

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1910.

AUGUSTA

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Case, 6 Me., 148, (a criminal proceeding), the court, speaking through Parris, J., says:

"The mere reputation of a marriage, or proof of cohabitation, or other circumstances from which the marriage may be inferred and which are sufficient in almost all civil personal actions, cannot, in cases of this nature, be admissible. There must be evidence of a marriage in fact, by a person legally authorized, and between parties legally competent to contract."

These are statements of the broad rule which would be applicable to the civil side of the question, and of the strict rule applicable to the criminal side of the question, and both have been given because it was not made clear in your letter of inquiry as to whether the person for whom you made inquiry had in mind a recognition of a valid marriage in a civil or criminal proceeding.

Respectfully yours,

WARREN C. PHILBROOK,

Attorney General.

OFFICE OF THE ATTORNEY GENERAL,

WATERVILLE, MAINE, February 4th, 1909.

Subject: Alien Paupers.—P. L. 1905, C. 142.

Hon. Fred W. Bunker, Council Chamber, Augusta, Maine.

SIR:—In accordance with your request for a written opinion as to the effect and intent of chapter one hundred forty-two of the Public Laws of nineteen hundred and five, relating to alien paupers, I have the honor to advise as follows:

Prior to the passage of the act in question there seems to be no doubt that an alien might, under our statutes, gain a pauper settlement in this state and that, having gained such settlement, he was entitled to the same support from the town, in case of distress, as would be enjoyed by a citizen of the state who had gained such settlement. Obviously, then, prior to the passage of the act in question, cases might arise in which a town would be liable to support an alien pauper.

In a case decided many years ago in this state, *Belgrade vs. Dearborn*, 21 Me., 334, a legal settlement was declared to be a settlement which gives a right to support from the town in cases of falling into distress and becoming necessitous. In other

words, if a pauper is entitled to support from a given town it is because he has gained a pauper settlement therein. It would seem to be equally plain that if for any reason a person has not gained or cannot gain the right to a support from a town then he has not and cannot gain a pauper settlement in that town.

The act in question declares that the revised statutes shall not be construed to make any town liable for relief furnished to an alien or his family since said statutes went into effect. This seems to be one way of saying that an alien cannot gain a right to support from a town in our state, hence it would seem that under the provisions of the act he cannot gain a legal or pauper settlement in any town in our state.

Section thirty-three of chapter twenty-seven provides that when any person has no legal settlement within the state and needs relief, his wants are to be supplied by the town in which he is found and reimbursement to the town is to be made by the state. So that even if the language of Public Laws, nineteen hundred and five, chapter one hundred forty-two, were less plain it would still seem by examination of the authorities and by reasoning that the legislature, by the act in question, intended to deprive aliens of the power to acquire a legal or pauper settlement in any town in this state, to place the burden of supporting all alien paupers upon the state, and to relieve towns of that burden. The language of the act in question also seems to be sufficiently plain to warrant this conclusion, so that by reasoning and by the terms of the act itself I am constrained to the opinion that whenever any town furnishes relief to this class of unfortunates such town should be reimbursed by the state.

Respectfully yours,

WARREN C. PHILBROOK,

Attorney General.