



ENGROSSMENT[©]*

Years of Service Add Value and Quality

Since 1974, when Tom Stallard co-founded this legislative research business with Bill Keller, the company has hired hundreds of researchers and staff members. One such staff member is **Janene Scoonover**, who has been with us for 25 years!

We recently surprised Janene with a celebratory breakfast and a plaque commemorating her years of service to show our appreciation for all of the important contributions she brings to our firm.

Janene is currently our Database Manager, overseeing the digitizing of our paper collection of all bills and their histories. Since 1986, she has worked in almost every staff support position we have, including researching, technology development, and production. Tom is currently our longest serving member here at LIS, but Janene has, in her 25 years with us, witnessed and experienced most of the significant changes of how LIS does business – from the way we conduct our research to how we manage our collection and to the way we provide legislative history to our clients. Her dedication to excellence has served us and our clients well. For all that you have done for us – **Thank you**, Janene!

Where Does Your Tax \$\$ Go?

Besides the fact that it's Springtime, it's also tax season. If you have a few seconds, log on to the **2010 Federal Taxpayer Receipt** website. This website shows you how your tax dollars are spent: <http://www.whitehouse.gov/taxreceipt>

By entering your 2010 tax payments for Social Security, Medicare, and Income, the website will calculate a breakdown of how your tax dollars will be spent on categories such as education, veterans benefits, or health care.

State Legislatures Take On Expanded Responsibilities

The "State-Federal Relations and Standing Committees" of the National Conference of State Legislatures observed that state legislatures will be taking on an expanded role in the way that the federal system operates welfare, health care, child care, clean air, housing, and education, just to name a few. This Committee outlined the following four concerns that connected a legislator's awareness that now state public policy decisions will relate also to Washington D.C. more than ever before.

- 1) That the federal government minimize the extent to which it mandates state laws or regulations without providing adequate funding to support the program;
 - 2) That the federal government resist the temptation to preempt state laws;
 - 3) That Congress pass no legislation and the Administration adopt no regulations that violate the integrity of the intergovernmental fiscal system;
 - 4) That states be allowed maximum flexibility in crafting innovative solutions to domestic problems.
- <http://www.ncsl.org/Default.aspx?TabID=773&tabs=855,22,626#855>

Thus, 2011 legislation for all states will be crucial not only to balance serious state budget gaps but also to address states' newly expanded participation in the way the federal system operates.

For Old Legislative History Age is No Impediment

Each of the 50 states has its own resources and systems for archiving and retaining very old legislative history documents. We have acquired early 20th Century histories for a variety of states and have found that, with committed perseverance, we can find most, if not all, of the surviving documentation on any older bill. We have observed that there are a few states that

firmly believe they do not retain legislative history materials, but it ends up surprising even them when we are able to locate a “bill jacket” or a Governor’s folder, or a committee file, or Journal excerpts on the bill in question.

Our collection of over 40,000 California legislative histories gathered by LIS since 1974 spans three different centuries of legislation – starting with 1849 when California’s first constitution was adopted and the various acts, such as Criminal Procedure, Penal, Civil Practice, and Probate Acts and uncodified acts, that were based on the common law, enacted by the new state in 1850. It wasn’t until 1872 that California began codifying these early laws, starting with the Civil Code, Code of Civil Procedure, Penal Code, and former Political Code.

If you would like to see what an early California handwritten bill looked like, we have **attached a copy of Senate Bill 27 of 1850**, relating to “*An act in continuation of the act to regulate practice in the courts of record of the State of California,*” as an example. ([See next page](#))

History’s Paper Trail

When clients call in to inquire about research for these very early years, sometimes they express concern that there might not be any legislative history surviving on their very old bill. Our many years of legislative history research have taught us that we can find various institutional documents relating to the bill and we do our best to flesh out the legislative history by providing the handwritten bills, final histories, Journal excerpts from the Assembly and Senate, published state reports, sponsor’s newsletters or bulletins from that time period, and sometimes newspaper articles. Also, Governor’s messages are very helpful because they provide background and context for the bill by highlighting the important issues facing the state, such as the economy, education, prison reform, welfare, and water. If a client has a question about a specific word within the statute, we’ve looked for a dictionary, legal or general, from that time period to include the page with the word in question. Because the legislative sessions were shorter in these early years, it was not uncommon for both Houses to introduce legislation on the same topic to assure eventual passage by one or the other bill. Thus, we usually include the legislative histories for those

competitor bills to complete the late-1800s and early 1900s legislative research.

