No. 20170046-SC

IN THE
SUPREME COURT OF THE STATE OF UTAH

IN THE MATTERS OF THE NAME AND SEX/GENDER CHANGE OF:

SEAN W. CHILDERS-GRAY, F.K.A. JENNY PACE, AND
ANGIE RICE, F.K.A. ARTHUR EDWARD RICE,
Appellants.

SUPPLEMENTAL BRIEF OF APPELLANTS

On appeal from the Second Judicial District Court, Morgan and Weber Counties, Honorable Noel S. Hyde, District Court Nos. 163900359 and 163500015

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Introduction

In 2016, Mr. Childers-Gray and Ms. Rice filed petitions to change their names and sex designations with the state registrar. (Op. Br. at 5.) In both cases, the court agreed to order the state registrar to change the name but not the sex designation. (Op. Br. at 5.) This means that, since 2016, each of their birth certificates list a gender that does not match their first name. (Op. Br. at 9.)

This court heard oral argument in this case on January 8, 2018. The court then stayed its disposition of this case pending its resolution of *In re Gestational Agreement*. 2019 UT 40, ¶ 101 n.95, 449 P.3d 69 (Lee, A.C.J., concurring). The opinion in *In re Gestational Agreement* was issued in August of 2019.

In the opinion, the court expressed concern with adjudicating an appeal where, by statute, "no adverse party may exist." *Id.* ¶¶ 11–13. The court cited the "general[]" rule that, "in the absence of any justiciable controversy between adverse parties, the courts are without jurisdiction." *Id.* ¶ 12 (internal quotation marks omitted). But the court held that a lack of adversariness is not a jurisdictional defect where the case involves a function that was "intended by the framers of our constitution to be included in the constitutional grant to the judiciary." *Id.* ¶ 13. Thus, the court concluded that courts have jurisdiction over non-adversarial cases "over which Utah courts had historical power to preside." *Id.*

Justice Pearce wrote separately and argued that adversariness had never become an absolute jurisdictional requirement. *Id.* ¶¶ 56–71 (Pearce, J., concurring). Associate Chief Justice Lee wrote separately to respond to Justice Pearce's concurrence. *Id.* ¶ 101 (Lee, A.C.J., concurring). He argued that adversariness is, and has long been, an absolute jurisdictional requirement. *Id.* ¶¶ 105–36 (Lee, A.C.J., concurring).

Associate Chief Justice Lee also stated that "the analysis in our opinions in this case no doubt will inform the determination of whether *In re Gray & Rice* is properly before us," but that "[he] would prefer to postpone [the court's] resolution of these issues for a case in which they are directly implicated—in *In re Gray & Rice* or in some other future case." *Id.* ¶ 101 n.95 (Lee, A.C.J., concurring).

Shortly thereafter, this court issued a supplemental briefing order in this case on the following questions:

> 1. Does the lack of adversariness prevent this Court from exercising jurisdiction over this matter? *In re Gestational Agreement*, 2019 UT 40, ¶ 12, 449 P.3d 69.
>
> 2. Is an application seeking approval of an amendment to a birth certificate a matter "intended by the framers of our constitution to be included in the constitutional grant [of power] to the judiciary? *Id.* ¶ 13. If not, does it resemble other matters our state courts handled at the time of statehood?
>
> 3. Does Utah Code Section 26-2-11 violate Article V of the Utah Constitution or otherwise violate the separation of powers principle?

There are no jurisdictional problems in this case. As to the first question, neither the Utah Constitution nor the Utah common law impose an adversariness requirement. But even if they did, the requirement is satisfied where, like here, there is the *potential* for an adversary. As pointed out by the Utah Attorney General, an actual adversary is not required.

There is also a good reason why an actual adversary cannot be required in these cases. Requiring an adversary would mean that a person could change his name or sex designation *only* if someone did not want him to. This cannot be, and is not, the law. The answer to the first question is "no."

