

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

Page.
 40 L. 12 of the page for 'preceding' read 'presiding'
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'
 55 7 2 for 'a' read 'or'
 55 7 9 before the word 'said' insert 'the'
 56 9 3 for 'the' read 'her'
 57 1 6 for 'to' read 'in'
 58 1 5 for 'and' after the word 'house'
 read 'or'
 61 in the title of the act, ch. vi. insert 'the' before the
 word 'crimes'
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
 69 16 8 for 'Treasurer' read 'Treasury'
 73 1 15 after the word 'for' insert 'the'
 77 13 6 for 'to' read 'of'
 78 first line of the page, dele the word 'by'
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'
 80 17 for 'counterfeited' read 'counterfeit'
 82 1 after the word 'in' insert 'all'
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or'
 and insert '
 83 Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
 84 10 6 for 'and' read 'or'
 90 1st L. of p. for 'Commissioner' read 'Commissioners'
 90 L. 20 before the word 'Commissioner' insert 'said'
 97 6 for 'assumst' read 'assumpsit'
 97 14 for 'cover, read 'covin'
 98 at the end of the act for 'January' read 'February'
 99 L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and '
 100 15 at the end of the line insert 'the'
 105 at the end of the Act for '1820' read '1821'
 108 L. 14 of page, for 'nuisances' read 'nuisance'
 108 20 after the word 'each' insert 'one'
 111 25 after the word 'fail' insert 'of'
 113 11 for 'on' read 'or'
 144 last for 'performance' read 'performing'
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
 147 7 6 before the word 'release' for 'to'
 read 'a'
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'
 151 in the title, before the word 'Lands' insert 'reserved'
 153 1st line of the p. for 'whenever' read 'wherever'
 155 last before the word 'Court' for 'a' read 'any'
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
 159 9 8 for 'purpose' read 'purposes'
 167 14 5 for 'votes' read 'vote'
 193 4 10 dele 'such'
 199 17 1 for 'when' read 'where'
 202 22 6 after the word 'near, dele 'to'
 202 23 10 for 'be' read 'he'
 203 24 16 for 'of' read 'in'
 203 25 16 for 'meeting' read 'meetings'
 205 L. 18 of p. before the word 'estate' insert 'other'
 210 2 before the word 'tenement' insert 'other'
 215 4 before the word 'guardians' insert 'guard-
 dian or'
 226 Sec. 73 L. 6 of Sec. dele 'a'
 229 3 last for 'agreeably' read 'agreeable'
 230 7 19 for 'agreeably' read 'agreeable'
 231 8 6 for 'resided' read 'reside'
 242 2 5 for 'sentence' read 'sentences'
 245 7 3 after the word 'herein' insert 'be-
 fore'
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-
 sert 'interested'
 247 11 for 'statement' read 'statements'
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
 248 3 1 for 'whenever' read 'wherever'
 248 3 14 for 'Justice' read 'Justices'

Page.
 252 L. 3 of p. for 'where' read 'wherein'
 257 5 after the word 'have' insert 'his or'
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'
 271 L. 1 and 3 of p. for 'affect' read 'effect'
 271 Sec. 6 L. 2 of Sec. before the word 'execution'
 insert 'the'
 278 19 4 for 'on' read 'in'
 280 L. 2 of p. for 'have' read 'had'
 281 22 for 'of' read 'on'
 283 13 for 'lies' read 'lays'
 283 last before the word 'defendant' insert 'the'
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'
 288 5 18 for 'whenever' read 'wherever'
 291 9 4 for 'as' read 'or'
 292 L. 4 of p. for 'examinations' read 'examination'
 293 Sec. 13 L. 5 of Sec. after the word 'article' in-
 sert 'or articles'
 297 7 5 for 'and' read 'or'
 301 L. 8 of p. for 'he' read 'be'
 309 24 between the words 'the' and 'day' should
 be a '
 310 20 for 'debt' read 'debtor'
 311 2 for 'with' read 'and of'
 312 7 for 'summon' read 'summons'
 312 9 between the words 'our' and 'Court'
 should be a '
 318 31 for 'writs' read 'writ a'
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
 353 L. 14 of p. at the end of the line insert 'the'
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'
 370 3 10 for 'to' read 'of'
 371 2 7 dele 'to'
 373 L. 15 of p. before the word 'require' insert 'to'
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word
 'payment'
 378 at the end of the act, for '17' read '20'
 378 in the title, for 'selection' read 'selecting'
 379 Sec. 4 L. 5 of Sec. before the word 'divide' in-
 sert 'shall'
 394 1 9 for 'part' read 'parts'
 395 1 8 for 'acceptances' read 'accep-
 tance'
 404 1 34 before the word 'authorized'
 insert 'hereby'
 407 7 4 dele 'the'
 414 last word of the 1st act on the page, for 'therein'
 read 'thereon'
 423 Sec. 3 L. 15 of Sec. after the word 'assignments'
 insert 'thereof, and also of the assignments'
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
 425 L. 7 of p. before the word 'action' insert 'an'
 428 22 for 'twelve' read 'twenty'
 431 8 for 'fifteen' read 'fifty'
 432 first line of the page should be put after the third
 432 L. 5 of the p. dele 'entering'
 432 between the 28th and 29th lines of the p. insert
 'Every blank writ of attachment, with a sum-
 mons thereon, fifteen cents'
 432 L. 37 of p. for 'judgment' read 'jurymen'
 435 9 for 'appear' read 'appears'
 435 10 for 'make' read 'makes'
 435 18 for 'taking' read 'taxing'
 444 Sec. 1 L. 6 of Sec. before the word 'records' in-
 sert 'the'
 445 1 9 for 'within' read 'of'
 445 1 19 after the word 'escape' insert
 'sickness'
 455 11 1 after the word 'of' insert 'the'

