

The Nova Scotia Poor Law

BY T. D. MACDONALD*

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THE poor district finally responsible for the support of a poor person is the district in which such poor person has a settlement. (Section II of the Poor Relief Act). A person has a settlement in a poor district;

(a) if he or she has resided there for five consecutive years after attaining the age of twenty-one without receiving aid from the Overseers of the Poor.

Under the views expressed and already referred to, it would appear that the Overseers here contemplated are the Overseers of the poor district in which such person is residing. It is submitted, however, that the Overseers of the poor district in which a person has a settlement could not, by supporting such poor person in a different poor district, enable him to acquire a settlement there. Such a procedure would be a fraud upon the latter poor district and it might be said that the poor district of the person's settlement, in supplying such person with relief, interrupted the five year period necessary to enable him to acquire his new settlement.

A person also has a settlement within a poor district if,

(b) he has been assessed for, and has paid, one year's poor rates and one year's county rates, other than poll tax, in the poor district, or if the poor district is an incorporated town or city, has been assessed for and has paid at least one year's rates rated on real or personal property or on income; or

(c) has been elected or appointed to any public office, the holder of which is appointed yearly, and has entered upon the performance of the duties of such office; or

(d) being under the age of twenty-one years has served for two years an

apprenticeship to any trade within the poor district; or

(e) has for one year preceding application for relief lived within such poor district as a hired servant under an agreement to serve for not less than one year.

A married woman takes the settlement of her husband, but if he has none she does not give up her own settlement by reason of her marriage if she has any. A legitimate child has the settlement of the father, or if he has none, of the mother if she has any. An illegitimate child has the settlement of the mother and if the mother, by reason of a subsequent marriage, acquires a new settlement, that becomes also the settlement of the illegitimate child.¹ Any child who has no settlement by parentage takes as his or her settlement the place of his or her birth. Any former settlement is lost as soon as a new one is acquired within the Province and once lost the old one never revives. Temporary relief should be afforded to an indigent person who applies to the Overseers of the Poor, even though he has no settlement within such poor district, under the views previously expressed, and such person should then be taken before a Justice of the Peace to be examined on oath as to his settlement, and if he is found to have a settlement within the Province a copy of the depositions, certified by the Justice of the Peace, together with a memorandum of the necessary expenses of the examination and the relief given, should be transmitted to the Treasurer of the municipality in which such poor person's settlement is found to lie, and the Treasurer must pay the expenses and have the person removed to the place of his settlement. If the Treasurer fails to so re-

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1. Re Settlement of Main 10 M.P.R. 263.

move such person, he may be removed on the warrant of two Justices of the Peace and must be received by the Overseers of the poor district where his settlement lies, and the Municipal Treasurer must pay the Overseers of the poor district from which such person was removed, the costs of relief, examination and removal. If the Treasurer has no money on hand to the credit of the poor district in which the pauper's settlement was found to lie, such poor district stands charged with such costs which are to be added to the amount to be levied on such poor district by the next poor rate. If the poor district to which the pauper is removed is a city or town, the depositions and memorandum of expenses are transmitted to the Treasurer thereof who pays the same out of the money of such city or town. When a pauper, whose settlement it is necessary to determine, is insane or otherwise incapable of, or refuses to undergo examination, the Justice may take other testimony under oath to determine the pauper's settlement. A Stipendiary Magistrate has the powers, jurisdiction, and authority of two Justices of the Peace, and a warrant for removal of a pauper may, therefore, be granted by one Stipendiary Magistrate.^{2,3} In the case of a pauper whom it is desired to have removed from one poor district within a municipality to another poor district within the same municipality, a Stipendiary Magistrate who at the same time was the Municipal Treasurer, would of course, be an improper person to act in the examination or removal of such pauper.³

In the order named, the father, mother, stepfather, stepmother, foster father, foster mother, child, children, brothers, sisters, grandfather, grandmother, grandchild and grandchildren, of a pauper are, if of sufficient means, liable for such pauper's support and must support such pauper to the extent and in the manner directed by the Overseers of the Poor, and in

case of their failure to do so the Overseers may recover from the person so directed a sum not exceeding Six Dollars per week for such pauper's support. Before such an action will lie, it would appear that there must first be a specific direction by the Overseers of the Poor as to the extent to which and the manner in which the person sought to be charged is to relieve such pauper.⁴ Illegitimate children are not within the scope of this provision so as to charge their grandparents with their support.⁵ If the pauper is an inmate of a municipal poorhouse, the persons vested with its management are the proper persons to direct the parties above referred to, to support the pauper and to recover in the name of the town or municipality in the event of failure to do so. If any of the above mentioned parties, when directed to support a pauper, objects that he has not sufficient means, the persons authorized to so direct him may have the party so objecting examined before the County Court Judge of the district in which lies the pauper's settlement, and the Judge will make such order as he deems just; if he finds that such party's objection is justified, he may proceed to summon and examine the other parties above referred to in the order in which they are given, and make such order against any of them for the pauper's support as he deems just.

