

Who was subjected to the Laws of Settlement?

Procedure under the Settlement Laws in Eighteenth-Century England

By NORMA LANDAU

Abstract

This article examines the procedures under the settlement laws which produced the eighteenth-century settlement documents now in parish archives. The article uses the evidence of procedure in the application of the settlement laws to argue that parish officers applied these laws in order to regulate and monitor immigration to their parish. So, this article argues against the hypothesis that the settlement laws were applied just to the unemployed and those in need of poor relief. Indeed, it presents evidence that, before 1795, parish officers applied the settlement laws to many men just because they were living in a parish which was not their parish of settlement.

ACCORDING to the settlement laws of eighteenth-century England, parish officers had the power to regulate the interparochial migration of most English men and women. In applying the settlement laws, they generated the production of settlement documents, documents which historians are now using to investigate the social and economic life of agrarian England.¹ This article examines the process which produced these documents, and so it addresses a question which affects the assumptions historians can make about these documents: whose lives, the lives of which strata of English society, are reflected in settlement documents? For, while parish officers had the power to regulate the interparochial migration of most of the English, parish officers did not have to do so if they did not want to do so. If parish officers had so wished, they could have applied the settlement laws just

to those who were unemployed or otherwise in imminent or immediate need of relief.² This article uses evidence not available to earlier historians to demonstrate that eighteenth-century parish officers applied the settlement laws so as to regulate and monitor interparochial migration. As a result, the people whom they subjected to the settlement laws – that is, the people whose settlement documents are now being used to analyse agrarian society – were by no means just those who were unemployed or in need of relief. So, this evidence indicates that eighteenth-century parish officers applied the settlement laws to a large proportion of England's population and that, in rural parishes, they

¹ A Kussmaul, *Servants in Husbandry in Early Modern England*, 1981; K D M Snell, *Annals of the Labouring Poor: Social Change and Agrarian England, 1600–1900*, 1985; B Reay, 'Sexuality in nineteenth-century England: the social context of illegitimacy in rural Kent', *Rural History*, 1, 1990, pp 219–47; P Sharpe, 'Marital separation in the eighteenth and early nineteenth centuries', *Local Population Studies*, no 45, 1990, pp 41–51.

² Snell's *Annals* (p 17) introduces the rural settlement examination, the major source on which the book is based, with the statement: 'This source allows the analysis of seasonal distribution of unemployment as it provides the exact date at which the examinant for relief came to acquire parochial aid. In the course of the examination as to settlement, other details (for example sex, marital status, and occupation) were given which allow very specific geographical, occupational, and sexual location of the patterns of seasonal unemployment. The application for relief, followed by the examination to find where the applicant was eligible for it, provide the indication of unemployment – roughly the same indication, in fact, as is used today'. *Annals* then presents analysis of information in rural settlement examinations on the assumption that, unless the examination indicates otherwise, the examinee was being examined because he was unemployed.

continued to do so throughout the eighteenth century.

According to the settlement act of 1662, the act which provided the framework for the laws of settlement, parish officers could remove from their parish to his parish of settlement any person who rented for under £10 a year and who was 'likely to be chargeable to the parish' he 'had come to inhabit'.³ Who, under the settlement laws, was a person 'likely to be chargeable'? England's judges provided a neat answer: a person 'likely to be chargeable' was a person who rented for less than £10 a year. As Mr Justice Powis stated in 1714, in a case that elaborated upon earlier precedent: 'The words likely to become chargeable, imply that a person is not in a tenement above ten pounds per annum; for if he be in such a tenement, no one can aver that he is likely to become chargeable'.⁴ Three years later, Mr Justice Eyre summarized previous opinion in what became the definitive statement of the law: 'living on a tenement under £10 a year, and likely to become chargeable, are convertible terms'.⁵ As most Englishmen rented for much less than £10 a year, the 1662 act allowed parish officers to prevent interparochial migration by most Englishmen. For, under the 1662 act, if and when most Englishmen moved to a new parish, the officers of that parish could immediately remove them from that parish.

Indeed, the settlement act of 1662 was considered such a stringent restriction upon the right to reside that in 1687 Chief Justice Herbert declared that a parish could remove even a freeholder from his freehold

to his parish of settlement, if the freehold yielded an income of less than £10 a year.⁶ However, by 1697 the judges, speaking through Lord Chief Justice Holt, had decided that 'the Act of Parliament never meant to banish men from the enjoyment of their own lands'. Hence neither freeholders nor copyholders could be removed from the parish of their freehold or copyhold.⁷ And so possession of a freehold or copyhold became a means of acquiring a settlement in the parish of the freehold or copyhold.⁸

Judges' rulings and subsequent legislation⁹ further defined those whose movement parish officers could regulate. By the early eighteenth century, parish officers

⁶ *Rex and the Inhabitants of Stanmore*, Hil. 2 and 3 James II, Skinner 268, *English Reports*, vol 90, p 122.

⁷ For the quotation and freehold see: *Inter the Parishes of Ryslip and Harrow*, Hil. 8 Will III, 2 Salkeld 524, *English Reports*, vol 91, p 446. For copyhold see: *Harrow and Edgware*, E. 11 Ann, reported in E Bott, *A Collection of Decisions upon the Poor's Laws*, reprint of 1771 ed, 1978.

⁸ The judges also decided that someone who came into possession of any landed estate 'by act of law' – that is, by inheriting the estate or by being appointed its executor or administrator – gained a settlement in the parish where the estate was located if he lived there for forty days while in possession of the estate (Trin. 7&8 George II, 1734, *Rex vs Inhabitants of Sundrish*, reported in James Burrow, *A Series of the Decisions in the Court of King's Bench upon Settlement Cases from ... 1732*, 2 vols, 1768, vol 1, pp 7–11; Mursley and Grandborough, Trin. 4 George I, 1718, 1 Strange 97, *English Reports*, vol 93, p 409; *Rex vs Inhabitants of Uttoxeter*, Trin. 5 George III, Burrow, *Settlement Cases*, vol 2, pp 538–540. I want to thank Professor Thomas Barnes for his advice on the relation of the law of settlement to the law of real property).

K D M Snell uses an excerpt from a report of these decisions to contend that the majority of independent adults who resided in a parish other than that in which they were settled were exempt from the law of settlement. However, Snell does not note that the excerpt he quotes pertains not to most such immigrants, but instead to those who are the inheritors, administrators, or executors of landed estates (K D M Snell, 'Settlement, poor law and the rural historian: new approaches and opportunities', *Rural History*, 3, 1992, p 151).

Snell supports his presentation with the following quotation (p 167, n 11) which he attributes to R Burn, *The Justice of the Peace and Parish Officer*, 22nd ed, 1814, vol 4: 'Persons to be removed under the statute of C.2 are those that wander from place to place ... [those making] a vagrant intrusion into a parish, in which the party has nothing of his own within the purview and scope of the poor laws'. However, as that part of the quotation which precedes the ellipses appears in Burn on p 520 and that which follows the ellipses appears on p 524, Burn's presentation differs considerably from the 'quotation' that appears in Snell's footnote.

⁹ William and Mary c 11. This statute also endowed those who completed an apprenticeship or service for a year as an unmarried servant with a settlement in the parish in which they apprenticed or served. Likewise, it declared that those immigrants who paid taxes in their new parish, or assumed parish office there, acquired a settlement in their new parish.

³ 13 and 14 Charles II c 12 s 1; and see also 1 James II c 17 s 3, and 3 and 4 William and Mary c 11 s 3.

⁴ *Rex vs New Windsor*, Mich. 1 George I, Sess Cas 20–21, in *The English Reports*, 1908–9, vol 93, pp 20–21.

⁵ *South Sydenham vs Lamerton*, Trinity, 3 George I, quoted in R Burn, *The Justice of the Peace and Parish Officer*, 3rd ed, 1756, p 547 sub 'Poor (Removal) i. order of removal in general'. And see: *Inter inhabitants of Weston-Rivers and St Peter's in Marlborough*, Easter, 1 Ann, 2 Salkeld 492, *English Reports*, vol 91, p 423; Case 122, Anonymous, 6 Mod 88, *English Reports*, vol 87, p 846, and n (b).

could apply the settlement laws to any independent person. That is, they could apply these laws to any person who was not: a woman living with her husband; a child age seven or under who was living with his mother; a legitimate child who had not acquired a settlement of his own and was living with his father (or, with his mother, if his father was dead); an unmarried servant hired under a year-long contract; or an apprentice.¹⁰ Therefore, the settlement laws allowed parish officers to remove from their parish most independent adults (and their households) who might want to exercise their liberty, as Englishmen, by moving to that parish.

Someone who moved into a new parish could indeed acquire a settlement in that parish, but it was rather difficult for an independent adult to acquire a settlement in a parish to which he had moved. There were only four ways in which an independent adult could acquire a new settlement. He could live for forty days in a parish in which he possessed a freehold or copyhold estate. (However, from 1723, the settlement acquired by a person who purchased property for less than £30 endured only so long as he possessed that property.¹¹) The new resident aspiring to settlement in his new parish could also rent for £10 a year; or he could serve in a parish office; or he could pay taxes levied in his parish of

residence.¹² Since a parish's ratepayers did not want to bestow a settlement on its immigrants – and so assume responsibility for their welfare – they did not appoint non-settled immigrants residing in their parish to parish office. And so, in practice, the only way in which most independent adult Englishmen could acquire a settlement in a new parish was to pay its taxes.

Parliament then obstructed that route to settlement, and at the same time made it possible for more English adults to move from one parish to another. In 1697, Parliament decreed that, if an immigrant provided his parish of residence with a certificate from his parish of settlement, the immigrant could not be removed until he needed poor relief.¹³ The certificate was the issuing parish's acknowledgment that the issuing parish had guaranteed the immigrant's parish of residence that the issuing parish would assume responsibility for the immigrant should he need poor relief. Therefore, while the certificate protected the immigrant not in need of relief from removal, it also protected the parish to which he had moved by declaring that another parish was responsible for his relief. From 1698, the settlement laws bestowed another benison upon the parish to which the certificate was addressed. For in 1698, Parliament decreed that, even if a certificated immigrant paid rates or taxes levied in his parish of residence, he did not gain a settlement in that parish.¹⁴ Therefore, from 1698, enforcement of the settlement laws could deny most independent adults, even those who paid taxes, a settlement in the parish to which they had moved. Since, if the settlement laws were enforced, most independent adults could not acquire a settlement in the parish to which they had moved, the interparochial migration of

¹⁰ Burn, *Justice of the Peace*, 3rd ed, 1756, pp 512–15 sub 'Poor (Settlement with the parents)', pp 516–17 sub 'Poor (settlement by apprenticeship)', p 520 sub 'Poor (settlement by service)', pp 511–12 sub 'Poor (settlement by birth)', pp 528–30 sub 'Poor (settlement by marriage)'.

