

Extraordinary Writs

Quo Warranto

1. The Writ Defined—Rule 14

A common law prerogative writ brought in the name of the State of Montana to inquire into and provide a remedy for unlawful assertion of authority by which person is holding a public office or to revoke a corporate charter. Section 27-28-101, MCA.

No person or persons authorized to exercise legislative, executive and judicial power may exercise power belonging to another branch of government. Art. III, § 1 of the Montana Constitution, Separation of Powers; [State ex rel. Paugh v. Bradley](#), 231 Mont. 46, 753 P.2d 857 (1988).

2. Purpose of the Writ

Quo Warranto offers a remedy by way of a civil action initiated by the Attorney General in the name of the state against a person who has allegedly usurped, holds or exercises a public office, franchise within the state or an office within a corporation created under the authority of the State of Montana. [State ex rel. Paugh v. Bradley](#), 231 Mont. 46, 49, 753 P.2d 857, 859 (1988).

A person claiming entitlement to a public office that is usurped and exercised by another may bring an action in the name of the state claiming entitlement to a specific public office. Sections 27-28-104 and 27-28-301, MCA.

3. Review on Complaint

The Attorney General is authorized to commence an action for quo warranto at the direction of the Governor or when he has good reason to believe that a corporation is misusing its business or franchise. [State ex rel. Paugh v. Bradley](#), 231 Mont. 46, 49, 753 P.2d 857, 859 (1988).

4. Appellate Review

When an action was commenced in a district court, an appeal may be taken from the judgment by either party to the supreme court. Section [27-28-206](#), MCA.