

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Chapter 125.

Replevin of Beasts and Goods.

Replevin of Beasts.

Sec. 4. Judgment, if beasts are lawfully distrained.—If it appears that the beasts were lawfully taken or distrained, the defendant shall have judgment for the sum found due from the plaintiff for the damages for which the beasts were distrained, with legal fees, costs and expenses occasioned by the distress and costs of the replevin action; or, instead thereof, the justice or court may enter judgment for a return of the beasts to the defendant, to be held by him for the original purpose, irrepleviable by the plaintiff, and for the defendant's damages and costs in the replevin action. (R. S. c. 112, § 4. 1961, c. 317, § 445.)

Effect of amendment.—The 1961 amendment substituted "action" for "suit" near the middle and at the end of this section.

Sec. 7. Certain causes removed to superior court.—When it appears that the sum demanded as damages exceeds \$20, or that the property in the beasts is in question and their value exceeds \$20, or that the title to real estate is in question, at the request of either party, the case, if originally brought before any trial justice, shall be removed to the superior court to be there disposed of like actions brought before a trial justice in which the title to real estate is brought in question; but the party requesting such removal shall recognize in such reasonable sum as the justice orders, to enter the action in the superior court within 30 days, prosecute it with effect and pay all intervening damages and costs. (R. S. c. 112, § 7. 1959, c. 317, § 276.)

Effect of amendment.—The 1959 amendment deleted "or judge of any municipal court" following "any trial justice", substituted "removed" for "transferred" near the middle of the section, and substituted "removal" for "transfer" and "in the superior court within 30 days" for "at the next term of said court" near the end of the 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 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."

Replevin of Goods.

Sec. 8. Goods, unlawfully detained, replevied.—When goods, unlawfully taken or detained from the owner or person entitled to the possession thereof, or attached on mesne process, or taken on execution, are claimed by any person other than the defendant in the action in which they are so attached or taken, such owner or person may cause them to be replevied. (R. S. c. 112, § 8. 1961, c. 317, § 446.)

Effect of amendment.—The 1961 amendment substituted "action" for "suit" in this section.

Sec. 13. Disposal of money recovered by officer for goods attached or taken on execution.—All sums recovered by an officer in an action of replevin on account of goods attached or taken in execution by him or recovered in a civil action upon the replevin bond shall be applied:

I. Fees, charges, expenses. To pay the lawful fees and charges of the of-

ficer, and the reasonable expenses of the replevin action, and of the action on the bond, so far as they are not reimbursed by the costs recovered.

II. Payment to creditor. To pay the creditor, in whose action the goods were attached or taken on execution, the sum, if any, recovered by him in that action or what remains unpaid, with interest at the rate of 12% a year for the time that the money was withheld from the creditor or the service of his execution was delayed by reason of the replevin.

III. Application of balance or if creditor does not recover judgment.

If the attaching creditor in such case does not recover judgment in his action, or if any balance remains of the money so recovered by the officer after paying the creditor his due, such balance or the whole amount, as the case may be, shall be applied as the surplus of the proceeds of sale should have been applied if such goods had been sold on execution. (R. S. c. 112, § 13. 1961, c. 317, § 447.)

Effect of amendment.—The 1961 amendment substituted “civil action” for “suit” in the opening paragraph of this section, substituted “action” for “suit” in subsec-

tions I, II, and III and substituted “in whose action” for “at whose suit” in subsection II.

Sec. 16. Continuance of attachment, if goods replevied.—If the goods replevied had been attached, they shall, in case of judgment for a return, be held by the attachment until 60 days after adjournment in the action in which they were attached has become final as provided in chapter 112, section 72. If such final judgment is rendered before the return of the goods or if the goods when replevied had been seized on execution, they shall be held by the same attachment or seizure for 60 days after the return and may be taken and disposed of as if they had not been replevied. (R. S. c. 112, § 16. 1959, c. 317, § 277.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, substituted “60” for “30” in both sentences, substituted “action” for “suit” in the first sentence and added “has be-

come final as provided in chapter 112, section 72” at the end of that sentence.

Effective date of 1959 amendment.—See note to § 7.

Sec. 19. Limitation of surety's liability on replevin bond.—No action shall be maintained against any surety on a replevin bond unless it is commenced within one year after final judgment in replevin or, if the complaint in replevin is not filed with the court by the plaintiff, within one year after the replevin of the goods. (R. S. c. 112, § 19. 1959, c. 317, § 273.)

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

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 7.

Chapter 126.

Habeas Corpus. Bail Commissioners.

Sec. 35. Commissioners admit to bail persons committed for not finding sureties.—When a person is confined in a jail for a bailable offense or for not finding sureties on a recognizance, except when a verdict of guilty has been rendered against him for an offense punishable in the state prison and except when such person is committed pending decision on report or exceptions as provided in section 29 of chapter 148, any such commissioner, on application, may inquire into the case and admit him to bail and exercise the same power as any justice of the supreme judicial court or superior court can; and may issue a writ of habeas corpus and cause such person to be brought before him for this purpose, and may take such recognizance; provided, however, that during a term of the superior court, a bail commissioner is not authorized to admit to bail any