Federal Legislative History Beginning in 1789

We provide legislative history for early federal bills. The 1st Congressional Session convened on March 4, 1789. So, what might be available on very early federal legislation? We review older source materials, such as the Register of Debates and the Congressional Globe [predated the Congressional Record] and the older Congressional Research Service’s Serial Set for bills, hearings and reports. [The modern equivalent, the CIS/Annual, offers legislative histories and abstracts.] We can locate bill copies, committees’ reports, and hearings on microfiche at our local congressional depository libraries.

As with modern federal legislation, it is not uncommon to find that the much older successful federal bills were preceded by failed competitor and companion measures. Providing the legislative histories of these older failed bills helps to flesh out the legislative history of the successful bill.

Researching federal legislation from 1789 forward takes a lot of effort and we have figured out the best ways to accomplish these research tasks. View a sample of our federal research at our website at: http://www.legintent.com/legislation/old_sample.pdf.

Recovering Your Costs of Legislative History Research

The **fees** paid by your firm that were incurred to have us **research legislative intent can be recovered** *if your position prevails in court.* Van de Kamp v. Gumbiner, 221 CA3rd 1260 (1990)

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Senate No. 27-

An act in continuation of the act to regulate practice in the courts of record of the State of California

Printed by

1854, Feb. 27. Reads first time, and to second reading.

L. J. Hayes
Sec. Senate

March 7. Read 2d & 3d times and passed
D. B. Lewis
Sec. Senate

Passed by the Senate
17th

The remainder of this bill was used in the assessment.

Sec 225 - The execution must be directed to the Sheriff, or coroner, when the Sheriff is a party, or interested, subscribed by the party issuing it, or his attorney, and must intelligibly refer to the judgment, stating the court, the County where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and the time of docketing in the county to which execution is issued, and shall require the officer substantially as follows;

1. If it be against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of such debtor, and if sufficient personal property cannot be found, out of real property belonging to him on the day when the judgment was rendered docketed in the County, or at any time thereafter;

2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, it shall require the officer to satisfy the judgment out of such property;

3. If it be against the person of the judgment debtor, it shall require the officer to arrest such debtor, and commit him to the jail of the County until he shall pay the judgment, or be discharged according to law;

4. If it be for the delivery of the possession of real or personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the officer to satisfy any costs, damages, or rents and profits recovered by the same judgment out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered.

provided - That no person shall be
imprisoned in any civil action
on mesne or final process
unless in cases of fraud -

(amdt at end of 3 sub. of sec 223.)

2. If upon a party, it may be made by leaving the paper at his residence, between the hours of six in the morning and nine in the evening, with [some person of suitable age and discretion.]

Sec 259 ~ Service by mail may be made, where the person making the service and the person on whom it is to be made reside in different places, between which there is a regular communication by mail.

Sec 260 ~ In case of service by mail, the paper must be deposited in the post office, addressed to the person on whom it is to be served, at his place of residence, and the postage paid.

Sec 261 ~ Where the service is by mail, it shall be double the time required in cases of personal service.

Sec 262 ~ Notice of a motion, or other proceeding, before a court or judge, when personally served, shall be given at least eight days before the time appointed therefor.

Sec 263 ~ Where a defendant shall not have answered or answered, service of notice or papers, in the ordinary proceedings in an action, need not be made upon him, unless he be imprisoned for want of bail, but shall be made upon him or his attorney, if notice of appearance in the action has been given.

Substitute for words in brackets, as follows:-

"with a free white person of the age of
fourteen years living ^{in the family of or} upon the premises"

Senate No. — 27

An act in continuation
of the act to regulate prac-
tice in the Courts of Record
of the State of California

San Senate.

