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Laws 1876, p. 30. Section 1857 of the Revised Statutes tions of said office, without anthority of law therefor." In a criminal case, ed States is as Iollows: or the United States is as follows: "All township, district and county officers, except justices of the peace and gen-eral officers of the militla, shall be appointed or elected in such manner as may be provided by the Governor

and Legislative Assembly of every Territory, and all other officers not herein provided for, the Governor shall

the objection urged against, the same cannot be upheld or sustained.-Taylor

Nevenson, 9 Pac. Rep. 641. In the case just cited the court had inder consideration section 1857 of the

Revised Laws of the United States in connection with an act passed by the Legislature of Idaho, providing for the appointment of two commissioners, who, in conjunction with one other resident of the Territory, to be selected

to authority to ratify it. A legislative body may ratify an act subsequently -S. Laws 1884, 284. quire. when it had the power to do the act i There is no error in the record and the judgment is affirmed, with costs. the first instance. It cannot by ratifi-cation make a void act valid. Congress



PURELY VEGETABLE Are You Billious? The Regulator never fails to cure. I most cheerfully recommend it to all who suffer from Bilious Attacks or any Disease

caused by a disarranged state of the Liver. KANSAS CITY, MO. W. R. BERNARD. Do You Want Good Digestion?

I suffered intensely with Full Stomach, Hendach-. etc. A neighbor, who had taken Simmons Liver Regulator, told me it was a sure cure for my trouble. The first dose I took re-lieved me very much, and in one week's time I was as strong and hearty as I ever was. It is the best medicine I ever took for Dyspep-RICHMOND, VA. H. G. CRENSHAW.

Do You Suffer from Constipation? Testimony of HIRAM WARNER, Chief-Jus-tice of Ga.: "I have used Simmons Liver Regulator for Constipation of my Bowels, caused by a temporary Derangement of the Liver, for the last three or four years, and always with decided benefit."

medicine deserves universal commendation. REV. M. B. WHARTON, Cor. Sec. South'n Baptist Theological Seminar

I have been subject to severe spells of Congestion of the Liver, and have been in



tor of Public Accounts for the Terri-tery, and that he is entitled to be put in possession of said office, together with the books, safe and all and singular the insignia thereunto belonging. It is also urged that the demurrer

should have been sustained because the complaint does not set forth the facts as required by our code. The complaint is brought under chapter 5 of the laws of 1884. Nee Laws 1884, 282. Section 981 of that act is as fol "An action may be brought in the

name of the People of this Territory against any person who usurps, in trudes into, holds or exercises any of fice or franchise, real or pretende within the Territory, without authority

The complaint alleges that the de-fendant "did usurp and intrude into the office of Auditor of Public Accounts in and for the Territory of Utnh and ever since that time he has and





THE BATHING TRAIN Will leave Salt Lake City (Sundays except ed) for Garfield at 5.10 p. m., returning ar rive at Salt Lake City at 8.25 p.m. ON SUNDAYN-Leave Sait Lake

at 4.30 p.m., returning arrive at lity at 8 p.m.



I have had experience with Simmons Liver Regulator since 1865, and regard it as the greatest modicine of the times for diseases peculiar to malariel regions. So good a

Safer and Better than Calomel!

Congestion of the Liver, and nave been in the habit of taking from 15 to 20 grains of calomel, which generally laid me up for three or four days. Lately I have been taking Sim-mons Liver Regulator, which gave me relief, without any interruption to business. MIDDLEPORT, Ohio. J. HUGG.





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ar Special rates given to Sunday Schools, S. F. FENTON, W. W. RITER, Gen'l Fr't and Pass. Agt. Sup WANTED: Good, Clean Cotton Rags. at Descret Paper Mill. REMOVAL OF THE D. & R. G. LUMBER YARD, ---- TO THE -----OLD TANNERY SITE, Cor. 2d South & 3d West Sts., Where may be found a general assortment of GALIFORNIA, DREGCH, UTAH FAD EASTERN LUMBER, Which will at all times he sold at th LOWEST MARKET PRICES. Grain and Wool wanted at current rices. Cash advances made on the latter Telephone 255. A. KEYSER. NOTICE! ale of Deimquent Stock in the Brighton and North Point Irrigation Company. Principal Place of Business, Brighton Meet ing House, Salt Lake County, Utah. O^N THE SECOND (2ND) DAY OF July, 1885, at 10 o'clock n. m., the fol-lowing described Shares of Stock will be sold to pay delinquent assessments, and ex-penses of said sale, which was leviced upon the Capital Stock of said Company, on March 17th, 1888, by the Directors of said Incorporation, and this sale is authorized according to law statute: No. of Am't Name.



