

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1893.

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OF THE
STATE OF MAINE.

1893.

or who has been declared elected thereto by the governor and council" in the fourth and fifth lines, and by inserting in the fourth line after the word "office" the words 'or who has been declared as elected thereto by any returning board or officer,' and by striking out in the sixth line the words "by the secretary of state," so that said section shall read as follows :

SECT. 53. Any person claiming to be elected to any county or municipal office, or to the office of county attorney, may proceed as in equity against the person holding or claiming to hold such office, or holding a certificate of election to such office, or who has been declared elected thereto by any returning board or officer, or who has been notified of such election, by petition returnable before any justice of the supreme judicial court, in term time or vacation, in the county where either party resides, or where the duties of such office are to be performed, and said court shall have jurisdiction thereof.'

Claimant of county or municipal office. shall proceed as in equity.

SECT. 2. This act shall take effect when approved.

Approved March 28, 1893.

Chapter 261.

An Act to amend Sections sixteen and seventeen of Chapter one hundred and two of the Revised Statutes, relating to Writs of Mandamus.

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

SECT. 1. Section sixteen of chapter one hundred and two of the revised statutes is hereby amended by striking out the words "at any time in any county as justice shall require" in the sixth line of said section, and inserting in lieu thereof the words 'as hereinafter provided ; but in all cases where exceptions are alleged to any rulings, findings or decrees made upon such petition, the case shall be proceeded with as if no exceptions had been taken, until a decision shall be had and the peremptory writ shall have been ordered, so that the overruling of such exceptions would finally dispose of the case, which shall then be certified to the chief justice of said court as provided in the following section.' So that said section as amended, shall read as follows :

Sec. 16, ch. 102, R. S., amended.

CHAP. 261

Petition for writ of mandamus, to whom and when presented.

—questions of law reserved for full court.

—first writ, when issued and where returnable.

Sec. 17, amended.

Return to writ, how answered.

‘SECT. 16. 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, who may, upon 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 as hereinafter provided; but in all cases where exceptions are alleged to any rulings, findings or decrees made upon such petition, the case shall be proceeded with as if no exceptions had been taken, until a decision shall be had and the peremptory writ shall have been ordered, so that the overruling of such exceptions would finally dispose of the case, which shall then be certified to the chief justice of said court as provided in the following section. If on such hearing such writ is ordered, it may be issued from the clerk’s office in any county and be made returnable as the court directs.’

SECT. 2. Section seventeen of said chapter one hundred and two is hereby amended by adding thereto the following:

‘After judgment and decree that the peremptory writ be granted the justice of said court before whom the proceedings are pending, shall forthwith certify to the chief justice for decision, all exceptions which may be filed and allowed to any rulings, findings or decrees made at any stage of the proceedings. The excepting party shall, within fifteen days thereafter, forward to the chief justice his written argument upon such exceptions and shall, within said fifteen days, furnish the adverse party, or his attorney, with a copy of such argument; the adverse party shall, within fifteen days after receipt of such copy forward his written argument in reply, to the chief justice, 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 petition is pending, and final judgment shall be entered accordingly. If the judgment is in favor of the petitioner, the peremptory writ of mandamus shall thereupon be issued.’ So that said section seventeen as amended, shall read as follows:

‘SECT. 17. 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. 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 costs. No action shall be maintained for a false return to a writ of mandamus. After judgment and decree that the peremptory writ be granted, the justice of said court before whom the proceedings are pending, shall forthwith certify to the chief justice for decision, all exceptions which may be filed and allowed to any rulings, findings or decrees made at any stage of the proceedings. The excepting party shall, within fifteen days thereafter, forward to the chief justice his written argument upon such exceptions and shall, within said fifteen days, furnish the adverse party, or his attorney, with a copy of such argument; the adverse party shall, within fifteen days after receipt of such copy forward his written argument in reply to the chief justice; 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 petition is pending, and final judgment shall be entered accordingly. If the judgment is in favor of the petitioner, the peremptory writ of mandamus shall thereupon be issued.'

—judgment and peremptory writ.

—costs.

—no action for false return.

—exceptions shall be certified to chief justice.

—proceedings.

—when peremptory writ shall issue.

SECT. 3. This act shall take effect when approved.

Approved March 28, 1893.

Chapter 262.

An Act to amend Section thirty-nine of Chapter sixty-seven of the Revised Statutes, relating to change of names of persons.

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

Section thirty-nine of chapter sixty-seven of the revised statutes is hereby amended, so as to read as follows:

Sec. 39, ch. 67, R. S., amended.

‘SECT. 39. If a person desires to have his name changed, he may petition the judge of probate in the county where he resides; or, if he is a minor, his legal custodian may petition in his behalf, and the judge, after due notice, may change the name of such person, and shall make and preserve a record thereof.’

Name, how changed.

—minors must petition by guardian.

Approved March 28, 1893.