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service on the principal defendant, unless it is set forth by motion or answer and established on hearing that the trustee was conclusively included in the action for the purpose of giving the court in such county jurisdiction. (R. S. c. 101, § 84. 1959, c. 317, § 242.)

Effect of amendment.—The 1959 amendment substituted "dismissed" for "discontinued," substituted "is set forth by motion or answer and established on hearing" for "appears by plea in abatement" and substituted "action" for "writ."

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

Trustee Action on Judgment Dismissed.

Sec. 85. Trustee action on judgment dismissed; costs.—When trustee process is used in connection with an action on a judgment on which execution might legally issue and it appears to the court or justice that, at the time of bringing it, the defendant openly had visible property liable to attachment sufficient to satisfy such judgment, or that it was brought for the purpose of vexation or to accumulate costs, it shall at any time on motion be dismissed, with costs to the defendant. (R. S. c. 101, § 85. 1959, c. 317, § 243.)

Effect of amendment.—The 1959 amendment substituted "trustee process is used in connection with an action on a judgment" for "an action is commenced by trustee process on a judgment" near the beginning of this section, and substituted "dismissed" for "abated" near the end of the section.

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

Chapter 115.

Bail in Civil Actions.

Sec. 4. Surrender of principal. — Any bail may, before the defendant's answer is required to be filed, exonerate himself from all liability by surrendering his principal to the jail in the county where the arrest was made or in the county where the writ is returnable and, within 15 days thereafter, leaving with the jailer an attested copy of the writ of process whereby the arrest was made, of the return indorsed thereon and of the bail bond; and notifying, in writing, the plaintiff or his attorney of the time and place of the commitment. The jailer shall receive him into custody as if committed by the officer making the arrest. (R. S. c. 102, § 4. 1959, c. 317, § 244.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and substituted "defendant's answer is required to be filed" for "action is entered" near the beginning 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. 8. In case of avoidance, officer's duty; liability of bail. — In case of the avoidance of the principal and return on the execution by the officer that he had had it in his hands at least 30 days before its expiration and that the principal was not found, his bail shall satisfy the judgment with interest thereon from the time when it was rendered, unless they discharge themselves by surrendering the principal before final judgment in an action against them as bail or by some other sufficient defense. (R. S. c. 102, § 8. 1959, c. 317, § 245.)

Effect of amendment.—The 1959 amendment substituted "in an action against them as bail" for "against them on the writ of scire facias," near the end of this section.

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

Sec. 9. When an action against bail lies.—When the principal so avoids and his property cannot be found to satisfy the execution, the original creditor may have an action in his own name in the same court against the bail, to be sued out within one year from the rendition of judgment against the principal, and he need not declare on the bail bond but may merely allege that the defendants became bail in the original action. (R. S. c. 102, § 9. 1959, c. 317, § 246.)

Effect of amendment.—The 1959 amendment substituted "an action" for "a writ of scire facias," preceding "in his own name," substituted "in" for "from" following those words and deleted "in vacation or in term time" preceding "to be sued out."

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

Sec. 10. Pleadings and defense by bail.—The bail may plead, jointly or severally, any matter in defense or discharge. (R. S. c. 102, § 10. 1959, c. 317, § 247.)

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

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

Sec. 11. Surrender of principal; exoneration of bail in civil action after entry of action.—The bail may surrender the principal in court before final judgment in the action against them, and on paying all the costs in that action, they shall be discharged. The principal shall be committed to jail to remain for 15 days. If the creditor does not within that time take him in execution, the sheriff shall discharge him on payment of the legal prison fees.

Any bail may, after the action is entered and before final judgment in the original action, exonerate himself from all liability by surrendering his principal to the jail in the county where the writ is returnable, and within 5 days thereafter leaving with the jailer an attested copy of the writ of process whereby the arrest was made, of the return indorsed thereon and of the bail bond, and notifying, in writing, the clerk of the court of the time and place of the commitment. The jailer shall receive him into custody as if committed by the officer making the arrest. (R. S. c. 102, § 11. 1959, c. 317, § 248.)