As to the second question, an application to amend a birth certificate is not a matter intended by the framers of our constitution to be included within the judicial power. As explained by the Utah Attorney General, birth certificates as we know them did not exist at that time. But the petitions filed here resemble other matters handled by courts at the time of statehood. Indeed, district courts have consistently handled name changes since 1884—before, during, and after statehood. The answer to the second question is "yes."

As to the third question, there is no separation of powers problem with the statute requiring the state registrar to amend a birth certificate after a person has a name or sex change approved by a court. The statute does not instruct the state registrar (an executive agency) to exercise the powers properly belonging to another governmental department. The answer to the third question is "no."

Argument

1. This Court Has Jurisdiction Despite the Lack of Adversariness

The lack of adversariness does not prevent this court from exercising jurisdiction. This is true for three reasons.

First, the Utah Constitution does not require adversariness to invoke this court's jurisdiction. As pointed out in Justice Pearce's concurring opinion, the adversariness requirement is rooted in the "case and controversy" language in the U.S. Constitution but absent from the Utah Constitution. *In re Gestational Agreement*, 2019 UT 40, ¶ 66–67, 449 P.3d 69 (Pearce, J., concurring).

The U.S. Constitution limits the jurisdiction of federal courts to "Cases" and "Controversies":

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;--between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

U.S. Const. art. III, § 2, cl. 1.

But the Utah Constitution provides no such limitation on Utah courts. It vests the "judicial power of the state" in the Utah district and appellate courts,

without reference to the adversariness requirement contained in the federal constitution:

> The judicial power of the state shall be vested in a Supreme Court, in a trial court of general jurisdiction known as the district court, and in such other courts as the Legislature by statute may establish. The Supreme Court, the district court, and such other courts designated by statute shall be courts of record. Courts not of record shall also be established by statute.

Utah Const. art. VIII, § 1.

And instead of limiting jurisdiction to cases and controversies, the Utah Constitution vests this court with the jurisdiction over any matter "provided by statute," like the name and sex designation change statute:

> The Supreme Court shall have original jurisdiction to issue all extraordinary writs and to answer questions of state law certified by a court of the United States. The Supreme Court shall have appellate jurisdiction over all other matters to be exercised as provided by statute, and power to issue all writs and orders necessary for the exercise of the Supreme Court's jurisdiction or the complete determination of any cause.

Utah Const. art. VIII, § 3.[1] District courts have jurisdiction over "all matters except as limited by this constitution or by statute." Utah Const. art. VIII, § 5. In

[1] Nor is Utah alone. As one commentator has observed:

> State courts, however, are not bound by Article III, and judicial practice in some states differs—and differs radically—from the federal model. Some state courts issue advisory opinions, grant standing to taxpayers challenging misuse of public funds, and decide important public questions even when federal courts would consider the disputes moot. Moreover, functions that seem intuitively nonjudicial in the federal system are assigned to the judicial branch in some states, and

other words, Utah courts are not limited to cases, but instead may exercise jurisdiction over all matters.[2]

As this court has recognized, "[u]nlike the federal system, the judicial power of the state of Utah is not constitutionally restricted by the language of Article III of the United States Constitution requiring 'cases' and 'controversies,' since no similar requirement exists in the Utah Constitution." *Jenkins v. Swan*, 675 P.2d 1145, 1149 (Utah 1983).[3] Under both the plain language of the Utah

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> judicial officers discharge them comfortably. State judges in Tennessee appoint the attorney general, and some state constitutions establish sheriffs as part of the judicial, and not the executive, branch. Elsewhere (although only occasionally) state judges initiate investigations into public conditions without any request from a party or the public. In addition, as common law courts, all state courts play an accepted policymaking role in a broad range of complex areas, including disputes related to state indebtedness, territorial annexation, and redistricting.

Helen Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function*, 114 HARV. L. REV. 1833, 1836–38 (2001) (footnotes omitted).

