

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
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within one year after it was returned. (R. S. c. 100, § 188. 1953, c. 420, § 5. 1961, c. 317, § 389.)

Effect of amendment.—The 1961 amendment rewrote this section.

Sec. 193. Stenographic reports taxed in bill of costs.—Any amount legally chargeable by official court reporters for writing out their reports for use in civil actions and actually paid by either party whose duty it is to furnish them may be taxed in the bill of costs and allowed against the losing party, as is now allowed for copies, if furnished by the clerk. (R. S. c. 100, § 190. 1953, c. 420, § 7. 1961, c. 317, § 390.)

Effect of amendment.—The 1961 amendment substituted “civil actions” for “law cases” near the middle of this section.

Judicial Council.

Sec. 196. Reports.—The judicial council shall report biennially on or before the 1st day of December to the governor upon the work of the various branches of the judicial system. Said council may also from time to time submit for the consideration of the justices of the various courts such suggestions in regard to rules of practice and procedure as it may deem advisable. (R. S. c. 100, § 193. 1961, c. 64.)

Effect of amendment.—The 1961 amendment substituted “biennially” for “annually” in the first sentence.

Sec. 197. Expenses.—No member of said council shall receive any compensation for his services; but said council and the several members thereof shall be allowed, out of any appropriation made for the purpose, such expenses for clerical and other services, travel and incidentals as the chief justice shall approve. The chief justice shall be ex officio chairman of said council, and said council may appoint one of its members or some other suitable person to act as secretary for said council. (R. S. c. 100, § 194. 1957, c. 50.)

Effect of amendment.—Prior to the 1957 amendment the expenses were approved by the governor and council instead of the chief justice.

Chapter 113-A.

Interpleader Compact.

Sec. 1. Approval of compact.—The following interpleader compact is hereby approved, ratified, adopted and entered into by this state as a party state to take effect between this state and any other state or states as defined in said compact when entered into in accordance with the terms of said compact by said other state or states and not disapproved by the governor of this state under subsection III of article 7 of such compact:

The contracting states solemnly agree:

Article 1.

Purpose. The aims of this compact are to promote comity and judicial cooperation among the states party thereto; and to relieve from undue risk and uncertainty, a person who may be subject to double or multiple liability because of the existence of adverse claimants, one or more of whom in the absence of this compact may not be subject to the jurisdiction of the adjudicating court, when such person makes all reasonable efforts to secure judicial determination and discharge of his liability.

Article 2.

Definitions. For the purpose of this compact the following definitions shall apply:

I. A state shall mean

A. A state of the United States or any territory or possession of the United States and the District of Columbia acting under article I, section 10, clause 3, of the constitution of the United States in entering this compact with an American or a foreign jurisdiction, or

B. A state of the community of nations and any component governmental unit of such a state which under the laws thereof may validly become party to this compact.

II. A person shall include any entity capable of suing or being sued in the state in which the interpleader is pending.

III. Interpleader shall mean a judicial procedure by which two or more persons who have adverse claims against a third person may be required to litigate these claims in one proceeding. (1959, c. 292, § 1.)

Article 3.

Service of process.

I. Service of process sufficient to acquire personal jurisdiction may be made within a state party to this compact, by a person who institutes an interpleader proceeding or interpleader part of a proceeding in another state, party to this compact, provided that such service shall fulfill the requirements for service of process of the state in which the service is made and provided further that such service shall meet the minimum standards for service of the jurisdiction where the proceeding is pending.

II. No such service of process shall be valid unless either:

A. The subject matter of the proceeding is specific real property or tangible personal property situated within the state in which the proceeding is pending; or

B. One or more of the claimants shall be either a permanent resident or domiciliary of the state in which the proceeding is pending; or

C. A significant portion of the transaction out of which the proceeding shall have arisen shall have taken place in the state in which the proceeding is pending; or

D. One of the claimants shall have initiated the action. (1955, c. 245. 1959, c. 292, § 2.)

Article 4.

Scope of interpleader unaffected. Nothing in this compact shall be construed to change any requirement or limitation on the scope of interpleader of the state in which the interpleader proceeding is pending except in relation to acquisition of personal jurisdiction.

Article 5.

Finality of judgment. No judgment obtained against any person in any proceeding to which he had become a party by reason of service of process effected pursuant to the provisions of this compact shall be subject to attack on the ground that the adjudicating court did not have personal jurisdiction over such person.

Article 6.

Enactment.

I. This compact shall enter into force and effect as to a state one year from

the date it has taken whatever action may be necessary pursuant to its required processes to make this compact part of the laws of such state and the appropriate authority of such state shall have deposited a duly authenticated copy of its statute, proclamation, order or similar official pronouncement having the force of law and embodying this compact as law with the appropriate officer or agency of each of the states party thereto. In the statute, proclamation, order or similar act by which a state adopts this compact, it shall specify the officer or agency with whom the documents referred to in this article shall be deposited.