Effect of amendment.—The 1959 amendment divided the first paragraph into three sentences, rewrote the present first sentence, divided the last paragraph into two sentences and substituted "action" for "suit" near the beginning of the first sentence in that paragraph.

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

Sec. 12. When bail taken in an action.—When bail is taken on mesne process in an action returnable before a trial justice and there is a return on the execution issued on the judgment therein that the principal is not found, the creditor may maintain an action against the bail before the justice, to be served 7 days before the day of trial. If no sufficient cause is shown to the contrary, he may render judgment for the debt and costs recovered, with interest thereon from the rendition of judgment, against the principal and issue execution accordingly, notwithstanding the debt and costs on the original judgment exceed $20. (R. S. c. 102, § 12. 1959, c. 317, § 249.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, substituted "creditor" for "justice" and "maintain an action" for "issue a scire facias thereon" in the first sentence, and added "before the justice" following the word "bail" in that sentence.

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

Sec. 13. Surrender of principal before trial justice.—If the bail, at any time before final judgment in the original action or in the action against them, bring the principal before the justice and procure the attendance of an officer to receive him, the justice shall make a record of the surrender and order him into the custody of the officer to be committed to jail, to be proceeded with

as mentioned in sections 1 to 12. On payment of costs in the action against them, the bail shall be fully discharged. (R. S. c. 102, § 13. 1959, c. 317, § 250.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, substituted "action" for "suit" and "in the action against them" for "on scire facias" near the beginning of the first sentence, substituted "sections 1 to 12" for "the preceding sections" at the end of that sentence and substituted "in the action against them" for "on the scire facias" in the last sentence.

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

Chapter 116.

Jury Commissioners. Jurors.

Sec. 2. Salaries of jury commissioners.—The jury commissioners for the several counties shall each receive for their services the following sums per year, and expenses: Androscoggin, $150; Aroostook, $100; Cumberland, $250; Franklin, $75; Hancock, $75; Kennebec, $100; Knox, $75; Lincoln, $50; Oxford, $75; Penobscot, $100; Piscataquis, $50; Sagadahoc, $75; Somerset, $75; Waldo, $75; Washington, $75; York, $100.

Said salaries shall be paid by the respective counties in quarterly payments on the last day of each quarter, and their expense shall be paid from time to time by the respective counties on bills approved by a justice of the superior court. (R. S. c. 103, § 7. 1959, c. 181.)

Effect of amendment.—The 1959 amendment increased the compensation in all of the counties except Kennebec, Lincoln, Penobscot and Piscataquis.

Sec. 4. Preparation of lists of persons qualified to serve as jurors. The commissioners may add names to such list as often as may be necessary to maintain the number herein provided. They may also drop from the list names of persons who, by reason of age, infirmity, death or other disability, could not reasonably be expected to serve as jurors if called, and shall drop therefrom names of persons engaged in the unlawful traffic in intoxicating liquors or who are known to be habitually addicted to the use of intoxicating liquors or who have been convicted of any scandalous crime or gross immorality. No person shall be qualified or selected for traverse jury service who has served as such at any term of the superior court in his county held within 3 years next preceding the reselection of said person by the jury commissioners. (R. S. c. 103, § 2. 1957, c. 248. 1959, c. 13.)

Effect of amendments. — The 1957 amendment added the last sentence of the last paragraph.

The 1959 amendment added in the last sentence "traverse" before "jury service" and "in his county" after "superior court."

As the rest of the section was not changed by the amendments, only the last paragraph is set out.

Sec. 5. Selection.—On receipt of written or verbal notice from the clerk or deputy clerk of courts of their respective counties designating the number of jurors required and date on which they are to report for duty, said commissioners shall forthwith select, by such method as will give a fair and just distribution according to population, a sufficient number of persons to perform jury service at the prospective term. Such selection shall be made with reasonable allowances for supernumeraries and for unforeseen causes of inability to attend. Summonses for those so elected shall be prepared by said commissioners and mailed by registered mail, postage prepaid, to each person selected at his regular place of abode. A returned registered receipt shall be sufficient evidence that the person or persons so selected have received the above-named summons. Additional jurors may in like manner be drawn and summoned at any time during a term of court by direction of the presiding justice, and they may be summoned