is or shall be entitled to such writ of error, shall at the time such title accrued, be within the age of twenty one years, covert or non compos mentis; then such person, his or her heirs, executors or administrators notwithstanding the said twenty years expired, may bring a writ of error for the reversing of any such judgment, as such person might have done in case this Act had not been made, so as the same writ of error he sued out within five years after the coming of age, discoverture, coming of sound mind, or death of such person, whichever shall first happen, and not afterwards.

Proviso in favour of persons in capatitated, &c.

SEC. 16. *Be it further enacted*, That all actions against Sheriffs, for the misconduct and negligence of their deputies, shall be commenced and sued within four years next after the cause of action.

Limitation of actions against Sheriffs, for misconduct of their deputies.

[Approved March 19, 1821.]

CHAPTER LXIII.

An Act prescribing the Forms of Writs and other process in the cases therein mentioned.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That in all civil actions, the original and final process in the following cases betwixt party and party, shall be made out in the forms following, that is to say;

Forms of process.

[Summons.]

State of Maine.

Original summons.

SEAL. S—— ss. To the Sheriff of our county of S—— or his deputy,

Greeting.

We command you that you summon A. B. of C. [addition] (if he may be found in your precinct) to appear before our Justices of our —— Court of ——, to be holden at B. within and for our said county of S. on the —— day of —— then and there in our said Court to answer to D. E. of R. within our county of M. [addition] in a plea of ——, to the damage of the said D. E. (as he saith) the sum of —— dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness, E. H. Esq. at B. the —— day of —— in the year of our Lord ——.

A. D. Clerk,

Capias or attachment.

[Capias or Attachment.]

State of Maine.

SEAL. C— ss. To the Sheriff of our county of C—
or his deputy, Greeting.

We command you to attach the goods or estate of R. F. of B. within our county of C— [addition] to the value of — dollars; and for want thereof to take the body of the said R. F. (if he may be found in your precinct,) and him safely keep, so that you have him before our Justices of our — Court of —; next to be holden at B. within and for our said county of C— on the — day of —; then and there in our said Court to answer unto D. S. of R. within our county of H. [addition] in plea of —; to the damage of the said D. S. (as he saith) the sum of — dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness, E. H. Esq. at P. the — day of —, in the year of our Lord —.

A. D. Clerk.

Summons when goods are attached.

[Summons when goods are attached.]

State of Maine.

SEAL. C— ss. To A. B. of B. within our county of C—, [addition] Greeting.

We command you that you appear at our next — Court of — to be holden at B. within and for our county of C— aforesaid, on the — day of —, then and there to answer to C. D. of R. within our county of M. [addition] in a plea of —; which plea the said C. D. hath commenced against you, to be heard and tried at the said Court; and your goods or estate are attached to the value of — dollars, for security to satisfy the judgment which the said C. D. may recover upon the aforesaid trial. Fail not of appearance at your peril. Witness, E. H. Esq. at B. the — day of —, in the year of our Lord —.

A. D. Clerk.

Execution.

[Execution.]

State of Maine.

SEAL. S— ss. To the Sheriff of our county of S—
or his deputy, Greeting.

Whereas C. L. of R. within our county of S. [addition]

by the consideration of our Justices of our ——— Court of ———, holden at B. for and within our county of S—— aforesaid, on the ——— day of ———, recovered judgment against D. T. of B. in the county of M. [addition] for the sum of ——— dollars and ——— cents debt or damage, and ——— dollars and ——— cents costs of suit as to us appears of record, whereof execution remains to be done: We command you therefore, that of the goods, chattels or lands of the said debtor within your precinct, you cause to be paid and satisfied unto the said creditor at the value thereof in money, the aforesaid sum, being ——— dollars and ——— cents in the whole, with ——— cents more for this writ; and thereof also to satisfy yourself for your own fees. And for want of goods, chattels or lands of the said debtor to be by him shewn unto you, or found within your precinct, to the acceptance of the said creditor to satisfy the sums aforesaid, we command you to take the body of the said debtor, and him commit unto our gaol in B. in our county of S. aforesaid, and detain in your custody within our said gaol, until he pay the full sums above mentioned with your fees, or that he be discharged by the said creditor, or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein, [here insert the time and place of return as by law prescribed.] Witness, E. H. Esq. at B. the ——— day of ——— in the year of our Lord

A. D. Clerk.

SEC. 2. *Be it further enacted*, That the writ for putting such into possession of any land or tenements as shall recover judgment for the same, and for levying the costs and damages recovered upon such suit, commonly called a writ of *facias habere possessionem*, and writ of *fieri facias*; as also the writ of *scire facias*, to be issued out of the Supreme Judicial Court, or Circuit Court of Common Pleas, respectively, shall be from time to time granted and issued in the form following, that is to say;

[Writ of *Facias Habere Possessionem*, and *Fieri Facias*.]

State of Maine,

Hab. facias
pos.

SEAL, S—— ss. To the Sheriff of our county of S——,
or his deputy,

Greeting.