When a husband or father forsakes his wife and children, or a woman who has no husband forsakes her children and leaves them a public charge, the Overseers may apply to two Justices for a warrant to seize the goods and let the lands of such husband, father or woman, and such goods may, as occasion requires, be sold at public sale by any two of the Overseers and the proceeds, together with the rents and profits of the lands, are to be used for the support of the wife and children. When any person who has obtained relief is possessed or entitled to property, the Overseers may recover from such

2. "Of Stipendiary Magistrates", R.S.N.S., 1923, Chapter 37, Section 5.

3. Overseers of the Poor, District No. 7, Pictou, vs. Overseers of the Poor, District No. 6, 36 N.S.R., 326.

4. The Overseers of the Poor vs. Stevens et al, 44 N.S.R., 170.

5. Butts vs. Town of Sydney Mines, 59 N.S.R., 90.

person or his estate the amount expended for such relief, and for such purpose may take out Letters of Administration of his estate. Where the owner of real or personal property applies for relief, the Overseers may take a conveyance of such property and hold it in trust for the benefit of the poor district, or upon the authority of the Municipal Council may sell and convey the same and appropriate the proceedings for the benefit of the poor district.

If a person not liable for the support of a pauper nevertheless necessarily incurs expense for his relief, such person may recover such expense from the Overseers from whom the pauper is entitled to relief, if such person, before incurring such expense, has requested the Overseers to furnish relief to the pauper and they have failed to do so; but the Overseers are not liable in this way for the use or occupation of any building leased to or occupied by the pauper. It has been seen that under the views referred to, the Overseers from which the pauper is in the first instance entitled to relief are the Overseers of the poor district in which he resides, and that the course to be adopted by such Overseers is to proceed to have him removed to the poor district of his settlement, so that under this view, a person who has given the required notice, may recover from the Overseers of the poor district for relief necessarily given a pauper, even though such pauper has no settlement within such poor district. Even a person named in the preceding paragraph but one, as one of those liable to relieve and maintain a pauper at his own expense, may recover under this provision if he can show that he is not of sufficient means to relieve and maintain the pauper at his own expense,⁶ and so may the wife of such a person⁷, but where an action is brought by such a person to recover from the Overseers of the Poor, the burden is upon him to show that he is not liable for the pauper's support by reason of the fact that he is not possessed of sufficient means or that

there are others liable in priority to him.⁸ It would appear that even a person who, without the knowledge or consent of the Overseers, has removed a pauper from the place provided for him by such Overseers may, by giving notice, cause the duty to provide for the pauper to revert to the Overseers and may recover against them in the event of their failure to do so.⁹ Expenses necessarily incurred would include bills which the claimant has not paid but for which he has rendered himself liable, and would include burial expenses⁹. The Overseers of the Poor cannot apparently limit their liability by stipulating the amount which they are willing to pay a person for maintaining a pauper, and stating that if he does not consider it enough they will make other provisions for the pauper's support; if such person replies that the sum stipulated is not enough and states that he will hold the Overseers responsible, he need not turn the pauper out of doors, but the Overseers, if they do not wish to incur liability in favour of such person, should proceed to make other provision for the pauper.¹⁰ It would appear that no special form of notice to the Overseers is necessary and that a notice is sufficient which acquaints them with the circumstances and requests them to take action,¹⁰ and that in the case of a poor district notice to one Overseer is sufficient.⁷

No person may, under penalty for doing so, not exceeding \$80.00, bring a person whom he knows to be indigent into a poor district where such indigent person has no settlement and leave him there with intent to charge such poor district with his support, nor may the Overseers of the Poor provide for the poor by putting them up at public auction and confiding their maintenance to the person who will accept it at the lowest remuneration.

All penalties imposed and collected for violations of the Act are applied to the support of the poor in the district concerned.

8. McGillivray vs. Overseers of the Poor District of Arisaig No. 1, 6 M.P.R., 35.
9. Naas vs. Overseers of the Poor, District No. 3, 35 N.S.R., 316.
9. Town of Antigonish vs. Overseers of the Poor, Arisaig, 38 N.S.R., 112.
10. Bushby vs Town of North Sydney, 46 N.S.R., 35.

6. Munro vs. Overseers of the Poor, Wallace 13 N.S.R. 501.
7. Sillers vs. The Overseers of the Poor, Section 26, 46 N.S.R., 224.