

THE VACCINATION ACT.

THE DEWSBURY UNION AND THE LOCAL GOVERNMENT BOARD.

Yesterday, in the High Court of Justice, Queen's Bench Division, in the case of the Queen v. the Guardians of the Poor of the Dewsbury Union, came before Mr. Baron HUDDLESTON and Mr. Justice HAWKINS. This was the argument of a rule nisi calling upon the Guardians of the Poor of the Dewsbury Union to show cause why a *mandamus* should not issue commanding them to appoint two vaccination officers, one for the district of Mirfield, and the other for the district of Thornhill, both places being within their union.

Mr. Benjamin Crowther, the chairman of the board, and Mr. Joseph Brown, vice-chairman, appeared in person to show cause against the rule, which was supported by the Solicitor-General and Mr. Channell.

Mr. Brown stated that there were thirty-five Guardians, including the *ex-officio* members, and they had all been served; but Mr. Crowther and himself had been asked to appear because they were informed by the Local Government Board Inspector that the Guardians could not legally incur any expense in this matter. He then handed up an affidavit on behalf of the Guardians, which was as follows:—

"We, Benjamin Crowther, of Birkenshaw, near Dewsbury, in the county of York, chairman of the Board of Guardians of the Dewsbury Union, and Joseph Brown, of Savile Town, near Dewsbury, first vice-chairman of the said board, severally make oath and say as follows:—

1. Since the vacancies occurred in the offices of public vaccinators in the districts of Mirfield and Thornhill respectively the said board has not refused to enter into contracts with two duly registered medical practitioners for the performance of vaccination in the said districts, or either of them, nor decided in any way not to do so. 2. On the 9th of May last, with a view to appointing public vaccinators for the districts aforesaid, the board directed advertisements to be inserted in several local newspapers (a copy of the *Dewsbury Reporter*, being one of such newspapers, and containing the said advertisement, is now produced and shown to us, marked A). 3. In response to the said advertisement, one candidate only applied to fill the vacancy for the said district of Mirfield, viz., Thomas Weatherall Sproule, and only C. W. G. Burrows and Alfred Mason for the said vacancy in Thornhill. 4. The said T. W. Sproule and C. W. G. Burrows respectively have only practised and resided in the said township since the said vacancies occurred, and are therefore unacquainted with the health of the parents of children from whom it is necessary to take lymph, and for other good and sufficient reasons the board did not consider the said Alfred Mason a fit and proper person for the appointment for Thornhill. (5) Accordingly the said board, at their meeting on the 6th of June last, resolved to advertise again in the *Leeds Mercury*, being a newspaper circulating in the said districts. A copy of the newspaper is now produced, and shown to us marked B. 6. No application having been received in response to such last-mentioned advertisement, the said board, at their meeting of the 4th of July inst., passed the following resolution, namely:—'That in view of the failure of the board's advertisements for suitable gentlemen, that a committee be appointed to inquire into and report upon the best means to be adopted in the filling of the vacant appointments of public vaccinator for the Mirfield and Thornhill districts.' Such committee consisted of ourselves, and Messrs. Parker, Stead, Fox, Townend, and Leadbeater, who reported to the board on the 8th of July inst. as follows:—'That during the vacancy of the offices the board be recommended to arrange with Mr. Watts, the public vaccinator for Dewsbury, to attend at his surgery at certain hours in the week for the purpose of vaccinating the children of such parents in Mirfield and Thornhill who wish their children to be done, to be charged for by him at the same rate as other vaccinators at his surgery, subject to the approval of the Local Government Board, and that public notice be given of the arrangement.' The said recommendation was adopted by the board by eight votes to four. 7. The said district of Dewsbury adjoins the said districts of Mirfield and Thornhill respectively. 8. Speaking positively for ourselves, and according to the best of our knowledge, information, and belief as to the majority of the said board, we say that the said board is ready and willing to enter into contracts with two duly registered medical practitioners for the performance of vaccination in the said districts of Mirfield and Thornhill respectively, so soon as qualified and suitable persons can be found who are prepared to enter into such contracts. 9. We depose to the above facts partly of our own knowledge and partly from information obtained from officials of the said board.—Signed, BENJAMIN CROWTHER, JOSEPH BROWN."