Joseph City

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.Panaca, Nevada

......Paris, Idah

... Paragoonal

.Preston, Idah

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PLAIN AND FANCY is usually sufficient to describe lames Unscorth. GRAGKERS, GAKES & JUMBLES, | Stanley Taylor, part of No. 11 James Jack, 27 H. B. Clawson, 29 statuatory offense in terms of the stat-ute. It is insisted that this statemen Guaranteed to be equal to any imported. Peter Later..... is a conclusion of law; that it does no D. Bockholt, Wm. Hunter, W.W.Taylor estate " conform to the code, and state the facts FOR SALE BY constituting the cause of action. The E. C. M. L. MALT LAKE CITY, OGDEN .AND LOGAN. complaint alleges that the respondent "holds and exercises the functions of Isaac Hunter, CYRUS H. GOLD, Sec'y. herein provided for, the Governor shall nominate, and by and with the advice and consent of the Legislative Council-of each Territory, shall appoint. Congress having the paramount right to legislate for the Territories, it must be conceded that if theact of the Leg-islature under consideration is open to the objection urged against the same Co operative Stores and other dealers would do well to patronize these goods and introduce them to their customers. d the office without authority of law therefor." It would have been more Office with Solomon Bros. & Gold, No 70 Main St., Salt Lake City Q. A. Murdock. precise to have stated "without ap-pointment," that being the only way in which the defendant could lawfully LEGAL NOTICE. PIONEER enter into the office. The object of the code is to make In the Probate Court of the County of Salt Lake, Territory of Utah. Kanab Co.op ROLLER pleadings (plain and simple, It does Willard Bishop not require of the pleader more than not require of the pleader more than was required at the common law. It usually requires less of them. If, then, this complaint had been sufficient in its allegations as tested by the rules of the common law, it is sufficient under the code. While our statute has changed the form of pleading with re-spect to rights and wrongs, of which any argument was formerly the remedy. in the matter of the Estate of A. B. Griffin......Kanarra Mill: No. 53 North Temple Street, East. Office: 21 South Temple Street, West Order to show cause why Order of Sale Real Estate should not be made. W. King. A. Nadquid. Real Estate should not be made. TLIZA E. AND GEORGE R. GREEN, the Executors of the Last Will of Robert Green, deceased, hirring fied their petation herem, duly verified, praying for an order of said of all the real estate of and decedent for the purposes therein set forth, it is therefore ordered by the Judge of and fourt, that all persons interested is the on-state of said deceased, appear before the said Probate Court on Wednesday the 30th day of June, 1866, at 11 o'clock in the fore-noon of said lay, at the Court Room of said Probate Court at the Court Room of said Probate Court at the Court Room of said Probate Court at the court we have a should not be granted to the said executor, to sell so much of the real estate of the said do-cased at crivite sale as shall be necessary, and that a copy of this order be published at least four successive weeks in the Differ and published in said Cuty and County. Dated May 27th, 1886. S. J. Allen William Yates BRANDS George Morrison MIGH PATENT, que warrante was formerly the remedy, the change is simply as to form, and not as to substance. The position of the parties, the rules of evidence, and Joseph-Invin. BANER'S No. 1. resident of the Territory, to be selected and appointed by the two named, should perform the functions of the office created, for the term specified by the law. The court in that case says: "This delegation of authority on the part of the Governor and Legislative Council to the two commissioners to select and appoint another, must be regarded with some degree of misgiv-ing and doubt. All the powers in-trusted to government in the Terri-C. B. Robbins PERFINE WHOLE WHEAT FLOUB. J. W. Shepherd..... Levan BIGHEST CASH PHICE PAID FOR WHEA the presumptions of the law remain the same as before. As we shall see S. C. Berthelsen, Lajara, Ool R. F. Jardine..... Lewisville, Bingham Co., I Mill Telephone No. 371. Office Telephone No. 367. the burden is upon the defendant to show his right to the office when it is ELIAS MORRIS, Supt. challenged by the people. It is not necessary to show or point out with necessary to show or point out with great particularity the acts which con-s stitute the wrongful usurpation, or wrongful holding of the office. If the defendant had an appointment, he had it in his possession and it is not neces-sary to allege it with the nicety re-quired in other actions. It is "sufficient to