

MAINE STATE LEGISLATURE

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FIFTH REVISION.

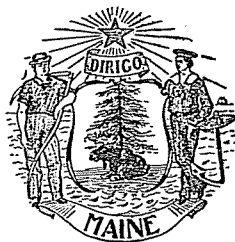
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
KENNEBEC JOURNAL PRINT,
1904.

CHAP. 102.

a witness.
R. S., c. 99, § 37.

Habeas corpus may issue, on application in behalf of insane person.
R. S., c. 99, § 38.

or to testify as a witness, when his personal attendance is deemed necessary for the attainment of justice.

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.

CHAPTER 102.

WRIT OF AUDITA QUERELA.

Form of writ.
R. S., c. 100, § 1.

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.

In what court and county it shall be sued out.
R. S., c. 100, § 2.
59 Me., 567.
62 Me., 13.

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.

Proceedings.
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 damages.
R. S., c. 100, § 4.
24 Me., 306.

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.

Pleadings, and filing exceptions.
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 surrender 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 shall be there detained until discharged according to law.