Feb. 27. 1870. Read 1st

time.

March 7. Reads 2d &
3d times, and passes.

J. H. A. H. H.

See Senate

Nov 14 & 22nd in A. H. H. H.
Law. March 5. 1870

Reporter paid as law,
or taken April 1870 -

Nothing but
uncommonly

Expressed

An act in continuation of the act to regulate practice in the courts of record of the State of California in civil actions.

The people of the State of California, represented in Senate and Assembly do enact as follows:

Chapter 21

The execution.

Sec 219. Writs of execution for the enforcement of judgments may be had by the party in whose favor judgment shall hereafter be given, at any time within five years after the entry of judgment, in the manner prescribed in this chapter.

Sec 220. After the lapse of five years from the entry of judgment, an execution may be issued only by leave of the court on motion, with notice to the adverse party, such leave shall not be given unless it be established, by the oath of the party or other proof that the judgment or some part thereof remains unsatisfied and due. When the judgment shall have been rendered in a court of justice of the peace, and docketed in the office of the clerk of the county, the application for leave to issue execution must be to the County Court of the county where the judgment was rendered.

Sec 221. Where a judgment requires the payment of money or the delivery of real or personal property, the same

in this Chapter. Where it requires the performance of any other act, a certified copy of the judgment may be served upon the party against whom it is given, or the person or officer who is required thereby, or by law to obey the same, and his obedience thereto enforced. If he refuse he may be punished by the court as for a contempt.

Sec 222. — There shall be three kinds of executions; one against the property of the judgment debtor; another against his person; and the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same. They shall be deemed the process of the court, but they need not be sealed nor subscribed, except as prescribed in section 225.

Sec 223. — Where the execution is against the property of the judgment debtor, it may be issued to the Sheriff of any county where the judgment is docketed. Where it requires the delivery of real or personal property, it must be issued to the Sheriff of the county where the property, or some part thereof, is situated. Executions may be issued, at the same time, to different counties.

Sec 224. — If the action be one in which the defendant might have ^{been} arrested, as provided in section 112 and section 114, an execution against the person of the judgment debtor may be issued to any county within the jurisdiction of the court, after the return of an execution against his property unsatisfied in whole or in part.

Sec 225 - The execution must be directed to the Sheriff, or coroner, when the Sheriff is a party, or interested, subscribed by the party issuing it, or his attorney, and must intelligibly refer to the judgment, stating the Court, the county where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and the time of docketing in the county to which execution is issued, and shall require the officer substantially as follows;

1. If it be against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of such debtor, and if sufficient personal property cannot be found, out of real property belonging to him on the day when the judgment was docketed in the county, or at any time thereafter;
2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, it shall require the officer to satisfy the judgment out of such property;
3. If it be against the person of the judgment debtor, it shall require the officer to arrest such debtor, and commit him to the jail of this county until he shall pay the judgment, or be discharged according to law; Provided, that no person shall be imprisoned in any civil action on mesne or final process, unless, in cases of fraud-
4. If it be for the delivery of the possession of real or personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the officer to satisfy any costs, damages or rents and profits recovered by the same judgment out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered

to be specified therein, if a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of the real property belonging to him on the day when the judgment was docketed or at any time thereafter, and shall in that respect be deemed an execution against property.

Sec 226. — The execution shall be returnable within sixty days after its receipt by the officer to the clerk with whom the record is filed.

Sec 227. — The laws prescribed by the Legislature relating to executions, and their incidents, including and regulating the sale of property, either real or personal, the powers and rights of officers, their duties thereon, and the proceedings to enforce their duties and the liability of their sureties, shall apply to the executions prescribed by this chapter.

Chapter 22

Proceedings supplementary to the execution.

Sec 228. — When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment issued to the Sheriff of the county where he resides, or if he do not reside in this state, to the Sheriff of the county where the judgment roll or transcript of a justice's judgment is filed, shall be returned unsatisfied in whole or in part, the judgment creditor, at any time after such return made, on proof of such return, shall at any time be entitled to an order from a judge of the court, or a county judge of the county to which execution was issued, requiring such judgment debtor to appear and answer, concerning his property, before such judge or a referee appointed by a judge of the

court, at a time and place specified in the order.

