REVISED STATUTES

OF THE

STATE OF MAINE

1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
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"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."

An award of referees may be good in part, etc.

In accord with 1st paragraph in original. See Norridgewock v. Hebron, 152 Me. 280, 128 A. (2d) 215.

In accord with 2nd paragraph in original. See Norridgewock v. Hebron, 152 Me. 280, 128 A. (2d) 215.

Chapter 122.

Forcible Entry and Detainer. Tenancies.

Sec. 3. Jurisdiction.—Trial justices, judges and recorders of municipal courts have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such justices, judges and recorders have exclusive jurisdiction of such cases within their cities or towns unless interested and except in such cases in which such justices, judges or recorders are the plaintiffs; provided, however, that judges and recorders of municipal courts shall also have jurisdiction of such cases in all towns in which they are authorized to hold court, notwithstanding the fact that their residence may be in some other town. Such cases in which such justices, judges or recorders are the plaintiffs may be made returnable before any other municipal court within their county. (R. S. c. 109, § 3. 1955, c. 301.)

Effect of amendment.—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 second sentence, and added the third sentence.

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. 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 delcted "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.