¹¹ 9 George I c 7 s 5. A person who inherited realty obtained by such a purchase did acquire a settlement in the parish if he lived in the parish for forty days in possession of the property. Similarly, a person who acquired such realty through marriage, or was in possession of such property as administrator or executor, and then lived in the parish for forty days also acquired a settlement there: M Nolan, *A Treatise of the Laws*, 2nd ed, 1808, vol 1, pp 492–94, chap 23 'Of Settlement, upon a Tenement of ten Pounds a Year Value', sect 1 'Division of the Subject'; and pp 539–42, chap 24, 'Of Settlement by Estate', sect 1 'Of the Estate necessary to confer a Settlement'.

¹² From 1723 payment of highway or scavenger rates, and from 1748 payment of land and window taxes, did not endow the payer with a settlement in the parish for which he paid his rates or taxes: 9 George I c 27 s 6; 21 George II c 10.

¹³ 8 and 9 William III c 30.

¹⁴ 9 and 10 William III c 11.

most independent adults and their households was subject to regulation under the laws of settlement.

So much has always been clear.¹⁵ What was not clear was whether parish officers actually applied the settlement laws to most of the population whom they could subject to these laws. Legally, parish officers could demand certificates from those 'likely to be chargeable' – that is, those immigrants renting for less than £10 a year – and remove all those 'likely to be chargeable' who did not obtain a certificate. But, did parish officers actually apply the settlement laws to all who could be restricted by them, or did they merely apply the settlement laws to those who needed poor relief? Historians could not arrive at a definitive answer to this question, for the documents produced in the application of the settlement laws do not permit more than an impressionistic analysis of the application of the settlement laws.

There are two reasons why settlement documents do not reveal the way in which parish officers applied the settlement laws. First, there is the problem posed by the likelihood that surviving documents are not a representative sample of the documents issued in the application of the settlement laws. Second, those settlement documents that survive are so dispersed that it is not possible to reconstruct the pattern of their issue. Both problems result from the ways in which parish officers applied the settlement laws.

Some varieties of settlement document are more likely to survive than others because parish officers found some varieties of settlement document more useful than others. The document most useful to the parish to which it was delivered was the certificate. The certificate safeguarded the recipient parish against any claim upon its funds by the certificated immigrant or his

family;¹⁶ it allowed the recipient parish to tax the certificated immigrant and his family without thereby bestowing a settlement upon them; and it identified the parish which would have immediately to assume responsibility for the certificated immigrant and his family should they need poor relief. One would therefore suspect that certificates would be the document which parish officers were most likely to preserve in their parish's archives. And that is, indeed, the case. As Dorothy Marshall observed: 'where the parish papers have survived at all, there copies of certificates are usually to be found'.¹⁷

The order to remove an immigrant to his parish of settlement is less likely to survive. However, since that removal order constituted a judicial determination that the parish in which an immigrant was living was not responsible for his welfare, many parishes chose to keep a copy of it. Since the original removal order was delivered, with the immigrant, to his parish of settlement upon his removal, that order too sometimes survives in parish archives.

The settlement document least likely to survive is the settlement examination.¹⁸ Before an immigrant could be removed, before parish officers could demand that

¹⁶ From 24 June 1730, the certificating parish was also responsible for the costs of removing the certificated immigrant and his family back to his parish of settlement should they need poor relief: 3 George II c 29.

¹⁷ D Marshall, *The English Poor in the Eighteenth Century*, 1926, p 179.

¹⁸ For comparison of the relative numbers of surviving examinations, removal orders, and certificates, see: J S Taylor, 'The impact of pauper settlement 1691–1834', *Past and Present*, no 73, 1976, p 46; E G Thomas, 'The treatment of poverty in Berkshire, Essex and Oxfordshire, 1723–1834', unpublished London University Ph D thesis, 1970, p 218; C C Pond, 'Internal population migration and mobility in eastern England in the eighteenth and nineteenth centuries', unpublished Cambridge University PhD thesis, 1981, pp 265–72; G W Oxley, 'The administration of the old poor law in the West Derby Hundred of Lancashire, 1601–1837', unpublished Liverpool University MA thesis, 1966, pp 158, 393–401; H A Randall, 'Some aspects of population geography in certain rural areas of England in the eighteenth and early nineteenth centuries', unpublished Newcastle-upon-Tyne PhD thesis, 1971, pp 137, 139, 158; D Gowing, 'Migration in Gloucestershire 1662–1865. A geographical evaluation of the documentary evidence related to the administration of the law of settlement and removal', unpublished Southampton University PhD thesis, 1979, p 50; A E Newman, 'The old poor law in east Kent, 1606–1834', unpublished Kent University PhD thesis, 1979, p 187.

¹⁵ See, for example, G W Oxley, *Poor Relief in England and Wales 1601–1834*, 1974, p 20.

he obtain a certificate, parish officers had first to ascertain that the immigrant did not have a settlement in their parish. To do so, they had the suspected immigrant examined before one or more justices of the peace.¹⁹ Surviving examinations, like the more numerous surviving removal orders and even more numerous surviving certificates, repose in parish archives, where their relative numbers pose a problem. Does the preponderance of certificates among settlement documents indicate that the issue of a certificate – that is, the issue of a document permitting interparochial migration and guaranteeing support for the migrant – was the most usual result of parish officers' application of the settlement laws?

Just as the relative numbers of surviving settlement documents pose a problem of interpretation, so the dispersion of these documents further obscures the procedure which produced them. These documents are dispersed because most applications of the settlement laws entailed dispersion. Look, for example, at the reason why a removal order quite probably does not repose in the same archive as the settlement examination on which it was founded. It seems likely that the first document issued in most applications of the settlement laws was an examination into someone's claim to a settlement. If the parish in which this person resided decided to remove him, it would then obtain a removal order. That order would be sent with the immigrant when he was removed to his parish of settlement. However, before 1835 it was not necessary to send the examination on which that order was founded to his parish of settlement.²⁰ As a result, only a small

proportion of surviving eighteenth-century removal orders repose in the same parish archive as the examinations on which the removal orders were founded. And, as the examination on which a removal order was founded remained with the parish which obtained the removal order, most surviving examinations are also not accompanied by a surviving removal order. Of 1453 examinations of adults in the archives of 67 parishes in six counties, only 28 are filed with an associated removal order.²¹ What proportion of these examinations did indeed result in removal? The settlement documents in parish archives will not yield an answer to that question.

Nor will the settlement documents in parish archives reveal the proportion of examinations which resulted in certificated immigrants, for the process of obtaining a certificate likewise entailed an exchange of documents. If a prospective emigrant obtained a certificate to his new parish of residence before he departed from his parish of settlement, then his examination would remain in his parish of settlement, while his certificate would reside in the archives of his parish of residence. A similar dissociation of examination and certificate might well occur if the immigrant obtained a certificate after he had immigrated. The immigrant's parish of residence might send his examination to his parish of settlement along with a request for a certificate.²² Or, the immigrant might return to his parish of settlement in order to obtain a certificate, and while there he might be examined

was executed. As a result, 'after 1834 the examination and removal order frequently became an amalgamated document' (Snell, 'Settlement, poor law', p 167, n 10).

¹⁹ In law, only those examinations taken in the presence of and signed by at least two justices were legally admissible. See below, nn 24, 39, 69.

²⁰ See John F Archbold, *The Law Relative to Examinations and Grounds of Appeal in Cases of Orders of Removal*, 1847, p 1; *idem*, *The Poor Law*, 12th ed, 1873, pp 627–28. From 1835 law dictated that practice change. Statute, 4 and 5 William IV c 76 s 79, decreed that the examination be sent to the parish of settlement at least twenty-one days before a removal order based on that examination

²¹ This count excludes the examinations of women who were examined as to the settlement of their illegitimate children. These 67 parishes are located in the counties of Bedfordshire, Berkshire, Buckinghamshire, Essex, Hertfordshire, and Suffolk, and are listed in the Appendix to N Landau, 'The eighteenth-century context of the laws of settlement', *Continuity and Change*, 6, 1991, p 431.

²² As shown in: F M Cowe, *Wimbledon Vestry Minutes*, 1736, 1743–1788, Surrey Record Society, 25, 1964, p 14, July 1749; Suffolk RO (Ipswich), FC84/G3/56, examination of James Reeve, 4 May 1789; Kent AO, U442/O45, 28 March 1708, examination of Thomas Carter, transcribed in E Melling, ed, *Kentish Sources*, IV, *The Poor*, Maidstone, 1964, p 64.

as to his settlement.²³ Indeed, even if the immigrant's parish of residence made a copy of his examination, it is likely that the parish officers would discard that examination upon receipt of his certificate.

So, because of the process inherent to applications of the settlement law, removal orders and certificates are likely to repose in the archive of a parish other than that of their associated examination. Therefore, it is not possible to use parish archives to determine: what proportion of examinations resulted in removal;²⁴ what proportion of examinations resulted in a certificate; and what proportion of examinations did not result in either removal or certification. The settlement laws empowered parishes to do any or all of: impede emigration (by refusing to issue certificates); regulate immigration (by demanding that immigrants obtain certificates and removing uncertificated immigrants); monitor immigration (by insuring that residents who had not acquired a settlement in the parish were examined as to their settlement); and insure that parish rates were not spent on non-parishioners (by removing immigrants who needed poor relief to their parish of residence). However, since the documents issued in any one application of the laws of settlement are apt to be dispersed among the archives of two or more parishes, it is not

possible to determine from the documents in a parish archive either the policy which a parish adopted in applying the settlement laws, or the frequency with which parish officers applied those laws. As a result, historians had to rely upon exceptionally fragmentary evidence for their analysis of parish practice in the application of the settlement laws.

Nonetheless, most historians concluded that, in rural areas, parish officers probably applied the settlement laws so as to monitor and regulate immigration. According to Dorothy Marshall, though parish officers of urban areas subjected only those in need of relief to the restrictions of the settlement laws, the parish officers of rural areas regulated the immigration of those whom they considered merely a potential burden on the rates. In rural areas, Marshall opined, parish officers' application of the settlement laws impeded the immigration of married labourers and their households.²⁵ Sidney and Beatrice Webb likewise decided that rural parish officers obstructed migration to their parishes.²⁶ Ethel M Hampson was even more emphatic: parish officers regulated immigration, demanding certificates even of immigrants who were employed.²⁷

Documents which were not available to these historians confirm their analyses. Unlike the settlement documents in parish archives, these newly available documents are not merely those documents which parish officers exchanged and chose to preserve. Instead, they are documents which record parish officers' activity under

²³ For example: the examination of John Clent at Sevenoaks petty sessions, Sevenoaks Library, Sevenoaks petty sessions minute book, 30 Dec 1721; and notes on the examinations of Thomas Poucy and John Homewood, Kent AO, U442/O45, 28 March, 1708, transcribed in Melling, *The Poor*, pp 63–4. Since the parish in which an examinee was living is not noted on many examinations, the examination of an immigrant who has returned to his parish of settlement in order to obtain a certificate may appear to be an examination of a settled resident of that parish.

