

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAP. 100.

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 if defendant appears, and if not.
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.

Form of writ.
R. S. c. 111 § 1.
24 Me. 304.

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 endorsed, as other writs.

In what court
and county to
be sued out.
R. S. c. 100, § 2.

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.

Proceedings in
court, if de-
fendant ap-
pears, and if
not.
R. S. c. 100, § 3.

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.

Complainant
may recover
special dama-
ges.
R. S. c. 100, § 4.
24 Me. 304.

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.

Pleadings, and
filing excep-
tions.
R. S. c. 100, § 5.

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.

Proceedings if
complainant is
in prison.
R. S. c. 100, § 6.

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.

Effect of a sur-
render to jail.
R. S. c. 100, § 7.

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.