Baron HUDDLESTON.—You say you are prepared to appoint?

Mr. BROWN.—We are, my Lord, unquestionably.

Baron HUDDLESTON.—If you can find properly qualified men?

Mr. BROWN.—Yes. The board contended that the applicants who had come before them were eminently unfit. Two of them, Sproule and Burrows, were young men in the profession and inexperienced in this matter altogether, as they had only resided in the district within the last twelve months, and the people in the district would have no confidence in them, and would view their appointment with dislike and distrust. The board had done their best to obtain more experienced practitioners, and desired to do so. They had also made provision under Section 11 of the Vaccination Act, which provided for the vaccination of children in case of a vacancy in an adjoining district. The arrangement that the Guardians had now made was very suitable for a large portion of the district.

Baron HUDDLESTON.—You say you have appointed a gentleman at Dewsbury?

Mr. BROWN.—We have passed a resolution asking a medical practitioner to vaccinate all children from the Thornhill and Mirfield districts.

The SOLICITOR-GENERAL.—They have to come to his surgery at Dewsbury.

Mr. BROWN.—We have made provision for the vaccination of the children during the continuance of the vacancy.

Baron HUDDLESTON.—Do you say in your affidavit that there are no other qualified medical men in Thornhill and Mirfield?

Mr. BROWN.—No, my Lord. There are other qualified medical men, but they have never applied, and we have reason to believe that they have been induced by some one, we don't know who, not to apply. There are far more suitable gentlemen who could hold these appointments.

Mr. Justice HAWKINS.—Have you asked them to take it?

Mr. BROWN.—We did not think that was within our province. We had a committee appointed, the members of which have personally endeavoured to induce these gentlemen to apply.

The SOLICITOR-GENERAL.—I should like to have that on affidavit.

Baron HUDDLESTON.—As Guardians of the union you ought not to be satisfied with merely putting an advertisement in a paper, which might have the effect of not inducing a duly qualified man to answer it. You ought to institute inquiries.

Mr. BROWN.—I submit we have done so by appointing this committee.

Baron HUDDLESTON.—You don't say they inquired of these duly qualified men.

Mr. BROWN.—I do now, my Lord.

Baron HUDDLESTON.—Have you made an affidavit to that effect?

Mr. BROWN.—I have not made an affidavit to that effect, because I am not one of those who made the inquiries.

Baron HUDDLESTON.—There are many persons who have a conscientious objection to vaccination—of course they are at liberty to entertain their individual opinion—but as the Government of the country, representing the majority, is in favour of vaccination, and requires the appointment of certain officers, you being intrusted with that duty must satisfy us that you have *bona fide* attempted to find officers to appoint. We can't doubt for a moment that there are plenty of medical practitioners in this district who would undertake the duty if applied to.

Mr. BROWN.—We have since the 9th of May used every diligence to obtain suitable applicants, and I should wish to correct what I said in reply to your Lordship a minute or two ago. I recollect that I did ask one gentleman to fill this office, but he refused.

Justice HAWKINS.—What remuneration did you offer?

Mr. BROWN.—The remuneration is regulated by statute, and we can't increase or diminish it.

Baron HUDDLESTON.—What we want to be assured of is your honest desire to carry out the provisions of this legislation.

The SOLICITOR-GENERAL.—This gentleman is one who expressed himself in the strongest terms against vaccination.

Mr. BROWN.—I demur to the statement of the gentleman behind me.

Baron HUDDLESTON.—That is the Solicitor-General.

Mr. BROWN.—Well, I quite demur to the Solicitor-General's statement. What I have said is, that although myself a disbeliever in vaccination for good and sufficient reasons, yet I would not hinder any person being vaccinated according to the provisions of the law and according to his desire. I submit that, as a Guardian, and that is the extent of my obligation.

