

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes; or

III. To accomplish a combination of the foregoing.

The terms "project" or "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

"Selectmen" shall mean the board of selectmen of the town or, if the town has no selectmen, the officers charged with the duties customarily imposed on the board of selectmen thereof.

"State public body" shall mean any city, town, district or other political subdivision of the state. (1949, c. 441, 1957, c. 395, § 8, 1961, c. 244, § 3.)

Effect of amendments. — The 1957 amendment rewrote the definitions of "area of operation" inserted the definitions of "major disaster" and "person engaged in national defense activities", and added the last clause to the definition of "project" or "housing project". The 1961 amendment, effective on its approval, April 24, 1961, repealed the former ninth paragraph of this section, defining "mayor".

Sec. 23. Saving clause.—If any clause, sentence or section of this chapter shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence or section of this chapter directly involved in the controversy in which said adjudication shall have taken place. (1957, c. 395, § 9.)

Chapter 94.

Pauper Laws.

Paupers, Settlement and Support.

Sec. 1. Settlements.

VI.

I. GENERAL CONSIDERATION.

Quoted in *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

III. RESIDENCE MUST CONTINUE FOR FIVE YEARS.

Presence and intent to remain, etc.

In accord with original. See *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

Sec. 2. Pauper supplies.

Mentality of recipient. — Evidence justified finding that recipient had sufficient mentality to understand and realize that he was making application for pauper

V. SETTLEMENT OF INSANE PERSONS.

Sufficient mental capacity to acquire a settlement.—See *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

supplies and was receiving them with full knowledge that they were such. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

Sec. 5. Towns must notify state when state paupers assisted.

Applied in *Norridgewock v. Hebron*, 152 Me. 280, 128 A. (2d) 215.

Sec. 8-A. Central Maine Sanatorium. — No person acquires a pauper settlement in the town of Fairfield by reason of being a patient of the Central Maine Sanatorium. (1959, c. 324.)

Sec. 10. Soldiers, sailors, marines honorably discharged not considered paupers; families not supported in poorhouse.—No soldier, sailor or marine who served in the army, navy or marine corps of the United States in the war of 1861 or in the war with Spain, and no male or female veteran who served in World Wars I or II or the Korean Campaign, and who has received an honorable discharge from said service, and who has or may become dependent upon any town shall be considered a pauper or be subject to disfranchisement for that cause; but the time during which said soldier, sailor or marine is so dependent shall not be included in the period of residence necessary to change his settlement; and overseers of the poor shall not have authority to remove to or support in the poorhouse any such dependent soldier, sailor or marine or his family. The word “family” here used shall be held to include the soldier, sailor or marine, his wife, his unremarried widow, not previously divorced, his surviving unmarried minor children, such other surviving unmarried children who by reason of mental incapacity or physical disability are unable to provide for themselves, his unmarried minor children living with him and dependent upon him for support and such other unmarried children of his dependent upon him for support who by reason of mental incapacity or physical disability are unable to provide for themselves; but the town of his settlement shall support them at his own home in the town of his settlement or residence or in such suitable place other than the poorhouse as the overseers of the town of his settlement may deem right and proper. The words “soldier, sailor or marine” here used shall be held to include male and female veterans. In case of violation of the provisions of this section the overseers of the poor shall be subject to a fine of \$25; and for every day they allow them to remain in such poorhouse, after reasonable notice, they shall be subject to a further fine of \$5 a day, to be recovered by complaint or indictment. This section shall not be so construed as to deprive overseers of the poor of any right to remove and support such dependent soldier, sailor or marine and his family in the town of his settlement as provided by law. (R. S. c. 82, § 10. 1951, c. 157, § 14. 1957, c. 246.)

Effect of amendment. — The 1957 amendment made changes in the definition of the word “family” in the second sentence.

Sec. 11. Towns to relieve poor.—Towns shall relieve persons having a settlement therein when, on account of poverty, they need relief. (R. S. c. 82, § 11. 1957, c. 405, § 15.)

Effect of amendment. — The 1957 amendment deleted the former second sentence which related to raising money and to overseers of the poor.

