

MAINE STATE LEGISLATURE

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NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

FIRST ANNOTATED REVISION

IN FIVE VOLUMES

VOLUME 4



THE MICHIE COMPANY
CHARLOTTESVILLE VIRGINIA

Chapter 127.

Writ of Audita Querela.

Sec. 1. Form.—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. (R. S. c. 114, § 1.)

Sec. 2. Where brought.—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. (R. S. c. 114, § 2.)

Sec. 3. Proceedings. — If the defendant does not appear after being duly served with process, he shall be defaulted; but if he appears, a trial shall be had as in other actions. (R. S. c. 114, § 3.)

Sec. 4. Special damages.—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. (R. S. c. 114, § 4.)

Sec. 5. Pleadings, and filing exceptions.—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. (R. S. c. 114, § 5.)

Sec. 6. If complainant in prison.—When the complainant is in prison on execution, the court before which such action described in this chapter is brought, or any justice thereof in vacation, may admit him to bail, to be approved by the court or such justice. The bond shall be conditioned, that if final judgment is rendered for the respondent, the complainant, within 30 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. (R. S. c. 114, § 6. 1947, c. 1.)

Sec. 7. Effect of a surrender to jail.—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. (R. S. c. 114, § 7.)