

Ex parte,

Beneath A. Hennen
for a rule on the Dist.
Judge M. S. E. Louisiana
in the cause &c

Opinion of the Just.
Taney delivered at
Aug. Term 1858—

Supreme Court of the United States Aug. Term 1838-

Ex parte: In the matter of } On petition for a mandamus
Duncan N. Hennen, on petition } to the Hon^{ble} Philip K. Law-
for a mandamus to the Hon^{ble} } rence Judge of the District
Philip K. Lawrence vs } Court of the United States
for the Eastern District of

Louisiana requiring the said Judge to restore Duncan
N. Hennen to the office of Clerk of said District Court -

Three questions arise on this motion -

1. Whether the Supreme Court have the power to
give a writ of Mandamus in such a case as that
described in the petition -
2. If the Supreme Court have the power is it also
given to the Judge of the 4th Circuit, by the act of Congress
of 1802. ch. 291. s. 2. establishing the August term. -
3. Assuming that the Court has the power is the
petitioner entitled to the office. -

The public interest requires that the questions
in relation to this clerkship should be settled as
speedily as possible, and they must be finally disposed
of by the judgment of the Supreme Court. It is there-
fore my duty to adopt any measure in my power
that will enable the parties to bring the question
before that tribunal. -

The question whether I have the power sitting
alone at this term to lay any rule upon this subject
ought in a matter of so much interest to be decided
by a full court, and not by a single Judge. I shall
therefore grant a rule returnable &c to show cause
why a mandamus should not issue with leave to
any person interested to move to discharge the rule
on or before the return day. a copy of the rule to be

served on the Judges and the adverse claimant
of the office, on or before the first of November
next. - If the Supreme Court shall be of opinion
that I have not the power at this term to lay this
rule, it will of course be discharged by the Court
at the January Term. It is nothing more than
notice to the parties against whom it issues -
It decides nothing and leaves all the questions
open for the decision of that Tribunal to which
they may properly belong. -