

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
103rd LEGISLATURE

SENATE AMENDMENT "A" to S. P. 428, L. D. 1082, Bill, "An Act to Conform the Statutes with the Amendments to the Rules of Civil Procedure."

Amend said Bill by inserting after section 1 the following sections:

'Sec. 2. R. S., T. 10, §1504, amended. Section 1504 of Title 10 of the Revised Statutes is amended to read as follows:

§1504. False oath; mandamus to compel recording

Whoever willfully swears or affirms falsely to any such certificate is guilty of perjury and shall pay treble damages to every party injured thereby. If the Secretary of State has reason to apprehend, on the filing of such certificate, that any statement therein contained is untrue, he may decline to record the same, unless the party filing it obtains a ~~writ~~ relief in the nature of mandamus to compel him. Such ~~writ~~ relief may be granted by any proper court, but without costs to the Secretary of State, on proof that all the statements in such certificate are true, but no final hearing on the application therefor shall be had until such notice thereof, as said court orders, has been advertised in one or more newspapers published in the county where the party filing said certificate resides. Any persons who desire may appear and intervene as parties defendant, and oppose the granting of such ~~writ~~ relief and shall be liable to judgment for any costs occasioned by such intervention.

Sec. 3 R. S., T. 14, §1204, amended. Section 1204 of Title 14 of the Revised Statutes, as amended by sections 12 and 13 of chapter 356 of the public laws of 1965, is further amended to read as follows:

§1204. Impaneling of jury; challenges; alternate jurors

When venires for jurors are returned to court the clerk shall, at the commencement of each term, prepare an alphabetical list of the names of the several persons returned as traverse jurors. ~~Before they are impaneled, the~~ The court shall cause it to be ascertained whether all so returned are present, and any juror

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desiring to be excused shall make application therefor when his name is called and thereupon be heard on said application. The clerk shall then place separately upon tickets in a box, the names of all jurors legally summoned and in attendance and not excused, and the names shall be drawn from the box by the clerk, after having been thoroughly mixed, one at a time, and the first 12 persons whose names are drawn from the box shall compose the first jury and shall be impaneled by the first 2 being sworn, and then the other 10 in succession as they were drawn and in such divisions as the court directs or all at the same time. The next 12 so drawn shall be impaneled and sworn in like manner and shall compose the second jury.

Before proceeding to the trial of any civil case to a jury, the clerk may shall, under direction of the court, at the request of either party, place the names of all jurors legally summoned and in attendance, and not engaged in the trial of any other cause, separately upon tickets in a box and the names shall be drawn from the box by the clerk after having been thoroughly mixed, one at a time, for the purpose of constituting a jury. Each party may peremptorily challenge 4 jurors, but in such case all peremptory or other challenges and objections to a juror drawn, if then known, shall be made and determined and the juror sworn or set aside before another name is drawn, and so on until the panel is completed. The right to challenge peremptorily any person called or returned to serve as a juror may be exercised after it has been determined that the person so called or returned stands indifferent. A new jury shall be thus drawn for the trial of each cause. The Supreme Judicial Court shall by rule provide the manner of exercising all peremptory challenges, and the number and order of peremptory challenges. After the panel is thus completed, the presiding justice shall appoint a foreman for the trial of the case.

Whenever by reason of the prospective length of a civil trial or other civil cause the court in its discretion shall deem it advisable, it may direct that not more than 2 jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Such alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Such alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same

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functions, powers, facilities and privileges and may be subject to the same obligations and penalties as jurors on the regular panel. An alternate juror who does not replace a juror on the regular panel shall be discharged when the jury retires to consider its verdict. ~~If one or more alternate jurors are called, each party shall be entitled to one peremptory challenge in addition to those otherwise allowed by law.~~ The Supreme Judicial Court shall by rule provide the number of alternate jurors, the manner of exercising all challenges to alternate jurors, and the order and number of challenges to alternate jurors.

Sec. 4. R. S., T. 14, §1302, repealed. Section 1302 of Title 14 of the Revised Statutes, as amended by section 14 of chapter 356 of the public laws of 1965, is repealed.

Sec. 5. R. S., T. 14, §1509, amended. Section 1509 of Title 14 of the Revised Statutes is amended to read as follows:

§1509. Petitions for relief

On application of a private person for relief from a judgment or for a ~~writ~~ relief in the nature of certiorari, mandamus or quo warranto, or like process, the court may or may not allow costs to a person appearing on notice as defendant.'

Further amend said Bill by renumbering sections 2 and 3 to be sections 6 and 7.

Further amend said Bill by adding at the end the following:

'Sec. 8. R. S., T. 26, §1342, amended. The last sentence of section 1342 of Title 26 of the Revised Statutes is amended to read as follows:

No label, trademark, device or form of advertisement, so closely resembling one already recorded as to be liable to be mistaken therefor, shall be recorded, and when in the judgment of the Secretary of State such resemblance exists, he may refuse to record such label, trademark, device or form of advertisement, and thereupon proceedings may be had ~~for a writ~~ in the nature of mandamus, upon the application of any such association or union, as provided in Title 10 section 1504.

Sec. 9. Effective date. This Act shall become effective December 31, 1967.'

Proposed by Senator MILLS of Franklin.
Reproduced and distributed pursuant to Senate Rule No. 11A.

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