

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE  
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vexation; or to accumulate costs, it shall, at any time, on motion, be abated, with costs to the defendant.

See c. 100, § 172.

#### Proceedings When Demand Against Trustee Has Been Assigned

**Sec. 86. Demands assigned as security, may be trustee and redeemed.** R. S. c. 100, § 86. When it appears that a person summoned as trustee is indebted to the principal defendant on any demand on which he might be held as trustee, but that it has been conditionally assigned as security, and the principal defendant has a subsisting right to redeem it, the court may order that on fulfilment of such conditions by the plaintiff, within the time fixed by the court, and while the right to redeem exists, the trustee shall be held for the full amount of such demand; and when the court is satisfied that its order has been complied with, it may charge the trustee accordingly.

**Sec. 87. Plaintiff's rights, in case of redemption.** R. S. c. 100, § 87. The officer making demand on the trustee upon the execution shall first deduct from the amount received by him the sum paid by the plaintiff to redeem, if any, with interest, and shall apply the balance on the execution; but, if the demand has been redeemed otherwise than by the payment of money, the plaintiff shall be subrogated for the holder thereof, and have the same rights and remedies against the principal defendant, and may enforce them, at his own expense, in the name of such holder or otherwise.

See c. 99, § 82, re proceedings to dissolve attachment on trustee process by application to court; c. 99, § 84, re by bond properly approved; c. 100, § 156, re costs taxable for trustee; 60 Me. 173.

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## CHAPTER 102.

### BAIL IN CIVIL ACTIONS.

**Sec. 1. Bail-bond; its form; to be returned with writ.** R. S. c. 99, § 1. When bail is taken on mesne process, it shall be by bond to the sheriff, if taken by him or his deputy, otherwise to the officer making the arrest, with condition that the defendant will appear and answer to the suit, and abide final judgment thereon and not avoid. The bond shall be returned with the writ, and the clerk shall note on the writ that a bail-bond is so filed.

1 Me. 336; 4 Me. 13; 8 Me. 423; 40 Me. 125; 76 Me. 265; 96 Me. 436; 129 Me. 123.

**Sec. 2. Number of sureties.** R. S. c. 99, § 2. No officer is obligated to accept a bail-bond unless signed by at least 2 sureties, having sufficient property in the county in which the principal is arrested or held in custody; and if he takes a bail-bond with only 1 surety, he is liable to the plaintiff for any deficiency thereof.

2 Me. 48.

**Sec. 3. When obligors are held.** R. S. c. 99, § 3. A bail-bond binds the obligors although signed by only 1 surety, or when signed by two or more sureties, when all or any of them had not sufficient property in the county.

**Sec. 4. Surrender of principal before entry; proceedings and effect.** R. S. c. 99, § 4. Any bail may, before the action is entered, exonerate himself from all liability, by surrendering his principal to the jail in the county where the arrest was made or in the county where the writ is returnable, and within 15 days thereafter, leaving with the jailer an attested copy of the writ or process whereby the arrest was made, of the return indorsed thereon, and of the bail-bond; and notifying, in writing, the plaintiff or his attorney of the time and place of the commitment; and the jailer shall receive him into custody as if committed by the officer making the arrest.

2 Me. 383; 76 Me. 266.

**Sec. 5. Names of bail to be entered on execution.** R. S. c. 99, § 5. If judgment is rendered against the principal in the action in which the bail is taken, the clerk of the court or trial justice issuing the execution on the judgment shall insert, on the margin thereof, the names of the bail, their addition, and places of abode, if inserted in the bail-bond; and if the debtor is committed to jail, the clerk or justice shall note in like manner the jail to which he is committed.

4 Me. 13; 76 Me. 266.

**Sec. 6. Officer to notify bail; his fees must be paid.** R. S. c. 99, § 6. The officer holding the execution shall, 15 days at least before its expiration, whether the debtor has given bail to the arresting officer or the jailer, notify each of the bail personally, or by leaving a notice in writing, by him signed, at the bail's usual place of abode, if in the officer's county, certifying that he cannot find the principal debtor, or property wherewith to satisfy the execution, for which he may demand and receive of the bail the usual fee for service of a writ, and for travel, and shall minute in said notice the amount of the fees, which the bail shall pay in 20 days, unless, 1 day at least before the execution is returnable, the bail produce and deliver to the officer the principal debtor.

See c. 79, § 166, re fees; 7 Me. 81; 129 Me. 123.

**Sec. 7. Surrender of principal in court.** R. S. c. 99, § 7. If the bail do not surrender the principal as aforesaid, they may, at any time before final judgment in the original suit, bring him into court where the action is pending, and deliver him into the custody thereof and be thereby discharged.

19 Me. 412; 20 Me. 481; 76 Me. 266.

**Sec. 8. In case of avoidance, officer's duty; liability of bail.** R. S. c. 99, § 8. In case of the avoidance of the principal, and return on the execution by the officer that he had had it in his hands at least 30 days before its expiration, and that the principal was not found, his bail shall satisfy the judgment with interest thereon from the time when it was rendered, unless they discharge themselves by surrendering the principal before final judgment against them on the writ of scire facias, or by some other sufficient defense.

76 Me. 266.

**Sec. 9. When scire facias against bail may issue.** R. S. c. 99, § 9. When the principal so avoids, and his property cannot be found to satisfy the execution, the original creditor may have a writ of scire facias, in his own name, from the same court, against the bail, in vacation or in term time, to be sued out within 1 year from the rendition of judgment against the principal, and he need not declare on the bail-bond, but may merely allege that the defendants became bail in the original action.

