

courts, respectively, during the recess of the court, and shall be commenced by petition, verified by the affidavit of the applicant, and setting forth fully the ground of his application.

Eichelberger v. Sifford, 27 Md. 320. *Hardcastle v. Md. & Del. R. R. Co.*, 32 Md. 32. *Brooke v. Widdicombe*, 39 Md. 386.

P. G. L., (1860,) art. 59, sec. 2. 1858, ch. 285, sec. 2.

2. Upon the filing of such petition, the court or judge to whom the same is addressed shall lay a rule requiring the defendant therein named to show cause, within such time as the court or judge may deem proper, why a writ of mandamus should not issue as prayed, a copy of which rule shall be served upon such defendant by a day to be therein limited.

Ibid. sec. 3. 1858, ch. 285, sec. 3.

3. The defendant, by the day named in such order, shall file an answer to such petition, fully setting forth all the defences upon which he intends to rely in resisting such application, which shall be verified by his affidavit.

Legg v. Mayor & C. C. of Annapolis 42 Md. 203.

Ibid. sec. 4. 1858, ch. 285, sec. 3.

4. No defendant shall be allowed, on a second application for a mandamus, to rely upon any matter by way of defence thereto which he might have relied on in his answer to a previous application for a mandamus by the same petitioner.

Ibid. sec. 5. 1828, ch. 78. 1858, ch. 285, sec. 4.

5. The petitioner may plead to or traverse all and any of the material averments set forth in said answer, and the defendant shall take issue or demur to said plea or traverse within five days thereafter; and such further proceedings shall thereupon be had in the premises for the determination thereof, as if the petitioner had brought an action on the case for a false return.

Barney v. State, 42 Md. 480.

Ibid. sec. 6. 1858, ch. 285, sec. 4.

6. If issue shall be joined on such proceedings, the same shall stand for trial on the second day of the next succeeding term of such court, (in case such issue shall be joined in the recess of such