

court); and if such issue shall be joined during the session, then the same shall stand for trial during such term, unless sufficient cause shall be shown to the court by the party defendant, for the continuance thereof, in which case such issue shall be heard on the second day of the next succeeding term of such court, unless the parties shall agree upon an earlier day.

P. G. L., (1860.) art 59, sec. 7. 1858, ch. 285, sec. 4.

7. Such issues shall be tried by a jury, if either party desire it; but they may be heard or determined by the court if both parties agree; and in case a verdict shall be found for the petitioner, or if the court upon hearing determine in favor of the petitioner, or judgment be given for him upon demurrer or for want of a plea, such petitioner shall thereupon recover his damages and costs as he might have done in an action on the case for a false return, to be levied by execution, or attachment, and a peremptory writ of mandamus shall be granted thereupon without delay against the defendant.

Booze v. Humbird, 27 Md 1.

Ibid. sec. 8. 1858, ch. 285, sec. 4.

8. If judgment shall be given for the defendant, he shall recover his costs of suit, to be levied in manner aforesaid.

Ibid. sec 9. 1858, ch 285, sec. 5.

9. If the defendant shall neglect to file his answer to the petition by the day named in the order of the judge, after being served with notice thereof, the said judge shall thereupon proceed to hear the said petition *ex parte*, within five days thereafter, and if he shall be of the opinion that the facts and law of the case authorize the granting of a mandamus as prayed, he shall thereupon, without delay, order a peremptory mandamus to issue, and shall also adjudge to the petitioner his costs of suit.

Legg v. M. & C. C. of Annapolis, 42 Md. 203.

Ibid. sec. 10. 1858, ch. 285, sec. 5.

10. If the judge shall, upon such *ex parte* hearing, be of opinion that the facts and law of the case do not authorize the granting of a mandamus, he shall dismiss such petition with costs.

Legg v. M. & C. C. of Annapolis, 42 Md. 203.