²⁴ By law, every removal order had to be founded upon an examination taken before two justices of the peace (Burn, *Justice of the Peace*, 3rd ed, 1756 p 543 *sub* 'Poor (Removal) i. Order of removal in general'; and see Landau, 'Context', p 433, n 15). In 'Pauper settlement and poor relief', *Continuity and Change*, 6, 1991, p 406, n 30, K D M Snell states: 'Examination, the step before removal, was often taken by a single justice'. However, in 'Settlement, poor law', p 167, n 10, he states: 'Examination had to be by the same two justices who removed ...'. He does not indicate the evidence which resulted in an alteration of his presentation.

²⁵ Marshall, *The English Poor*, pp 164–67, 246.

²⁶ S Webb and B Webb, *English Local Government; Vol 7, English Poor Law History: Part I, The Old Poor Law*, 1927, pp 335–36.

²⁷ Ethel M Hampson, *The Treatment of Poverty in Cambridgeshire 1597–1834*, 1934, pp 137–38, 144, 147; and *idem*, 'Settlement and removal in Cambridgeshire, 1662–1834', *Cambridge Historical Journal*, 2, 1928, pp 278–79. K D M Snell denies that rural parish officers applied the settlement laws so as to monitor and regulate immigration ('Pauper', esp pp 399–400).

I wrote this article before I read R Wells, 'Migration, the law and parochial policy in eighteenth- and early-nineteenth-century southern England', *Southern History*, 15, 1993, pp 86–139. Much in Wells's article provides support for the interpretation advanced here. However, Wells's presentations of my own work seem based upon misreadings of my work.

the laws of settlement. Parish officers' activity under the laws of settlement had to be authorized by the justices of the peace. And the documents which will be analysed here are records of the settlement business which parish officers brought before the justices.

According to law, two justices – both of whom had heard the evidence on which the document was founded – had to sign each settlement examination, certificate, and removal order if the document was to be legally admissible. However, if a justice resided in or near a parish, its officers might first bring their parish's settlement business to him so as to discover what in that business required further action and the attentions of two justices. Paul D'Aranda was such a justice. D'Aranda, a justice resident in the rural parish of Shoreham in Kent, compiled a diary of his work as a justice acting alone for the year 1708.²⁸ D'Aranda's diary is unusual, and unusual for three reasons. First, few such diaries survive. Secondly, those few that do survive rarely note the result of the actions initiated before the justice; but D'Aranda's does. Thirdly, only two justice's diaries record business for a parish whose business was also noted in a surviving contemporaneous petty sessions's minute book. D'Aranda's is one of those two diaries.²⁹ D'Aranda's diary therefore provides a unique opportunity to follow parish officers as they conduct their settlement business.

All the settlement business which Shoreham's officers brought to D'Aranda in 1708 was part of their efforts – perhaps efforts spurred by Shoreham's vestry³⁰ – to ascertain whether the parish's residents had a settlement in their parish, and to insure that those who did not were either certificated or removed. Such an application of the settlement laws was by no means unique to Shoreham. Even though the minutes of very few eighteenth-century vestries have been published and the eighteenth-century administration of only a handful of parishes analysed, it is nonetheless evident that parishes did, periodically, ascertain whether their residents had a settlement in the parish, and then attempt to extract certificates from their non-settled residents by threatening to remove and sometimes actually removing them. For example, in 1736 the vestry of Wimbledon in Surrey ordered that 'the inmates and others who have intruded into the parish are to be summoned before the bench to give certificats to indemnify the parish'. The vestry of Walthamstow in Essex conducted a similar investigation; so did Chalfont St Peter (Buckinghamshire) in 1722, Ash (Kent) in 1772, Hungerford (Berkshire) in 1783, Uffington (Berkshire) in 1785, Woodford (Essex) and Canterbury in 1789, and Midhurst (Sussex) in 1794.³¹ Some places made more regular inspections. In Maidstone, each overseer 'as soon

²⁸ Kent AO, U442/O45. This notebook is divided into two parts. Aside from its first three entries, the first part of the notebook records D'Aranda's work as a justice acting singly in 1708. The second part of the notebook notes the business of Sevenoaks petty sessions, the petty sessions D'Aranda attended, from June 1707, through 1708.

²⁹ For the other diary and its associated petty sessions minute book, see R. Paley, *Justice in Eighteenth-Century Hackney: The Justicing Notebook of Henry Norris and the Hackney Petty Sessions Minute Book*, London Record Society, 28, 1991. (Unlike the Kentish parishes examined here, the parish of Hackney, Middlesex, had a petty sessions which was held just for that one parish.) Two other eighteenth-century Kentish justices, Sir Wyndham Knatchbull and William Brockman, kept notebooks of their activities as single justices, and also made notes which amount to a very incomplete record of the petty sessions which they attended (Kent AO, U951/O3, U951/O4; BL, Add MSS 42598, 42599).

³⁰ See D'Aranda's notes on the examination of James Clarke, Kent AO, U442/O45, 26 March 1708, transcribed in Melling, *The Poor*, p. 62.

³¹ Cowe, *Wimbledon Vestry Minutes*, p. 1; S. J. Barnes, *Walthamstow in the Eighteenth Century, Vestry Minutes, Churchwardens' and Overseers' Accounts 1710–1794*, Walthamstow Antiquarian Society Publications, nos 13, 14, 16, 1925, 1926, 1927, p. 42; G. C. Edmonds, 'Accounts of eighteenth-century overseers of the poor of Chalfont St Peter', *Records of Buckinghamshire*, 8, no. 1, 1966, p. 17; Newman, 'The old poor law in east Kent, 1606–1834', pp. 154, 196; Mark Neuman, *The Speenhamland County: Poverty and the Poor Laws in Berkshire 1782–1834*, New York, 1982, p. 154; E. J. Erith, *Woodford, Essex 1600–1836*, Woodford and District Historical Society Proceedings and Transactions, part X, 1950, p. 63; Roger Wells, *Wretched Faces: Famine in Wartime England, 1793–1801*, Gloucester and New York, 1988, p. 308. For a warrant to the officers of Bromley, Kent, dated 14 December 1731, to bring a list of all who have intruded into Bromley without certificates so that they can be examined before two justices, see Kent AO, U310/O14.

as possible after his appointment, made a circuit of his ward accompanied by a constable. They searched all likely dwellings looking for non-residents and examining their certificates ...'.³² Even rural parishes such as Leyton and Walthamstow in Essex employed a beadle to insure that all residents 'likely to be chargeable shall produce certificates ... and where such certificates cannot be had be ... brought before a Justice ...'.³³

Because parish officers were investigating the settlement of all likely to be chargeable – that is, those who rented for less than £10 a year – their periodic investigations could result in the examination of a large number of inhabitants at the same time. Shoreham's officers proceeded to obtain a warrant from D'Aranda for the examination, before D'Aranda or another justice, of nine people as to their settlement. D'Aranda examined all these nine residents of Shoreham plus eight more – fifteen men and two women in all – on 26 March, 28 March, and 2 April, 1708.³⁴ Again, examination of many people on a single day was not unique to Shoreham. Published accounts of multiple examination include that for Painswick, Gloucestershire (where 40 per cent of 70 examinations taken between 1695 and 1747 were taken on just four days), Hagley, Worcestershire (where 49 examinations were taken on just three days), Bromsgrove, Worcestershire (where 43 examinations were taken on just one day in 1727), and Bradford-on-Avon, Wiltshire (where 24 per cent of 377 examinations were taken on just eight days).³⁵

Most of the examinations taken by D'Aranda did not result either in further action by Shoreham's officers under the settlement laws, or in further record made at the petty sessions to which Shoreham took its settlement business. D'Aranda decided that five of the fifteen men brought before him for examination had a settlement in Shoreham. Another of the men averred that he would soon leave Shoreham, and, indeed, he did.³⁶ D'Aranda ordered the remaining nine men to secure certificates. Four did, but not without further adue. Thomas Carter's parish of settlement agreed to send a certificate if it first received an 'affidavit of what he had sworn' before D'Aranda.³⁷ Another of the four certificaten – Henry Carter – received his certificate at Sevenoaks petty sessions on 10 April, where he was not examined as to his settlement. In this again, Shoreham's experience was not unusual. Over three-quarters of the certificates signed at Kent's petty sessions were not associated with an examination taken at petty sessions.³⁸ In all, 10 of the 17 examinations that

and Settlement Documents of the Parish Church of St John Baptist Bromsgrove, Worcestershire, Birmingham and Midland Society for Genealogy and Heraldry, 1983, p 3; P Hembry, *Calendar of Bradford-on-Avon Settlement Examinations and Removal Orders 1725–98*, Wiltshire Record Society, 46, 1990, p xxii.

³⁶ William Petman, examined 28 March.

³⁷ D'Aranda's notes on Carter's examination, taken 28 March, transcribed in Melling, *The Poor*, p 64.

³⁸ This count is based on samples from those two Kentish petty sessions (Sevenoaks and Sittingbourne) whose minute books recorded both certificates and examinations. The periods comprising the sample are presented in Table 1. In these periods, 433 of the 556 certificates signed at these petty sessions were not associated with an examination taken at petty sessions.

It might also be helpful to note that the law never required that the certificate be based on an examination (though, in practice, the issue of a certificate was usually preceded by an inquiry into the settlement of the prospective certificatee, an inquiry again usually based on an examination before one or more justices). The law on certificates had always required that the certificate be signed by two justices (8 and 9 William III c 30), and from 1730 the law also required that a witness to the parish officers' signature of the certificate swear to those signatures before two justices (3 George II c 29). I have not found any evidence of alteration, before 1795, in either the relation of examination to the issue of a certificate, or the nature of the examination on which the certificate was, in practice, based. In 1795, a new act, 35 George III c 101, altered the laws of settlement by depriving officers of the power to remove immigrants if they did not need poor relief. Therefore, there were fewer occasions for the demand for certificates after 1795, and their issue was drastically reduced.

³² M Barker-Read, 'The treatment of the aged poor in west Kent, 1662–1800', unpublished Open University PhD thesis, 1988, p 230.

³³ Pond, 'Internal population migration', p 91; E N Williams, comp., *The Eighteenth Century Constitution*, 1960, p 270.

