

MAINE STATE LEGISLATURE

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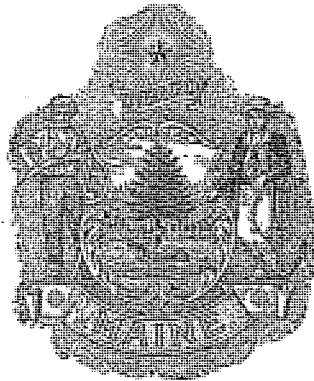
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THE
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exempt from attachment, of the full value, to be delivered to the defendant, to be held and disposed of by him according to law, until the plaintiff restores the beast or other property replevied by him.

See 1821, c. 63, § 9. Writ of Withernam.

Sec. 18. Defendant's remedy on the replevin bond. R. S. c. 98, § 18. The foregoing provisions shall not preclude the defendant from resorting to his remedy on the replevin bond, or to his remedy against the officer for insufficiency of the bond, to recover the value of the goods together with the damage or loss occasioned by the replevin thereof, notwithstanding he has endeavored to recover the same by the writs of return and of reprisal as aforesaid.

11 Me. 69; 18 Me. 261; 21 Me. 509; 33 Me. 387; 46 Me. 410; 53 Me. 425;
54 Me. 121; 55 Me. 364; 56 Me. 173; 69 Me. 446; 72 Me. 477; 73 Me. 128,
386; 79 Me. 452.

Sec. 19. Limitation of surety's liability on a replevin bond. R. S. c. 98, § 19. No action shall be maintained against any surety in a replevin bond, unless the writ is served on him within one year after final judgment in replevin; or, if the action is not entered by the plaintiff, and the defendant does not obtain judgment upon a complaint, such writ against the surety may be served on him within one year after the end of the term at which the action of replevin ought to have been entered, and not afterwards.

62 Me. 534.

CHAPTER 102.

Bastard Children and Their Maintenance.

Sec. 1. Accusation by a woman pregnant with a bastard child, and her examination. R. S. c. 99, § 1. When a woman pregnant with a child, which, if born alive, may be a bastard, or who has been delivered of a bastard child, accuses any man of being the father thereof, before any justice of the peace, and requests a prosecution against him, such justice shall take her accusation and examination on oath, respecting the accused, and the time and place when and where the child was begotten, as correctly as they can be described, and such other circumstances as he deems useful in the discovery of the truth.

8 Me. 164; 16 Me. 40; 36 Me. 488; 39 Me. 471; 64 Me. 373; 66 Me. 271;
70 Me. 418; 81 Me. 65; 83 Me. 146; 105 Me. 411.

Sec. 2. Justice may issue a warrant. R. S. c. 99, § 2. He may issue his warrant for the apprehension of the accused, directed to the sheriff of any county in which the accused is supposed to reside, or to either of his deputies, or to a constable of any town in such county accompanied by such accusation and examination.

See c. 85, § 59.

Sec. 3. Justice shall take bond or commit; expense of support in jail. R. S. c. 99, § 3. When the accused is brought before such or any other justice, he may be required to give bond to the complainant, with sufficient sureties, in such reasonable sum as the justice orders, conditioned for his

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appearance at the next term of the supreme judicial or superior court for the county in which she resides, and for his abiding the order of the court thereon; and if he does not give it, he shall be committed to jail until he does. The cost of commitment and board of the accused while so in jail shall be paid by the county in which said jail is situated. If he gives the required bond after said commitment, he shall be liberated upon the payment of cost of commitment and board.

2 Me. 169; 3 Me. 433; 19 Me. 411; 26 Me. 380; 36 Me. 488; 37 Me. 548; 56 Me. 415; 66 Me. 271; 70 Me. 418; 76 Me. 249; 80 Me. 361; 85 Me. 287.

Sec. 4. Case continued, if complainant is not yet delivered; surrender of principal. R. S. c. 99, § 4. If at such next or any subsequent term, the complainant is not delivered of her child, or is unable to attend court, or shows other good reason, the cause may be continued; and the bond shall remain in force until final judgment, unless the sureties of the accused surrender him in court at any time before final judgment, which they may do, and thereupon they shall be discharged; and he shall be committed until a new bond is given.