Whereas A. B. of C. [addition] before our Justices of

our ——— Court of ———, holden for or within our county of S. aforesaid, at B. upon the ——— day of ———, by the consideration of our said Court, recovered judgment for his title and possession of and in a certain messuage or tenement, with the appertences, or ——— acres of land, with the appertences and privileges, lying and being in the town of D. against E. F. of G. [addition] who had unjustly withheld, put out or removed the said A. B. from his possession thereof; and also at the said Court recovered judgment for ——— dollars and ——— cents for costs and damages, which he sustained by reason of the same, as to us hath been made to appear of record: We command you therefore that without delay, you cause the said A. B. to have possession of and in the said messuage or tenement, or the said ——— acres of land, with the appertences and privileges: We also command you that of the goods, chattels or lands of the said debtor, within your precinct, at the value thereof in money, you cause the said creditor to be paid and satisfied the aforesaid sum of ——— dollars and ——— cents, which to the said creditor was adjudged for his costs and damages with ——— cents more for this writ, and thereof also to satisfy yourself for your own fees: and for want of such goods, chattels or lands of the said debtor; to be by him shewn unto you or found within your precinct, to the acceptance of the said creditor to satisfy the aforesaid sum: We command you to take the body of the said debtor, and him commit unto our gaol in B. in our county of S—— aforesaid, and detain in your custody within our said gaol, until he pay the full sum abovementioned with your fees: or that he be discharged by the said creditor or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein. [here insert the time and place of return as prescribed by law.] Witness, E. H. Esq. at B. the ——— day of ——— in the year of our Lord ———

A. D. Clerk.

[Writ of Scire Facias.]

State of Maine.

Scire facias.

SEAL. S—— ss. To the Sheriff of our county of S——
or his deputy, Greeting,
Whereas C. D. of B. [addition] before our Justices of

our — Court of — holden for or within our said county of S. at B. on the — day of —, in the year of our Lord —, by the consideration of our said Justices, recovered against A. B. of E. [addition] the sum of — dollars and — cents, debt or damage; and also — dollars and — cents for costs and charges by him about his suit in that behalf expended; whereof the said A. B. is convict, as to us appears of record; and although judgment be thereof rendered, yet the execution for the said debt or damage and costs doth yet remain to be made; whereof the said C. D. hath made application to us to provide remedy for him in that behalf: Now to the end that justice be done, we command you, that you make known unto the said A. B. that he be before our Justices of our said — Court of — to be holden within or for our said county of S. at B. on the — day of — to show cause (if any he have) wherefore the said C. D. ought not to have his execution against him the said A. B. for his debt or damage and costs aforesaid; and further to do and receive that which our said Court shall then consider; and there and then have you this writ, with your doings therein. Herein fail not. Witness, E. H. Esq. at B. the — day of — in the year of our Lord —.

A. D. Clerk.

SEC. 3. *Be it further enacted*, That the several forms of writs and process here under written, shall be, and hereby are established to be the forms to be granted and used in civil causes triable before a Justice of the Peace, that is to say,

[Summons for appearance.]

SEAL. S — ss. To the Sheriff of the said county of S —, or either of his deputies, or the Constables of the towns within the said county, or to any or either of them,

Greeting.

In the name of the State of Maine, you are required to summon and give notice unto T. P. of B. aforesaid, [addition] if he may be found in your precinct that he appear before me J. D. Esq. one of the Justices of the Peace for the county aforesaid, at my dwelling house in B. on — the — day of — at — of the clock in the — noon; then and there to answer to E. L. of M. [addition] in a plea of —, to the damage of the said E. L. (as he saith) the sum of

Summons for appearance.

—, as shall then and there appear, with other due damages. And of this writ, with your doings therein, you are to make true return unto myself, at or before the said — day of —. Dated at B. aforesaid, the — day of — in the year of our Lord —.

J. D.

[Capias, or Attachment.]

SEAL. S— ss. To the Sheriff of the said county of S— or either of his deputies, or the Constables of the town of B. within the said county, or to any or either of them,

Greeting.

Capias or attachment.

In the name of the State of Maine, you are required to attach the goods or estate of T. P. of B. aforesaid [addition] to the value of —; and for want thereof, to take the body of the said T. P. (if he may be found in your precinct) and him safely keep, so that he may be had before me J. D. Esq. one of the Justices of the Peace for the county aforesaid, at my dwelling house in B. on —, the — day of — at — of the clock in the — noon; then and there to answer to E. L. of M. [addition] in a plea of —; to the damage of the said E. L. (as he saith) the sum of —, as shall then and there appear, with other due damages. Hereof fail not, and make due return of this writ, and of your doings therein, unto myself, at or before the said — day of —. Dated at B. aforesaid, the — day of — in the year of our Lord —.

J. D.

[Summons when Goods are attached.]

SEAL. S— ss. To T. P. of D. in the county of S— [addition]

Greeting.

Summons when goods are attached.

In the name of the State of Maine, you are commanded to appear before me J. D. Esq. one of the Justices of the Peace for the County aforesaid, at my dwelling house in B. on —, the — day of —, at — of the clock in the — noon, to answer unto E. L. of M. [addition] in a plea of —; which plea the said E. L. hath commenced to be heard and tried before me; and your goods or estate are attached to the value of — for security to satisfy the judgment which the said E. L. may recover upon the aforesaid trial. Fail not of appearance at your peril. Dated at B. aforesaid, the — day of —, in the year of our Lord — J. D.

