

Vermont Warnings Out

By Scott Andrew Bartley

The distinctly New England tradition of warnings out has its roots back to 300 A.D. with the order by Diocletian that all Roman citizens remain where they were born. However, most genealogists look to England for the origins of early New England ways. Local authorities in England were given the right to expel undesirables in 1495 and defined what a legal settlement was in the Poor Law of 1530. The Acts of 1597, 1601, and 1662 refined these laws. Plymouth Colony and Massachusetts Bay grappled with the same issues immediately after settlement began. Religion was often the issue that started any action, but the issue of handling the town's poor eventually encouraged the frequent use of warnings out.

Vermont's actions were influenced by the combined experience of the other New England states. As it was the last state of New England to be settled, some issues in the system had already been worked out. English common law was the rule of the land. Vermont's own brand of governance was based on Connecticut's laws of 1769, which contained the strictest inhabitancy laws of the states. The first decision in Vermont came at the local level with the voters of Rockingham agreeing that "all Strangers who Com to Inhabit in said town Not being Freeholders, be warned out of town" in 1769. The newly formed independent state of Vermont took up the matter in the second year of its constitution.

Focusing on the financial welfare of the towns, the Vermont General Assembly passed two laws on 15 February 1779 dealing with the poor and transients. These acts were declared temporary and in force only "until the rising of the General Assembly in October next." These laws were revived first semi-annually and then annually in October for several years. The first was entitled "An Act for the Ordering and Disposing of Transient Persons" and stated in part:

... the selectmen of each respective town in this state, shall be and are hereby authorized and impowered to warn any transient person (residing in such town that is not of a quiet and peaceable behaviour, or is in their opinion like to be chargeable to such town) to depart out of such town, except such person does obtain a vote of the inhabitants of such town in legal town meeting, to remain in such town; and if any such person or persons being so warned, do not leave such town within twenty days after such warning, then one or more of said selectmen may make application to an assistant or justice of the peace, who is hereby impowered to issue his warrant to the sheriff or constable to take such person or persons, and transport him or them, to the next town towards the place where such person was last an inhabitant, in the same manner to be transported to the place where such person or persons were inhabitants last, or in the same way out of this state, if he be not an inhabitant thereof; and all such expence shall be paid by the person or persons so warned, if of ability, but if he is not of ability, to be paid by such town. Provided always that no person shall be subject to such warning, after he or she has lived in such town one year.

The second was entitled "An Act for Maintaining and Supporting the Poor" and stated in part:

... that each town in this state shall take care of, support, and maintain their own poor. And the selectmen for the time being, or overseers of the poor (where any such are chosen), shall have full power to expend or disburse, out of the town stock, or treasury, what they shall judge necessary from time to time, for the relief and support of any of the poor belonging to their towns, so far as to the amount of ten pounds; and if more be needful, the said selectmen, or overseers, or the major part of them, shall, with the advice of the authority of that town (if any there be), expend and disburse what shall be by them judged needful for the relief of the poor, as aforesaid.

... supplying them, or any of them, with victuals, clothing, firewood, or any other thing necessary for their support or subsistence.

That if any poor person or persons, who have had, or shall have relief or supplies from any town, shall suffer their children to live idly, or misspend their time in loitering, and neglect to bring them up or employ them in some honest calling, which may be profitable to themselves and the public; or if there shall be at any time any family that cannot or do not provide competently for their children, whereby they are exposed to want, or extremity; or if there be any poor

children in any town, belonging to such town, that live idly, or are exposed to want and distress, and there are none to take care of them, it shall and may be lawful for the selectmen, or overseers of the poor, in each town, and they are hereby impowered and directed, with the assent of the next assistant or justice of the peace, to bind out any and every such poor child or children, belonging to such town, to be apprentices, or servants, where they shall see convenient, a male child, till he comes to twenty-one years of age, and a female, till she comes to the age of eighteen year: which binding shall as effectual, to all intents and purposes, as if any child were of full age, and by indenture of covenant had bound him or herself.

And that if any person or persons shall come to live in any town in this state, and be there received and entertained, by the space of twelve months; and if by sickness, lameness, or the like, he or they come to want relief, every such person or persons shall be provided for by that town wherein he or they were so long entertained, at said town's own proper cost and charge, unless such person or persons, wanting relief, have, within the said twelve months, been warned as the law directs, to depart and leave the place; and if such warning be given, and the same be certified to the next superior court to be held in the same county, the said court shall and may otherwise order the defraying the charge arising about such indigent person or persons.

The General Assembly journals note the passage of "An Act for the admission of inhabitants in towns and for preventing of change by such as are admitted therein." This likely defined the parameters for legal settlement within a Vermont town. No published version of this act has been found in the standard legal reference works.

