

IRREGULARLY ORGANIZED.

DECISION AGAINST RECLAMATION DISTRICT 136.

The Supreme Court Affirms the Judgment of Judge Catlin.

The Supreme Court has filed a decision affirming the judgment of Judge Catlin in the case of the people against Reclamation District 136 and certain persons (appellants). The case was brought by Lawyers A. G. Galt, Jr., on behalf of the Attorney-General, to disorganize the district, on the ground that it was not properly organized. The decision of the Supreme Court recites all the facts in the case. It says:

This is a proceeding by quo warranto to exclude the defendants from all corporate rights. A demurrer to the complaint was overruled and defendants answered. When the case was called for trial defendants moved for judgment on the pleadings on the ground that the complaint did not state facts sufficient to constitute a cause of action, in that, though the complaint averred that defendants were usurping the functions of a corporation, it is not alleged in what such usurpation consists. This motion was denied.

1. Defendants contend that the complaint is insufficient because it states only a conclusion of law and does not state any reason why the defendant corporation is invalid, and that it is settled law in this State that in quo warranto proceedings the complaint must allege specifically the defects in the formation of a corporation. (Citing People vs. Board, etc., 27 Cal. 657; Hodges vs. Denn, 72 Cal. 520; People vs. Wesson, 84 Cal. 141; Ohm vs. San Francisco, 92 Cal. 450.) None of the cases cited were quo warranto cases.

It seems to be well settled that an information to oust a pretended municipal corporation from the exercise of corporate franchises need only allege that such corporation is exercising them without lawful authority. It was said in People vs. Cooper, 139 Ill. 461, that "the sole purpose of the information is to require the defendants to show by what warrant they are holding and exercising the office." The rule of pleading in cases of this character is that, where an information is filed to test the question of intrusion or usurpation of an office, it is sufficient to allege generally that the defendant is in possession of the office without lawful authority." The rule thus stated is sustained by ample authority. High on Ex. Rem., Sec. 713; Palmer vs. Woodbury, 14 Cal. 43; Flynn vs. Abbott, 16 Cal. 359; Town of Enterprise vs. State, 29 Fla. 128; People vs. McIntyre, 10 Mont. 163; and People vs. Clayton, 4 Utah, 421. In the last-named case the question is fully considered, and the authorities reviewed. The only exception we have found is where the information is not by the Attorney-General, but is upon the relation of a private person contesting the disputed office. State ex rel. Cooper vs. Hamilton, 20 Neb. 198.

2. The court found that the board of Supervisors had no jurisdiction to form the district, and that it was not legally organized. This finding is sought to be sustained by plaintiff upon defective grounds, only one of which we deem to possess merit.

It is claimed that the publication of the petition required by Section 30 of the Act of March 28, 1868 (Statutes of 1868, p. 547), under which the corporation was organized, is fatally defective. The objection was made at the trial but was overruled. The affidavit is as follows: "That a true copy of the annexed petition (which is made part of this affidavit) has been published in said paper (the Sacramento Daily Record) once a week for four weeks, commencing the 5th day of December, 1871, to and including the 21st day of January, 1872." The Act, Section 30, says: "The petition... shall be published for four weeks next preceding the hearing thereof in some newspaper published in the county... etc."

The petition was heard January 3, 1872. From December 5th to January 23, both days inclusive, there are exactly four weeks. A week consists of seven consecutive days." (Political Code, Section 2858.) If the publication had been in a weekly paper, commencing on December 5th, and had been repeated on the 12th, 19th, 26th and January 2d, it would have satisfied the statute. It was in a daily paper, however, and the affidavit does not show the intervening days on which the publication was made, nor that it was made in each issue of the paper. It states that the petition was published once a week for four weeks, commencing December 5th to and including January 2d. Giving the affidavit the very liberal construction that the publication is shown to have occurred at regular intervals of one week, which is the utmost that can be said of it, was this sufficient? The question presented: Where the statute is silent as to the number or frequency of publications required, but requires publication of the petition in some newspaper "for four weeks next preceding the hearing thereof," is publication once a week in a daily newspaper sufficient?

