art. 172, for the purpose of reducing the amount of remuneration.

Again: permit me to urge, that obstetric and surgical cases,

inasmuch as they are specially provided for, under their own appropriate articles, cannot be brought under the application of Article 172.

I beg to apologize for again troubling you, and have the honour to be, Sir, your obedient servant,
Didsbury, Aug. 31, 1850.

RICHARD ALLEN.

Answer from the Poor-law Board.

Poor-law Board, Somerset House, Sept. 4, 1850.

SIR,—I am directed by the Poor-law Board to acknowledge the receipt of your letter of the 31st ult., referring to your claim to a fee of two pounds, under Art. 183 of the Regulations, for your attendance on Mary Linney.

The board do not concur in your observations on the regulations affecting this and similar cases, and they must leave the guardians to determine whether they will avail themselves of Art. 172, under the circumstances to which you have called their attention.

I am, Sir, your obedient servant,
R. B. CANE, (*for the Secretary.*)

Observations.—The points of interest in this case are two in number—viz., the erroneous construction of Art. 182, under which a fee of twenty shillings was awarded; and the application of Art. 172 to this and similar cases, by which decision the value of Art. 183 is materially impaired, and the option of awarding any intermediate fee, between ten shillings and two pounds, for difficult midwifery, is confirmed.—R. A.

To the Editor of THE LANCET.

SIR,—In common with yourself, I deeply regret the tone of despondency adopted by the Convention of Poor-law Medical Officers, although I feel they have sufficient cause for it.

It is to me inexplicable, how, in the first place, Union surgeons can have been so backward in supporting, with heart, voice, and purse, so industrious, so painstaking a body; and, in the second place, how that body can have been able to do so much, when we consider the pitiful supplies which have been doled out to them—supplies more worthy of boards of guardians than of medical men.

Surely this apathy must be shaken off. Lend us your aid; fight for us, as you have done for our oppressed naval brethren; and once more let the Convention make an appeal, whilst we are under the stimulus of one of your powerful leaders. It will, it must, be responded to—the very respectability of our profession depends on it. And if there unfortunately should be no other requirements for the funds raised, let them be applied to aid in defraying the expenses incurred by medical men, when engaged in legally opposing the tyranny of the poor-law.

I am, Sir, your obedient servant,
K. Q.

September, 1850.

FALSE CHARGES AGAINST SUPERINTENDENT SURGEONS OF EMIGRANT SHIPS.

"He who allows oppression shares the crime."

To the Editor of THE LANCET.

SIR,—Regarding you as the natural vindicator of the rights, and as the recognised guardian, of the special interests of every class of legally-qualified medical practitioners, I beg to direct your attention to a case of almost unprecedented injustice.

You are, doubtless, aware, that during the last few months, unfounded charges of neglect of duty have been recklessly preferred in Australia against several surgeons-superintendent of emigrant-ships, at the instigation of persons ill-informed and unreasonable, if they are not likewise guilty of being mere grievance-mongers, with some sinister objects in view!

The correspondence &c. which I submit for your perusal will show how such charges originate, and will also afford an illustration of the imperfect manner in which the Australian colonial officials and the land and emigration commissioners in this country perform their highly responsible functions!

It will appear from the evidence I shall adduce, that great carelessness is shown in the selection of emigrants, inasmuch as a great number of notoriously immoral characters succeed in obtaining a free passage from the commissioners.

I shall also be able to show that surgeons-superintendent are very liable to be treated with great injustice, whenever charges are made against them by any of the ignorant, misguided, or unprincipled individuals who are so frequently to be met with among "the county emigrants" in the vessels sent out by her Majesty's Emigration Commissioners. I shall prove that the governor of

Adelaide has sanctioned irregular and partial investigations of the alleged misconduct of a surgeon-superintendent, and that the colonial authorities have, in one case at least, been influenced by *ex parte* statements, and by an imperfectly-informed press, instead of instituting a full, impartial, and legal investigation, in obedience to the dictates of honour, justice, and duty.

The case I am now more particularly anxious to bring under your notice, is that of the surgeon-superintendent of the *Indian*. I will endeavour to make my statement as concise as is compatible with perspicuity.

The surgeon-superintendent alluded to was charged with conniving at the alleged immoral conduct of some of the inferior officers of the barque, *Indian*, of neglecting the sick, and of showing partiality in the distribution of "the medical comforts." The charges were made by some of the emigrants, whose varied motives can be more readily imagined than briefly described.

The principal complainant was a Caroline Arnold, who has been recently ascertained to have been, before leaving England, a notorious prostitute in the neighbourhood of Dover.

A few popularity-hunters in Adelaide, and one or two individuals connected with the press, got up the case against the surgeon in a spirit of partisanship, and, doubtless, for the furtherance of some political or party object! Two very noisy, irregular, and most unsatisfactory meetings to investigate the charges were held under circumstances most unfavourable to the surgeon (and other officers) whose conduct was impugned. The investigations were deferred until the more respectable emigrants were employing themselves more profitably than in brooding over grievances, which, so far as the surgeon was concerned, I can show to have been either imaginary, or to have been such as that officer had not the power of redressing, (even if he had been fully convinced of the existence of the grievances enumerated;) except through the instrumentality of the captain, respecting whom I shall merely state, that upon the surgeon differing with him about an emigrant in the hospital, he challenged the surgeon to fight a duel with pistols across the cabin table!

I must observe, that the opportunity of bringing forward evidence in disproof of the charges was very inadequate to the occasion. The conclusive evidence of the most important witness, a Mr. Stringer, and also that of the few other respectable emigrants who succeeded in making themselves heard in defence of the surgeon, was suppressed by the editor of the *Adelaide Observer*. The irregularity of the proceedings at one of the investigations, and the incompetency of the immigration agent who presided, may justly be inferred from the fact, that Earl Grey has dismissed him from his office, on account of the inefficient manner in which he performed his duty on that occasion.

I must observe that Earl Grey, in reply to a communication on the subject, candidly admits "he does not perceive any ground at all for any reflection on his (the surgeon-superintendent's) professional skill or attention, and that he does not consider that anything has been established against his moral character."*

The Colonial Emigration Commissioners in England admit that the authority of surgeons-superintendent over the emigrants is altogether nominal, and also that the surgeons' instructions do not indicate that they have either any real or even nominal control over the crew and officers of the ship.

After considerable delay, the governor paid the surgeon a portion of the gratuity due to him, and, by so doing, virtually admitted that the aforesaid charges were not substantiated!

After the full statement I have made, Mr. Editor, I think you will agree with me and many medical friends in thinking that the surgeon of the *Indian* has been very harshly treated, in having a large portion of the stipulated remuneration withheld from him, and in being most unjustly put to the expense and inconvenience of returning from Australia, to vindicate his character, and to endeavour to obtain redress.

I remain, Sir, your obedient humble servant,
Aug. 29, 1850. VINDICATOR, M.R.C.S., L.S.A., F.J.S.
N.B.—I enclose my address.

CHOREA AND HIP-DISEASE.

To the Editor of THE LANCET.

SIR,—It is the part of a great mind to acknowledge an error when it has been committed—it is the part of a little one to adhere pertinaciously to it, however grievous the blunder, by whatever testimony refuted. In the affair of Mr. George Lewis Cooper's patient, when I pointed out to him at the consultation, and in private, in the most courteous manner, that

* A charge of immorality was recklessly made against the surgeon by an unscrupulous press, without the slightest justifiable pretext. The emigrants did not join in it.