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ment to the defendant by postpaid registered or certified mail addressed to the defendant at his last known post-office address, delivery of said notice to be restricted to the defendant in person, and directing the defendant to appear at a time and place of hearing which shall be not less than 14 days from the date said notice is mailed to defendant. A return receipt showing that defendant has received the statement at least 7 days prior to the time set for the hearing shall constitute an essential part of the service. If service is not effected by registered or certified mail, then the court may direct that service on the defendant be completed as in other actions at law at the expense of the plaintiff. (1945, c. 307. 1947, c. 3, § 4; c. 278, § 1. 1949, c. 268; c. 349, § 125. 1957, c. 281, § 2.)

Effect of amendment. — The 1957 amendment inserted the words "or certified" following the word "registered" in both the first and last sentences.

Chapter 110.

Trial Justices. Justices of the Peace. Notaries Public.

Trial Justices.

Sec. 3. Jurisdiction in civil actions. — Every trial justice may hold a court in his county, as provided in this chapter, and have original and exclusive jurisdiction of all civil actions, including prosecutions for penalties in which his town is interested, when neither damages in excess of $20 nor equitable relief is demanded, except those in which the title to real estate, according to the pleadings filed in the case of either party, is in question; and except that in those towns in which a municipal court is established, his jurisdiction is restricted to those cases in which jurisdiction was given to justices of the peace, in the act establishing such court, and to cases wherein jurisdiction is given to trial justices in like manner. (R. S. c. 97, § 2. 1959, c. 317, § 98.)

Effect of amendment.—The 1959 amendment substituted "neither damages in excess of $20 nor equitable relief is demanded" for "the debt or damages demanded do not exceed $20" and deleted the words "or brief statement," formerly appearing after the word "pleadings" near the middle 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."

Sec. 4. Summons, form and service; attachment and trustee process. — Civil actions before a trial justice shall be commenced by a summons signed by the justice and returnable before him at a stated time and place not less than 7 nor more than 60 days after the service thereof. The summons, together with a complaint stating in simple and concise language the nature of the case, shall be served in the same manner as process in the superior court. In connection with the commencement of any such action, attachment and trustee process may be used in the manner and to the extent provided by law upon procedure as near to that in the superior court as the nature of the tribunal admits. (R. S. c. 97, § 3. 1959, c. 317, § 99.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, rewrote this section.

Sec. 6. When parties live in different counties. — When the parties reside in different counties, such actions shall be commenced before any disinterested trial justice residing in the county where any defendant resides; but all trustee actions, returnable before such justice, shall be commenced within the county where some trustee named in the summons resides. (R. S. c. 97, § 5. 1959, c. 317, § 100.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "summons" for "writ," near the end of the section.

Sec. 7. Summons returnable before another in same county. — A summons issued by any trial justice may be made returnable before any other trial justice of the same county and shall have the same effect as if signed by the latter justice. (R. S. c. 97, § 6. 1959, c. 317, § 101.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "A summons" for "Writs", at the beginning of this section.

Sec. 8. Summons, when returnable; justice to be present with summons.—No summons shall be made returnable before any trial justice at an earlier hour than 9 o'clock in the forenoon nor later than 4 o'clock in the afternoon. No judgment of such justice is valid if he is not present with the plaintiff's summons at the place within one hour after the time therein named unless the case is continued by some other justice, as provided in section 10. (R. S. c. 97, § 7. 1959, c. 317, § 102.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "summons" for "writ" on two occasions in this section.

Sec. 9. Dismissal or default after one hour; stricken off.—The justice may enter judgment on dismissal or default against the party failing to appear at the end of one hour after the time of return set forth in the summons; but may in his discretion, on motion of either party, strike off the same within 24 hours thereafter, upon such terms as he deems reasonable. (R. S. c. 97, § 8. 1959, c. 317, § 103.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "dismissal" for "nonsuit" and "summons" for "writ."

Sec. 10. When justice cannot attend, another may continue proceedings.—When a trial justice fails to attend at the time and place appointed by him for the trial of any action already entered or at which a summons is returnable before him, any other trial justice who might legally try the same or any justice of the peace residing in the same or an adjoining town may attend and continue such action, once, to a day certain, not exceeding 30 days, and note the fact on the summons and on his own docket. If said trial justice, who so appointed such time and place or before whom such summons is returnable, fails to attend at the time and place fixed in such continuance, such action may then and there be entered before and tried by some other trial justice of the same town or, if none such resides therein, then before some trial justice of the same county who may render judgment and issue execution as if the action had been originally returnable before him. (R. S. c. 97, § 9. 1959, c. 317, § 104.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, divided the section into two sentences, substituted "action" for "suit" near the beginning of the section and substituted "summons" for "writ" in three places.

Sec. 11. Where court held; pleadings; limitation of costs.—A trial justice may hold a court at his dwelling house, office or other suitable place and the summons shall be made returnable accordingly. He may adjourn his court by proclamation, from time to time, as justice requires. In actions before him the defendant shall not be required to file any responsive pleading, except where the title to real estate is in question. When an action in which the defendant does not appear is continued at the request of the plaintiff, only one travel and

attendance shall be taxed for him unless the defendant agrees, in writing, to such continuance. (R. S. c. 97, § 10. 1959, c. 317, § 105.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "summons" for "writ" in the first sentence and "not be required to file any responsive pleading" for "plead the general issue and need not file any brief statement" in the third.

Sec. 12. Judgment on default or trial.—If a person served with process does not appear and answer thereto, his default shall be recorded and the charge in the complaint taken to be true. On such default and when on trial the action is maintained, the justice shall enter judgment for such sum, not exceeding $20, as he finds due to the plaintiff, with costs, and issue execution. (R. S. c. 97, § 11. 1959, c. 317, § 106.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, divided the section into two sentences and substituted "complaint" for "declaration" in the first.

Actions against Executors or Administrators, etc.

Sec. 14. Hearing of certain actions.—Every trial justice may hear actions against executors or administrators, upon a suggestion of waste, after judgment against them; against bail in civil actions and indorsers for costs; and enter judgment and issue execution as any court might do in like cases. (R. S. c. 97, § 13. 1959, c. 317, § 107.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "hear actions" for "issue writs of scire facias" and "for costs" for "of writs."

Records.

Sec. 16. Execution issued on transcribed record. — On such transcribed record, the justice may issue executions as if the judgment was rendered by himself, changing the form as the case requires; but no such first execution shall issue after one year from the time when the judgment was rendered, unless the debtor after notice has failed to show cause why execution should not issue. (R. S. c. 97, § 15. 1959, c. 317, § 108.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "the debtor after notice has failed to show cause why execution should not issue" for "on scire facias" at the end of the section.

Sec. 18. Proceedings, if records not completed; when an execution used instead of copy of record.—If any trial justice dies or removes from the state without recording and signing a judgment by him rendered in an action before him, and his docket, original summons and papers pertaining thereto, and execution if any issued, are so deposited in the office of the clerk, the clerk shall, on payment of the usual fees, make out and certify copies of all 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.

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