The question was suggested in Williams vs. Sacramento County, 58 Cal. 237, where a similar statutory requirement of publication in a similar case was before the court, but the point was not decided. It was held, however, that "the statutory publication was one of the jurisdictional steps in the proceedings and unless the petition was published in accordance with the require-

ments of the statute all the subsequent proceedings were invalid." In Helman vs. Merz, 112 Cal. 661, the question was involved in the matter of sale of real property of a decedent.

Section 1549 of the Code of Civil Procedure provides that, when real property is ordered to be sold at private sale notice of the sale must be published in a newspaper for two weeks successively next before the day or after which the sale is to be made. In that case the sale was ordered to be made on or after April 21, 1892. Notice was published for fifteen consecutive days, in a daily paper, commencing April 5th (Tuesday) and including April 19th (Tuesday), 1892, each day inclusive, and giving notice that such sale was to be made April 21st, 1892 (Thursday). It was necessarily published April 12th (Tuesday), having been published daily, as shown by the affidavit, thus making three insertions at intervals of one week. The court said: "This publication is insufficient to satisfy the requirements of the statute, for if publication in a daily paper may be omitted for one day, then it may be omitted for two or more days, and there can be no certainty as to when the last publication must be made."

The first week began Tuesday, April 12th, and the third Tuesday, April 19th, and the publication was made in a weekly paper issuing on these days the notice would undoubtedly have been good, for it would have appeared in each issue of the paper and for two weeks successively next before the day of sale. But it was in effect held that publication in a daily paper did not impart notice from week to week (as it would have done had the statute read once a week for two weeks), otherwise the notice published on the 19th would have authorized the sale on the 21st. It follows that the notice given in the present case was not sufficient, as it clearly appears that no notice was published once a week in a daily paper.

3. Defendant claims that the State is estopped to question the validity of the corporation; that defendant has been permitted to expend their means in reclaiming the land, and, without incurring the expense of a suit, and in their own way, have been suffering for twenty years to enjoy the fruits of their labor and the advantages of the corporation and to deprive them of these would be a wrong for which no compensating benefits to the State or any one are shown.

No facts were set up in the answer by way of estoppel and none appear in the record which could by any possibility have the effect to conclude the State from asserting that the corporation has no legal existence. The suggestion that defendants have for a long period since been suffering for twenty years to enjoy the fruits of their labor and the advantages of the corporation and to deprive them of these would be a wrong for which no compensating benefits to the State or any one are shown.

The general rule is that there is no estoppel against the State. It is true that to this rule there are many exceptions found in the cases, but none, so far as we have been able to learn, where the proceeding was directly against a corporation by a State to test the right of the corporation to exist. Corporations have a beginning only by virtue of compliance with statutory requirements in their formation. (People vs. Selfridge, 25 Cal. 331; People vs. Harris vs. McGregor, 20 Cal. 276; A corporation cannot acquire a legal existence by mere lapse of time.

The judgment and order should be affirmed. CHIPMAN, C. SEARLS, C. BEELCHER, C. HARRISON, J. GAROUTTE, J. VAN FLEET, J.

IN HARD LUCK.

A Newcomer Robbed While He Slept on the Plaza.

An Easterner, who declined to give his name, but who Bagley, to whom he told his story, landed in the city yesterday and was met by a friend of his youth. Together they started to celebrate, and about noon reached the Plaza, where they composed themselves for a brief nap.

The newcomer awoke he found that one of the nimble-fingered gentry had explored his pockets and taken \$10 in coin and a silver watch. He informed the officer that he only carried \$10 worth for the money lost, but that the watch was a keepsake and very valuable on that account. Up to date, however, it has not been recovered.

New Clothing Firm.

The new firm of D. W. Carithers & Co. will open shortly at Seventh and K streets. Mr. Carithers is an enterprising and successful merchant of Santa Rosa, Charles W. Frankel, who came to Sacramento about a year ago as manager of The Model Clothing Store, will be a member of the new firm. He has a reputation here as a young man of original ideas, rare energy and good hustling qualities.

Permission to Sell.

Mary E. Howard, administratrix of the estate of Madison Howard, deceased, has been granted permission by Judge Hughes to sell the personal property of the estate.

Yes, you can get it in Sacramento. What? Why, Crisp's, the popular craze of the age. Opening of new factory Saturday night, 424 1/2 K street.

McMorris sells groceries. Agent for Coronado water and Stockton sarsaparilla and iron. 531 M street.