The law regarding warnings out was established the same day with the passage of "An Act for the ordering and disposing of transient persons." However, while the act never specifically defined the characteristics of said "transient persons," it was clear that only persons judged to be transient (basically, those who appeared poor or suspicious) would receive warnings out. If the newcomer managed to stay undetected in town for a year, that person would be able to legally settle in the town. The act also never prescribed how or where these warnings were to be recorded, but it has been speculated that some may be recorded in the county court records.

The following day, "An Act for relieving and ordering idiots, impotent, distracted and idle persons" was passed that affected the poor. Briefly, if a person became poor and had no estate, it was the responsibility of his or her relatives to support them in order of father or mother, grandfather or grandmother, children or grandchildren. If no relatives were found, the town would be charged with the support for that person. If they owned real estate, the selectmen of their town could petition the General Assembly to sell the property for the benefit of their support. The selectmen could also appoint an overseer "to advise, direct, and order such persons in the management of their business" for as long as needed and the person could not bargain or contract without consent of the overseer. It was further defined that a grandchild was not obligated to support a grandparent unless the grandchild received the grandparent's estate.

In 1787, a lengthy act clarified the state's position on transient, idle, impotent, or poor persons. The act stated "That no person shall gain a settlement in any town in this State, and be liable to be supported thereby, unless such person was born therein, or has owned, or shall own, Estate in such town of the value of two hundred pounds, clear of all Demands against him or her, or of the yearly value of ten pounds." Furthermore, any person not having a settlement in a town became chargeable. A Justice of the Peace could have the person removed to the place of the person's legal settlement within the state. If the person was not a resident of the state, he or she would be transported out of state on the direct route to the person's place of residence. This marked the end of Vermont's warning out practices in the 18th Century, with most states following suit by the 1790s. The only towns with warning out records from this period are Athens, Barnet, Bennington, Brattleboro, Brookfield, Danby, Dorset, Grafton, Guilford, Ira, Marlboro, Newbury, Peacham, Pittsford, Putney, Reading, Rockingham, Shaftsbury, Shrewsbury, Townshend, Weathersfield, Westminster, Wilmington, Windsor, and Woodstock. Bennington and Putney had the most extensive records.

New requirements for settlement were defined by a law passed on 3 March 1797 as part of the laws regarding the care for the poor. Legal settlement could be obtained through a variety of means including any one of the following:

- Buying land of \$100 in value or more and living on it for more than one year

- Rent and occupy a tenement for \$20 per year for more than two years
- Hold public office for one year
- Pay public taxes for two years
- Be an apprentice or indentured person for three years prior to a male reaching 21 years of age or a female reaching 18 years of age

The law also stated, "Every other healthy, able-bodied person residing within this state and being of peaceable behavior shall also be judged to be legally settled in the town. Every bastard child shall be settled in the town of his or her mother's last legal settlement." This 1797 law was repealed by an act on 6 November 1801.

On this date, Vermont became the only state to revive the warning out system. The chapter devoted to legal settlement and providing for the poor had an addition to "An Act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor; for designating the duties and powers of the overseers of the poor; and for the punishment of idle and disorderly persons." This gave the local selectmen the authority to warn out anyone arriving in their town at their discretion. The law prescribed exactly how the warning was to be worded, served, and recorded in the town books. If someone was warned, they could never gain legal settlement in the town except by a vote at town meeting. If a person was not warned within one year from arriving in town, then the person was officially granted legal settlement. Another way was to take up town service for a year as selectman, town clerk, constable, grand juror, or lister (person appointed to make a list of taxable residents) to obtain legal settlement. If a warned person returned, they were subject to public whipping.

This pivotal law transferred the power of controlling settlement to the selectmen. They could warn out everyone should they feel inclined, and in some towns this was the approach that was taken. If the selectmen warned out everyone, they would not have to worry about being responsible for people who may later become reliant on town funds to assist them. The most warning out records were in Andover, Brattleboro, Burlington, Guilford, Montpelier, Norwich, Putney, Rockingham, Springfield, Weathersfield, and Westminster. Other towns seem to have followed the former reasoning and only warned out likely transient and poor people who may have become a burden on the town funds. It should be noted that, in practice, few people warned out were forcibly removed in this second phase of the system. By law, those warned were forever disqualified from financial assistance anyway, so the selectmen merely had to give their warnings and look the other way.

Lawsuits regarding the warning out process were in the courts. The warning out process ended by law on 4 November 1817. The new ways to gain legal settlement were codified as:

- A married woman shall always have the settlement of her husband.
- Legitimate children shall have the settlement of their parents.
- Illegitimate children shall have the settlement of their mother. The children of parents who have no legal settlement shall not gain a settlement by birth in the town.
- Every person of full age who shall have an estate taxed at \$60 or above to five consecutive years shall gain legal settlement.
- Any person serving two years as town clerk, selectman, overseer of the poor, treasurer, lister, constable, or grand juror shall gain legal settlement.
- Any person being voted in at a town meeting for that purpose shall gain legal settlement.
- Anyone residing within the state for one full year and being in an unorganized town shall gain legal settlement upon the organization of the town.
- Any person having settlement in any town in this state, of full age, for seven years shall gain legal settlement in any town in the state that such person desires.
- No person shall have a settlement in any town as above without the previous town clerk having recorded it in a book for such registry.