After the issuing of an execution against property, and upon proof by affidavit, to the satisfaction of the court, or a judge thereof, or county judge, that any judgment debtor has property, which he unjustly refuses to apply towards the satisfaction of the judgment, such court or judge may, by an order, require the judgment debtor to appear at a specified time and place, to answer concerning the same, and such proceedings may thereupon be had, for the application of the property of the judgment debtor towards the satisfaction of the judgment, as are provided, upon the return of an execution.

Instead of the order requiring the attendance of the judgment debtor, as provided in this section, the judge may, if it appear to him that there is danger of the debtor's absconding, issue a warrant under his hand, requiring the sheriff of any county where such debtor may be, to arrest him and bring him before such judge. Upon being brought before the judge, he may be examined on oath, and ordered to enter into an undertaking with one or more sureties, that he will attend from time to time before the judge or referee, as he shall direct, during the pendency of the proceedings, and until the final determination thereof, and will not in the meantime dispose of any portion of his property, not exempt from execution, in default of entering into such undertaking, he may be committed to prison, by warrant under the hand of the judge.

Sec 229 — After the issuing of execution against property, any person indebted to the judgment debtor, may pay to the sheriff the amount of his debt, or so much thereof as shall be necessary to satisfy the execution, and the sheriff's receipt shall be sufficient discharge for the amount so paid.

Sec 230 — After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, and upon an affidavit, that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding two hundred dollars, the judge may by an order require such person or corporation or any officer or member thereof, to appear at a specified time and place, and answer concerning the same. The judge may also, in his discretion, require notice of such proceeding to be given to any party to the action, in such manner as may seem to him proper.

Sec 231 — Witnesses may be required to appear and testify in any proceedings under this chapter, in the same manner as upon the trial of an issue. But the judge may, by order, forbid a transfer or other disposition of such property.

Sec 232 — The party or witness may be required to attend before the judge, or before a referee, appointed by the court or judge; if before a referee, the examination shall be taken by the referee, and

answers before a judge or referee, under this Chapter, shall be on oath, except that when a corporation answers, the answers shall be on oath the oath of an officer thereof.

Sec 233. — The judge may order any property of the judgment debtor, not exempt from execution, in the hands either of himself or any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment.

Sec 234. — The judge may also, by order, appoint a receiver of the property of the judgment debtor, with such restrictions and regulations as to such judge may seem right. The judge may also, by order, forbid a transfer or other disposition of the property of the judgment debtor, not exempt from execution, and any interference therewith.

Sec 235. — If it appears that a person or corporation alleged to have property of the judgment debtor or indebted to him, claims an interest in the property, advise to him, or denies the debt, such interest or debt shall be recoverable only in an action against such person or corporation by the receiver, or such other person as the court may appoint, but the judge may, by order forbid a transfer or other disposition of such property or interest, till a sufficient opportunity be afforded to the receiver or person appointed to commence the action, and prosecute the same to

of granting letters test

Sec 240 ~ Judgment shall be entered in the judgment book, as in other cases, but without costs, for any proceeding prior to notice of trial. The case, the submission, and a copy of the judgment shall constitute the judgment roll.

Sec 241 ~ The judgment may be enforced in the same manner, as if it had been rendered in an action and shall be subject to appeal in like manner.

Chapter 24

Proceedings against joint debtors, heirs, devisees, legatees, and tenants holding under a judgment debtor.

Sec 242 ~ When a judgment shall be recovered against one or more of several persons, jointly indebted upon a contract, by proceeding as provided in Section 69 those who were not originally summoned to answer the complaint, may be summoned to show cause why they should not be bound by the judgment, in the same manner as if they had been originally summoned.

Sec 243 ~ In case of the death of a judgment debtor after judgment, the heirs, devisees, or legatees of the judgment debtor or the tenants of real property, may owned by him, and affected by the judgment, may after the expiration of three years from the time of granting letters testamentary, or of administration

upon the estate of the testator or intestate, be summoned to show cause, why the judgment should not be enforced, against the estate of the judgment debtor in their hands respectively, and the personal representatives of a deceased judgment debtor, may be so summoned, at any time within one year after their appointment.