A nice lunch or hot tamale at the El Dorado, 826 J or 1008 Ninth.

Try McMorris's 35c tea. 531 M.

FOR THE FOLSOM HIGHWAY.

LOCAL ORGANIZATIONS TAKE UP THE SUBJECT.

The Wheelmen and the Third Ward Republican Club Enlist for the Campaign.

The Folsom road campaign may be said to have now opened. There was a very large meeting of citizens at the rooms of the Capital City Wheelmen last night by invitation of the club to its members and others to consider the Folsom State highway proposition.

Hon. Scott F. Ennis presided, and stated the object of the meeting was to consider how best to promote the cause of the proposed State highway between this city and Folsom, which was authorized by the late Legislature, and upon which the voters of the county are to pass at the ballot box December 4th. The high value of the road to the public, and the fact that the State contribution of 40 per cent. of the cost and such matters, were well understood. The question was how best to work to secure the acceptance of the people of the offer made by the State.

A general debate followed, participated in by C. A. Luhrs, President of the Folsom Road Commission, Messrs. Brusie, Breuner, Woodson, Superintendent Howard, Professor Johnson, Lavenson, Trustee-elect Dolan, and others, in which the whole matter was gone over and adopted by the people. The proposition will carry, if the voters are thoroughly informed upon its merits, how great an economy it will be, and what it means for the county and the State.

In the debate it developed that the real interest of the people was to taxpayers a small sum as about 2 cents on the hundred dollars, so that an assessment on \$3,000 means but a tax of 70 to 75 cents, to secure the road, with that tax diminishing as the bonds are taken up, until in the end it will be but a trifle.

It was finally resolved that it means so much for the good of the county and State, and will be the initial or beginning of a movement that must result in a perfect road system for every section of the county, it ought to be favored and adopted by the people. The Chair was asked to appoint a General Campaign Committee for work in the city specially.

That was the gist of all the remarks and action, which was very deliberate, and very interesting to the people. The Chair announced that he would name the committee in a few days, which will district the city and appoint one hundred workers to canvass it by small district assignments. These details will report daily to the General Committee and act under its instructions and guidance. Fifty-five dollars was pledged to meet the clerical and necessary expenses of the committee.

THIRD WARD REPUBLICANS. The Folsom road proposition also engaged the attention of the Third Ward Republican Club at its regular meeting last night. There was a large attendance and great interest was manifested.

After consideration of the Folsom road matter at some length, it was resolved, since the club wants to further public interest in any way it can, that President Ennis, right tackle, Cannon; right guard, Austin; right center, Smith; left guard, Reed; left tackle, Mason; left end, Roan; quarter, Giffen; left half, Harney; right half, McBride; full, Root.

The average weight of the lads is 155 pounds. Naomi Chapter E. O. S., has elected the following officers to serve for the ensuing year: Worthy Matron, Mrs. Emma Gordon; Worthy Patron, Christian Elliott; Associate Matron, Mary Jordan; Conductress, Lizzie Dolan; Secretary, Bonnie Waggoner; Treasurer, Harriet Sutliff; Adah, Pearl Waggoner; Ruth, Daisy Guthrie; Esther, Annie Egan; Martha, Erving; Esther, Alice Kellogg; Warder, Isabelle Wilder; Sentinel, George Dunn; Chaplain, Rev. Horace Mayhew; Marshal, Mattie Carrier; Organist, Alice De Lev.

Farmers' Institute.

The Farmers' Institute at Galt closed its two days' session last night. It was fairly well attended, and most of the addresses delivered were full of interest to persons engaged in agricultural pursuits.

Stole a Coat.

Officer Hayes yesterday arrested Pat McLaughlin for stealing an overcoat from Scherr's delivery wagon. McLaughlin had the stolen garment in his possession when arrested.

Lieutenant Kay Re-elected.

Troop E, the local cavalry company, has re-elected S. W. Kay Senior First Lieutenant, his term having expired. Lieutenant Kay is very popular with the members of the troop.

A Peculiar Incident.