³⁴ The entries in D'Aranda's diary – the warrant, the examinations, and D'Aranda's notes of subsequent proceedings on these examinations – are transcribed in Melling, *The Poor*, pp 60–66.

³⁵ P Styles, 'The evolution of the law of settlement', *University of Birmingham Historical Journal*, 9, 1962, p 59; P D Bloore, *Extracts from the Poor Law Documents in the Parish Chest of Hagley Church Formerly in Worcestershire*, Birmingham and Midland Society for Genealogy and Heraldry, 1983, p 1; P D Bloore, *The Poor Law*

D'Aranda took as a single justice did not produce a further examination before two justices which could find its way to Shoreham's archives. And this despite the fact that an examination taken by just one justice could be neither the foundation for a removal order³⁹ nor admissible as evidence, should the examinee be unavailable for testimony.⁴⁰ Again, Shoreham was not

unusual in not obtaining a more definitive examination for its archives. Of 1453 examinations of adults in the archives of 67 parishes in six counties, 40 per cent were signed by just one justice of the peace.⁴¹

Shoreham's officers took further action under the settlement laws against seven of the seventeen examinees. All such action was taken, first, at petty sessions. One of the examinees, Robert Bromfield Jr, had been examined at Sevenoaks petty sessions on 6 March, 1708, when the justices issued a warrant for his removal.⁴² Once it became clear that his parish of settlement would not grant him a certificate, Shoreham acted on that warrant, removing him by mid-April.⁴³

The cases of the remaining six examinees – four men and two women – were considered at Sevenoaks petty sessions after D'Aranda had examined them. The justices at Sevenoaks heard about both women on 24 April. One of the women, Frances Lock, was brought to petty sessions because of the legal questions about her settlement raised by her contention that her divorce was not valid. Sevenoaks petty sessions issued a warrant for the examination of her

³⁹ According to law, throughout the eighteenth century, an order of removal had to be based on an examination before two justices, and these two justices had also to be the two justices who signed the removal order. In 1700, the judges of King's Bench stated clearly and unequivocally that, if the officers of a parish wished to remove a resident of their parish to his parish of settlement, then the officers should make their complaint to one justice of the peace, who would issue a warrant to bring that resident before two justices of the peace, and those two justices could then examine and remove the non-settled resident (*Inter the Inhabitants of Ware and Stansted-Mount-Fitchet*, Trin. 12 William III, 2 Salkeld 488, *English Reports*, vol 91, pp 419–20). Four years later, the judges reinforced their decision with a similar verdict on a related matter. As with removal orders, so with orders of filiation in bastardy cases: in both instances, the order must be made by two justices; and in both instances, the order must be based on an examination by the same two justices who made the order (*Regina vs West*, Trin. 3 Ann, 6 Mod 180, *English Reports*, vol 91, p 935). From 1700, clearly, a removal order that was not founded on an examination taken by just one justice could be quashed on appeal to quarter sessions.

But were justices who signed a removal order which was based on an examination by just one justice liable to penalties? Could an information be lodged against such justices for acting without jurisdiction, and could they therefore be fined for their act? In 1726, the judges of King's Bench, while agreeing that a removal order not based on an examination before two justices was wrong, refused to grant an information against the justices for their act (*Rex vs Sir Herbert Westly, Cartwright Esq, two Justices of Peace*, Hil, 12 George I, reported in Robert Foley, *Laws relating to the Poor from the Forty-third of Queen ELIZABETH to the Third of King GEORGE II*, 2nd ed corrected, 1743, pp 75–76). However, in 1738 the judges reversed themselves. In the case of *Rex vs Wykes*, the judges granted an information against justices who had – among other misdeeds – based a removal order on an examination taken by just one justice of the peace. And *Rex vs Wykes* henceforth became the authoritative and powerful statement of the law of the land. A case which threatened a justice with fines levied by King's Bench clearly made its point (*The King against Wykes and others*, Trin., 11 and 12 George II, Andrews 238, *English Reports*, vol 95, pp 379–80, cited in: Burn, *Justice of the Peace*, 3d ed. 1756, pp 545, 547–8 sub 'Poor (Removal)', and 22nd ed, 1814, vol 4, pp 679, 680, sub 'Poor', section 19 'Removal', sub-section 2(g) 'Of the examination'; Nolan, *A Treatise of the Laws*, vol 2, p 65 sub chap 29 'Of the removing the Poor', sect 3 'Of orders of Removal'). This case was still being cited in Archbold, *The Poor Law*, 12th ed, pp 624–25, sub 'Removal of the Poor (Examination as to Settlement of Pauper in England)'.

⁴⁰ For admission at law during the eighteenth century of the examination taken at an earlier date by two justices of a person either dead, or beyond the seas, or insane, see *Rex vs Eriswell*, 30 George III (reported in 3 TR 707, *English Reports*, vol 100, pp 815–25). For further discussion of *Rex vs Eriswell*, see n 69. For the judges' decisions in 1801 that rendered such examinations inadmissible, see: *Rex vs Nuneham Courtney*, 1 East 373, *English Reports*, vol 102, pp 144–45; *Rex vs Ferry Frystone*, 2 East 54, *English Reports*, vol 102, p 289; *Rex vs Abergwilly*, 2 East 63,

English Reports, vol 102, pp 292–93. For discussion of these cases, see: E Bott, *Decisions of the Court of King's Bench, upon the Laws relating to the Poor ... Now revised ... by Francis Const*, 3rd ed, 1792, vol 2, pp 771–72; Burn, *Justice of the Peace*, 22nd ed, 1814, vol 4, pp 681–3, sub 'Poor [Sect XIX 2g] (Removal)'; Nolan, *A Treatise of the Laws*, vol 1, pp 380–81, sub chap 20, sect 7 'Of the proofs necessary to support settlement by hiring, etc.'; and Archbold, *The Poor Law*, pp 704–5.

⁴¹ These examinations are listed in the Appendix to Landau, 'Context', p 431. As one would expect, examinations taken later in the eighteenth century are more likely to survive than those taken earlier in the century. Of these 1453 examinations, all taken before 1795, 1229 were taken between 1740 and 1795. Of the 1229 examinations taken from 1740 on, 38 per cent were taken before one justice of the peace. Clearly, the practice of screening examinees by taking them before a single justice continued throughout the eighteenth century. Indeed, the practice continued into the nineteenth century.

⁴² Bromfield's examination follows those for 28 March 1708, in D'Aranda's justice's diary. D'Aranda dates this examination 'March' and does not indicate the day on which it was taken. It is therefore possible that D'Aranda took Bromfield's examination at an earlier date, and then copied it into his diary when he recorded all the other examinations.

⁴³ The parish to which Bromfield was removed appealed on 13 April 1708, to West Kent quarter sessions against the removal. However, quarter sessions upheld the justices' order (*Kent AO, Q/SO W6*).

ex-husband. However, that examination proved unnecessary. For, as D'Aranda noted, her ex-husband came with a letter from an attorney and 'shew'd me authentick Coppy of the Act of Divorce'. D'Aranda thereupon concluded that the divorce was valid. 'Yet to satisfy Shoreham Officers I consulted Counsellor Blundel who gave me as his opinion written that her legal settlement is in Shoreham'. Frances Lock was therefore accepted as Shoreham's parishioner.⁴⁴ Susan Tilman's settlement business was also quickly dispatched. When she was examined on 26 March, she was still sick from smallpox, and living at Frances Lock's. On 24 April, Sevenoaks petty sessions issued a warrant for her removal and ordered that her parish of settlement reimburse Shoreham £2 11s 0d for its expenditures on her board, lodging, nursing, and medicines during her illness.

One appearance at petty sessions was insufficient to conclude the settlement business of the remaining four male examinees. The tales of these four recommence on 10 April. Then it was that Thomas Poucy reported that his parish of settlement 'would consider' his request for a certificate. On 18 May he was examined at Sevenoaks petty sessions. On 28 July his parish of settlement requested that he swear again to his settlement in the presence of one Mr Green, after which that parish finally sent Shoreham a certificate.

It was, likewise, on 10 April that the other three examinees were examined yet again, this time at petty sessions. One examinee, John Homewood, had on 31 March reported to Shoreham that his parish of settlement had refused to grant him a certificate. At petty sessions Homewood's examination again revealed that his claim to settlement was based on his service as an apprentice over twenty-

six years ago. Petty sessions ordered that he bring his indenture to their next meeting. And there his story stops, for neither D'Aranda's notes nor the petty sessions's minute book indicate what, if any, further action was taken on his case.

Thomas Richardson was also re-examined at this petty sessions, where he was allowed until Michaelmas to secure a certificate. He did not do so, but he nonetheless managed to secure the right to remain in Shoreham. By 6 November 1708, when he was brought to petty sessions and examined again, he had hired a tenement and two pieces of pasture in Shoreham for £10 a year. By November, Richardson was therefore a settled inhabitant of the parish of Shoreham.

James Clarke's adventures under the settlement laws were even more protracted. Along with his two fellow residents of Shoreham, he was examined at petty sessions on 10 April, when he was given a month to obtain a certificate. That certificate had still not arrived on 24 July, when Clarke was again examined at petty sessions and a removal order issued against him. Shoreham's overseer thereupon requested that Clarke depart, but instead Clarke hid in the house of Mr Ballard, a gentleman of the neighbourhood and a future justice of the peace. On 31 July, Ballard came to petty sessions and desired that the warrant of removal be respited while he tried to get Clarke a certificate. On 14 August, Ballard told petty sessions that Sutton-at-Hone, Clarke's parish of settlement, had made it their policy not to issue certificates at all. However, Ballard had a solution to the problem. According to Ballard, Clarke had £100 in money and Clarke's brother was able and willing to lend Clarke an additional £200. Therefore, Ballard concluded, Clarke was 'capable of hiring and stocking at least a small Farm', and so Ballard had leased Clarke lands for £10 a year, thereby giving Clarke a settlement in Shoreham. Shoreham's officers were sus-

⁴⁴ The petty sessions minute book does not note an examination of Francis Lock taken at petty sessions. Lock was examined before D'Aranda on 2 April (Melling, *The Poor*, pp 65-66).

picious: they requested that Ballard show them the lease, but Ballard refused. Shoreham's officers were right to be suspicious. On 19 April 1709 – over a year after D'Aranda had examined him – Clarke was again examined at petty sessions, where the justices decided that, as he was not occupying the lands he claimed to have leased, the warrant of removal issued on 24 July 1708 should be executed.⁴⁵

As is evident, those Shoreham residents who appeared at petty sessions were but a selection from among those whom its parish officers subjected to the laws of settlement. The majority of those whom D'Aranda examined were not examined again at petty sessions. Those whom Shoreham brought to petty sessions were immigrants – that is, people who did not have a settlement in the parish in which they lived.⁴⁶ But Shoreham did not bring all its non-settled residents to petty sessions. Only when Shoreham wanted to secure a document which required the signature of two justices – only if it wished to remove an immigrant, or to make the threat of removal sufficiently credible to extract a certificate from the immigrant's parish, or to secure an examination signed by two justices and so legally admissible as evidence of an immigrant's parish of settlement – only then did Shoreham bring immigrants to petty sessions.