II. Unless the statute, proclamation, order or similar act by which a state adopts this compact shall specify otherwise, and name the states with which the state intends to compact, such adoption shall apply to all other states then party to or who may subsequently become party to this compact. In the event that a state shall enter this compact with some states but not with others, the deposit of documents required by subsection I of this article shall be effected only with those states to which the adopting state specifies an intention to be bound.

Article 7.

Withdrawal.

I. This compact shall continue in force and remain binding on a party state until such state shall withdraw therefrom. To be valid and effective, any withdrawal must be preceded by a formal notice in writing of one year from the appropriate authority of that state. Such notice shall be communicated to the same officer or agency in each party state with which the notice of adoption was deposited pursuant to article 6 of this compact. In the event that a state wishes to withdraw with respect to one or more states, but wishes to remain a party to this compact with other states party thereto, its notice of withdrawal shall be communicated only to those states with respect to which withdrawal is contemplated.

II. Withdrawal shall not be effective as to service of process accomplished pursuant to this compact prior to the actual date of withdrawal.

III. Any state receiving a notice of adoption from another state may by action of its executive head within a year from the receipt of such notice in the manner provided for withdrawal in subsection I of this article specify its intention not to be bound to the state depositing such notice and such adoption thereupon shall not be binding upon the state so acting.

Article 8.

Severability and construction. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state, or in the case of a component governmental unit, to the constitution of the state of which it is a part, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby; provided that if this compact shall be held invalid or contrary to the constitution of any government participating therein the compact shall remain in full force and effect as to the remaining governments and in full force and effect as to the government affected as to all severable matters. It is the intent that the provisions of this compact shall be reasonably and liberally construed. (1955, c. 245. 1959, c. 292, §§ 1, 2.)

Effect of amendments.—This section was amended twice by P. L. 1959, c. 292. Section 1 deleted the words "on account of the same debt or duty," formerly appearing af-

ter the word "claims" in subsection III of article 2. Section 2 added "or interpleader part of a proceeding" in subsection I of article 3 and rewrote subsection II thereof.

Sec. 2. Secretary of state as receiving officer.—The secretary of state is hereby designated as the officer to receive all documents deposited pursuant to articles 6 and 7 of the interpleader compact. The secretary of state is also directed hereby to act as the repository for all such documents and to keep and make available upon request a complete list of the states with which this state is party to the interpleader compact, together with such other information as may be in his possession concerning the status of such compact in respect to enactment and withdrawals therefrom. (1955, c. 245.)

Sec. 3. Duties of governor.—As used in subsection III of article 7 of the interpleader compact, the phrase “executive head” shall mean the governor of this state. In the event that the governor shall take any action pursuant to subsection III of article 7 of such interpleader compact, he shall promptly notify the secretary of state and shall deposit with him copies of any and all official communications and documents relating to such action. The governor shall take appropriate action pursuant to subsection III of article 7 of the interpleader compact so as not to become party thereto with any state not recognized by the United States of America or with any state the features of whose legal system make the equitable operation of said compact impracticable. (1955, c. 245.)

Chapter 114.

Trustee Process.

Sections 67-72. Proceedings after Judgment.

Section 85. Trustee Action on Judgment Dismissed.

Procedure.

Sec. 1. Actions in which trustee process used.—In connection with the commencement of any personal action except actions only for specific recovery of goods and chattels, for malicious prosecution, for slander by writing or speaking, or for assault and battery, trustee process may be used in the superior court, or before a municipal court or a trial justice. (R. S. c. 101, § 1. 1959, c. 317, § 207.)

Effect of amendment.—The 1959 amendment rewrote this section.

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 fur-

ther 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.”

Secs. 2, 3. Repealed by Public Laws 1959, c. 317, § 208.

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 1.

Sec. 4. Effect of service on trustee; service on partnership.—A like service on the trustee binds all goods, effects or credits of the principal defendant entrusted to and deposited in his possession, to respond to the final judgment in the action, as when attached by ordinary process. When a partnership is made a trustee on trustee process, service upon 1 member of the firm shall be a sufficient attachment of the property of the principal defendant in the possession of the firm, provided such service be made at any place of business of the firm or, if such service is made elsewhere, that legal service be afterward made upon the other members of the firm. (R. S. c. 101, § 4. 1961, c. 317, § 391.)

Effect of amendment.—The 1961 amendment substituted “on trustee process” for “in a trustee suit” near the beginning of the

last sentence of this section and deleted “that” following “provided” near the middle of such last sentence.