Sec. 20. Kindred liable for support of kindred; procedure.—The father, mother, grandfather, grandmother, children and grandchildren, by consanguinity, living within the state and of sufficient ability, shall support persons chargeable in proportion to their respective ability. A town, the state or any kindred of a pauper, having incurred expense for the relief of such pauper, may complain to the superior court in the county where any of the kindred reside. The court may cause such kindred to be summoned, and upon hearing or default may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment, and shall issue a writ of execution. Such assessment shall not be made to pay any expense for relief afforded more than 6 months before the complaint was filed. Such complaint may be filed with the clerk of the court who shall issue a summons thereon, returnable and to be served as writs of summons are; and on suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner and be proceeded against as if originally named. The court may assess and apportion upon such kindred a sum sufficient for the

future support of such pauper, to be paid quarterly, until further order; and may direct with whom of such kindred consenting thereto and for what time he may dwell, having regard to his comfort and their convenience. On application of the town, the state or person to whom payment was ordered, the clerk may issue or renew a writ of execution returnable to the next term of the court to collect what may be due for any preceding quarter. The court may, from time to time, make any further order on complaint of a party interested, and after notice given, alter such assessment or apportionment. On failure to sustain a complaint, the respondents recover costs. (R. S. c. 82, § 20. 1951, c. 25; c. 255, §§ 1, 2. 1953, c. 308, § 97. 1961, c. 317, § 261.)

Effect of amendment.—The 1961 amendment divided the second sentence of this section into two sentences and deleted “as in actions of tort” formerly appearing at the end of the present third sentence.

Sec. 21. Relief of paupers in unincorporated places; state paupers; paupers in deorganized places.

The provisions of this section shall not apply to administrative responsibility for relief of persons found in townships which have become deorganized through an act to surrender their organization passed by the legislature. All persons found in such deorganized places needing relief are under the care of the department of health and welfare. The state shall recover for relief furnished persons in deorganized towns from the towns of their settlement, if any within the state. If such persons have no settlement within the state, the department of health and welfare shall have the same rights and privileges as to location, care, support and earnings of such persons as are set forth in this section relative to persons found in unorganized townships. (R. S. c. 82, § 21. 1947, c. 230. 1957, c. 397, § 45.)

Effect of amendment. — The 1957 amendment substituted “deorganized” for “unincorporated” in the first sentence of the last paragraph. As the first two paragraphs were not changed by the amendment, they are not set out.

Sec. 25. Certain larger plantations to maintain their paupers. — Plantations having a population of 200 or more and a valuation of at least \$250,000 shall support the paupers therein, in the same manner that towns now do, and the expenses therefor shall not be chargeable to the state. (R. S. c. 82, § 25. 1955, c. 87.)

Effect of amendment.—The 1955 amendment, which became effective on its approval, March 18, 1955, substituted “\$250,000” for “\$100,000.”

Sec. 28. Overseers to relieve persons having settlement in other towns; actions between towns.

In all actions between towns in which the determination of the pauper settlement of a person or persons is involved, it shall be the duty of the clerk of the court wherein such action is pending to notify the state department of health and welfare in writing of the pendency of such action forthwith upon the filing of the complaint. Such notice shall contain the names of the parties to the action and the names and addresses of the persons whose pauper settlement is involved. The state shall have the right to enter its appearance on the docket of the court in which such action is pending as a party defendant to plead and introduce evidence in the trial of the cause on material issues involving pauper settlement. A recovery in such an action against a town estops it from disputing the settlement of the pauper with the town recovering in any future action brought for the support of the same pauper. (R. S. c. 82, § 28. 1959, c. 317, § 59.)

I. GENERAL CONSIDERATION.

Effect of amendment.—The 1959 amendment substituted “action forthwith upon the filing of the complaint” for “suit within 10 days from the date of entry of the suit” at the end of the first sentence in the fourth

paragraph, substituted "action" for "suit" in the second sentence and deleted the former third sentence providing for forwarding a notice for trial at the return term. As the rest of the section was not affected by the amendment, only the fourth paragraph is set out.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

History of section.—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

II. AUTHORITY AND DUTIES OF OVERSEERS.

Overseers cannot delegate powers.—Overseers of the poor cannot delegate to others their discretionary powers and duties. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

But it may be furnished only the destitute, etc.

In accord with 1st paragraph in original. See *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

Recipient held to be destitute.—Recipient of assistance was held to be destitute within the meaning of this section where there was evidence showing small earnings and lack of resources of the recipient for the support of his wife, nine children and himself during a substantial period at the time the aid was given. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

Weight to be given decisions of overseers.—When overseers acted in good faith and with reasonable judgment touching the necessity of relief of persons found in need, their conclusions will be respected in law. Their conclusions with regard to the nature and extent of relief should in like manner be respected. In

Sec. 29. Overseers' notice and request to town liable; relief may be refused in certain cases.