Baron HUDDLESTON.—The extent of your obligation is to carry out the law.

Mr. BROWN.—Quite so; and I am prepared to do so.

Baron HUDDLESTON.—To carry it out honestly?

Mr. BROWN.—Quite so. The law imposes upon the Guardians the duty of finding suitable persons for these important posts, and the regulations point out the necessity of the vaccination officer knowing the families from whom lymph would have to be taken. These gentlemen have not resided in the district for a year, one of them only six months, and on that ground they are unfit.

Baron HUDDLESTON.—We have a right to suppose that any medical man who has obtained the necessary diploma is duly qualified for this office. The public confidence is not always placed in the young medical man, although he may be far superior to the man who, perhaps, has gone behind his time; but a medical practitioner who is duly qualified could very readily make inquiry as to the families about, and could probably far more effectually discharge his duty in that way than by merely referring to his personal knowledge. We must take care that the spirit of the Act is carried out—that it is not evaded. I do not use the word officiously, and the law is strong enough to prevent any person evading the orders of the law.

Mr. BROWN.—I submit that since the 9th of May, when this matter came prominently before the board—prior to that time I don't wish to go into—but since that time the board has used all diligence. They only sit fortnightly, and the advertisements were to appear for two weeks, and this consumed some time. This application at this particular time is most unhappy, inasmuch as it defers a

number of the Guardians from doing their duty conscientiously, and places them at a disadvantage. The time is not sufficient to show that the Guardians are acting *malà fides*.

Baron HUDDLESTON.—We have had it brought before us that there has been a persistent refusal, or something of that nature, to appoint public vaccinators for a very long time. I think we ought to inquire as to what was done before the 9th May, whether you have endeavoured to get a proper person not merely by advertisements but inquiries. Are you prepared to find such persons within a reasonable time? I think if you were to make a suggestion we might adopt a course in reference to this *mandamus* which should secure all that was necessary for the public health.

Mr. BROWN.—And ask any one of the Guardians on affidavit to say that he will get a person in a given time?

Baron HUDDLESTON.—No; that he will endeavour to get one.

Mr. BROWN.—I am ready to do that to-day.

Justice HAWKINS.—What are the Guardians actually doing at the present moment?

Mr. BROWN.—There is an advertisement now appearing on behalf of the board.

Baron HUDDLESTON.—You said there was some influence brought to bear to induce respectable practitioners not to take the appointment.

Mr. BROWN explained that there were unhappy relations between the board and the vaccination officer, and they thought he had been at work.

Baron HUDDLESTON.—Mr. Solicitor, it has occurred to us that if these gentlemen are really sincere in what they state, you might give them time—say a fortnight—to appoint a proper person for these two districts. Suppose we were to adjourn this case for a fortnight, and if they obtain persons, let the rule be discharged; but if they have not appointed persons, and there have been no proper steps taken, then we should make the rule absolute, and there will be very heavy costs. It must not go over the Long Vacation; so I will say a fortnight, and then we should expect the appointments to be made.

Mr. BROWN said the *mandamus* had a terrorising effect upon the Guardians, and asked that the rule should be discharged that day.

Baron HUDDLESTON pointed out that they were being treated with great indulgence, because on the affidavit there were no materials at all justifying them in asking for the discharge of the rule. It was in mercy that he made the proposition, and the *mandamus* could have no terrorising effect.

Justice HAWKINS.—I am not at all sure, after what you have said, that it would not be better to make the rule absolute, and stay proceedings upon it for a fortnight.

Mr. CROWTHER pointed out that the committee had been paralysed in their action by this motion, and had not done anything towards obtaining suitable men simply because of this application.

The SOLICITOR-GENERAL was quite ready to act upon the suggestion of Baron Huddleston. He was fully satisfied the gentlemen would carry out the arrangement, and the object of the Department was to see that proper persons should be appointed. He might point out, however, that these posts had been vacant since July last.

The hearing was according adjourned.