

- Queen's Bench and Common Pleas for Upper Canada respectively, in respect of the said writs and of the proceedings thereon, reviewed by the Court of Error and Appeal, if they shall so think fit, and that a certain mode of effecting the same shall be ordained and established:
- 5 And whereas no power or authority is now given to the person prosecuting a Writ of Mandamus to demur to the Returns to any such writ, so that the decision of the said Courts respectively as to the validity of such Return could be reviewed by the Court of Error and Appeal; for remedy whereof, it is enacted, that in all cases in which the person
- 10 prosecuting any such writ heretofore issued or hereafter to be issued shall wish or intend to object to the validity of any Return already made or hereafter to be made to the same, he shall do so by way of demurrer to the same, in such and the like manner as is now practised and used in the Courts hereinbefore mentioned respectively in
- 15 personal actions; and thereupon the said Writ and Return and the said Demurrer shall be entered upon record in the said Courts respectively, and such and the like further proceedings shall be thereupon had and taken as upon a demurrer to pleadings in personal actions in the said
- 20 Courts respectively; and the said Courts respectively shall thereupon adjudge either that the said Return is valid in Law, or that it is not valid in Law, or that the Writ of Mandamus is not valid in Law; and if they adjudge that the said writ is valid in Law, but that the Return thereto is not valid in Law, then and in every such case they
- 25 shall also by their said judgment award that a peremptory Mandamus shall issue in that behalf, and thereupon such peremptory Writ of Mandamus may be sued out and issued accordingly, at any time after four days from the signing of the said judgment; and it shall be lawful for the said Courts respectively, and they are hereby required, in and by
- 30 their said judgment to award costs to be paid to the party in whose favour they shall thereby decide, by the other party or parties.
7. Whenever any such judgment as is hereinbefore mentioned shall be given, or wherever issue in fact or law shall be joined upon any pleadings, and judgment shall be given thereon by any of the Courts
- 35 aforesaid, it shall be lawful for any party to the Record in any of such case, who shall think himself aggrieved by such judgment, to deliver to the Clerk of the Crown of the Court whence the Writ of Mandamus issued, a memorandum in writing entitled in the Court and matter and signed by the party or his attorney, alleging that there is error in Law
- 40 in the Record and proceedings, and thereupon all subsequent proceedings shall on the part of the Courts, officers and parties, be as nearly as may be the same and have the same effect as those required to be had and taken under the Act respecting the Court of Error and Appeal, where a party to a cause alleging error in Law, is desirous of appealing from the judgment of either of the said Superior Courts of
- 45 Common Law to the Court of Error and Appeal.
8. No action, suit, or any other proceeding shall be commenced or prosecuted against any person or persons whatsoever, for or by reason of anything done in obedience to any peremptory Writ of Mandamus
- 50 issued by any Court having authority to issue Writs of Mandamus.
9. The said Court of Error and Appeal for Upper Canada may make, and is hereby directed to make, from time to time and as often as they shall see occasion, such rules of practice in reference to the proceedings hereinbefore authorized, and the amount of bail to be taken,
- 55 as the said Court may deem necessary to effectuate the intention of this Act in relation to the same respectively.

Form of objections to Return.

Demurrer.

Proceedings thereon.

Judgment.

Peremptory Mandamus, if the Writ be good and the Return bad.

Costs.

Appeal in error given to party aggrieved.

Proceedings thereon.

Persons obeying Writs of Mandamus indemnified.

Court may make Rules of practice under this Act.