[Execution.]

SEAL. S—— ss. To the Sheriff of our said county of S——, or either of his deputies, or the Constables of the towns within our said county, or any or either of them, Execution.

Greeting.

Whereas E. L. of M. [addition] on the —— day of ——, before J. D. Esq. one of our Justices of the Peace for our county aforesaid, recovered judgment against T. P. of B. [addition] for the sum of —— debt or damage, and —— dollars and —— cents for charges of suit, as to us appears of record, whereof execution remains to be done; We command you, therefore that of the money of the said debtor, or of his goods or chattels within your precinct, at the value thereof in money, you cause to be levied paid and satisfied unto the said creditor the aforesaid sums, being —— dollars and —— cents, in the whole; and also that out of the money goods or chattels of the said debtor, you levy —— more for this writ, together with your own fees.—And for want of such money, goods or chattels of the said debtor, to be by him shown unto you, or found within your precinct, to the acceptance of the said creditor for satisfying the aforesaid sums. We command you to take the body of the said debtor, and him commit unto our gaol in B. and we command the keeper thereof accordingly to receive the said debtor into our said gaol, and him safely keep until he pay the full sums above mentioned, with your fees, or that he be discharged by the said creditor, or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein unto our said Justice, within sixty days next coming. Witness, our said Justice at B. the —— day of —— in the year of our Lord —— J. D.

SEC. 4. *Be it further enacted*, That the form of the writ of scire facias aforesaid shall be the form of a writ of scire facias upon a judgment recovered before a Justice of the Peace, mutatis mutandis.

SEC. 5. *Be it further enacted*, That the writ of dower, and the writ of seizin of dower, shall be sued out in the forms following, to wit:

[Form of Writ of Dower.]

State of Maine.

SEAL. S— ss. To the Sheriff of our County of S—
or his deputy, Greeting.

Writ of dower.

We command you that you summon — of — in our said county of S—, if — may be found in your precinct, to appear before our Justices of our Circuit Court of Common Pleas next to be holden at — within and for our said county of S—, upon the — day in — next; then and there in our said court to answer unto — of —, in a plea of dower, for that [here the declaration]; to the damage of the said — as — saith the sum of — dollars, as shall then and there appear. Witness, T. N. Esq. at B—, the — day of — in the year of our Lord —

L. M. Clerk.

[Form of the Writ of Seizin of Dower.]

State of Maine.

SEAL. S— ss. To the Sheriff of our said county of S— or his deputy, Greeting.

Writ of seizin of dower.

Whereas — who was the wife of E. D. late of B— in the county aforesaid, [addition] deceased, before our Justices of our — Court of — holden at B— for our County aforesaid, on the — day of — now last past, did recover seizin against A. B. of B— aforesaid [addition] of one third part of a certain messuage or tenement, with the appertences, situate in B— aforesaid, in the possession of the said A. B. [addition] as her dower of the endowment of the said E. D. her certain husband, by our writ of dower, whereof she hath nothing: therefore we command you, that to the said — full seizin of one third part of the aforesaid messuage or tenement with the appertences, you cause to be had without delay, to hold to — in severalty by metes and bounds. We command you also, that of the goods or chattels of the said A. B. within your precinct, you cause to be paid and satisfied unto the said — at the value thereof in money, the sum of — for damages awarded her by our said Court for her being held and kept out of her dower aforesaid, and costs expended on this suit, with — cents more for this writ; and thereof also to satisfy yourself your own fees; and for want of goods

or chattels of the said A. B. to be by him shown unto or found within your precinct to satisfy the same, we command you to take his body, and to commit him to the keeper of our gaol in B— in our county aforesaid, within the said prison, whom we likewise command to receive the said A. B. and him safely to keep until he pay unto the said — the full sum above mentioned, and also satisfy your fees. Hereof fail not, and make return of this writ, and how you shall have executed the same to [here insert the time and place of return as prescribed by law.] Witness, E. H. Esq. at B. the — day of — in the year of our Lord — Clerk.

SEC. 6. *Be it further enacted*, That the trustee writs of attachment and execution shall be sued out in the forms following, to wit:

Trustee writs.

[Form of Trustee Writ of Attachment.]

State of Maine.

SEAL. S— ss. To the Sheriff of our county of —, or to either of his deputies,

Greeting.

We command you to attach the goods and estate of A. B. of C. within our county of D. [addition] to the value of — dollars, and summons the said A. B. (if he may be found in your precinct) to appear before our Justices of our Circuit Court of Common Pleas next to be holden at — within and for our county of — on the day of — then and there in our said Court, to answer unto E. F. of G. within our county of H. [addition] in a plea of —, to the damage of the said E. F. as he saith the sum of — dollars, which shall then and there be made to appear, with other due damages: and whereas the said E. F. saith that the said A. B. has not in his own hands and possession, goods and estate to the value of — dollars, aforesaid, which can be come at, to be attached, but has intrusted to, and deposited in the hands and possession of J. K. of —, [addition] trustee of the said A. B. goods, effects and credits, to the said value; We command you therefore, that you summon the said J. K. if he may be found in your precinct to appear before our Justices of our said Court to be holden as aforesaid, to show cause (if any he have) why execution to be issued upon such judgment as the said E. F. may recover against the said A. B. in this action (if any) should not issue against his goods, effects or credits in the hands

Trustee writ
of attachment.

and possession of him the said J. K. ; and have you there this writ, with your doings therein. Witness, L. M. Esq. at — the — day of — in the year of our Lord one thousand eight hundred and — N. O. Clerk.

