

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Chapter 122.

Forcible Entry and Detainer. Tenancies.

Sec. 1. Forcible entry and detainer.

Cited in *Sawyer v. Congress Square Hotel Co.*, 157 Me. 111, 170 A. (2d) 645.

Sec. 2. Tenancy at will; applies to building on land of another party.

Cited in *Sawyer v. Congress Square Hotel Co.*, 157 Me. 111, 170 A. (2d) 645.

Sec. 3. Jurisdiction.—The district court shall have jurisdiction of cases of forcible entry and detainer. (R. S. c. 109, § 3. 1955, c. 301. 1963, c. 402, § 197.)

Effect of amendments. — The 1955 amendment made this section applicable to recorders. It also inserted the words “and except in such cases in which such justices, judges or recorders are the plaintiffs” in the former second sentence, and added the former third sentence as to return of cases in which justices, judges or recorders were plaintiffs.

The 1963 amendment rewrote this section.

Application of 1963 amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 4. How commenced; recognizance when plaintiff lives out of state.—The process of forcible entry and detainer shall be commenced and service made in the same manner as other civil actions. When the plaintiff lives out of the state and a recognizance is required of him, any person may recognize in his behalf and shall be personally liable. (R. S. c. 109, § 4. 1959, c. 317, § 263.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and substituted “and service made in the same manner as other civil actions” for “by inserting the substance of the complaint, as a declaration, in a writ of attachment, to be indorsed and served like other writs” at the end of the first 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. 6. When defendant claims title.—When the defendant claims title in himself or in another person under whom he claims the premises, he shall, except as otherwise provided, recognize in a reasonable sum to the plaintiff, with sufficient sureties, conditioned to pay all intervening damages and costs and a reasonable rent for the premises. The plaintiff shall in like manner recognize to the defendant, conditioned to enter the action in the superior court within 30 days and to pay all costs adjudged against him. If either party neglects so to recognize, judgment shall be rendered against him. (R. S. c. 109, § 6. 1959, c. 317, § 264.)

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

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 4.

Sec. 7. Plaintiff may allege that defendant's claim of title frivolous.—The plaintiff may make a written allegation that the defendant's claim of title is frivolous and intended for delay and the magistrate shall then examine the case so far as to ascertain the truth of such allegation, and if satisfied of the truth thereof, he shall proceed to try the cause, and if it is determined in favor of the plaintiff, he may issue a writ of possession for removal of the defendant; but this shall

not prevent an appeal as provided in section 8. (R. S. c. 109, § 7. 1959, c. 317, § 265.)

Effect of amendment.—The 1959 amendment substituted “plaintiff” for “claimant” at two places in the section, substituted “defendant’s claim of title” for “brief statement of the defendant,” deleted “upon the plea of not guilty” following the words

“try the cause” and substituted “section 8” for “the following section” at the end of the section.

Effective date of 1959 amendment.—See note to § 4.

Sec. 8. Appeal.—Either party may appeal from a judgment to the superior court as in other civil actions. When the plaintiff appeals, he shall recognize in manner aforesaid to the defendant, except as otherwise provided, conditioned to enter the action and to pay all costs adjudged against him. When the defendant appeals, he shall recognize in like manner to the plaintiff, conditioned to enter the action and to pay all intervening costs and such reasonable rent of the premises, as the magistrate shall adjudge, if the judgment is not reversed. (R. S. c. 109, § 8. 1959, c. 317, § 266.)

Effect of amendment.—The 1959 amendment substituted “as in other civil actions” for “next to be held in the county” at the end of the first sentence, substituted “plaintiff” for “claimant” in the second and third sentences, substituted “otherwise”

for “hereinafter” in the second sentence and substituted “action” for “suit” in the second and third sentences.

Effective date of 1959 amendment.—See note to § 4.

Sec. 9. When judgment rendered for claimant, he shall have possession on filing recognizance; damages.—When judgment is rendered for the claimant, a writ of possession shall issue in all cases if the claimant recognizes to the defendant in the manner before provided, conditioned to pay all such damages and costs as may be awarded against him if final judgment is rendered for the defendant. If on trial the jury find for the defendant, they shall also find the damages sustained by him. In case of dismissal, his damages shall be assessed by the court. In either case the claimant may give evidence of any claim for rent of the premises, to be set off against damages claimed by the defendant. If the defendant prevails, the court may or may not, as justice requires, issue a writ to restore to him possession of the premises. (R. S. c. 109, § 9. 1963, c. 414, § 138.)

Effect of amendment.—The 1963 amendment divided the first sentence into four sentences, substituted “dismissal” for

“nonsuit” in the present third sentence, and inserted “may” preceding “not” in the last sentence.

Sec. 10. Sums due for rent and damages.—Sums due for rent on leases under seal or otherwise and claims for damages to premises rented may be recovered in an action, specifying the items and amount claimed, but no action shall be maintained for any sum or sums claimed to be due for rental or for any claim for damages for the breach of any of the conditions claimed to be broken on the part of the lessee, his legal representatives, assigns or tenant, contained in a lease or written agreement to hire or occupy any building, buildings or part of a building, during a period when such building, buildings or part of a building, which the lessee, his assigns, legal representatives or tenant may occupy or have a right to occupy, shall have been destroyed or damaged by fire or other unavoidable casualty so that the same shall be thereby rendered unfit for use or habitation. No agreement contained in a lease of any building, buildings or part of a building or in any written instrument shall be valid and binding upon the lessee, his legal representatives or assigns to pay the rental stipulated in said lease or agreement during a period when the building, buildings or part of a building described therein shall have been destroyed or damaged by fire or other unavoidable casualty so that the same shall be rendered unfit for use and habitation. (R. S. c. 109, § 10. 1959, c. 317, § 267.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, deleted “of assumpsit on account annexed to the writ” following the words “recovered in an action,” near the beginning of the section and deleted “or suit at

law in assumpsit, debt, covenant broken or otherwise” preceding the words “shall be maintained” also near the beginning of the section.

Effective date of 1959 amendment.—See note to § 4.

Chapter 123.

Petitions and Actions of Review.

Secs. 1-15. Repealed by Public Laws 1959, c. 317, § 268.

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.”

Chapter 124.

Waste and Trespass on Real Estate.

Sec. 1. Remedy, if tenant commits waste. — If a tenant in dower, by curtesy, for life or for years commits or suffers any waste on the premises, the person having the next immediate estate of inheritance may recover the place wasted and the damages done to the premises in an action against him. An heir may recover in the same action for waste done in his own time and in the time of his ancestor. (R. S. c. 111, § 1. 1959, c. 317, § 269.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and deleted “of waste” following the word “action” near the end of the first 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. Damages.—Any issue of fact shall be tried by a jury, with or without a view of the premises, as the court orders. The jury that inquires of the waste shall assess the damages. (R. S. c. 111, § 2. 1959, c. 317, § 270.)

Effect of amendment.—The 1959 amendment deleted the former last sentence reading “An action on the case in the nature of waste may be substituted for the action of

waste” and divided the remainder of the section into two sentences.

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

Sec. 3. Remainder man or reversioner may sue.—The remainder man or reversioner for life or for years only or in fee simple or fee tail, after an intervening estate for life, may maintain such action and recover the damages which he has suffered by the waste. (R. S. c. 111, § 3. 1959, c. 317, § 271.)

Effect of amendment.—The 1959 amendment deleted the words “of waste” after the word “action.”

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

Sec. 4. Action lies against executor, etc.—Such action may be originally commenced against the executors or administrators of the tenant, or if commenced