

founded, and that plaintiff is interested therein; or, that he sustains, or may sustain, damage by the non-performance of such duty or act, or, the doing of, repetition of, or continuance of any act, and that he has demanded performance, or discontinuance, and so forth, thereof, and the same has been refused or neglected.

1888, ch. 456.

119. The pleadings and other proceedings in any action in which a writ of mandamus or injunction is claimed shall be the same in all respects, as nearly as may be, and costs shall be recoverable by either party as in an ordinary action at law; and the defendant may demur to so much of the plaintiff's declaration as claims such writ, and such demurrer shall raise the question whether the facts stated as the ground of such claim disclose any such legal duty as that so sought to be enforced, but shall be subject to all rules governing general demurrers at law, both as to the proceedings thereon and thereafter.

Ibid.

120. In case judgment shall be given to the plaintiff that a mandamus or injunction do issue, it shall be lawful for the court in which said judgment is given, if it shall see fit, besides issuing execution in the ordinary way for the costs and damages, also to issue a peremptory writ of mandamus or peremptory injunction, to the defendant, commanding him forthwith to perform the duty to be enforced, or forbidding him to do, repeat or continue the wrong against which an injunction is claimed.

Ibid.

121. The writ so issued need not recite the declaration or other proceedings, or the matter therein stated, but shall simply command the performance of the duty, or forbid the doing, repetition or continuance of the wrong, and in other respects shall be in the ordinary form of a writ of execution, except that it shall be directed to the party and not to the sheriff, and may be issued during the sittings of the court or not, and be returnable forthwith; and no return thereto except that of compliance shall be allowed; but time to return it may, upon sufficient grounds, be allowed by the court, either with or without terms.