[Form of Trustee Execution.]

State of Maine.

SEAL. S — ss. To the Sheriff of our county of —, or his deputy, Greeting.

Trustee Execution.

Whereas D. S. of R. within our county of S. [addition] by the consideration of our Justices of our Circuit Court of Common Pleas holden at —, within and for our county of — aforesaid, on the — day of — recovered judgment against R. F. of — in the county of — [addition] aforesaid, for the sum of — debt or damage (as the case may be) and — costs of suit ; and whereas by the consideration of the same Court, execution was likewise awarded for the same sums against the goods, effects and credits of the said R. F. in the hands and possession of A. B. of — [addition] and C. D. of — [addition] Trustees of the said debt, as to us appears of record, whereof execution remains to be done: We command you, therefore, that of the goods, chattels, or lands of the said debtor in his own hands and possession, and of the goods, effects and credits of the said debtor in the hands and possession of the said Trustees, jointly and severally, you cause to be paid and satisfied unto the said creditor, at the value thereof in money, the aforesaid sums, being — in the whole, with — more for this writ ; and thereof also to satisfy yourself for your own fees ; and for want of goods, chattels or lands of the said debtor, in his own hands and possession, to be by him shown unto you, or found in your precinct, to the acceptance of the said creditor ; and for want of goods, effects and credits of the said debtor in the hands and possession of the said Trustees, to be by them discovered and exposed to you, to satisfy the several sums aforesaid, with your own fees: We command you that you take the body of the said debtor, and him commit unto our gaol in — in our county of — aforesaid, and detain in your custody, within our said gaol, until he pay the full sums aforementioned, with your fees, or that he be discharged by the said creditor or other-

wise by order of law. Hereof fail not, and make return of this writ with your doings therein, [here insert the time and place of return as by law prescribed.] Witness W. C. Esq. at — the — day of —, in the year of our Lord ———.

J. S. Clerk.

SEC. 7. *Be it further enacted*, That in proceedings in audita querela the writ of attachment and summons thereon, shall be in form following, to wit :

[Form of Writ of Attachment in Audita Querela.]

State of Maine.

SEAL. — ss. To the Sheriff of our county of —, or his deputy, Greeting.

We command you to attach the goods or estate of A. B. of — to the value of — dollars, and for want thereof to take the body of the said A. B. if he may be found in your precinct, and him safely keep so that you have him before our Justices of our — Court — next to be holden at — within and for our county of — on the — day of — then and there in our said Court to answer unto the grievous complaint of C. D. of —, who complaineth and saith [here let the declaration be inserted] by all which the said C. D. as he saith is damaged the sum of — dollars, as shall then and there be made to appear. And have you there this writ, with your doings therein. Witness, W. C. Esquire, at —, this — day of —, in the year of our Lord ———.

Writ of attachment in audita querela.

A. H. Clerk.

[Form of Summons in Audita Querela.]

State of Maine.

SEAL. — ss. To A. B. of — Greeting.

We command you that you appear at our — Court — next to be holden at —, within and for our county of —, on the — day of —, then and there to answer to the grievous complaint of C. D. of — [here recite an abstract of the declaration] which complaint is to be heard and tried at the said Court; and your goods or estate are attached to the value of — dollars to satisfy the judgment which the said C. D. may recover upon the aforesaid trial. Fail not of appearance at your peril. Witness, W. C. Esquire at — the — day of — in the year of our Lord ———.

Summons in audita querela.

A. H. Clerk.

SEC. 8. *Be it further enacted,* That where the writ of audita querela shall be issued, in the form of a writ of summons, the form thereof may be as followeth:

State of Maine.

SEAL. — ss. To the Sheriff of our county of —
or his deputy, Greeting.

Audita querela
in form of sum-
mons.

We command you that you summon A. B. of —, if he may be found in your precinct, to appear before our Justices of our Court — next to be holden at — within and for our county of — on the — day of — then and there in our said Court to answer to the grievous complaint of C. D. of — who complaineth and saith [here let the declaration be inserted]; by all which the said C. D. as he saith, is damaged the sum of — dollars as shall then and there be made to appear. And have you there this writ with your doings therein. Witness, W. C. Esquire, at — this — day of — in the year of our Lord —.

A. H. Clerk.

SEC. 9. *Be it further enacted,* That in all proceedings in replevin, the writs in the following cases shall be in form following, to wit:

[Form of a Writ of Replevin for liberation of Cattle Impounded.]

State of Maine.

L. S. S — ss. To the Sheriff of our county of S —, or his deputy, or to either of the Constables of the town of B. in the said county, Greeting.

Writs of re-
plevin for cat-
tle impound-
ed.