Sec 244 ~ The summons provided in the last two sections, shall be subscribed by the judgment creditor, his representatives, or attorney; shall describe the judgment, and require the person summoned, to show cause, within twenty days after the service of the summons; and shall be served in like manner as the original summons.

Sec 245 ~ The summons shall be accompanied by an affidavit of the person subscribing it, that the judgment has not been satisfied, to his knowledge or information and belief, and shall specify the amount due thereon.

Sec 246 ~ Upon such summons, the party summoned may answer within the time specified therein, denying the judgment, or setting up any defence which may have ~~arisen~~ arisen subsequently; and in addition thereto, if he be proceeded against according to section 242, he may make the same defence, which he might have originally made to the action except the statute of limitations.

Sec 247 ~ The party issuing the summons, may demur or reply to the answer, and the party summoned may demur to the reply and the issues may be tried and judgment may be given, in the same manner as in an action, and enforced by execution, or the application of the property charged to the payment of the judgment, may be compelled by attachment, if necessary.

Sec 248 ~ The answer and reply shall be verified in the like cases and manner, and be subject to the same rules, as the answer and reply in an action.

Chapter 25 Confession of judgment, without action.

Sec 249 ~ A judgment by confession may be entered, without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner presented by this chapter.

Sec 250 ~ A statement in writing must be made signed by the defendant and verified by his oath, to the following effect:

1. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor.

2. If it be for money due or to become due, it must state concisely the facts...

and must show that the sum specified confessed therefor is justly due, or to become due.

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and must show that the sum confessed therefor does not exceed the same.

Sec 250 ~ The statement may be filed with a county clerk, who shall endorse upon it, and enter in the judgment book, a judgment for the amount confessed, with costs. The statement and affidavit with the judgment endorsed, shall thereupon become the judgment roll.

Chapter 26.

Offers of the defendant to compromise the whole or a part of the action.

Sec 252 In an action arising on contract, the defendant may at any time before trial or judgment, serve upon the plaintiff, an offer in writing, to allow judgment, to be taken against him, for the sum, or to the effect therein specified. If the plaintiff accept the offer, and give notice thereof, within ten days, he may file the summons, complaint and offer, with an affidavit of notice of acceptance, and the clerk shall thereupon enter judgment accordingly. If the notice of acceptance be not given the offer shall be deemed withdrawn, and shall not be given in evidence, and if the plaintiff fail to obtain a more favorable judgment, he shall have the

defendant's costs, from the time of the offer.

Sec 253 — In an action arising on contract, the defendant may, with his answer, serve upon the plaintiff an offer in writing, that if he fail in his defence, the damages be assessed at a specified sum; and if the plaintiff signify his acceptance thereof in writing, with or before the notice of trial, and on the trial have a verdict, the damages shall be assessed accordingly.

Sec 254 — If the plaintiff do not accept the offer, he shall prove his damages, as if it had not been made, and shall not be permitted to give it in evidence. And if the damages assessed in his favor shall not exceed the sum mentioned in the offer, the defendant shall recover his expenses, incurred in consequence of any necessary preparation or defence in respect to the question of damages. Such expenses shall be ascertained at the trial.

Chapter 24. Entitling Affidavits.

Sec 255 — It shall not be necessary to entitle an affidavit in the action; but an affidavit made without a title, or with a defective title, shall be as valid and effectual, for every purpose, as if it were duly entitled, if it intelligibly refer to the action or proceeding in which it is made.

Chapter 28.
Computation of time.

Sec 256 — The time within which an act is to be done, as herein provided, shall be computed, by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

Chapter 29.
Notices, and filing and service of papers.

Sec 257 — Notices shall be in writing; and notices and other papers may be served on the party or attorney, in the manner prescribed in the next three sections, where not otherwise provided by law.

