

more newspapers published in the county where the said association or incorporation is situated; and after such notice shall have been given, the then board of trustees or directors may elect, by ballot, the trustees or directors proposed to be added; but all elections thereafter shall be had in the manner provided by law.

Mandamus.

1. Return to be made to the first writ.
2. Proceedings thereon, when it is returned.
3. If damages recovered there shall be no other suit.
4. Court may grant time to plead and make return.
5. Writ of error may be sued out to remove judgment.

Rev. 160.

An act for the better regulation of proceedings upon writs of mandamus.

Passed December 2, 1794.

R. S. 996.

Return to be made to the first writ.

1. That where any writ of *mandamus* shall issue out of the supreme court directed and delivered to any person or persons, who, by law, is or are required to make a return to such writ, such person or persons shall make his or their return to the first writ of *mandamus*.

Proceedings thereon when it is returned.

2. That from and after the passing of this act, as often as any writ of *mandamus* shall issue out of the said supreme court, and a return shall be made thereunto, it shall and may be lawful to and for the person or persons, suing or prosecuting such writ of *mandamus*, to plead to or traverse all or any the material facts contained within the said return; to which the person or persons, making such return, shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein, for the determination thereof, as might have been had, if the person or persons, suing such writ, had brought his or their action on the case for a false return; and if any issue shall be joined on such proceedings, the person or persons suing such writ, shall and may try the same in such place as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by *nil dicit*, or for want of a replication, or other pleading, he or they shall recover his or their damages and costs, in such manner as he or they might have done in such action on the case as aforesaid; and such damages and costs shall and may be levied by *fieri facias*, or *capias ad satisfaciendum*, as in other cases; and a peremptory writ of *mandamus* shall be granted, without delay, for him or them for whom judgment shall be given, as might have been if such return had been adjudged insufficient, and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

If damages recovered, a bar.

3. *Provided always*, if any damages shall be recovered, by virtue of this act, against any such person or persons, making such return to such writ as aforesaid, he or they shall not be liable to be sued in any other action or suit, for the making such return.

Court may allow time to make return and plead.

4. That it shall and may be lawful to and for the said supreme court to allow to such person or persons respectively, to whom any writ of *mandamus* shall be directed, or to the person or persons, who shall sue or prosecute the same, such convenient time respectively to make a return, plead, reply, rejoin or demur, as to the said court shall seem just and reasonable.

P. L. 1870, p. 39.

Supplement.

Approved March 17, 1870.

Writ of error may be sued out to remove judgment, etc.

5. SEC. 1. That in all cases when upon any such proceedings had upon *mandamus* as mentioned in the act to which this is a supplement, judgment shall be given upon a verdict, or upon a demurrer or other issue, in fact or in law, joined upon any pleadings in pursuance of said act, it shall be lawful for any party to the record in any of such cases, who shall think himself aggrieved by such judgment, to sue out and prosecute a writ of error for the purpose of removing the same, and such like proceedings shall thereupon be had and taken, and such costs awarded as in ordinary cases of writs of error upon judgments in personal actions.