On occasion, Shoreham wanted to secure such documents because an immigrant was in immediate or imminent need of poor relief. However, on other occasions, Shoreham's parish officers

wanted to secure such documents because they were monitoring or regulating immigration. Shoreham was not idiosyncratic in its use of petty sessions for the examination of a selection of its immigrants, or as a venue suited to endeavours to monitor and regulate immigration. Since 40 per cent of the settlement examinations preserved in parish archives were signed by just one justice, it is likely that, like five of Shoreham's twelve immigrants, many immigrants were subjected to the settlement laws by a process that never involved examination before two justices sitting jointly, and may never even have entailed an appearance before justices sitting as a group. Like Shoreham, other parishes also were more likely to bring immigrants to petty sessions than settled inhabitants: a fifth or more of the settlement examinations preserved in parish archives are examinations of people who had a settlement in the parish in which they resided, while such settled inhabitants comprised only a tenth of those examined at Kent's petty sessions.⁴⁷ Finally, like Shoreham, other parishes were likely to bring their examinees to petty sessions in a group: just over half the adults examined at the seven Kentish petty sessions whose minute books record examinations were examined in the company of at least one other immigrant living in their parish who was also examined as to his settlement.⁴⁸ Both parish archives and petty sessions records reveal that, like Shoreham, other parishes periodically investigated the settlement of immigrants and then brought a selection of these immigrants to petty sessions, there to gain

⁴⁵ Kent AO, PS/SE1. Shoreham does not seem to have been successful in ridding itself of Clarke. In May 1709, Shoreham appealed to West Kent's quarter sessions against an order removing Clarke from Sutton-at-Hone to Shoreham. However, quarter sessions confirmed that order (Kent AO, Q/SO W6).

⁴⁶ D'Aranda was by no means the only justice who first examined those whom parish officers wanted questioned as to their settlement, and then sent the cases of those who did not have a settlement in their parish of residence to petty sessions. See, for example, James Brockman's examination of William Jedurie on 15 Sept 1730, followed by his issue of a summons to Jedurie's parish of settlement to appear at the next petty sessions (BL, Add MSS 42599, f 43).

⁴⁷ N Landau, 'The laws of settlement and the surveillance of immigration in eighteenth-century Kent', *Continuity and Change*, 3, 1988, pp 406 and 418, n 32; Snell, *Annals*, pp 36–37.

⁴⁸ Landau, 'Laws', p 408. The seven petty sessional divisions whose clerks kept records of examinations in their minute books are: Bromley, Rochester, Sevenoaks, Sittingbourne, Malling, Bearsted, and Ashford. There were 184 parishes in these seven divisions. Therefore, the pattern of examining groups of people from a single parish at petty sessions cannot be attributed to the atypical behaviour of a couple of parishes. Nonetheless, that is what Snell suggests (Snell, 'Pauper', p 389).

TABLE 1
 Petty sessions minute books which form the data base for the present analysis

<i>Petty sessions</i>	<i>Early eighteenth century</i>	<i>Mid-eighteenth century</i>	<i>Late eighteenth century</i>
East Kent			
Sittingbourne	1723-26	Jul 1760-Jun 1764	1789-92
Wingham	1706-15	1731-40, 1759-68 ^a	
Ashford			1789-92
West Kent			
Sevenoaks	1708-10, 1717-25		
Bromely		1748-56, 1768-73	1783-86
Malling		1748-58, 1767-75 ^b	1783-86
Bearsted		1749-57	
Rochester		1754-58	
Tonbridge		Nov 1767-Oct 1771	

^a The certificates analysed for Wingham at mid-century are those for 1737 through 1740, and 1759 through 1762.

^b The period indicated for Malling as 1767-75 covers the seven years from September 1767 through to August 1771 and November 1772 through October 1775.

Sources: Kent A/O, PS/US, PS/W, PS/Se, U442/O45, PS/Ma, PS/Be, PS/NA, PS/A, PS/T; Bromley Central Library, Bromley petty sessions minute books; Sevenoaks Library, Sevenoaks petty sessions minute book; Dog Inn, Wingham, Kent, Wingham petty sessions minute book.

that imprimatur of two justices on their settlement documents which allowed the parish to regulate and monitor immigration.

Therefore, the records of petty sessions provide evidence of parish officers' activity when they advanced a further stage in their application of the laws of settlement. For the records of petty sessions enable us to follow parish officers as they conducted that settlement business which required the signature of two justices. After all, it was at petty sessions that parishes obtained a large proportion – though by no means all – of the documents they exchanged as they enforced the settlement laws. In eighteenth-century Kent, there were fourteen petty sessional divisions; there are extant minute books for nine of these petty sessions. The minute books note the issue of documents signed at petty sessions. Therefore these minute books reveal that process which produced a large proportion of the settlement documents now reposing in parish archives. Table 1 presents these minute books and shows the period selected for investigation into the procedures of each petty sessions. Like the record of

settlement business conducted before a single justice, the minute books of petty sessions indicate that the process which produced settlement documents entailed the surveillance and regulation of immigration.

Perhaps the most impressive evidence of such surveillance and regulation is the large number of certificates signed at petty sessions. The number of certificates signed at petty sessions was already large in the early eighteenth century, before Parliament ordered that, from 24 June 1730, every certificate had to demonstrate that a witness had taken an oath before two justices that he had seen the parish officers sign and seal the certificate.⁴⁹ From 1730, such witnesses found – as had parish officers before them – that petty sessions was an institution convenient for the conduct of business that demanded the joint action of two justices of the peace.⁵⁰ The clerks of only three

⁴⁹ 3 George II c 29.

⁵⁰ The only Kentish petty sessions whose surviving minute books cover both the period immediately before and that immediately after 1730 is Wingham. At Wingham petty sessions, an average of 21.8 certificates were signed each year from 1725 through 1729, and an average of 53.4 certificates were signed each year from 1731 through 1735.

TABLE 2
Average number of certificates and removal orders issued at petty sessions each year

Petty sessions	Period	Certificate only	Removal order only	Removal then certificate	Certificate then removal
Wingham	1706-15	8.9	11.4	0.2	0
	1737-40	50.0	4.8	1.5	0
	1759-62	32.8	5.5	0.8	0.3
Sevenoaks	1708-10	11.6	5.2	0.4	0
	1717-26				
Sittingbourne	1723-26	17.5	17.5	1.8	0
	1760-64	50.3	21.3	1.5	0.3
	1789-92	29.5	29.3	2.0	0

Kentish petty sessions noted the justices' signature of certificates in their minute books, though it is clear from certificates now in parish archives that the justices also signed certificates at the other petty sessions. Table 2 shows that parish officers' enforcement of the settlement laws at petty sessions more often resulted in the issue of a certificate than in the issue of an order to remove an immigrant. Since people who held certificates could not be removed until they were chargeable, and since very few of the certificated were removed soon after they received their certificate, it is likely that the prevalence of certification indicates that parish officers were subjecting people who were neither unemployed nor in immediate or imminent need of poor relief to the laws of settlement.

Therefore, the issue of certificates at petty sessions tells against K D M Snell's argument that the overwhelming majority of the people whom parish officers subjected to the settlement laws were unemployed or in imminent or immediate need of poor relief.⁵¹ To sustain his argument, Snell has asserted that a substantial proportion of certificates were issued to people who needed poor relief.⁵² However, it is usually not possible to determine, from documents issued under the settlement

laws, whether the people subjected to those laws needed poor relief. Settlement examinations rarely state whether the examinee is in need or unemployed.⁵³ Certificates never mention the subject. And, while removal orders distinguish between those 'chargeable' and those 'likely to be chargeable', it is quite probable that some of those removed as 'likely to be chargeable' were unemployed or in immediate or imminent need of poor relief.⁵⁴ Therefore, to determine whether someone subjected to the settlement laws was in need, it is almost always necessary to collate his settlement documents with other sources.

The most straightforward way to discover if a person was in need is to determine whether his parish of settlement – the parish responsible for paying him poor relief – was in fact paying him poor relief. Of sixteen immigrants awarded certificates at petty sessions by five parishes in periods covered by the accounts of these parishes'

⁵¹ In 'Pauper', pp 378, 383, 385, 388, 389, 390, Snell indicates that eighteenth-century settlement examinations usually reveal whether the examinees are in need and/or are unemployed. However, in 'Settlement, poor law', p 155, he states: 'Examinations before 1795 rarely provide explicit evidence on the issue ...'. Snell does not indicate the evidence which altered his assessment of the content of settlement documents. (For the change in the law which makes 1795 a significant date in the history of settlement, see n 75.)

⁵² Burn's instructions about the removal order assume that, unless a person is irremovable until chargeable, the order to remove him will declare he is 'likely to be chargeable' (Burn, *Justice of the Peace*, 3rd ed, 1756, pp 544, 547 sub 'Poor (Removal)'). Landau, 'Context', pp 435-36, n 30, and Snell, 'Settlement, poor law', p 151 and p 167, n 9.

⁵¹ Snell, *Annals*, pp 17-18; *idem*, 'Settlement, poor law', pp 150-51, 153; *idem*, 'Pauper', pp 379, 384, 385, 393, 399, 400.

⁵² Snell, 'Pauper', p 384.

overseers, only one – Richard Mercer – was receiving relief.⁵⁵

As part of his argument that the usual recipient of a certificate was either unemployed, in search of work, or in either immediate or imminent need of poor relief,⁵⁶ Snell asserts that certificates were usually delivered either before or very shortly after immigrants moved into a parish.⁵⁷ That is, he asserts that the examination for the certificate and perhaps even the issue of the certificate occurred before immigrants had found work in the parish.⁵⁸ Snell does not provide evidence of parish procedures to support his assertion. Indeed, evidence of the relation between the date at which someone moved into a parish and the date of his examination or certification is difficult to obtain, for examinations rarely and certificates never reveal when an immigrant moved to his parish of residence.

