

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

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the issuance of warrants authorizing the payment from the State Treasury and must be "according to law."

The law requires an audit. The law requires that the account be itemized. The law prohibits the payment of an unitemized bill. The Governor and Council are not ordering and directing the affairs of State "according to law" when they issue a warrant directing the payment of a bill, account or demand which has not been audited or which has not been itemized and in the case of a bill of expenses of a state officer, payment prohibited unless itemized.

Yours very truly,

GUY H. STURGIS,

*Attorney General.*

STATE AID TO FAMILIES OF VOLUNTEERS UNDER  
LAW OF 1917—DUTIES AND POWERS OF MUNICI-  
PALITIES—PERSONS ENTITLED TO BENEFITS.

10th July, 1917.

*Hon. Carl E. Milliken, Governor of Maine, Augusta, Maine.*

DEAR SIR: Chapter 276 of the Public Laws of 1917 entitled "An Act to Provide for the Support of Families of Volunteers" must be construed liberally and in accordance with the spirit that promoted its enactment. It was to the cities, towns and plantations that this law was directed. The municipalities under the direction of their officers are to make the "suitable provision." They are to raise the money therefor by taxation or otherwise, and they are to expend it; and for such part of the money as is expended in accordance with the provisions of this Act, upon presentation of proper accounts, at the times specified, reimbursement shall be made from the State Treasury. The legislature anticipated that the provisions of this Act might not be broad enough to cover all cases of need and by Section 2, the municipalities are further authorized to raise additional sums of money to provide for such support as may be deemed necessary for dependent families in cases not adequately provided for by this Act.

Cities, towns and plantations can tax only for such purposes as are specifically authorized by Statute. By this Act

authority is given in advance whereby sufficient money may be raised, by taxation if necessary, to properly aid dependent families of enlisted men. This authority is of a dual character. In Section 1 of the Act the municipalities are *directed* to raise by taxation or otherwise, sufficient money to furnish aid to persons and in the amounts therein specified. This part of the Act is mandatory and must be complied with under penalty of the forfeiture provided in Section 10 of the Act. On the other hand the authority given in Section 2 of the Act to raise further sums of money to provide for additional support, gives to the municipalities a right to exercise discretion and is not mandatory.

The title of this Act indicates that provision for support is limited to families of volunteers. As to whether the language of the Act can be construed to extend to families of drafted men is not at this time important in as much as all soldiers, sailors or marines now in the service from Maine are volunteers.

It is an important rule of construction, to ascertain the evident intention of the Legislature, that we may "look at the object in view, to the remedy to be afforded, and to the mischief intended to be remedied." In the Civil War, in the Spanish War and in the late trouble in Mexico, generously the cities and towns of this State rendered aid to the families of their men at the front. There was no provision of law existing then, authorizing the raising of money by municipalities for these purposes, but in the spirit of patriotism and with a due regard for the debt owed to the men who had offered their services to their country, the municipalities raised and expended their money. There was no uniform basis of rendering aid. Some municipalities adopted a cold business like attitude, approaching a parsimonious and niggardly policy, while others were unreasonably liberal. Almost without exception the cities and towns called upon the State for reimbursement, and their expenditures were repaid.

In order to establish a uniform rate of expenditures in cities and towns and to fix in advance the amount of reimbursement that might be expended from the State this Act was passed. The municipalities are compelled by Section 1 of the Act to raise and expend certain fixed amounts in certain prescribed cases which the State will repay. By this Act the dependent families

are sure of proper aid and the liability of the State is fixed. Beyond and in excess of the compulsory aid required of municipalities, authority is given for additional aid, and aid to persons not included within the Act. In short by this Statute municipalities are authorized to render such aid as may be necessary to all dependents of soldiers, sailors and marines who have as volunteers entered the service of Nation and State. For such expense as is incurred under Section 1 of this Act, the State is liable. For such further aid as is contributed under the provisions of Section 2, the municipalities are not entitled to reimbursement.

Only such dependents as come within the provisions of Section 1 can compel the municipalities to furnish them aid under this Act. And only for aid furnished to dependents within the meaning of that section will the State reimburse the municipalities. In the preamble of the Act, it is stated that suitable provision for the support of "*dependent*" members of families, etc., is necessary. It is also provided that the sum so paid shall not exceed \$10. per week for all the persons "*dependent*". And municipalities are authorized to raise additional sums to aid "*dependent*" families. It is clear that the intent of the legislature was to provide for aid only to *dependents*. It is the family or the members of the household of the soldier, sailor or marine, including *his* children who are entitled to aid under Section 1 of the Act, and they must be inhabitants of the city, town or plantation furnishing the aid. Of the family or household the wife and children, an aged, infirm and dependent father, an aged, infirm and dependent mother, or an aged, infirm and dependent other member of the household are included, and should receive aid. It is not necessary that the wife or children of the soldier, sailor or marine shall be aged or infirm. It is only necessary that they are dependent upon the man in the service for their support and maintenance. I cannot believe that the legislature intended by this Act to limit aid to wives and children who are incapable of maintaining themselves, and thus compel the families of men in the service to break up their homes, and become wage earners. It seems clear that the preservation of the family and the household, making it possible that the aged and infirm be cared for, and the mothers and children be freed from the necessity of leaving home and becoming wage earners was the object in view which prompted the passage of this Act. Wives

and children should be aided unless by agreement or other act or circumstance they are self-supporting or not entitled to support from the soldier, sailor or marine.

The term children as used in this Act applies only to children of the enlisted men who are entitled by law to be supported by him.

The statute in fixing the amount of aid which municipalities must furnish, and which will finally be paid for by the State is mandatory. Wives, aged, infirm and dependent fathers, mothers and other dependent members of the household are entitled to \$1.00 per week and children under fifteen years of age entitled to \$1.50 per week with the limitation that the aggregate amount expended for the family of any one soldier, sailor or marine shall not exceed \$10. per week. "Whereby the use of clear and unequivocal language, capable of only one meaning, anything is enacted by the Legislature, it must be enforced, even though they be absurd or mischievous. If the words go beyond what was probably the intention, the effect must never-the-less be given to them." *Tremblay v. Murphy* 111 Maine 47. The language of this Act is clear and unequivocal. The aid to be furnished is \$4.00 per week for wives and aged, infirm dependents, and \$1.50 per week for children. There is no provision for an increase or decrease in these amounts.

For all aid furnished by municipalities in compliance with Section 1 of Chapter 276, the State must make reimbursement after proper accounts are filed covering the periods and at the times specified therefor. The Governor and Council may pass on the sufficiency of the accounts and as to whether or not the persons aided are in fact within the classes specified in Section 1, but if the municipalities comply with the law as to persons and amounts and furnish proper accounts at proper times the Executive must approve and the State Treasurer must pay.

Yours very truly,

GUY H. STURGIS,  
*Attorney General.*