We command you that you replevy [here insert a description of the beast or beasts impounded] belonging to P. D. of B. [addition] now distrained or impounded by S. P. of B. [addition] in the common pound in said B. (or in such other place as they may be restrained) and them deliver unto the said P. D. Provided, the same are not taken and detained upon mesne process, warrant of distress, or upon execution, as the property of the said P. D. and summon the said S. P. to appear before J. S. one of our Justices of the Peace for our said county of S. at his dwelling house in B. on the — day of — at — of the clock in the — noon, to answer unto the said P. D. in a plea of replevin, for that the said S. P. on the — day of — at a place called A. in B. afore-

said, unlawfully took and impounded the said —, and the same unjustly detained to this day, to the damage of the said P. D. as he saith the sum of — dollars, as shall then and there appear, with other due damages: Provided, he the said P. D. shall give bond, with sufficient surety or sureties to the said S. P. in the sum of —, being double the value of the said beasts, to prosecute his said replevin to final judgment, and to pay such damages and costs as the said S. P. shall recover against him, and also to return the said —, in case such shall be the final judgment. And of this writ with your doings hereon, and the bond you shall take, you are to make return to our said Justice on or before the said — day of — at — o'clock. Witness, J. S. our said Justice, at B. in the said county, this — day of — Anno Domini —.

J. S.

[Form of a Writ of Replevin for goods or chattels taken, distrained or attached, which are claimed by a third person, when of the value of more than twenty dollars.]

State of Maine.

L. s. S— ss. To the Sheriff of our county of S—, or his deputy, Greeting.

[Or if the Sheriff or his deputy are defendants, then it may be directed to a Coroner.]

We command you that you replevy the goods and chattels following, viz. [here enumerate and particularly describe them] belonging to P. D. of B. [addition] now taken, detained or attached (as the case may be) by S. P. of B. [addition] at — in B. aforesaid, and them deliver unto the said P. D. Provided, the same are not taken and detained upon mesne process, warrant of distress, or upon execution, as the property of the said P. D. and summon the said S. P. that he appear before our Justices of our Circuit Court of Common Pleas, next to be holden at B. within and for our county of S— on the — day of — to answer unto the said P. D. in a plea of replevin, for that the said S. P. on the — day of — at said B. unlawfully, and without any justifiable cause, took the goods and chattels of the said P. D. as aforesaid, and them unlawfully detained to this day, to the damage of the said P. D. as he says, the sum of — dollars: Provided, he the said P. D. shall give

Writ of replevin for goods taken, &c.

bond to the said S. P. with sufficient surety or sureties in the sum of — dollars, being twice the value of the said goods and chattels, to prosecute the said replevin to final judgment, and to pay such damages and costs as the said S. P. shall recover against him; and also to return and restore the same goods and chattels, in like good order and condition as when taken, in case such shall be the final judgment; and have you there this writ, with your doings herein, together with the bond you shall take. Witness, S. N. Esq. at B. this — day of — Anno Domini —.

E. P. Clerk.

[Form of Writ of Restitution on Judgment rendered before a Justice of the Peace.]

State of Maine.

L. s. S — ss. To the Sheriff of our county of S —, or his deputy, Greeting.

Writ of restitution from a Justice of Peace.

Whereas P. D. of B. in our county of S. [addition] lately replevied the beasts following: [Here insert such description of them as they had in the writ of replevin] which S. P. of B. in our county of S — [addition] had unlawfully taken and unjustly detained, as the said P. D. suggested, and caused the said S. P. to be summoned before J. S. one of our Justices of the Peace, for our said county of S. to answer unto the said P. D. for such supposed unlawful taking and detaining, at a day now passed: and whereas upon the — day of — at B. aforesaid, upon a hearing of the cause of taking and detaining the said beasts, before our said Justice, it appeared that the same taking and detaining was lawful and justifiable; Whereupon it was then and there considered, that the same beasts be returned, and restored to the said S. P. irrepleviable, and that the said S. P. recover against the said P. D. the sum of — damages, for his taking the same by the said process of replevin, and the further sum of — for his costs, arisen in the defence of the said suit, as by the record of our said Justice, before him remaining to us appears; whereof execution remains to be done: We command you therefore, that you forthwith return and restore the same beasts unto the said S. P. And also that of the money of the said P. D. or of his goods or chattels within your precinct, at the value thereof in money

you cause to be levied, paid and satisfied unto the said creditor the aforesaid sums, being — in the whole, with — cents more for this writ, together with your own fees; and for want of such money, goods or chattels of the said debtor to be by him shown unto you or found within your precinct, to the acceptance of the said creditor for satisfying the aforesaid sums; We command you to take the body of the said debtor, and him commit unto our gaol in B. and we command the keeper thereof accordingly, to receive the said debtor into our said gaol, and him safely to keep, until he pay the full sums above mentioned, with your fees, or that he be discharged by the said creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming. Witness our said Justice at B. the — day of — in the year of our Lord —. J. S.

[Form of Writ of Withernam.]

State of Maine.

L. s. S— ss. To the Sheriff of our county of S—, or his deputy, Greeting.

Whereas P. D. of B. in our county of S. [addition] Withernam. lately replevied the beasts following, viz. [here insert such description of them as they had in the writ of replevin] and which were at the time of the replevy, of the value of — which S. P. of B. aforesaid had unlawfully taken and detained, as the said P. D. suggested, and caused the said S. P. to be summoned before J. S. one of our Justices of the Peace, for our said county of S. to answer unto the said P. D. for such supposed unlawful taking and detaining, at a day now passed; and whereas upon the — day of — at B. aforesaid, upon a hearing of the cause of taking and detaining the said beasts, by our said Justice, it was determined, that the same taking and detaining, was lawful and justifiable: Whereupon it was then and there considered, that the beasts be returned and restored to the said S. P. irrepleviable, and for his damages and costs; and afterwards on the — day of — our writ of return and restitution issued, in due form of law, directed to the Sheriff of our said county of S. or his deputy, to return the same accordingly: which writ of return and restitution was delivered to C. D.