There are, however, two types of evidence which indicate that most examinations were not taken within a few weeks

of arrival in a parish, and that certificates were routinely issued some time – even years – after immigrants had moved to their parish of residence. First, there is a series of settlement examinations recorded at one Kentish petty sessions by a clerk who was unusual in usually noting the date of the examinee's marriage. The date of marriage provides, for those immigrants who had been married not long before their examination, a proxy for the date at which an immigrant established himself in the parish as a head of a household. For, if the new husband had been living in another parish before his marriage, then it is likely that his marriage was the occasion of his move to the new parish. Most probably, his marriage required that he find new housing, and quite possibly – and especially if he had been working as an unmarried servant living in his employer's house – a new job. On the other hand, if the new husband had been living in the parish before he married, then the date of his marriage indicates the date at which his presence in the parish made him an obvious candidate for the attentions of the parish officers: single men were rarely removed,⁵⁹ examined, or even certificated.⁶⁰

⁵⁵ Mercer was awarded a certificate about two years after he first received occasional relief. These five parishes were selected because their overseers produced accounts of quite high quality. For the accounts of Newington, Borden, and Bredgar from 1759 through 1764, see Kent AO, P265/12/5, P35/12/3, and P43/12/4. For the accounts of Bredgar and Rodmersham from 1789 through 1792, see Kent AO, P43/12/6, and P301/12/3. These accounts were collated with certificates recorded in the minute books of Sittingbourne petty sessions. For the accounts of Cowden from 1717 to 1725, see Kent AO, P99/12/2. Cowden's accounts were collated with the certificates recorded in the Sevenoaks petty sessions minute book.

⁵⁶ Snell, 'Pauper', p 384; *idem*, 'Settlement, poor law', pp 153–54; *idem*, *Annals*, pp 17–18.

⁵⁷ Snell asserts that certificates had to be delivered when an immigrant arrived in the parish ('Settlement, poor law', pp 153–54). He supports this assertion by reference to Burn, *Justice of the Peace* 22nd ed, 1814, vol 4, pp 590, 599, 617, 634–35. However, he misinterprets Burn. Burn notes that, if an immigrant's certificate had not been delivered to his parish of residence, that immigrant would gain a settlement if he did something that would gain him a settlement were he uncertificated – if, for example, he paid poor rates in his parish of residence. Burn therefore advises parish officers to secure an immigrant's certificate as quickly as possible. A certificate took effect as soon as it was delivered. However, the interval between an immigrant's arrival in his parish of residence and the date at which he delivered a certificate did not, in itself, affect the validity of the certificate. The law did not invalidate certificates issued any time after an immigrant moved into a parish.

⁵⁸ Snell states that examinations of immigrants upon arrival 'would not be taken if they had moved to take up already arranged employment' (*Annals*, p 18). Likewise, in 'Settlement, poor law', p 153, he states: 'Examination to obtain a certificate ... normally occurred quickly: when the sojourner sought work or livelihood in the parish'.

⁵⁹ It is possible to determine exactly the proportion of single men among those removed, for a removal order states whether the person being removed is to be removed along with a wife and/or child. However, it is difficult to determine the marital status of male examinees, for the absence of a notation that a man is married on his examination does not necessarily mean that he is not married.

It is also probable that many of the certificates which designate just a man as the certificated person are also not evidence that that man was not a married head of a household. The statute governing certificates, 8 and 9 William III c 30, declared that the certificate rendered 'the person mentioned in the certificate, together with his family' irremovable until they needed poor relief.

It seems likely that, during the eighteenth century, parish officers came to demand that the certificate specify more precisely those under its protection. Pond noted that more than half of the certificates granted to a man only were granted between 1700 and 1720 ('Internal population migration', p 47). And Styles observed that, while, before 1730, certificates just indicated those (other than the person being certificated) who were covered by the certificate by a phrase such as 'and family', after 1730 certificates gave the name of each person covered by the certificate ('Evolution of the law of settlement', p 56).

Quite possibly, new precision was introduced into certificates as parishes strove to protect themselves from the liabilities intrinsic to issuing certificates and receiving certificated immigrants. According to law, the certificate covered both the certificated immigrant and his family. Who was included within the legal

Do examinations of recently married immigrants reveal that they were examined within a few weeks of their presentation of themselves to their parish of residence as the head of a household? Table 3 presents the evidence. Of forty-six immigrant men who were examined within eighteenth months after their marriage, only sixteen (35 per cent) were examined within two months of that marriage.⁶¹ If examination in order to extract a certificate were reserved for those who were unemployed when they arrived in a parish, then a much larger proportion of these new arrivals should have been examined within two months of their marriage. The interval between marriage and examination indicates, instead, that parish officers had immigrants examined not because these immigrants were unemployed, but because they were immigrants. Therefore, parish officers could delay examination until it was convenient, and examination might not be convenient for a year or more. However, parish officers did indeed eventually secure the examination of immigrants; that is, they monitored immigration.

definition of the certificated family? And for what portions of that family's life cycle and over how many of its generations did the certificate's coverage extend? King's Bench wrestled with the complexities of these questions from the 1740s on. Meanwhile, parishes issuing certificates most probably received legal advice that, the more precisely a certificate identified those in the family which it covered, the less likely was it that the certificate could be interpreted as extending to those not precisely identified in the certificate. Likewise, parishes receiving certificated immigrants were also probably receiving advice that, the more precise the certificate, the more likely that it covered, as completely as possible, all members of the certificated person's 'family' whom it identified.

As parishes attempted to insure themselves against the vagaries of the judges, the judges refused to settle that question which, after several decades of certification, had become most vexed: for how many generations of a 'family' did the certificate have effect? (See the presentation of *Rex vs Taunton St Mary, Trinity*, 29 George II, in Bott, *A Collection of Decisions*, pp 82-83 sub 'Certificate'.) It was 1803 before they made their definitive decision, a decision which distinguished between the precise and the imprecise certificate. According to the judges, a certificate extended to the legitimate child of a certificated person, if that child had lived as a dependent with his certificated parent when his parent was certificated. However, the certificate did not extend to the third generation, that is, to the legitimate children of that child, unless that child had been identified by name in the original certificate. (For the development of this aspect of the law of the certificate, see Burn, *Justice of the Peace*, 22nd ed, 18:4, vol 4, pp 600-9, sub 'Poor. Settlement', section 16 'Certificate', sub-section 4 'To what individuals it extends'.)

TABLE 3
Interval between a man's marriage and the date of his examination: Bearsted petty sessions, 1749-57

Time since marriage	Percentage of examinations
less than 1 month	2
1 month	11
2 months	4
3 months	7
4-6 months	8
7-9 months	5
10-12 months	7
13-18 months	7
19-24 months	2
25 months-3 years	5
37 months-4 years	8
49 months-5 years	2
61 months-6 years	2
7-9 years	11
10-12 years	7
13-16 years	5
17-25 years	7
N = 91	100

As Table 3 shows, 51 per cent of the ninety-one men whose date of marriage is known were examined within eighteen months of their marriage.

The second series of records which allows estimation of the interval between arrival in a parish and the issue of a certificate are the returns to the marriage tax of 1705 made by several parishes in Kent's

⁶⁰ Landau, 'Laws', p 412. See also: Gowing, 'Migration in Gloucestershire', p 189; Randall, 'Some aspects of population geography', p 198; Oxley, 'The administration of the old poor law', p 198; Hampson, 'Settlement and removal', pp 277, 286; L Bradley, 'Derbyshire quarter sessions rolls: poor law removal orders', *Derbyshire Miscellany*, 6, 1972, p 114; M F Lloyd-Prichard, 'The treatment of poverty in Norfolk from 1700 to 1850', unpublished, Cambridge University PhD thesis, 1949, p 183; J Ely, 'The eighteenth-century poor laws in the West Riding of Yorkshire', *American Journal of Legal History*, 30, 1985, p 5.

⁶¹ Snell asserts that 'many' of the examinations which constitute the data for Table 3 'would involve cases of migration or death, which predispose her [Landau's] results' ('Pauper', p 395). Snell's argument here - that one must exclude immigrants from an analysis of the application of the settlement laws to immigrants - is not entirely persuasive. Snell's other argument - that Table 3 is invalid because it includes 'cases' of 'death' - does seem alive to a greater range of possibilities. The article which introduced the data from which Table 3 is derived stated that that data came from examinations of immigrant married men taken at petty sessions (Landau, 'Laws', pp 407-8, 418, n 35). So, Snell's argument here - that many of the examinees were dead - seems to present the eighteenth-century petty sessions as seance.

Wingham division.⁶² Many of these returns list the inhabitants of a parish by name. So, it is possible to determine whether the people certificated to these parishes after 1705 were living in these parishes in 1705. Similarly, it is possible to determine whether people removed from these parishes after 1705 were living there in 1705. Of fourteen people certificated to these parishes in 1706 and 1707, only six (43 per cent) had not been living there in 1705. In contrast, seventeen (71 per cent) of the twenty-four people removed from these parishes in 1706 and 1707 had not been living there in 1705.⁶³ Evidently, parish officers moved relatively quickly to remove immigrants when those immigrants posed an immediate threat to the parish rates. As is also evident, such prompt action does not characterize parish officers' response to immigrants who eventually obtained certificates. An immigrant who obtained a certificate might receive it several months – even a few years – after he took up residence in his new parish.⁶⁴ That parish officers tolerated the presence of these immigrants, and did not remove them, suggests that a large proportion of such immigrants were not in imminent or immediate need of relief when they were examined or certificated.

The issue of certificates at petty sessions therefore confirms the evidence of parish

archives. The certificate is indeed the document most likely to be preserved in parish archives, but that does not mean that the very large numbers of extant certificates misrepresents the prevalence of certification under the settlement laws. Enormous numbers of certificates were indeed issued,⁶⁵ and the issue of certificates indicates that parish officers used the settlement laws to regulate and monitor immigration.

Similarly, the examination at petty sessions of very large numbers of people who were neither certificated nor removed at petty sessions likewise indicates that parish officers used the settlement laws to regulate and monitor immigration. Table 4 presents the settlement fate of all adults examined at those petty sessions whose clerks noted both examinations and either or both of removal orders and certificates in their minute books. People whose examination did not result in a record of either certificate or removal in the petty sessions' minute book are listed in the column entitled 'examination only'.⁶⁶

Clearly, the justices at petty sessions did not issue either a certificate or a removal

⁶² Kent AO, QC/T22. I want to thank the Cambridge Group for the History of Population and Social Structure for permitting me to examine their copies of and their work on these tax returns. I also want to thank Peter Lindert for making his copies of some of these tax returns available to me.

⁶³ By chance, it happens that all of the certificates granted in 1706 and included in this numeration were issued at least seven months after the compilation of the 1705 tax return for the parish to which the certificate was issued. This count is based on: (a) all removed from or certificated to a parish for which a tax return listing the names of householders survives; and (b) those removed from or certificated to a parish who are listed as residents in the 1705 tax return of their parish of settlement.

⁶⁴ Styles, 'The evolution of the law of settlement', pp 61–62, shows that in Painswick, Gloucestershire, the interval between examination and certification might be months or even years. Similarly, Pond found that the parish officers of Walthamstow, Essex, demanded certificates from immigrants about eighteen months to two years after their arrival ('Internal population migration', pp 28–29).

