

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAPTER 100.

WRIT OF AUDITA QUERELA.

- SEC. 1. Form of the writ.
 2. In what court and county to be sued out.
 3. Proceedings in court.
 4. Complainant may recover special damages.
 5. Pleadings, and filing exceptions.
 6. Proceedings, if complainant is in prison.
 7. Effect of a surrender to jail.

SEC. 1. The writ of audita querela may be sued out in the form of a writ of attachment or summons; and shall be sealed, signed, tested, and indorsed, as other writs.

Form of writ.
 24 Maine, 304.
 R. S., c. 141,
 § 1.

SEC. 2. When brought to prevent, set aside, or annul proceedings on a judgment or execution, it shall be sued out of the court in which judgment was rendered, but in all other cases in the county and court having jurisdiction of the case according to the provisions of law as to personal actions.

In what court
 and county to
 be sued out.
 R. S., c. 141,
 § 2.

SEC. 3. If the defendant does not appear, after being duly served with process, he shall be defaulted; but if he does, a trial shall be had as in other actions.

Proceedings in
 court.
 R. S., c. 141,
 § 3.

SEC. 4. The complainant may declare in his writ for any special damages he has suffered by the service of such execution; and on proof, he shall have judgment and execution for such damages, instead of recovering therefor in a subsequent suit.

Complainant
 may recover
 special dam-
 ages.
 24 Maine, 304.
 R. S., c. 141,
 § 4.

SEC. 5. The defendant may plead the general issue of not guilty, with or without a brief statement, or any special matter in bar; and exceptions may be alleged to the rulings, instructions, and opinion of the court, as in civil actions.

Pleadings, and
 filing excep-
 tions.
 R. S., c. 141,
 § 5.

SEC. 6. When the complainant is in prison on execution, the court before which such action is brought may admit him to bail, to be approved by the court; the bond shall be conditioned, that if final judgment is rendered for the respondent, the complainant, within thirty days thereafter, shall surrender himself to the jail keeper to be detained on the execution, or within that time satisfy it and such final judgment as the respondent recovers.

Proceedings,
 if complainant
 is in prison.
 R. S., c. 141,
 § 6.

SEC. 7. If the complainant surrenders himself to jail, he shall be in lawful custody on such execution, and there detained until discharged according to law.

Effect of a sur-
 render to jail.
 R. S., c. 141,
 § 7.