

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE.

1883.

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PUBLIC LAWS  
OF THE  
STATE OF MAINE.  
1883.

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## Chapter 225.

## CHAP. 225

An Act to regulate practice in mandamus.

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

SECT. 1. A petition for a writ of mandamus may be presented to a justice of the supreme judicial court in any county, in term time or vacation, and such justice may, upon due notice to all parties, hear and determine the same, or may reserve questions of law arising thereon, upon exceptions or otherwise, for the determination of the full court, which may hear and determine the same at any time, in any county, as justice shall seem to it to require. If, on such hearing, it is ordered that the writ issue, it may be issued from the clerk's office in any county, and be made returnable as the court shall direct.

Petition, to whom and when presented.

Proceedings thereon.

Questions of law, reserved for full court.

First writ, whence issued and how returnable.

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

Return to writ, how answered.

Judgment and peremptory writ.

Costs for prevailing party.

No action for false return.

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

Third person cited to show cause.

May be heard and stand as real party.

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.

Proceedings not to abate by death, resignation, etc.