⁶⁵ Even the large number of certificates now in parish archives, indeed, even eighteenth-century lists of such certificates, do not adequately indicate the prevalence of certification. For even these documents fail to reveal a parish's receipt of quite a substantial proportion of the certificates delivered to it. Collation of entries in those petty sessions minute books which note the issue of certificates with collections of certificates in parish archives, and with contemporaneous parish lists and entry books for certificates, revealed that some certificates issued at petty sessions were no longer in these collections, nor were they noted in the lists and entry books. Of 61 certificates granted at Sittingbourne petty sessions to four parishes in the Sittingbourne division from June 1760 through June 1764, and from 1789 through 1792, only 48 are now noted in these parishes' archives (Kent AO: Bobbing, P33/13/1–2; Borden, P35/8/2; Bredgar, P43/8/1; Milton-next-Sittingbourne, P253/8/3). Of 15 certificates issued at Sevenoaks petty sessions for immigrants to Sevenoaks from 1708 through 1710 and from 1717 through 1725, only 9 remain in Sevenoaks' archives (Sevenoaks Library, D292B).

It is quite likely that, when a certificated person was removed to his parish of settlement, his certificate was also returned to that parish. Similarly, it appears that, when some certificated people moved out of the parish to which they were certificated, they took their certificate with them. (Paley, *Justice in Eighteenth-Century Hackney*, p 77, no 395.)

⁶⁶ Table 4 excludes those removal orders and certificates issued at petty sessions for which examinations are not recorded in the petty sessions' minute book. The periods covered for each petty sessional division are presented in Table 1.

TABLE 4
Settlement disposition at petty sessions of those examined at petty sessions

Petty sessions	Examination only		Examination then removal order		Examination then certificate		Examination then removal order then certificate	
	M	F	M	F	M	F	M	F
Sittingbourne	351	30	115	101	71	3	20	0
Sevenoaks	86	14	30	16	21	2	4	0
Ashford	5	0	68	37				
Bearsted	40	0	98	17				
Malling	171	16	283	102				
Rochester	105	5	51	29				

order for a large proportion of the men examined at petty sessions. It is also likely that about half the men and women whose examination at petty sessions did not result in a removal order or certificate also issued at petty sessions were neither certificated nor removed by justices acting out of petty sessions. Only about one in six of the examinations taken at petty sessions which did not result in a removal order or certificate issued at petty sessions eventually produced a removal order issued out of petty sessions.⁶⁷ Similarly, about one in three of the examinations taken at petty sessions which did not result in a removal order or certificate issued at petty sessions produced a certificate issued out of petty sessions.⁶⁸

Examinations of people who did not have a settlement in the parish in which they lived, and which did not result in either a removal order or a certificate still served a purpose. If, after he was examined, the examinee became unable to give evidence of his settlement, then the earlier settlement examination was legally accepted as evidence of that settlement. So, if after he was examined, the examinee became insane, or deserted his family, or went abroad, or died, his settlement examination was legally admissible as evidence both of his own settlement and of that of his wife and children.⁶⁹ Prudent parish

⁶⁷ Landau, 'Laws', pp 397-98; *idem*, 'Context', p 437, n 40.

⁶⁸ Even parishes in the Sittingbourne division, where by mid-century most certificates were recorded in the minute books of its petty sessions, received certificates whose issue was not recorded at petty sessions but which were based on examinations taken at petty sessions. The records of the four parishes (Kent AO: Bobbing, P33/13/1-2; Borden, P35/8/2; Bredgar, P43/8/1; Milton-next-Sittingbourne, P253/8/3) in the Sittingbourne division whose certificates have been collated with the settlement business noted in the minute books of Sittingbourne petty sessions reveal that, from June 1760 through June 1764, and from 1789 through 1792, these parishes received 13 certificates, whose issue was not recorded in the petty sessions's minute book, which were based on examinations taken at petty sessions. In the same period, 34 other residents of these four parishes were examined at petty sessions for whom the petty sessions's minute book does not record the issue of either a removal order or certificate, and for whom there is no record in the archives of these four parishes of receipt of a certificate. Similarly, of 37 immigrants to the town of Sevenoaks examined at Sevenoaks petty sessions from 1708 through 1710 and 1717 through 1725, and neither certificated nor removed at petty sessions, 9 left certificates in the town's archives.

Likewise, the records of three parishes in the Malling division (Kent AO: Aylesford, P12/8/1, P12/28/22; Wes: Malling, P243/13/147; West Peckham, P285/13/1) show that, in

1748-1758, 1767-1775, and 1783-1786, these parishes received certificates founded on 16 examinations taken at petty sessions - examinations which were not noted as associated with a removal order in petty sessions minute books. In the same periods, 42 immigrants to these three parishes were examined at petty sessions; their record of removal does not appear in the petty sessions minute books; and record of their certification does not appear in the parishes' archives. (See also Landau, 'Laws', p 402.)

⁶⁹ As part of his argument that a settlement examination was usually taken only when the examinee was in imminent or immediate need of poor relief, or unemployed, Snell argues that parish officers did not secure examinations simply to monitor immigration - simply to secure an examination which could, if necessary, be used in the future as evidence of the immigrant's settlement. So, Snell denies that, in the eighteenth century, examinations of people who had since become unavailable for further questioning were legally admissible ('Pauper', p 397, and pp 411-12, n 110). However, *Rex vs Eriswell*, (3 TR 707, *English Reports*, vol 100, pp 815-25) a case brought before King's Bench on appeal in 1790, establishes that before 1790, and as of 1790, the examinations of people who could no longer testify as to their settlement were admissible as evidence of that settlement. The case revolved about a removal order founded on an examination taken some years earlier of a man who had since become insane. The judges declared the examination admissible. Indeed they declared that barring such examinations would alter the usual and established practice. As Judge Buller stated: 'I have inquired what is the usage at different sessions, and I find that throughout the west of England, in the

officers therefore secured examinations of immigrants even if they did not intend to remove them. And, as a result, parish officers secured an examination taken before two justices at petty sessions of people who were not in need of poor relief. For example, of thirty-four people examined at petty sessions, all of whom had their settlement in one of nine parishes,⁷⁰ only four were listed in that parish's overseers' accounts as a recipient of relief.⁷¹ By bringing to petty sessions an immigrant who did not need poor relief, parish officers were securing a well-founded settlement examination, a settlement examination of the person who could provide the best testimony about those of his activities relevant to determination of his settlement. Such an examination could spare a parish considerable cost and effort should the examinee or his family need relief when the examinee was unable to testify. Just such a motive may well have impelled Shoreham's officers to bring John Homewood to Sevenoaks petty sessions, first to be examined as to his settlement, and then again to show petty sessions his

indenture of apprenticeship – that is, his evidence for his claim to settlement.⁷²

Parish officers' use of petty sessions to obtain examinations which would be legally admissible should the immigrant be unable to testify in the future indicates that parish officers applied the settlement laws so as to monitor immigration. Parish officers' use of petty sessions to obtain examinations which persuaded parishes to grant certificates to emigrants indicates that parish officers applied the settlement laws so as to regulate immigration. And petty sessions was not the only venue at which parish officers conducted such activity. Parish officers brought immigrants to justices acting outside of petty sessions to be examined, certificated, and removed. After all, justices acting outside of petty sessions issued about a third of Kent's removal orders.⁷³ Therefore, as petty sessions issued just a proportion, though a substantial proportion, of the settlement documents that were issued, the large number of settlement documents issued at petty sessions reveals that parish officers were applying the settlement laws with considerable assiduity.⁷⁴

north of England, and in other places, it has been the constant practice to receive such evidence. I have heard of no one sessions in which a different practice prevails; and if it be in universal use, why should we overturn it?' (3 TR 718, and see 3 TR 710, 711, and 720). In 1801, the judges decided to bar such evidence, on the grounds that it was hearsay (see n 40).

⁷⁰ The nine parishes selected are parishes whose overseers kept clear and detailed accounts. The overseers' accounts (all deposited at the Kent AO) and the periods for which they were inspected are listed here. This list also places each parish in its petty sessional division: Bromley division – Orpington P277/8/1 and P277/11/1 for Jan 1783–Jan 1786, and North Cray P102/12/2 for 1783–1786; Malling division – Aylesford P12/12/4 for 1748–1753 and 1768–April 1771; Sevenoaks division – Cowden P99/12/2 for 1717–1725; Sittingbourne division – Hartlip P175/11/4 for 1723–1726, Bredgar P43/12/4 for 1760–June 1764, P43/12/6 for 1789–Jan 1792, Borden P35/12/2 for 1723–1726, P35/12/3 for June 1760–June 1764, Rodmersham P307/12/3 for 1789–92, and Newington-next-Sittingbourne P265/12/5 for 1760–April 1763.

⁷¹ The examinees include 14 people living in their parish of settlement (3 of whom were given relief) and 20 people living elsewhere, that is, 20 immigrants (1 of whom was given relief). During the periods in which these 34 people were examined at petty sessions, 61 immigrants to these nine parishes were also examined at petty sessions, none of whom were given relief by their parish of residence. During these same periods, these nine parishes gave continuing or occasional relief to over 100 adults who had not been receiving relief at the beginning of each period.

⁷² See above, p 148.

⁷³ Landau, 'Laws', p 397.

⁷⁴ As part of his argument that the settlement laws were not used to monitor and regulate immigration, and that, instead, 'a large majority of examinations ... document people in the intervals between employment', Snell states: 'Figures of examinations and removals suggest very small yearly averages in each rural parish (about 0.05 to 2.0 per annum)' ('Settlement, poor law', pp 150, 157). Snell does not present the calculations which resulted in this estimate, but the footnote to his statement indicates that it is based on the number of examinations and removal orders that my article, 'Laws', presented as issued at petty sessions. Snell's use of my data has therefore resulted in erroneous calculations. The most egregious error in his presentation is its assumption that the number of removal orders and examinations taken for each parish at petty sessions is nearly identical to the total number of removal orders and examinations taken for each parish. However, the article from which he took his data showed that about 30 per cent of removal orders were not signed at petty sessions ('Laws', p 397). As this article demonstrates, a very large number of examinations which did not result in removal orders were also taken out of petty sessions. (For some of the other errors in his use of my data which render his calculations erroneous, see Landau, 'Context', pp 425–26.)

It should also be noted that Snell's statement lacks context: the number of removal orders and examinations taken each year in each parish is useful as evidence of the frequency with which the settlement laws were applied only if that number can be translated into the proportion of households affected by such orders and examinations each year. The following discussion addresses that issue.

