

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES
VOLUME 4

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

Sec. 7. Injunction to prevent waste, pending a process for the recovery of lands, and on lands attached.—If a defendant in an action to recover possession of real estate or a person whose real estate is attached in a civil action commits any act of waste thereon, or threatens or makes preparations to do so, any justice of the supreme judicial court or of the superior court may issue an injunction to stay such waste; but notice shall first be given to the adverse party to appear and answer, unless the applicant files a bond with sufficient sureties to respond to all damages and costs. The court may enforce obedience by such process as may be employed in other cases and dissolve it when deemed proper. (R. S. c. 111, § 7. 1959, c. 317, § 273.)

Effect of amendment.—The 1959 amendment divided the section into two sentences, deleted “in vacation or term time” following “superior court” in the first sen-

tence, and substituted “other cases” for “an equity case” in the second sentence.

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

Sec. 19. Judgment for damage; execution for plaintiffs’ share.—The court shall enter judgment for the whole amount of the injury proved; but shall award execution only for the proportion thereof sustained by the plaintiffs. The remaining cotenants may afterwards jointly or severally intervene in the action and on motion obtain execution for their proportion of the damages adjudged therein. (R. S. c. 111, § 19. 1959, c. 317, § 274.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and rewrote what is now the second

sentence.

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

Sec. 20. If one or more joint tenants take whole rent, others may recover.—If any one or more of the joint tenants or tenants in common take the whole rents or income in the joint estate or more than their share, without the consent of their cotenants, and refuse for a reasonable time after demand to pay such cotenants their share thereof, any one or more of them may have an action against the refusing cotenants to recover their proportion thereof. (R. S. c. 111, § 20. 1959, c. 317, § 275.)

Effect of amendment.—The 1959 amendment deleted the words “of special assumpsit,” formerly appearing after the

word “action” near the end of the section.

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

Chapter 125.

Replevin of Beasts and Goods.

Replevin of Beasts.

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 ex-

tent 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. 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, § 278.)

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 person confined in jail or held under arrest by virtue of a precept returnable to said term; and when a person is confined in jail for a bailable offense or for not finding sureties on a recognizance and the amount of his bail has been fixed by a justice of the supreme judicial court or of the superior court or by a judge or recorder of a municipal court, a bail commissioner is not authorized to change the amount of such bail. Such bail commissioner shall receive not exceeding the sum of \$5 in each case in which bail is so taken, the same to be paid by the person so admitted to bail; but the person admitted to bail shall not be required to pay any other fees or charges to any officer for services connected with the giving of such bail; provided, however, that if a bail commissioner takes bail after