76 Me. 249; 80 Me. 357, 361.

Sec. 5. Declaration must be filed before trial; its form. R. S. c. 99, § 5. Before proceeding to trial, the complainant must file a declaration, stating that she has been delivered of a bastard child begotten by the accused, and the time and place when and where it was begotten, with as much precision as the case admits; and that being put on the discovery of the truth during the time of her travail, she accused the respondent of being the father of her child, and that she has been constant in such accusation.

1 Me. 305; 6 Me. 461; 12 Me. 29; 37 Me. 548; 55 Me. 361; 56 Me. 317; 70 Me. 416; 83 Me. 146; 92 Me. 126.

Sec. 6. On what conditions complainant may maintain her prosecution. R. S. c. 99, § 6. When the complainant has made said accusation; been examined on oath as aforesaid; been put upon the discovery of the truth of such accusation at the time of her travail, and thereupon has accused the same man with being the father of the child of which she is about to be delivered; has continued constant in such accusation, and prosecutes him as the father of such child before such court; he shall be held to answer to such complaint; and she may be a witness in the trial.

8 Me. 164; 18 Me. 307, 374; 23 Me. 574; 33 Me. 481; 34 Me. 238; 35 Me. 434; 39 Me. 471; 44 Me. 347; 56 Me. 317; 57 Me. 491; 64 Me. 372; 67 Me. 246; 83 Me. 147; 92 Me. 125, 126.

Sec. 7. Proceedings after verdict. R. S. c. 99, § 7. 1909, c. 111. If, on such issue, the jury finds the respondent not guilty, he shall be discharged; but if they find him guilty, or the facts in the declaration filed are admitted by default or on demurrer, he shall be adjudged the father of such child; stand charged with its maintenance, with the assistance of the mother, as the court orders; and shall be ordered to pay the complainant her costs of suit and for the expense of her delivery, and of her nursing, medicine and medical attendance, during the period of her sickness and convalescence, and of the support of such child to the date of rendition of judgment; and shall give a bond, with sufficient sureties approved by the court, to the complainant to perform said order, and a bond, with sufficient sureties so approved, to the town liable for the maintenance of such

child, and be committed until he gives them. The latter bond shall be deposited with the clerk of the court for the use of such town. If the respondent does not comply with that part of the order relative to payment of expenses and costs of suit, execution may issue therefor as in actions of tort.

2 Me. 170; 37 Me. 548; 61 Me. 406; 70 Me. 415; 72 Me. 255; 80 Me. 357, 361; 112 Me. 106.

Sec. 8. Complainant shall not settle with the father, if the town objects in writing. R. S. c. 99, § 8. No woman, whose accusation and examination on oath have been taken by a justice of the peace at her request, shall make a settlement with the father, or give him any discharge to bar or affect such complaint, if objected to in writing by the overseers of the poor of the town interested in her support or the child's.

18 Me. 151; 61 Me. 406.

Sec. 9. Town, failing in suit, pays costs. R. S. c. 99, § 9. A town prosecuting in behalf of the complainant, is liable to the respondent, if he prevails, for his costs of court, to be recovered in an action of the case; or the court may, on his motion, enter judgment against the town for such costs, and issue execution thereon.

61 Me. 406.

Sec. 10. Discharge of father from imprisonment after ninety days; action to recover sums due. R. S. c. 99, § 10. When the father of such bastard child has remained for ninety days in jail, without being able to comply with the order of court, he may be liberated by taking the poor debtor's oath, as persons committed on execution; but he shall give fifteen days' notice of his intention to do so, to the mother, if living, and to the clerk of the town where the child has its legal settlement, if in the state. The mother and said town may, after such liberation, recover of him by action of debt any sum of money, which ought to have been paid pursuant to the order of court.

19 Me. 411; 32 Me. 21.

Sec. 11. Complainant dying before trial. R. S. c. 99, § 11. When the complainant dies before trial, her executor or administrator may prosecute her action to final judgment; and in case of judgment against the respondent, the bond for performance of the order of court, required by section seven, shall run to such executor or administrator, who, after payment of the costs of prosecution, shall appropriate to the support of the child the money recovered of the respondent.

85 Me. 224.