History of section.—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Consideration with sections 28 and 30.—See *Amity v. Inhabitants of Orient*, 153

neither case will their decision be final but as they are officers sworn to their duty, it is presumed that they act with integrity until a contrary is shown. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787; *Machias v. East Machias*, 116 Me. 423, 102 A. 181.

III. GENERAL ASPECTS OF RECOVERY.

Interest on award for recovery of expenditures.—See *Norridgewock v. Hebron*, 152 Me. 280, 128 A. (2d) 215.

IV. ACCRUAL OF ACTION AND NOTICE REQUIRED.

Sections to be considered in determining legislative intent as to notice.—In order to determine the legislative intent, insofar as a written notice is concerned, consideration must be given to this section and sections 29 and 30 of this chapter, together. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Notice must be in writing.—The notice required to break the continuity of the five year period necessary to acquire a new pauper settlement must be in writing. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Proof of payment as affecting notice.—In any judicial process involving the issue of a notice pursuant to this section, proof of payment by the town alleged to have received the notice would carry great weight. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Purpose and effect of 1937 amendment.—The 1937 amendment to this section does not alter the meaning of notice in the remainder of the pauper law. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

It is of great importance to note that the second and third paragraphs of this section were first enacted as chapter 158, Public Laws of 1937. Undoubtedly, this amendment was enacted as a protection to the town of actual settlement against the town in which the time was running towards acquisition of a new settlement. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Me. 29, 134 A. (2d) 365.

And overseers may waive defects.

In accord with original. See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Sec. 30. Answer to be returned within 2 months.

History of section.—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Consideration with sections 28 and 29.—See *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Written answer may be waived.—Even though this section specifically provides for a written answer, such a written answer may be waived by the overseers of the poor. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Denial notice; when cause of action accrues.—Under the provisions of this sec-

tion, it becomes the duty of the overseers receiving the notice to return a written answer within two months. This written answer is usually described as the denial notice. As the town alleged to be chargeable is allowed a period of two months in which to file a denial notice, manifestly the cause of action does not accrue until the expiration of the two month period, and then the town furnishing the assistance, may within two years, commence an action to recover. *Amity v. Inhabitants of Orient*, 153 Me. 29, 134 A. (2d) 365.

Sec. 37. Towns may recover of paupers.—A town which has incurred expense for the support of a pauper or his wife, whether he has a settlement in that town or not, may recover the full amount expended for the support of either or both, from either the pauper or his wife, their executors or administrators, in a civil action. If such pauper has no settlement within the state and the town is reimbursed by the state for the expense incurred for the support of such pauper, the state may recover it in the manner hereinbefore provided. (R. S. c. 82, § 37. 1961, c. 317, § 262.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an

action of assumpsit” at the end of the first sentence of this section.

Sec. 42. Bringing paupers into a town.—Whoever brings into and leaves in a town any poor, indigent or mentally ill person, having no visible means of support and having no settlement in such town, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or mentally ill, with intent to charge such town in this state with the support of such person, shall be punished by a fine of not more than \$300 or by imprisonment for not more than 11 months; and shall be further liable to any town or to the state for such sums of money as are expended by such town or by the state for the support and maintenance of such person which may be recovered in a civil action. (R. S. c. 82, § 42. 1961, c. 317, § 263.)

Effect of amendment.—The 1961 amendment substituted “mentally ill” for “insane” in two places in this section, sub-

stituted “a civil action” for “an action on the case” at the end of such section and made other minor changes therein.

Burial of Honorably Discharged Soldiers and Sailors.

Sec. 45. State to pay burial expenses of destitute soldiers and sailors and their widows.—Whenever any person who has served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of his death a resident of this state and in destitute circumstances, the state shall pay the necessary expenses of his burial; or whenever the widow of any person who served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of her death a resident of this state and being in destitute circumstances and having no kindred living within this state and of sufficient ability legally liable for her support, the state shall pay the necessary expenses of her burial. Such expenses shall not exceed the sum of \$200 in any case and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead. (R. S. c. 82, § 45. 1957, c. 243.)

Effect of amendment. — The 1957 amendment made this section into two sentences and increased the sum men-

tioned in the second sentence from \$100 to \$200.