

MAINE STATE LEGISLATURE

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SIXTY-FIRST LEGISLATURE.

HOUSE.

No. 54.

STATE OF MAINE.

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

AN ACT to regulate practice in mandamus.

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

SECTION 1. A petition for a writ of mandamus
2 may be presented to a justice of the supreme
3 judicial court in any county in term time or vaca-
4 tion, and such justice may, upon due notice to all
5 parties, hear and determine the same, or may re-
6 serve questions of law arising thereon, upon excep-
7 tions or otherwise, for the determination of the full
8 court, which may hear and determine the same at
9 any time in any county, as justice shall seem to it
10 to require. If on such hearing it is ordered that
11 the writ issue, it may be issued from the clerk's

12 office in any county and be made returnable as the
13 court shall direct.

SECT. 2. When a writ of mandamus issues, the
2 person required to make return thereto shall make
3 his return to the first writ, and the person suing
4 the writ may by an answer traverse any material
5 facts contained in such return, or may demur
6 thereto. If the party suing the writ maintains the
7 issue on his part, his damages shall be assessed,
8 and a judgment rendered that he recover the same
9 with costs, and that a peremptory writ of mandamus
10 be granted; otherwise the party making the return
11 shall recover his costs. No action shall be main-
12 tained for a false return to a writ of mandamus.

SECT. 3. The court may make rules, on a petition
2 for the writ or upon and after the issuing of the
3 first writ, calling upon any person having or claim-
4 ing a right or interest in the subject matter, other
5 than the party to whom the writ is prayed to be or
6 has been directed, to show cause against the issu-
7 ing of the writ. If such person appears, he shall
8 be heard in such manner as the court may direct,
9 and in proper cases may be allowed to frame and
10 sign the return to the first writ, and to stand as
11 the real party in the proceedings.

SECT. 4. If a third person is admitted as is provided in the preceding section, the proceedings shall not abate or be discontinued by the death, resignation, or removal from office by lapse of time or otherwise, of the person to whom the writ was directed, and any peremptory writ shall be directed to his successor.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 5, 1883. }

Presented by Mr. HEATH of Augusta, and on his motion
ordered printed.

ORAMANDAL SMITH, *Clerk.*