to execute accordingly; who on the — day of — returned thereon, [here insert the return made by the officer, of his inability to return the beast.] And we being desirous that the said P. D. should not, by his false suggestions and pretensions any longer detain the beasts so by him replevied as aforesaid, command you forthwith to take the beasts of the said P. D. of like kind and value, if any he hath to be found in your precinct, in withernam, and in default thereof any other of his goods and chattels to the full value, in withernam, and them deliver unto the said S. P. to be by him kept, used and improved, until the said P. D. shall restore him the beasts he took from him, by our writ of replevin, as aforesaid; and also that of the money of the said P. D. or of his goods or chattels to be found within your precinct, at the value thereof in money, you cause to be paid and satisfied unto the said S. P. — for this writ together with your own fees for executing the same. Hereof fail not, and make return of this writ, with your doings herein, unto our said Justice, within sixty days next coming. Witness, our said Justice at B. the — day of — in the year of our Lord ———. J. S.

SEC. 10. *Be it further enacted,* That the form of the writ for the replevying of a person, and of original and alias writs of Withernam shall be as follows, to wit:

[Replevying a person.]

[Form of the original Writ where any person stands committed by lawful authority.]

State of Maine.

L. s. S—— ss. To the Sheriff of our county of S——,
Greeting.

Writ for replevying a person lawfully committed.

We command you, that justly and without delay, you cause to be replevied C. D. who (as it is said) is taken and detained in our gaol in N. within our said County of S. by the commitment of A. B. that he the said C. D. may be at our Supreme Judicial Court, next to be holden at — within our county aforesaid, upon the — day of — next, then and there in our said Court to answer to all such things as shall be then and there objected against him, more especially for the offence for which he stands committed, unless, while the writ of habeas corpus is suspended by

the Legislature, he stands committed by the Supreme Executive Power of the State, as dangerous to the public safety, or by the same or some subordinate authority of the government, for treason, the death of man, counterfeiting the common currency, house burning, burglary, robbery or some other offence whereof if he is convicted, he may suffer death or banishment; or unless he is holden under execution upon judgment for debt, forfeiture or in withernam, or by distress for taxes, or under sentence after conviction, for fine, or costs, or in punishment. Witness, W. C. Esq. at — the — day of — in the year our Lord —.

L. M. Clerk.

And where the plaintiff is held without order of law, the writ shall be in form following, viz.

State of Maine.

L. S. S — ss. To the Sheriff of our county of S —,
Greeting.

We command you that justly and without delay you cause to be replevied C. D. who (as it is said) is taken and detained in a place called N. within our said county of S. by the duress of G. H. that he the said C. D. may appear at our Circuit Court of Common Pleas, next to be holden at — within and for our said county of S. upon the — day of — next, then and there in our said Court to demand right and justice against the said G. H. for the duress and imprisonment aforesaid, and to prosecute his replevin as the law directs: Provided, that if he, the said C. D. is held by the said G. H. as his ward, infant, or one to whose service he is entitled, or as a principal to whom the said G. H. is bail, and he shall make you secure by good and lawful mainpernors for his appearing at our Court aforesaid to prosecute his replevin against the said G. H. and to have his body at the same Court, ready to be re-delivered if ordered thereunto, and to pay all such damages and costs, as shall be then and there awarded against him; then and not otherwise you are to deliver him; and if the said C. D. is by you delivered at any day before the sitting of our said Court, you are to summon the said G. H. by serving him with an attested copy of this writ, that he may appear at our said Court, to answer unto the said C. D. upon his replevin. Wit-

Writ for replevying a person committed without order of Law.

ness, T. N. Esq. at B. the — day of — in the year of
our Lord —. X. Y. Clerk.

[Original Writ of Withernam.]

State of Maine.

L. S. S — ss. To the Sheriff of our county of
S —, Greeting.

Whereas we have heretofore, by our writ for replevying a person, commanded you that justly and without delay [here the original writ for replevying a person shall be recited] and you having returned thereupon [here the Sheriff's return shall be recited]. We therefore command you that without delay you take the body of the said G. H. if he may be found in your precinct, and him safely keep, so that he may be at our Circuit Court of Common Pleas, next to be holden at — within and for our said county of S. on the — day of — next, then and there in our said Court to traverse the return aforesaid upon our original writ for replevying a person, and that if he shall be found guilty of the elongation of the said C. D. he may be held by our alias writ of withernam, until he shall produce the body of the said C. D. that he may be delivered as the law directs. Witness, T. N. Esq. at B. the — day of — in the year of our Lord —. X. Y. Clerk.

And the alias Writ of Withernam shall be in form following, viz.

State of Maine.

L. S. S — ss. To the Sheriff of our county of S —,
Greeting.

Withernam.

Whereas we commanded you, by our original writ for the replevying of a person that [here the original writ for replevying a person shall be recited] upon which writs return was made, that [here the return shall be recited] whereupon our writ of withernam was duly issued commanding you that [here the writ of withernam shall be recited] and at our said Court the said G. H. [here all the consequent proceedings shall be recited] whereupon it was considered and adjudged by our said Court, that the body of the said G. H. should be taken and held, until he shall produce the body of the said C. D. and until he shall pay the sum of — taxed in costs against him. We therefore command you, that you take the body of the said G. H. into your custody,

and him there to hold irrepleviably in one of our gaols in our said county of S— until he shall produce the body of the said C. D. or is discharged by order of law. Witness, — Esq. at B. the — day of — in the year of our Lord —. Clerk.