62 Me. 237.

**Sec. 10. Pleadings and defense by bail.** R. S. c. 99, § 10. The bail may plead, jointly or severally, that they never became bail as alleged in the writ, and under that plea may avail themselves of every defense which would avail them in an action of debt on the bond, on the plea that it is not their bond; or may show any special matter of discharge, filing a brief statement thereof as provided by law.

**Sec. 11. Surrender of principal on scire facias; exoneration of bail in civil action after entry of action.** R. S. c. 99, § 11. The bail may surrender the principal in court before final judgment on the scire facias, and on paying all the costs on the scire facias, they shall be discharged; and the principal shall be committed to jail to remain for 15 days; and if the creditor does not, within that time, take him in execution, the sheriff shall discharge him on payment of the legal prison fees.

Any bail may, after the action is entered, and before final judgment in the original suit, exonerate himself from all liability, by surrendering his principal to the jail in the county where the writ is returnable, and within 5 days thereafter leaving with the jailer an attested copy of the writ of process whereby the arrest was made, of the return indorsed thereon, and of the bail-bond, and notifying, in writing, the clerk of the court of the time and place of the commitment; and the jailer shall receive him into custody as if committed by the officer making the arrest.

**Sec. 12. Proceedings, when bail is taken in a justice action.** R. S. c. 99, § 12. When bail is taken on mesne process in an action returnable before a trial justice, and there is a return on the execution issued on the judgment therein, that the principal is not found, the justice may issue a scire facias thereon against the bail, to be served 7 days before the day of trial; and, if no sufficient cause is shown to the contrary, he may render judgment for the debt and costs recovered, with interest thereon from the rendition of judgment, against the principal, and issue execution accordingly, notwithstanding the debt and costs on the original judgment exceed \$20.

**Sec. 13. Surrender of principal before trial justice, proceedings; effect.** R. S. c. 99, § 13. If the bail, at any time before final judgment in the original suit or on scire facias, bring the principal before the justice, and procure the attendance of an officer to receive him, the justice shall make a record of the surrender, and order him into the custody of the officer to be committed to jail, to be proceeded with as mentioned in the preceding sections; and on payment of costs on the scire facias, the bail shall be fully discharged.

**Sec. 14. Officer's fees; duty and liability for neglect.** R. S. c. 99, § 14. The officer shall attend before a justice for such purpose, when requested; and shall be allowed therefor the same fees as for arresting and committing a defendant on mesne process; and for neglect of official duty in such case, he shall be answerable for all damages to the party injured thereby.

**Sec. 15. Surrender in such case, before and after judgment.** R. S. c. 99, § 15. If the principal is surrendered before final judgment in the original suit, the bail shall deliver to the officer a copy of the writ with the return thereon, attested by the justice; but if he is surrendered after such judgment, the bail shall deliver a copy of the entry of surrender, attested by the justice; and in either case, the officer shall deliver the copy to the jailer with the prisoner; which shall

be a sufficient warrant to the officer for receiving and conveying him to jail, and to the jailer for holding him in custody.

71 Me. 406; 77 Me. 24.

**Sec. 16. Remedy of bail against principal.** R. S. c. 99, § 16. Bail may have their remedy against their principal, by an action on the case, for all damages sustained by them by reason of their suretyship.

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## CHAPTER 103.

### SELECTION AND SERVICE OF JURORS.

**Sec. 1. Jury commissioners, appointment.** R. S. c. 120. 1935, c. 90. The chief justice of the supreme judicial court shall appoint in the several counties of the state 2 residents of each county who shall be jury commissioners within and for their respective counties and who shall serve for a term of 4 years from their appointment, subject to earlier removal at the pleasure of the chief justice. It shall be the duty of said jury commissioners to prepare a jury list, summon jurors for attendance at the several terms of the superior court in their respective counties, and to revise said list as often as they may deem it necessary.

**Sec. 2. Preparation of lists of persons qualified to serve as jurors.** R. S. c. 120. 1935, c. 90. The municipal officers of the several cities, towns, and plantations shall, on request, send forthwith to said jury commissioners, in their respective counties, a list of such persons only as are of good moral character, of approved integrity, of sound judgment and well-informed, and qualified as the constitution directs to vote for representatives in such town, with their full names, occupations, and post-office addresses, whom they deem qualified for service as jurors. From the list received or from such persons as may be known personally or by reputation to the commissioners, said commissioners shall select persons, who, in their judgment, are deemed qualified for jury service, and the names of persons finally selected shall be placed on a list kept by said commissioners. A copy of said list shall be deposited with the clerks of courts for their respective counties and shall, at all times during business hours, be open to public inspection.

The list shall contain such a number of names of persons, male and female, qualified for jury service as the commissioners shall deem necessary.

In the selection of persons for jury service due regard shall be given to their mental, moral, and physical fitness. Persons rejected by said commissioners shall not be placed on said jury list for a period of at least 3 years.

The commissioners may add names to such list as often as may be necessary to maintain the number herein provided. They may also drop from the list names of persons who, by reason of age, infirmity, death, or other disability, could not reasonably be expected to serve as jurors if called, and shall drop therefrom names of persons engaged in the unlawful traffic in intoxicating liquors or who are known to be habitually addicted to the use of intoxicating liquors or who have been convicted of any scandalous crime or gross immorality.

**Sec. 3. Selection of jurors.** R. S. c. 120. 1935, c. 90. On receipt of written or verbal notice from the clerk or deputy clerk of courts of their respective coun-