

MAINE STATE LEGISLATURE

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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

the papers in such cause and all facts appearing in such docket. Such copies are legal evidence. If such records have not been deposited with the clerk, the plaintiff in any action may use, in place of such certified copy, an execution issued by the justice on such judgment with an affidavit thereon made by the plaintiff or his attorney that it is not satisfied, or satisfied in part only, as the case may be. (R. S. c. 97, § 17. 1959, c. 317, § 109.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, divided the former first sentence into two sentences and substituted “summons” for “writ” in the present first sentence.

Trial Justices Not to Be of Counsel.

Sec. 21. Justice not to be of counsel; dismissal of action.—No trial justice shall be of counsel for or give advice to either party in an action before him or be subsequently employed as counsel or attorney in any case tried before him; nor hear or determine any civil action commenced by himself; and every action so commenced shall be dismissed. (R. S. c. 97, § 20. 1959, c. 317, § 110.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted “an action” for “a suit” near the beginning of the section and substituted “be dismissed” for “abate” at the end of the section.

Notaries Public and Protests.

Sec. 30. Injuring or concealing such records. — Whoever knowingly destroys, defaces or conceals such record forfeits not less than \$200 nor more than \$1,000, and is liable for damages to any person injured in a civil action. (R. S. c. 97, § 29. 1961, c. 317, § 333.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action on the case” at the end of this section.

Chapter 111.

Miscellaneous Provisions Relating to Courts and Public Officers.

Title to Real Estate.

Sec. 1. When title to real estate is in question.—In actions before a trial justice when it appears by the pleadings that the title to real estate is in question, the cause shall on request of either party be removed to the superior court in the county. Such party shall recognize to the other in a reasonable sum, with sufficient sureties, to enter the case in the superior court within 30 days. If he does not so recognize, the trial justice shall hear and decide the case as if such request had not been made. (R. S. c. 98, § 1. 1949, c. 349, § 126. 1959, c. 317, § 111.)

Effect of amendment.—The 1959 amendment divided the section into three sentences, deleted “in a municipal court or” following “In actions” near the beginning of the section, deleted “or brief statement” following “pleadings” in the present first sentence, substituted “in the superior court within 30 days” for “at the next term thereof” at the end of the present second sentence and deleted “or municipal court judge” following “trial justice” in the present last sentence.

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.”

Sec. 2. Copy and papers produced at appellate court; proceedings if not entered.—The party so recognizing shall produce at said court a copy of the record and all such papers as are required to be produced by an appellant. If he fails to do so or to enter the action as provided, it shall on complaint of the adverse party be dismissed or defaulted, as the case may be. Such judgment shall be rendered as law and justice require. (R. S. c. 98, § 2. 1959, c. 317, § 112.)

Effect of amendment.—The 1959 amendment divided the section into three sentences, deleted “before” preceding “provided” in the present second sentence, substituted “it” for “he” following “provided”

in the same sentence and substituted “dismissed” for “nonsuited” in that sentence.

Effective date of 1959 amendment.—See note to § 1.

Appeals.

Sec. 4. Appeal.—Any party aggrieved by the judgment of a municipal court or trial justice, whether after trial or upon default, may appeal to the superior court in the same county and may enter such appeal at any time within 5 days after the judgment, Sunday not included. The appellant shall within 5 days after judgment, Sunday not included, pay to the clerk the required fees for such appeal, including the entry fee in and cost of forwarding such appeal to the appellate court, and in that case no execution shall issue, and the clerk shall enter the appeal in the appellate court where it shall be determined as a new entry. (R. S. c. 98, § 4. 1949, c. 349, § 127. 1959, c. 317, § 113.)

Effect of amendment.—The 1959 amendment substituted “a municipal court or” for “the judge or the” in the first sentence and deleted “next” preceding “superior

court” in that sentence.

Effective date of 1959 amendment.—See note to § 1.

Sec. 9. Actions and executions, when directed into other counties.—In actions against bail, indorsers for costs, and proceedings after judgment against executors or administrators, and in all actions against 2 or more defendants before a trial justice or a judge of a municipal court, where the defendant or trustee resides out of the county where the proceedings are had, the justice or judge may direct the summons, writ or execution to any proper officer of the county where such defendant or trustee resides, who shall charge fees of travel from the place of his residence to the place of service only, and postage paid by him. (R. S. c. 98, § 9. 1959, c. 317, § 114.)

Effect of amendment.—The 1959 amendment substituted “actions” for “cases of scire facias” and “for costs, and proceedings after judgment against” for “of writs” near the beginning of the section, substituted “actions” for “trustee processes or

original writs” preceding “against 2 or more defendants” and added “summons,” preceding “writ or execution.”

Effective date of 1959 amendment.—See note to § 1.

Fees of Public Officers.

Sec. 13. Account of items in writing may be required.—Every officer or other person upon receiving any fees provided for by law, if required by the person paying them, shall make a particular account thereof in writing specifying for what they accrued or he forfeits to such person treble the sum paid, to be recovered in a civil action. (R. S. c. 14, § 34. 1961, c. 317, § 334.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt” at the end of this section.