Sec 258 — The service may be personal, or by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:
1. If upon an attorney, it may be made during his absence from his office, by leaving the paper with his clerk therein, or with a person having charge thereof; or when there is no person in the office, by leaving it, between the hours of six in the morning and nine in the evening, in a conspicuous place in the office, or if it be not open, so as to admit of such service, then by leaving it at the attorney's residence, with some person of suitable age and discretion.

2. If upon a party, it may be made by leaving the paper at his residence, between the hours of six in the morning and nine in the evening, with a free white person of the age of fourteen years living in the family, or upon the premises.

Sec 259 - Service by mail may be made, where the person making the service and the person on whom it is to be made reside in different places, between which there is a regular communication by mail.

Sec 260 - In case of service by mail, the paper must be deposited in the post office, addressed to the person on whom it is to be served, at his place of residence, and the postage paid.

Sec 261 - Where the service is by mail, it shall be double the time required in cases of personal service.

Sec 262 - Notice of a motion, or other proceeding, before a court or judge, when personally served, shall be given at least eight days before the time appointed therefor.

Sec 263 - Where a defendant shall not have demurred or answered, service of notice or papers, in the ordinary proceedings in an action, need not be made upon him, unless he be imprisoned for want of bail, but shall be made upon him or his attorney, if notice of appearance in the action has been given by appointed jurist to.

263. Sec 263 ~ Where a plaintiff or a defendant who has demurred or answered, or gives notice of appearance, resides out of the state, and has no attorney in the action, the service may be made by mail, if his residence be known, if not known, on the clerk for the party.

Sec 264 ~ The summons, and the several pleadings in an action, shall be filed with the clerk within ten days after the service thereof, respectively, or the adverse party, on proof of the omission, shall be entitled, without notice, to an order from a judge that the same be filed within a time to be specified in the order, or be deemed abandoned.

Sec 265 ~ Where a party shall have an attorney in the action, the service of papers shall be made upon the attorney, or the party.

Sec 266 ~ The provisions of this chapter shall not apply to the service of a summons, or other process, or of any paper to bring a party into contempt.

Chapter 30 Powers of referees -

Sec 267 ~ Every referee appointed pursuant to this act shall have power to administer oaths, in any proceeding before him,

Chapter 31
Miscellaneous Provisions.

Sec 269 — If an original pleading or paper be lost or withheld by any person, the court may authorize a copy thereof to be filed and used instead of the original.

Sec 270 — The various undertakings required to be given by this act, must be filed with the clerk of the court, unless the court expressly provides a different disposition thereof, except that the undertakings provided for by the Chapter on the claim and delivery of personal property, shall, after the justification of the sureties, be delivered by the sheriff to the parties respectively, for whose benefit they are taken.

Sec 271 — The time for publication of legal notices shall be computed so as to exclude the first day of publication, and include the day on which the act or event, of which notice is given, is to happen, or which completes the full period required for publication.

Chapter 32

Actions in place of *scire facias*, *quo warranto*, and of informations in the nature of *quo warranto*.

Sec 272 ~ An action may be brought by the attorney-general, in the name of the people of this state, on leave granted by the court, or by a judge thereof, for the purpose of vacating the charter or annulling the existence of a corporation, other than municipal, whenever such corporation shall

1. ~ Offend against any of the provisions of the act or acts creating, altering, or renewing such corporation; or

2. ~ Violate the provisions of any law by which such corporation shall have forfeited its charter, by abuse of its powers; or

3. ~ Whenever it shall have forfeited its privileges or franchises, by failure to exercise its powers; or

4. Whenever it shall have done or omitted any act, which amounts to a surrender of its corporate rights, privileges, and franchises; or.

5. Whenever it shall exercise a franchise or privilege, not conferred by law.

And it shall be the duty of the attorney-general, whenever he shall have reason to believe, that any of these acts or omissions can be established by proof, to apply for leave, and upon leave granted, to bring the action in every case of public interest, and also in every other case, in which satisfactory security shall be given, to indemnify the people of this state, against the costs and expenses to be incurred thereby.

Sec 273 ~ Leave to bring the action may be granted upon the application of the attorney general; and the court or judge may, at discretion, direct notice of such application to be given to the corporation or its officers, previous to granting such leave, and may hear the corporation in opposition thereto.

