

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# FIFTY-NINTH LEGISLATURE.

---

HOUSE.

No. 20.

---

---

## STATE OF MAINE.

---

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND EIGHTY.

---

---

AN ACT providing for the trials of causes involving the rights of parties to hold public offices.

---

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECTION 1. Any person who shall claim to be  
2 lawfully elected to any state or county office,  
3 within this state, may commence a suit against the  
4 person holding or claiming to hold such office, or  
5 who holds a certificate of his election to such office  
6 from the governor and council, or who has been  
7 declared elected thereto by the governor and coun-  
8 cil, or who has been notified of such election by the  
9 secretary of state, to be commenced by petition  
10 returnable before any justice of the supreme judi-  
11 cial court, in term time or vacation, in the county

12 where either of the parties resides, or where the  
13 duties of such office are to be performed.

SECT. 2. The petition of the claimant shall state  
2 the names and residence of the several parties and  
3 the facts upon which he relies to maintain his suit,  
4 and shall be signed by him and verified by his oath;  
5 such petition shall be filed in the office of the clerk  
6 of courts in the county where it is returnable, and  
7 the time of hearing thereon shall be appointed by  
8 said justice, and indorsed upon said petition. No-  
9 tice of pendency of said suit, and the time and  
10 place of hearing upon said petition, shall be given  
11 the adverse party by giving him in, or leaving at  
12 his last and usual place of abode, a copy of said  
13 petition and order of the court thereon, or in such  
14 other manner as the court shall direct, and such  
15 notice shall be given at least fourteen days before  
16 such hearing. The parties or their counsel shall be  
17 heard upon written or oral testimony, as the justice  
18 shall direct, and if it appears to the said justice  
19 before whom such hearing is had that the petitioner  
20 has been lawfully elected, and is entitled by law to  
21 the office claimed by him, or such adverse party  
22 shall fail to appear, such justice shall render judg-  
23 ment in favor of such petitioner.

SECT. 3. In all cases either party may within ten  
2 days after the rendition of said judgment, enter an  
3 appeal therefrom in the office of the clerk in the  
4 county where said judgment is rendered, which ap-  
5 peal shall briefly set forth the reasons therefor, and  
6 an attested copy of said appeal shall be served upon  
7 the appellee or his attorney within ten days after  
8 the same has been filed in such manner as the jus-  
9 tice shall order. The party taking such appeal  
10 shall cause copies of the petition, pleadings and  
11 testimony upon which such judgment is rendered,  
12 to be approved by the justice before whom the  
13 hearing is had, to be printed and transmitted to the  
14 chief justice within twenty days after such appeal  
15 is taken, together with written arguments thereon.  
16 A copy of such argument shall within said twenty  
17 days be served upon the adverse party, or his at-  
18 torney, who may forward within ten days thereafter  
19 an argument in reply, and thereupon the justices of  
20 said court shall consider said cause immediately,  
21 and decide thereon and transmit their decision to  
22 the clerk of the county where the suit is pending,  
23 and final judgment shall be entered accordingly.

SECT. 4. In all cases where final judgment has  
2 been rendered any justice of said court may issue  
3 an order to the party unlawfully claiming or hold-

ing said office, concerning which the judgment of  
the court has been given, commanding him to yield  
to the officer who has been determined to be law-  
fully entitled thereto, the said office, and all papers  
records, moneys and property connected therewith  
or belonging thereto, and shall have power to en-  
force said order by fine or imprisonment, or both,  
and thereupon said party in whose favor such judg-  
ment is rendered, shall be qualified and enter upon  
the duties of such office, and hold the same until  
the expiration of the term for which he has been  
elected.

SECT. 5. The prevailing party shall recover costs,  
and double or treble costs may be awarded in the  
discretion of the justice.

SECT. 6. This act shall take effect when approved.

---

## STATE OF MAINE.

In HOUSE OF REPRESENTATIVES, }  
February 12, 1880. }

Reported from Judiciary Committee by Mr. McKUSICK, and  
ordered to be printed by joint resolution.

ORAMANDAL SMITH, *Clerk,*