At Woman's Meeting. An incident occurred at the W. C. T. U. State convention at Cortland, New York, early in October, that marks an era of progress, and is interesting inasmuch as it indicates the trend of thought of the present day. It was proposed that Postum Cereal Coffee be served at meals for delegates in place of ordinary coffee. Some of the ladies stated that they had tried Postum once and did not fancy it. However it was served at the first general meal and the ladies were very emphatic in their terms of approval. Some one thereupon put the question, whether the convention be served with ordinary coffee or with Postum, and the vote was for Postum without one dissenting voice, the ladies flocking about the cook to ascertain how to make such a delicious beverage on which many of them had failed in their first attempts. The answer was simple: Boil 15 minutes after boiling commences, while for church suppers, conventions, etc., inclose the product in two cheesecloth bags in coffee boiler, and boil one hour. The famous Postum Coffee thus made furnished a hot beverage full of nutriment for nerves and brain and delicious to the taste. People are slowly awakening to the fact that the daily drugging with narcotics in the shape of coffee and tobacco accounts for the many ills of head, nervous heart and stomach. The action of the New York State convention indicates their intelligence on the subject in hand.

Beware of harmful substitutes and adulterated coffee sold for Cereal Coffee under the same fetching name. Genuine packages have red seals thereon and the words "It makes red blood."

SCHAD-STORTZ CASE.

Officer Hayes' Part in the Squabble Was of No Moment.

Several days ago Isador and Thomas Schad were arrested at the instance of Peter Stortz, who charged them with having disturbed his peace. According to Stortz's story, the trouble originated over a sewing machine he had purchased for his wife, through the Schads brothers, by whom he was formerly employed.

Before their arrest the Schad brothers had gone to Stortz's room and took possession of the machine, which they asserted Stortz had not paid for. There was some objection on the part of the latter, and Officer Hayes was called in and held Stortz while the machine was being removed. Subsequently the officer was charged with battery.

The cases were called in the Police Court yesterday, and the Schads entered pleas of guilty, as charged, but stated that they had changed their minds, and acted under the advice of their attorneys. On motion of the City Attorney,

THE CASE AGAINST OFFICER HAYES WAS DISMISSED.

BAUMAN IN JAIL.

He Is Now Charged With the Murder of His Wife.

Steffan Bauman, who on Saturday last killed his wife and then turned his revolver against his own head in a fruitless attempt to end his life, is in the County Jail with a charge of murder hanging over him.

After the shooting Bauman was treated at the Receiving Hospital, out was subsequently removed to the County Hospital, where he improved rapidly.

On Wednesday afternoon a hospital attendant informed the City Attorney that Bauman had so far recovered as to be able to walk about and drink beer at a near-by saloon. The City Attorney, who supposed that Bauman was in a precarious condition, opened communications with Dr. White, and was informed that the attendant's statement was correct.

Thereupon the City Attorney conferred with Chief of Police Drew, and Bauman was taken from the hospital and landed in the County Jail, where there was less danger of his walking out.

Yesterday morning Officer Hardy swore to a complaint charging Bauman with the murder of his wife, and about noon the complaint was served on the accused by Officer Hayes.

Coroner Clark will hold an inquest tonight to inquire into the murder of Mrs. Bauman.

SUNDAY'S COURSEING.

Twenty-Four Dogs Entered for the Next Meeting.

Prizes of \$22 50, \$15 and \$7 50 for respectively the first, second and third dogs were offered for the courseing next Sunday at Agricultural Park. S. Cummings will do the judging and J. F. Heenan will act as slipper. Following is the order in which the dogs were drawn last night at Walsh's, Ninth and K streets: Duco against Tom Farrell's Combination.

Patton Brothers' Queen against Jim Mackay's Silver King. J. E. Titton's Gazette against Pearl & Bennett's Bonita.

Ed. Walsh's Jim Budd against Devine & No. 10. M. C. Delano's Elco against Schultz & Rought's Daisy Bell.

Lloyd & O'Brien's Grady against F. Ryan's Domino. J. H. Ryan's Kitty Pease against Noble & Haycock's Dynamite.

Tom Farrell's Blue Rock against M. C. Delano's Daisy Hill. Devine & Lipman's Duke of Argyle against Knealy & Harbinson's White Rockette.

E. Boynton's Fire Chief against J. H. Ryan's Lanky Bob. J. M. Foley's Prior against J. H. Ryan's Montana.

T. Boyle's Lady Sutter against Schultz & Rought's Butcher Boy.

TO PLAY AT STOCKTON.