Town clerks soon learned of this law and only a few entries for warning out were recorded in 1818.

The Works in Progress Administration made inventories of town records. A few of the reports were published in the early 1940s, but all others were in manuscript form. Alden M. Rollins reviewed these records before abstracting the warning out records themselves in his two-volume set *Vermont Warnings Out* (Vol 1, 1995; Vol 2, 1997, Picton Press).

He found the following towns did not have warning out records in the WPA inventories:

Granville, Addison Co.
Jericho, Chittenden Co.
Ripton, Addison Co.

Towns of which WPA inventories listed warning out records, but they now cannot be found:

St. George, Chittenden Co.
Waltham, Addison Co.
Williston, Chittenden Co.

No warning out records found (and WPA inventory status was not given):

Averill, Essex Co.
Avery's Gore, Essex Co.
Brighton, Essex Co.
Canaan, Essex Co.
Charleston, Orleans Co.
Chester, Windsor Co.
Coventry, Orleans Co.
Derby, Orleans Co.
East Haven, Essex Co.
Enosburg, Franklin Co.
Ferdinand, Essex Co.
Fletcher, Franklin Co.
Glastonbury, Bennington Co.
Granby, Essex Co.
Greensboro, Orleans Co. (lost by fire in 1831)
Jay, Orleans Co.
Maidstone, Essex Co.
North Hero, Grand Isle Co.
Norton, Essex Co.
Orleans Co.
Poultney, Rutland Co.
Searsburg, Bennington Co. (no settlement)
South Hero, Grand Isle Co.
Troy, Orleans Co.
Victory, Essex Co.
Warren Gore, Essex Co.
Waterville, Lamoille Co.
Westmore, Orleans Co.
Wolcott, Lamoille Co.

All of what is known to exist is printed in Rollins' books. The towns of Corinth and Dover were previously published but also included in the set. Vermont is fortunate to have all of these records abstracted, published, and indexed. Otherwise, these valuable records would go unutilized.

SUMMARY

Vermont warnings out cover the periods from 1769 to 1787 and 1801 to 1817. The earlier records are sparse and there was no requirement for them to be recorded in the town books. Most persons warned out during this time were poor and transient. The second period contains much more complete records as the town clerk was required by law to record them. The people warned out in the second phase were not necessarily poor and most likely did not move out of town.

The value of this class of records is immense. They cover a time in Vermont history where people moved from place to place, expanding the settlements into the frontier. These people often did not own land, and the number of vital records fall off dramatically after 1810. A warning out indicates the person moved into the town in less than twelve months, and sometimes this is the only clue that a person lived in a town. Researchers should be aware that in Vermont, warning out records generally list only the name of the person, and describe a family group as just "and family" or "and children." Anyone searching in this time frame should always consult these records.

Sources and further reading:

Benton, Josiah H., *Warning out in New England, 1656-1817* (Boston, 1911, reprinted Bowie, Md., 1992).

Chaplin, Ann Theopold, "Rindge Warnings Out," *The New Hampshire Genealogical Record* , 7 [1990]: 145-153.

D'Agostino, Lorenzo, *The History of Public Welfare in Vermont* (Washington, D.C., 1948).

Lainhart, Ann S., "Records of the Poor in Pre-Twentieth-Century New England," *National Genealogical Society Quarterly* , 81: [1993]: 257-269.

The Laws of the State of Vermont , digested and compiled (Randolph, Vt., 1808, in 2 vols.).

Rollins, Alden M., "Vermont Warnings Out," *The New England Historical and Genealogical Register* , 147 [1993]: 255-260.

Rollins, Alden M., *Vermont Warnings Out* (Camden, Me., 1995, 1997, in 2 vols.).

Shaw, Helen A., "Warnings Out in Wardsborough, South District (Dover), Windham County, Vermont," *The New England Historical and Genealogical Register* , 149 [1995]: 73-76.

Slade, William, *The Laws of Vermont, of a Publick and Permanent Nature coming down to, and including, the year 1824* (Windsor, Vt., 1825).

Slade, William, *Vermont State Papers* (Middlebury, Vt., 1823).

State Papers of Vermont , v. 3, pt. 1, "Journals and Proceedings of the General Assembly," 1778-1781, pt. 8, 1797-1799; v. 12, "Laws of Vermont, 1777-1780;" v. 14, "Laws of Vermont, 1785-1791;" v. 16, "Laws of Vermont, 1796-1799."

Worcester County, Massachusetts, Warnings, 1737-1788 (Worcester, 1899, reprinted Camden, Me., 1992).