

MAINE STATE LEGISLATURE

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FIFTY-NINTH LEGISLATURE.

SENATE.

No 44.

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, within
3 this state, may commence a suit in the nature of a
4 proceeding in equity, against the person holding or
5 claiming to hold such office, or who holds a certifi-
6 cate of his election to such office from the governor
7 and council, or who has been declared elected there-
8 to by the governor and council, or who has been
9 notified of such election by the secretary of state,
10 to be commenced by petition returnable before any
11 justice of the supreme judicial court, in term time
12 or vacation, in the county where either of the par-
13 ties resides, or where the duties of such office are

14 to be performed, and said supreme judicial court
15 shall have jurisdiction thereof.

SECT. 2. The petition of the claimant shall state
2 the names and residences 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 the 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 hand, or leaving
12 at 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 seven days before
16 such hearing. The parties or their counsel shall be
17 heard upon written or oral testimony, according to
18 the practice in like procedure, and in such manner
19 as the justice shall direct, and if it appears upon
20 such trial or hearing that the petitioner has been
21 lawfully elected, and is entitled by law to the office
22 claimed by him, or such adverse party shall fail to
23 appear, such justice shall render judgment in favor
24 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, find-
11 ings and testimony upon which such judgment is
12 rendered, 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 up to the officer who has been determined to be lawfully entitled thereto, the said office, and all papers, records, moneys and property connected therewith or belonging thereto, and shall have power to enforce said order by fine or imprisonment, or both, and thereupon said party in whose favor such judgment 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 SENATE, February 27, 1880.

Amended as per sheet "A," and on motion of Mr. BRADFORD laid on the table and ordered printed as amended.

C. W. TILDEN, *Secretary.*