SEC. 11. *Be it further enacted*, That in all civil causes, pending in any Court, the subpœna to witnesses shall be in the form following, to wit :

[Subpœna for Witnesses.]

S— ss. To A. B. of C. [addition] Greeting.

You are hereby required in the name of the State of Maine, to make your appearance before the Justices of the — next to be holden at B. within and for the county of S. on the — day of — to give evidence of what you know relating to an action or plea of — then and there to be heard and tried betwixt A. B. of C. [addition] plaintiff, and D. E. of E. [addition] defendant. Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided. Dated at B. the — day of —, in the year of our Lord —.

Subpœna for witnesses.

A. D. Clerk.

SEC. 12. *Be it further enacted*, That in all proceedings in forcible entry and detainer, the warrant to summon a jury, the summons to the party complained against, and the writ of restitution shall be in the forms following, to wit :

[Forcible Entry and Detainer.]

[Form of Warrant to Sheriff to summon a Jury.]

State of Maine.

I. s. S— ss. To the Sheriff of the county of S—, Greeting.

Whereas complaint is made to us the subscribers, two of the Justices of the Peace for and within the county of S. quorum unus, by A. B. of D. in the same county, gentleman, that E. F. of — yeoman, upon the — day of — at D. aforesaid, with force and arms, and with a strong hand, did unlawfully and forcibly enter into and upon a tract of land of him the said A. B. at D. aforesaid, containing — acres bounded as follows, viz. (or into the messuage or tenement of him the said A. B. as the case may be) and him the said A. B. with force and a strong hand as aforesaid, did

Form of warrant to summon a Jury in forcible entry and detainer.

expel and unlawfully put out of the possession of the same, [or if it is a forcible detainer only, then the entry shall be described and the detainer inserted as follows:] and him the said A. B. does unlawfully, unjustly, and with a strong hand, deforce and still keep out of the possession of the same. You are therefore commanded in behalf of the said State, to cause to come before us upon the — day of — at —, in the said county twelve good and lawful men of our county each one of whom having a freehold of the yearly value of five dollars to be empannelled and sworn to inquire into the forcible entry and detainer (or the detainer) afore described. Given under our hands and seals the — day of — in the year of our Lord —.

R. S. } Justices of the Peace,
N. O. } quorum unus.

[Forcible Entry and Detainer.]

[Form of Summons to the party complained against.]
State of Maine.

L. S. S— ss. To the Sheriff of our county of S—,
Greeting.

Summons to
the party com-
plained
against.

We command you that you summon E. F. of — to appear before the subscribers, two of our Justices of the Peace, within and for our said county of S— quorum unus, at a place called — in D— in the said county, at — o'clock in the —noon, then and there to answer to, and defend against the complaint of A. B. to them exhibited, wherein he complains that [here the complaint shall be recited] and you are to make a return of this writ, with your doings therein unto our said Justices, upon or before the said day. Witnesses, our said Justices, the — day of — in the year of our Lord —.

N. O.

[Forcible Entry and Detainer.]

R. S.

[Form of Writ of Restitution.]

State of Maine.

L. S. S— ss. To the Sheriff of our county of S—,
Greeting.

Writ of resti-
tution.

Whereas at a Court of Inquiry of forcible entry and detainer, held at D. in our county of S. upon the — day of — in year of our Lord —, before R. S. and N. O. Esquires, two Justices of the Peace for our said county of S. quorum unus, the Jurors empannelled

and sworn by our said Justices, did return their verdict in writing signed by each of them, that A. B. was upon the ——— day of ——— in the rightful possession of a certain messuage or tract of land [as in the verdict returned] and that &c. [as in the verdict] whereupon it was considered by our said Justices, that the said A. B. should have restitution of the same. We therefore command you, that taking with you the force of the county, if necessary, you cause the said E. F. to be forthwith removed from the premises, and the said A. B. to have the peaceable restitution of the same; and also that you levy of the goods, chattels or lands of the said E. F. the sum of ——— being costs taxed against him on the trial aforesaid, together with ——— cents more for this writ and your own fees, and for want of such goods, chattels or lands of the said E. F. by you found, you are commanded to take the body of the said E. F. and him commit to our gaol in L. in our said county of S. there to remain until he shall pay the sum aforesaid, together with all fees arising on the service of this writ, or until he is delivered by order of law, and make return of this writ, with your doings therein, within twenty days next coming. Witness, our said Justices, at D. aforesaid, the ——— day of ——— in the year of our Lord———.

R. S.
N. O.

[Approved March 19, 1821.]

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CHAPTER LXIV.

An Act directing the Process in Habeas Corpus.

Whereas the writ commonly called the Writ of Habeas Corpus is a writ of right to which the citizens of this State, by the constitution and the law of the land are at all times entitled, to obtain relief from every wrongful imprisonment, or unlawful restraint of personal liberty: Preamble.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That any person imprisoned in any common gaol, or otherwise restrained of his personal liberty by any officer or officers, or any other person or persons for any cause or upon any pretence whatever, he, or any person in his behalf, may complain, in writing,

Who are entitled to writ of habeas corpus, and mode of applying for it.