Indeed, petty sessions' minute books indicate that the officers of rural parishes used the settlement laws to monitor and regulate immigration until 1795, when Parliament decreed that no immigrant who was neither destitute nor dissolute could be removed to his parish of settlement.⁷⁵ Only one Kentish petty sessions produced a minute book which allows analysis of late eighteenth-century practice in monitoring and regulating immigration. Of the surviving late-eighteenth-century minute books, only that for the Sittingbourne division notes the issue of all settlement examinations, removal orders, and certificates signed by the justices. Sittingbourne's minute books show that, while the number of examinations unassociated with removal orders, and of certificates issued for urban parishes, had declined markedly by the early 1790s, rural parish officers' surveillance and regulation of immigration remained vigorous.⁷⁶ On average, each year from 1789 through 1792, the justices at Sittingbourne sessions signed settlement documents for 3 per cent of all families – both those settled in their parish of

residence and those not so settled – living in the division's rural parishes.⁷⁷

If each year 3 per cent of all families were, at petty sessions, subjected to the settlement laws, then settlement business conducted at petty sessions affected a large proportion of those families who were not living in their parish of settlement. After all, the residence of a considerable proportion of families could not be regulated under the laws of settlement. Families able to rent for £10 a year (possibly a third of the rural population),⁷⁸ and those renting for less than £10 a year who were living in their parish of settlement were not the subject of settlement documents issued for immigrants at petty sessions.⁷⁹ So, it may be that in any given year one-half to three-quarters of rural families were not candidates for regulation as immigrants under the laws of settlement. If that is the case, then each year rural parish officers in Kent's Sittingbourne division took to petty sessions settlement business relevant to 6–9 per cent of all families who were not living in their parish of settlement. Since the settlement business conducted at petty

⁷⁵ This act, 35 George III c 101, decreed that, from 22 June, 1795, the only immigrants who could be removed under the settlement laws were those in need of relief and unmarried pregnant women. (The act also stipulated that it did not alter the justices' powers under the vagrancy laws to pass rogues, vagrants, and idle and disorderly persons to their parish of settlement.) Therefore this act limited the legal definition of those who could be removed under the settlement laws. However, even as the 1795 act was being passed, unprecedented increases in the price of food were forcing more and more people to request poor relief. And so, in and after 1795, people were being removed who, before the mid-1790s, would probably neither have needed relief nor been removed. As a result, it is not possible to use a comparison of the number of people removed before and after 1795 as a gauge of the proportion of those removed before 1795 who did not need poor relief.

⁷⁶ N Landau, 'The regulation of immigration, economic structures and definitions of the poor in eighteenth-century England', *Hist. J.* 33, 1990, pp 545, 554–57. For decline in urban surveillance of immigration indicated in town records, see: Randall, 'Some aspects of population geography', p 275; B G Awty, 'Settlement and removal in Bury, 1679–1820', *Report of the Lancashire Record Office for 1958*, p 21; E G Thomas, 'The poor law migrant to Oxford 1700–1795', *Oxonienisia*, 35, 1980, p 302; J M Martin, 'The rich, the poor, and the migrant in eighteenth century Stratford-on-Avon', *Local Population Studies*, no 20, 1978, p 41; Hampson, 'Settlement and removal in Cambridgeshire', p 286. For decline in certificates delivered to Kent's towns from the 1780s, see the records of Cranbrook and New Romney (Kent AO, P100/16/1, P309/13/2).

⁷⁷ This calculation demands a count of the families whose settlement business parish officers brought to petty sessions. Unfortunately, Sittingbourne's petty sessions minute book does not always reveal whether a person who was being examined or certificated was single or the head of a family. On occasion, the clerk of Sittingbourne's petty sessions did not note whether an examinee was married or had resident children. Rarely did he note whether a person who was receiving a certificate was married or had resident children. I assumed that all of the following were heads of a family: those women whose resident children were noted by petty sessions' clerk; those men whom the clerk noted as married; and all men whose certificates were endorsed by the justices at petty sessions.

The calculation also demands an estimate of the number of families in the rural parishes of the Sittingbourne division. I obtained that estimate by multiplying the number of families reported in the 1801 census by the ratio of the number of people aged 25 or over in 1791 to the number of people aged 25 or over in 1801. For the age distribution of, and number of, the English population, see E A Wrigley and R S Schofield, *The Population History of England, 1541–1871*, 1981, p 529.

⁷⁸ Landau, 'Laws', pp 410–11.

⁷⁹ At the moment, there is little information on either: the proportion of residents of any eighteenth-century parish who were settled in that parish; or the proportion of the poor resident in any eighteenth-century parish who were settled in that parish. Snell, 'Pauper', p 415, n 128, reports that in 1835, an average of 75 per cent of the poor in 46 rural East Suffolk parishes were living in their parish of settlement.

sessions constituted only a portion, though a large portion, of parish officers' application of the settlement laws, then the large number of settlement cases considered at petty sessions suggests that parish officers each year applied the settlement laws to a very large number of immigrants, a number larger than the number of such people added each year to the relief rolls.

Indeed, since parishes could suffer if their overseers did not apply the settlement laws to the wealthiest of their non-settled inhabitants, it seems quite possible that an appreciable proportion of the men examined under the settlement laws were men of some substance. According to the laws of settlement, anyone who paid poor or church rates in the parish in which he lived acquired a settlement in that parish unless he was certificated to that parish. Therefore, parish officers had a choice in dealing with a resident who did not have a settlement in their parish. They could tax such an immigrant, thereby giving him a settlement in their parish; or they could choose not to tax him, and so diminish parish funds;⁸⁰ or they could have him examined as to his settlement and threaten to remove him unless he presented them with a certificate. Some parishes chose to extract certificates rather than forfeit taxes. Mitcham, Surrey, maintained the practice of demanding certificates from potential ratepayers into the 1780s.⁸¹ Similarly, St Mary's in Dover rated certificated immigrants but abstained from rating the uncertificated.⁸² As a result, ratepayers could comprise a large proportion of those certificated to a parish. The twelve

certificatemens who are noted and rated as such in the parish of Orpington, Kent, from March 1781 through July 1787 comprise 75 per cent of the people whose certificates are listed in Orpington's records as received between 1772 and 1787.⁸³ Similarly, at least some of the certificated in Hackney in the 1730s were substantial householders.⁸⁴

In insuring that their substantial, though non-settled, inhabitants were certificated, parishes also protected themselves against acquiring these immigrants' servants and apprentices as settled members of the community. Though the settlement laws declared that apprentices and unmarried servants hired for a year acquired a settlement in the parish in which they served or apprenticed, the settlement laws also decreed that servants and apprentices of certificated people could not found a claim to settlement on such an apprenticeship or service.⁸⁵ And parishes took action under that provision of the settlement laws. Of 294 former male apprentices examined at Kent's petty sessions in the periods selected for analysis, twenty-nine had served a certificated master and could not claim a settlement in the parish in which they had served that master.⁸⁶ Similarly, protection of the town against the settlement of the servants of substantial but non-settled inhabitants may explain an appreciable proportion of urban examinations and certificates. When, in 1718, the parish officers of the town of Buckingham were given a list of people from whom to demand certificates, they were also advised: 'if the persons should ask why they should give certificates etc, Is because their serv[an]ts should not have a settl[em]en[t]'.⁸⁷

So, it should not surprise us that glimpses of parish officers in action reveal that they

⁸⁰ Some parishes did indeed choose not to rate an uncertificated immigrant when the immigrant's parish of settlement refused him a certificate (*Gentleman's Magazine*, 60, 1790, pp 886-87).

⁸¹ B Berryman, ed, *Mitcham Settlement Examinations, 1784-1814*, Surrey Record Society, 27, 1973, pp x, xiii; Pond, 'Internal population migration', pp 45-6.

⁸² Newman, 'The old poor law in east Kent', p 197. Newman notes (pp 222, 235, 237, 241) that, in the last quarter of the eighteenth century, several parishes ceased to rate their poorer inhabitants. This could well have resulted in decline of surveillance of the immigration of people who were not in need of relief.

⁸³ Bromley Central Library, P277/13/1, P277/11/1.

⁸⁴ Paley, *Justice in Eighteenth-Century Hackney*, p xxiii; and see pp 160-61, no 990, and pp 163-64, no 1003.

⁸⁵ 12 Anne c 18 s 2.

⁸⁶ Four of these 29 apprentices founded their claim to settlement on an apprenticeship to a second master.

⁸⁷ Buckinghamshire RO, PR/29/13/100, dated 19 May 1718.

were attempting to apply the settlement laws to quite substantial inhabitants of their parish. In 1758, in a rare comment upon settlement business, the clerk of the Malling division noted of the examination of a shopkeeper: 'Adjudged not removeable He having made Oath that he was worth £60 after all his Debts were paid'.⁸⁸ Similarly, in 1709, the clerk of Wingham petty sessions noted, in an equally rare gloss upon his sessions's settlement business, that as John Cowper was renting and occupying lands in Ash valued at £12 per annum, and that 'including his stock etc on the said Lands he is now worth thirty pounds and upwards', he need not bring a certificate to Ash, for he had now acquired a settlement there.⁸⁹

As parish officers applied the settlement laws even to relatively substantial residents of their parish, the settlement laws affected a very large portion of English society. This extensive application of the settlement laws does not necessarily mean that migration was stifled or even greatly restricted. Much application of the law entailed the issue of certificates – documents which

guaranteed an emigrant that his parish of settlement would assume responsibility for his poor relief, and after 1730, even pay the costs of conveying him back to that parish should he need poor relief. Quite possibly, the certificate inspired its possessor, encouraging him to venture further into an unknown and indifferent land.⁹⁰ Yet, whether the net effect of the settlement laws was encouragement or restriction of interparochial migration, it is evident that the settlement laws enabled parish governments to wield enormous power over a very large proportion of Englishmen, if parish governments so wished. The governments of rural parishes did so wish. And so the governors of rural parishes – parish officers and parish vestries – used their powers to decide whether immigrants would be allowed to continue sleeping in the beds they wished to consider their own.

⁸⁸ Kent AO, PS/Mal, 4 Nov 1758, examination of William Elliott.

⁸⁹ Kent AO, PS/W1, 5 July 1709.

⁹⁰ R. A. Pelham, 'The immigrant population of Birmingham, 1686–1726' *Transactions of the Birmingham Archaeological Society*, 61, 1940, pp. 50–52, suggests that the development of a system based on certificates encouraged movement over greater distances. Gowing tests this hypothesis by comparing the certificates delivered to Birmingham from 1697, when statute established the certificate as part of settlement law, with those delivered to Birmingham before 1697, when certificates were just records of private agreements between parishes allowing a person settled in one parish to live in another. Gowing finds that the data supports Pelham's hypothesis ('Migration in Gloucestershire', p. 218).