Sacramento High School Team to Meet the Y. M. C. A.

The football team of the High School of this city will go to Stockton on Saturday to play against the Y. M. C. A. team of that place. The latter are said to be heavy men and strong players. The Sacramento students have not had much practice lately, but expect to put up a good game. Following is the make-up of the Sacramento team:

Right end, Cowden; right tackle, Cannon; right guard, Austin; right center, Smith; left guard, Reed; left tackle, Mason; left end, Roan; quarter, Giffen; left half, Harney; right half, McBride; full, Root.

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TREED THE WRONG FELLOW.

DEPUTY SHERIFF QUIGGLE'S BLOODHOUND.

However, Quiggle Got Three of the Four Men Who Burglarized Brewster's Store.

Deputy Sheriff Hinters yesterday afternoon brought up from Galt three men whom Justice Simon had held in answer for burglars in the first degree, and placed them in jail. They gave the names of Edward Angvine, Tom Johnson and Fred Bernard.

The men were arrested on Wednesday night by Deputy Sheriff Quiggle of Galt for robbing the store of John Brewster, but there is another of the gang yet at large. The three were examined before Justice Simon yesterday morning, Assistant District Attorney J. Charles Jones appearing for the prosecution, and were held for trial as stated.

Brewster's store was robbed quite early in the evening, while the proprietor was attending a lodge meeting. The thieves got away with twenty pairs of shoes, a dozen pairs of trousers, several coats and about five dozen pocket-knives. The plunder was put in sacks, and taking these on their backs the burglars set off along the railroad track.

About 9 o'clock the three men were captured by a bloodhound which he had been a short distance. Deputy Sheriff Quiggle lives just in the edge to the town, and he was called by telephone. While hastening down town he met a party of four men whom he at once sized up as the burglars, three of them having bags on their backs for catfish.

Quiggle stood up the quartet and proceeded to place them under arrest, but one broke and ran away. The other three were marched back to the town, covered by the Deputy's pistol, and placed in the local lock-up.

Deputy Quiggle has a very promising young bloodhound which he has been carefully training to follow foot-scent, and he hastened back to his house, took the young dog and led him to the vicinity of the spot where the fourth man broke away, in the hope that he would take the scent and run the fellow down.

The pup is a good one and he took the scent all right. Quiggle held him in leash and he and Brewster followed the intelligent and keen-nosed bloodhound for fully a mile, when the dog reached a tree and bayed. He had run to his game and tried it all right, but unfortunately he had started on the scent of the wrong man. The fellow up the tree was not the burglar.

Accident to a Painter.

J. L. Holmes, a bridge painter in the employ of the Southern Pacific Company, met with a serious accident last evening. He fell from the steps of the paint car, which was standing in the railroad yards, and his head connected with a heavy upright, cutting open the scalp.

He was treated at the Receiving Hospital by Assistant City Physician Ogden, and eight stitches were taken to close the wound.

Address on Beet Culture.

On Wednesday night R. G. Raaf of Sacramento addressed the Improvement Association at Marysville on the subject of beet sugar culture. He urged that the farmers sign contracts that they will grow sugar beets. The officers of the association promised to aid Mr. Raaf.

AMUSEMENTS.

METROPOLITAN THEATER.

CHAS. P. HALL, Lessee and Manager. L. HENRY, Business Manager. CONTINUED SUCCESS OF THE Elleford Company and Jessie Norton, Presenting New Plays, with New Scenery. Changed Nights. TO-NIGHT, FRIDAY, Nov. 13th, THE FIRE PATROL.

SATURDAY MATINEE.

Mrs. Partington and Her Son Ike. Matinee Reserved Seats, 10 and 20c.

Night Prices, 10, 20 and 30 Cents. Seats on sale for all performances.

THE CLUNIE.

J. H. TODD, Manager. ONE NIGHT SUNDAY, NOV. 14TH, ONLY.

First appearance of the city of the world's famous indescribable phenomenon.

DR. LOYD COOKE.

A psychological enigma, a mysterious being who has mystified the world by his super-human theories, demonstrating Spirit Power in the Light.

Produced with all the weird and impressive surroundings of the séance room. Not in darkness, but in open light.