chall age the defendant's right, and he must disclaim or instifu OVERLAND HOUSE, trusted to government in the Terri-tories, as well as in the States, are divided into three departments, the executive, the legislative and judicial. It is wisely provided that the J. H. Stoller Moroni executive, the legislative and judicial. It is wisely provided that the functions appropriate to each of these branches of the government shall be vested in a separate body of public servants, and it is apparent that the perfection of the system re-quires that the lines which separate and divide these departments shall be clearly defined and closely followed. It is also true as a general proposition, that the powers confided by the funda-mental law to one of these depart-ments cannot be exercised by another. And where, as in this case, the Organic Law provides that the Governor, by and with the consent of the Legisla-tive Counsel, shall appoint the Terri-torial officers, we do not think that the authority can be delegated to another body, and the Governor thus divested of his prerogative. If this can be done and sanctioned in one instance, it may be in others, and by this method, or in the exercise of the two-thirds legislative rule, over the Gov-ernor's veto, the executive may be de-prived of the appointing power which Congress has wisely confided to the Executive branch of the Territorial government." MAIN STREET, Dated May 27th, 1886. ELIAS A. SMITH Salt Lake City, Utah. he must disclaim or justify. **Probate Judge** The ancient writ of quo warranto was a writ of right for the king against one W. A. PITT, Proprietor. County of Utah, County of Sait Lake, 53. a writ of right for the king against one who usurps any office, franchise or liberty, to inquire by what authority he supports his claim, in order to de-termine the right. 3 Bl. Com. 262. In theory, the king was the fountain of hanor, of office and of privilege and, L. John C. Chiler, Clerk of the Probate Courty in and for the Donanty of Salt Lake, in the Territory of Utah, do hereby certify that the foregoing is a full, frue and correct only of an order to show came why order of eals of real estate should not be made in the matter of the Estate of Robert Green, down ceased, as appears of record in my office. Accommodations in the City at the Bat Charged, \$1.00 \$1.50 per day. SINGLE MEALS, - 25 CENTS. hanor, of once and of privilege and, whenever a subject undertook to exer-cise a public office, or franchise, he was, when called upon by the crown, through the writ of *guo varranto*, com-pelled to show his title, and if he failed to do so, judgment passed against him. The fountain of the rule may have been that, as all offices and franchises are the sift of the king they ward deemed as to and from Depots. Street Oard R. Fry..... In witness whereof, I have herweinto set my hand and affixed the seal of said Court, this 27th day of May, A. D. 1886. John Morgan..... Mill Creek, S. L. Count [SEAL.] John Nef Nef's, East Mill Cree NOTICE TO CREDITORS. that, as all offices and franchises are the gift of the king, they were deemed to be possessed by him, and until his grant was shown, there could be no presumption that he had parted with them, or invested a subject with the right to exercise by delegation any part of the royal prerogatize But, whatever may have been the origin of the rule, it was well established, and was applied also in cases where probeedings by in-JOHN O. CUTLER, Estate of Edward E. Brain, deceased. By H. S. CUTLER, Deputy. TOTICE IS. HEREBY GIVEN BY THE Will annexed, u.2 the Estate of Edward E. Brain, deceased, to the creditors of, and all persons having claims against the said de-ceased, to exhibit them with the necessary vonchers, within ten months after the first publication of this notice, to the said Administrator, at No. 174 "A" Street, Sait Lake City, in the County of Sait Lake. LEGAL NOTICE. n the Probate Court, in and for Salt Lake County, Territory of Utab. Joseph Hall J. K. Reid Executive branch of the Territorial government." We are clearly of the opinion that the act in question is in conflict with the Organic Law, and therefore vold, and that the defendant has no title to the office of Auditor of Public Ac-counts of this Territory. It seems to us that no argument is needed to sus-tain this conclusion. The Organic Act has confided to the Governor the duty of appointing the person to fill the office, by and with the advice and con-sent of the Legislative Council. If the Legislature can take from him this power, and provide for the selection of the officer by any other mode, it can take from him every prerogative he possesses. Congress having pointed out the way by which the office in question should be tilled, the Legisla-ture has no power to provide another and different mode, *-Dancan vs. Me Allaster, 2. Utah, 81*. The case just cited fully answers the argument of counsel for appellant, that the case of Clinton os, Engelbrecht, 13. Wall, 446, and that of *Snow vs.