

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



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of the supreme judicial 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. CHAP. 99.

—may issue habeas corpus.

SEC. 36. Any person under arrest on criminal process for a bailable offence, may, before commitment to jail, if he so requests, be taken by the officer having him in charge, before such commissioner, who may inquire into the case and admit him to bail. May admit to bail, before commitment. 1876, c. 137.

SEC. 37. A court may issue a writ of habeas corpus, when necessary, to bring before them a prisoner for trial in a cause pending in such court, or to testify as a witness, when his personal attendance is deemed necessary for the attainment of justice. Habeas corpus may issue to bring a prisoner as a witness. R.S., c. 99, § 35.

SEC. 38. When an insane person is arrested or imprisoned on mesne process or execution in a civil suit, a justice of the supreme judicial or superior court, or 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 insane, 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. But 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 therefor. Habeas corpus may issue, on application in behalf of insane persons. R.S., c. 99, § 36.

## CHAPTER 100.

### WRIT OF AUDITA QUERELA.

- SEC. 1. Form of the writ.
2. In what court and county, it must 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.

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. R.S., c. 100, § 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 it shall be sued 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 it shall be sued out. R.S., c. 100, § 2. 59 Me., 567. 62 Me., 13.

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, if defendant appears, and if not. R.S., c. 100, § 3.

## CHAP. 100.

Complainant may recover special damages.  
R.S., c. 100, § 4.  
24 Me., 306.  
Pleadings, and filing exceptions.  
R.S., c. 100, § 5.

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

Effect of a surrender to jail.  
R.S., c. 100, § 7.

SEC. 4. The complainant may declare in his writ for any special damages that 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.

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.

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.

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

## CHAPTER 101.

## WRIT FOR REPLEVYING A PERSON.

- SEC. 1. Who is entitled to the writ, and from what court.  
2. In what county, writ shall issue, and how it shall be served.  
3. Form of the writ.  
4. Bond must be given, before writ issues; officer is responsible for sureties.  
5. What judgment, if the action is or is not maintained.  
6. What judgment, if defendant is entitled to custody of plaintiff.  
7. If defendant has enjoined the plaintiff, he may be arrested. Defendant may be enlarged by giving bail.  
8. Discharge and costs, if not guilty of enjoining. If guilty, to be imprisoned; and discharged on proof of plaintiff's death. Form of writ of reprisal.  
9. Proceedings, if the plaintiff is produced.

Who is entitled to the writ, and from what court.  
R.S., c. 101, § 1.

SEC. 1. If any person is imprisoned, restrained of his liberty, or held in duress, unless by a lawful writ, warrant, or other process, civil or criminal, he may have the writ for replevying the person, on application made by himself or any one in his behalf, to any justice of the supreme judicial, or either of the superior courts, in term time or vacation, at the discretion of such justice and not otherwise. (a)

In what county writ shall issue, and how to be served.  
R.S., c. 101, § 2.

SEC. 2. The writ shall issue from and be returnable to such court in the county where the plaintiff is confined, and be directed to a proper officer, and served, as soon as may be, fourteen days at least before the return day.

(a) 13 Me., 411; 32 Me., 563; 34 Me., 130; 35 Me., 271; 37 Me., 132; 48 Me., 127; 49 Me., 18.