

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1880.

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PUBLIC LAWS  
OF THE  
STATE OF MAINE.  
1880.

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**Chapter 198.****CHAP. 198**

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 :*

SECT. 1. Any person who shall claim to be lawfully elected to any county office, or to the office of county attorney within this state, may commence a suit in the nature of a proceeding in equity against the person holding or claiming to hold such office, or who holds a certificate of his election to such office from the governor and council, or who has been declared elected thereto by the governor and council, or who has been notified of such election by the secretary of state, to be commenced by petition, returnable before any justice of the supreme judicial court, in term time or vacation, in the county where either of the parties resides, or where the duties of such office are to be performed, and said supreme judicial court shall have jurisdiction thereof.

Claimants to county office may bring suits in equity.

How commenced and where returnable.

SECT. 2. The petition of the claimant shall state the names and residences of the several parties, and the facts upon which he relies to maintain his suit, and shall be signed by him and verified by his oath. Such petition shall be filed in the office of the clerk of courts in the county where it is returnable, and the time of hearing thereon shall be appointed by said justice, and indorsed upon said petition. Notice of pendency of said suit, and the time and place of hearing upon said petition shall be given the adverse party, by giving him in hand, or leaving at his last and usual place of abode, a copy of said petition and order of the court thereon, or in such other manner as the court shall direct, and such notice shall be given at least seven days before such hearing. The parties, or their counsel, shall be heard upon written or oral testimony, according to the practice in like procedure, and in such manner as the justice shall direct; and if it appears upon such trial or hearing that the petitioner has been lawfully elected, and is entitled by law to the office claimed by him, or such adverse party shall fail to appear, such justice shall render judgment in favor of such petitioner, if he is found, upon hearing, to be entitled thereto.

Petition of claimant to be filed in clerk of courts' office.

Notice to be given to adverse party.

Parties to be heard as justice shall direct.

When judgment shall be rendered.

SECT. 3. In all cases either party may, within ten days after the rendition of said judgment, enter an appeal therefrom in the office of the clerk in the county where said

Appeal may be entered within ten days by either party.

## CHAP. 198

Proceedings.

judgment is rendered, which appeal shall briefly set forth the reasons therefor, and an attested copy of said appeal shall be served upon the appellee or his attorney within ten days after the same has been filed, in such manner as the justice shall order. The party taking such appeal shall cause copies of the petition, pleadings, findings, and testimony upon which such judgment is rendered, approved by the justice before whom the hearing is had, to be printed and transmitted to the chief justice within twenty days after such appeal is taken, together with written argument thereon. A copy of such argument shall, within said twenty days, be served upon the adverse party, or his attorney, who may forward within ten days thereafter an argument in reply, and thereupon the justices of said court shall consider said cause immediately, and decide thereon and transmit their decision to the clerk of the county where the suit is pending, and final judgment shall be entered accordingly.

Court may issue order where final judgment has been rendered.

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

—enforcement.

The prevailing party shall enter upon duties of office.

—shall recover costs.

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.

Approved March 6, 1880.