* U. S., 18 Wall, 317, hold that another action based under precisely the same action base on the provide the same action based under precisely the same n the matter of the Estate of David Joremy, also in cases where probeedings by in-formation, in the sature of a guo wor-ranto, were resorted to as a substitute for the writ.—Rex a Leigh, 4, Burr, S. P. Richards..... M. L. Gruwell. Dated at Salt Lake City, June 10th, 1896. C. J. BRAIN, Administrator with the Will snnexed, of the Estate of Edward E. Brain, deceased. d Im Order appointing time and place for settle-ment of account and to hear petition for distribution. J. W. Crosby... L. W. Porter... 2143. In this Territory a remedy by action ON READING AND FILING THE PE-tition of Mary Jeremy, Executrix of the Last Will of David Jeremy, decoased setting forth that she has filed her final ac-count of her administration upon said es-W. H. Branch Price, Emery Co., Utal is given in the place of the writ of que warranto, and an information in the J. H. Nuttall Pima, Graham Co., Arizoni nature of a quo warranto. The people are in this country the ultimate source of the right to hold office; and how, under the code as at common jaw where the right of a person exercising anoffice is challenged in a direct pro-CENTRAL BRANCH HOUS Paris Uo-op,..... the Last Will of David Jeremy, deceased, setting forth that she has filed her final ac-count of her administration upon said es-tate in this Court, and that a portion of and estate remains to be divided among the heirs of said deceased, and praying among other things for an order setting said ac-count and of distribution of the residue of said estate armong the persons interested in the state of the saidbavid Jeremy, deceased be and appear before the Probate Court of the County of Sait Lake, at the Court for the County of Sait Lake, at the Court for the County of Sait Lake, at the Court for the County of Sait Lake, at the Court for the County of Sait Lake, at the Court for the County of the setting said account and of distribution should not be made of the re-sidue of said estate among the heirs and devises of the said David Jeremy, deceased, ceased, according to law. It is further ordered that the Clerk cause copies of this order to be posted in three public places in Sait Lake County and pub-lished in the DESERER EVENING NEWS, s newspaper pristed and circulated in Sait Lake County, three weaks successively prior te said Sith day of June, 1886. ELLAS 4. AMITH, Probate Judge. I. M. Coombs -OF THE where the right of a person exercising an office is challenged in a direct pro-ceeding by the district attorney, the defendant must establish his title, or judgment will be rendered against him. People v. Thatcher, 55 N.Y. 529; People v. Woodbury, 14 Cal. 43; Flynn v. Abbott, 16 Cal. 358: State of Nevada v. Hasketl, 14 Nev. 209; Stale v. Harris, 3 Ark. 570; 36 Ann. De-cisions, 460; State v. Evans, 3 Ark. 585; 36 Ann. Decisions, 468; 30 Ann. Decisions, note, 51, 52. High, in his work on Extraordinary Remedies, sec. 713, lays down the rule as follows: "As regards the question of intrusion into or usurpation of the office, to test which an information is filed, it is regarded as sufficient to allege generally that the respondent is in possession of the office without lawful authority, and in case the plead-ings are defective in this respect, the defect is one which should be taken advantage of by special demurrer." And again. In section 716 he says J. W. Bean. Prove. Parowan Co-op. Parowan. STUDEBAKER BR'S. J. P. Barton ... C. J. Rohser..... Pleasant Grove Co-op MFG. CO., M. J. Bichards Physiouth, Box Elder Co G. D. Gibbe -BUILDERS OF-William Geddes FINE CARRIAGES, J. A. Marchant .. R. B. Gardner .. BUGGIES & SPRING WAGON H. P. Miller act passed under precisely the same conditions as the one in controversy was valid, See Duncan vs. McAlilister, I Utah, 85. g.Dibbons FARM, FREIGHT, **Ore and Traveling Wagons** F. Paulana Idaha Dated May 28th, 1886. J. L. Peacock. William Bramall. Springville Spanish Fork Co-op. Spanish Fork P. N. Shousen, Springville, Apache Co., Avia, Smithfield Co-op. Smithfield Wm. McFadgen. Solina County of Salt Lake, And again. In section 716 he says that "when the proceedings are insti-tuted for the purpose of testing a title to an office the proper course for the respondent is either to disclaim or justify. If he disclaims all right I, John C. Cutler, Clerk of the Probat Court in and for the County of Salt Lake, in he Territory of Utah, do hereby certify the he foregoing is a tail, true and correct copy