PRICES, 15c, 25c, 35c. Box office open Saturday 9 a. m.

MR. G. G. BURNETT LECTURES AT SIXTEENTH-STREET LUTHERAN CHURCH THIS EVENING. Many charming views. 10c.

DANCING CLASSES.

LADIES' AND GENTLEMEN'S class, Monday evenings, 7:30. Private lessons at all hours.

Ladies' class, Fridays, 3 p. m. Children, Saturdays, 2 p. m. Socials Tuesday and Saturday evenings. Fall to let. Also furnished always on draught. 105 1/2 Sixth. Tel. Sunset, 616, Cap. 21.

FISCH & WATSON.

ONLY ONE DOLLAR A YEAR—THE WEEKLY UNION. The best weekly.

WHOLESALE LIQUORS.

HAUB & GASTMANN,

AGENTS FOR PAABT BREWING Co.'s Milwaukee Lager. The Paabst Co. Fall to let. Also furnished always on draught. 105 1/2 Sixth. Tel. Sunset, 616, Cap. 21.

CRONAN & WISEMAN.

230 K Street and 1108-1110 Third Street, Sacramento, Cal.

IMPORTERS AND WHOLESALE DEALERS in Fine Whiskies, Brandy and Champagne.

EBNER BROS. COMPANY,

116-118 K Street, Front and Second, Sacramento.

IMPORTERS AND WHOLESALE DEALERS in Wines and Liquors. Tel. 364.

HUGH CASEY, Importer, and Wholesale Dealer in Foreign and Domestic Wines and Liquors. Proprietor of Eagle Soda Works, 218 K Street, Sacramento.

PATENTS.

Special attention to Patent Law in connection with the general practice of the profession. Reasonable terms. O. E. Hall to let. Also furnished always on draught. 105 1/2 Sixth. Tel. Sunset, 616, Cap. 21.

H. J. Taylor, 718 1/2 J Street, Dentist.

WATERHOUSE & LESTER.

(Incorporated.) WAGON AND CARRIAGE MATERIALS, Hardware, Lumber, Iron, Steel and Coal, Horseshoers' and Blacksmiths' Supplies. 709, 711, 713, 715 J Street, Sacramento.

PRINTING.

D. JOHNSON & Co. 110 J STREET.

What is More Attractive

Than a pretty face with a fresh, bright complexion? For it, use Pozzoni's Powder.

Recommended by Babyland

are Breuner's baby carriages. But few houses buy these infant necessities in carload lots as do we. Therefore but few houses can show such an immense variety and quote such little prices. Call at our store and get one of our beautiful illustrated catalogues of baby carriages, containing Eugene Field's dainty poem, "The Stork."



At \$7.50 Strange as it may seem, a really good baby carriage can be had at this price. And one that you will not be disappointed with after use. The one we sell at this figure has a beaded wood body, with reed trimmings and Brussels carpet in the bottom. The seat, back, and sides are nicely upholstered in Victoria cretonne. The wheels are excellent, being made of steel and have a foot brake. Parosol is sateen with ruffle on edge, and you have your choice of olive, cardinal and tan brown colors. Even the handle bars will appeal to you, for they are exceptionally graceful.

For your tired feet What becomes of Breuner's small carriages? This question is often asked by our customers. Easily answered. We make them into hassocks (foot rests). And let us say right here that our hassocks are larger and more substantially made than any others sold at the prices. Tapestry Brussels, 65 cents. Body Brussels, \$1. Axminsters, \$1.25.

\$2 for this chair There are chairs and chairs. Some are made to stand all kinds of tests. Others go to pieces when the strain comes. This is one of the former kind. It is made of solid oak. Has a cane seat and brace arms. And the finish is all right. \$3 ought to be the price.



All Star Spring Not a bit of wood about this mattress. Contains 140 springs, standing close together, securely braced. Strong and durable, yet elastic and yielding. Top and bottom surface just alike. When you see this spring you'll marvel that we can sell it for \$7.50.

15 and 25 cents Were ever such prices heard of? What are the manufacturers coming to? Folding hat racks, walnut finish; ten pins, 15 cents; 13 pins, 25 cents. The picture shows them open and closed.

Note.—Five new patterns in 3-ply all-wool ingrain just arrived in the carpet room.