Sec 274 ~ An action may be brought by the attorney general in the name of the people of this state, upon his own information, or upon the complaint of any private party, against the parties offending in the following cases:

1. when any person shall usurp, intrude into, or unlawfully hold or exercise, any public office, civil or military, or any franchise within this state, or any office in a corporation created by the authority of this state; or,

2. When any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall make a forfeiture of his office; or

3. When any association, or number of persons, shall act within this state as a corporation, without being duly incorporated.

Sec 275— An action may be brought by the attorney-general, in the name of the people of this state, for the purpose of vacating or annulling letters patent, granted by the people of this state in the following cases:

1. When he shall have reason to believe that such letters patent were obtained by means of some fraudulent suggestions or concealment of a material fact, made by a person to whom the same were issued or made, or with his consent or knowledge; or,

2. When he shall have reason to believe, that such letters patent were issued through mistake, or in ignorance of a material fact; or

3. When he shall have reason to believe, that the patentee, or those claiming under him, have done or omitted an act, in violation of the terms and conditions on which the letters patent were granted, or have, by any other means, forfeited the interest acquired under the same.

Sec 276 ~ When an action shall be brought by the attorney-general, by virtue of this Chapter, on the relation or information of a person having an interest in the question, the name of such person shall be joined with the people, as plaintiff.

Sec 277 ~ Whenever such action shall be brought against a person for usurping an office, the attorney-general, in addition to the statement of the cause of action, may also set forth in the complaint, the name of the person rightfully entitled to the office, with a statement of his right thereto, and in such case, upon proof by affidavit, that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by a judge, for the arrest of such defendant, and holding him to bail, and thereupon he shall be arrested and held to bail, in the manner, and with the same effect, and subject to the same rights and liabilities, as in other civil actions, where the defendant is subject to arrest.

Sec 278 ~ In every such case, judgment shall be rendered upon the right of the defendant, and also upon the right of the party, so alleged to be entitled, or only upon the right of the defendant, as justice shall require.

Sec 282 ~ Where several persons claim to be entitled to the same office or franchise, one action may be brought against all such persons, in order to try their respective rights to such office or franchise.

Sec 283 ~ When a dependant, whether a natural person or a corporation, against whom such action shall have been brought, shall be adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered, that such dependant be excluded from such office, franchise or privilege, and also that the plaintiff recover costs against such dependant. The court may also, in its discretion, fine such dependant a sum not exceeding five thousand dollars, which fine, when collected, shall be paid into the treasury of the state.

Sec 284 ~ If it shall be adjudged, that a corporation, against which an action shall have been brought, pursuant to this chapter, has by neglect, abuse, or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered, that the corporation be excluded from such corporate rights, privileges and franchises, and that the corporation be dissolved.

Sec 285 ~~~~~ If judgment be rendered in such action, against a corporation or against persons claiming to be a corporation, the court may cause the costs therein to be collected, by execution against the persons claiming to be a corporation, or by attachment or process against the directors or other officers of such corporation.

Sec 286 When such judgment shall be rendered against a corporation, the court shall have power to restrain the corporation, to appoint a receiver of its property, and to take an account, and make distribution thereof among its creditors, under such guards and regulations as to such court may seem just, and it shall be the duty of the attorney-general, immediately after the rendition of such judgment, to carry out the same.

Sec 287 ~~~~~ Upon the rendition of such judgment against a corporation, or for the vacating or annulling of letters patent, it shall be the duty of the attorney-general, to cause a copy of the judgment roll to be forthwith filed in the office of the secretary of state.

Sec 288 ~~~~~ Such secretary shall thereupon, if the record relates to letters patent, make an entry in the proper records, of the substance and effect of such judgment, and of the time when the record thereof was docketed, and the real property granted by such patents letters patent, may thereafter be disposed of in the manner prescribed by law.

Sec 289 ~~~~~ Whenever by the provisions of law, any
any property, real or personal, shall be forfeited to
the people of this State, or to any officer for their
use, an action for the recovery of such property,
alleging the grounds of the forfeiture, may be brought
by the proper officer, in the proper court.