MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

ficer, and the reasonable expenses of the replevin action, and of the action on the bond, so far as they are not reimbursed by the costs recovered.

II. Payment to creditor. To pay the creditor, in whose action the goods were attached or taken on execution, the sum, if any, recovered by him in that action or what remains unpaid, with interest at the rate of 12% a year for the time that the money was withheld from the creditor or the service of his execution was delayed by reason of the replevin.

III. Application of balance or if creditor does not recover judgment. If the attaching creditor in such case does not recover judgment in his action, or if any balance remains of the money so recovered by the officer after paying the creditor his due, such balance or the whole amount, as the case may be, shall be applied as the surplus of the proceeds of sale should have been applied if such goods had been sold on execution. (R. S. c. 112, § 13. 1961, c. 317, § 447.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" in the opening paragraph of this section, substituted "action" for "suit" in subsections I, II, and III and substituted "in whose action" for "at whose suit" in subsection II.

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 become 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 8:00 P. M. and prior to 8:00 A. M. of the following day he shall be permitted to receive a charge of up to $10 for the occasion of taking such bail, but said charge shall not be in addition to the charge in each case otherwise authorized in this section but shall be inclusive of such charge or charges.
(1955, c. 356.)

Effect of amendment.—The 1955 amendment added the proviso at the end of the first paragraph. As the second paragraph was not changed, it is not set out.

Sec. 35-A. Surety bonds authorized in criminal cases.—In any criminal proceeding or mesne process or other process where a bail bond recognizance or personal sureties or other obligation is required, or whenever any person is arrested and is required or permitted to recognize with sureties for his appearance in court, the court official or other authority authorized by law to accept and approve the same shall accept and approve in lieu thereof, when offered, a good and sufficient surety bond duly executed by a surety company authorized to do business in this state. (1959, c. 143, § 2.)

Sec. 38. Habeas corpus may issue on application in behalf of mentally ill person.—When a mentally ill person is arrested or imprisoned on mesne process or execution in a civil action, a justice of the supreme judicial court or of the superior court or the judge of probate within his county, on application, may inquire into the case; issue a writ of habeas corpus; cause such person to be brought before him for examination; and after notice to the creditor or his attorney, if either is living in the state, and a hearing, if it is proved to the satisfaction of said justice or judge that the person is mentally ill, he may discharge him from arrest or imprisonment; and the creditor may make a new arrest on the same demand when the debtor becomes of sound mind. If he is arrested on the same demand a second time before he becomes of sound mind and is again discharged for that reason, he is forever after exempt from arrest for the same cause. (R. S. c. 113, § 38. 1961, c. 317, § 448.)

Effect of amendment.—The 1961 amendment substituted "a mentally ill person" for "an insane person" and "action" for "suit" near the beginning of this section and also substituted "mentally ill" for "insane" near the end of the first sentence.

Chapter 126-A.

Coram Nobis.

Sec. 1. Availability of coram nobis; conditions.—Any persons convicted of a crime and incarcerated thereunder, or released on probation, or paroled from a sentence thereof, who claims that his sentence was imposed in violation of the constitution of the United States or the constitution of this state, or that there were errors of fact not of record which were not known to the accused or the court and which by the use of reasonable diligence could not have been known to the accused at the time of trial and which, if known, would have prevented conviction, may institute a coram nobis proceeding to set aside the