[2] As set forth below, the distinction between cases and matters was significant to the framers of the Utah Constitution, who wanted to grant jurisdiction to courts over "matters," not "cases" alone. Utah Constitutional Debate, Day 50, Monday, 22 April, 1895 (attached at Addendum A) (available at https://le.utah.gov/documents/conconv/50.htm).

[3] In fact, the case and controversy requirements do not apply to state courts even when adjudicating federal questions. After observing that it may be "odd that a state court might have the authority to hear a federal constitutional claim in a setting where a federal court would not," the Seventh Circuit noted that "it is clear that Article III's 'case or controversy' limitations apply only to the federal courts." *Smith v. Wisconsin Dep't of Agric., Trade & Consumer Prot.*, 23 F.3d 1134, 1142 (7th Cir. 1994) (citing *ASARCO v. Kadish*, 490 U.S. 605 (1989)).

Constitution, and the language deliberately left out of the Utah Constitution, adversariness is not a jurisdictional prerequisite.

Second, the Utah common law does not require adversariness as a prerequisite to this court's jurisdiction. As also pointed out in Justice Pearce's concurring opinion, this court has never held that adversariness is a prerequisite to jurisdiction. *In re Gestational Agreement*, 2019 UT 40, ¶ 62 (Pearce, J., concurring). Admittedly, this court has repeatedly referred to adversariness as a "general," "normal[]," "ordinar[]y," or "traditional" prerequisite. *Id.* ¶ 12, 13, 57 & n. 79 (Pearce, J., concurring). But as Justice Pearce points out, the limit of this court's judicial power was not presented in any of those opinions. *Id.* ¶¶ 60, 62. And this court's dicta, while informative, do not create a jurisdictional prerequisite. *Callahan v. Salt Lake City*, 125 P. 863, 864 (Utah 1912) ("A 'dictum' is an opinion expressed by the court, but which, not being necessarily involved in the case, lacks the force of an adjudication.").

Third, even if adversariness were required under the Utah Constitution or the Utah common law, there need not be an actual adversary in a case—the *potential* for adversariness satisfies the requirement, as pointed out in the Office of the Utah Attorney Generals' Supplemental Brief of Amicus Curiae. (Amicus Curiae Br. at 3–6.) Even in federal cases—where the adversariness requirement is a constitutional requirement—this potential for adversariness satisfies the test. (*Id.* at 4–6.)

And in Utah, the notion that a *potential* adversary is sufficient is reflected in *Citizens' Club v. Welling*, where this court explained that the "term 'judicial power of courts' is generally understood to be the power to hear and determine controversies between adverse parties *and questions in litigation*." 27 P.2d 23, 26 (Utah 1933) (emphasis added). This language recognizes that adversariness and litigation are not always coextensive, and in so doing, recognizes that actual adversariness is not always required. This explains why, since as early as 1888, Utah courts had jurisdiction to adjudicate uncontested probate cases. *In re Gestational Agreement*, 2019 UT 40, ¶ 63 (Pearce, J., concurring (citing II Utah Comp. Laws § 4016 (1888))).

Similarly, the framers of the Utah Constitution expressly drafted Article V to grant jurisdiction to courts over "matters," not "cases" alone. Utah Constitutional Debate, Day 50, Monday, 22 April, 1895 (attached at Addendum A) (available at https://le.utah.gov/documents/conconv/50.htm). During the convention, the framers discussed the language that would abolish probate courts and give the district courts jurisdiction over probate matters. The discussion highlighted the difference between "matters" and "cases":

> MR. CRANE: Mr. Chairman, I wish to make an amendment to this section. I wish to strike out . . . the word "matters" and the word "and" after the word "civil" and insert between the word "criminal" and the word "not" the words "and probate matters."
>
> MR. THURMAN: Mr. Chairman, I do not see what is the object of that; the words "civil and criminal not

> excepted in this constitution and not prohibited by law," will cover everything relating to probate matters, as well as anything else. The object of this section is to give the district court jurisdiction over every case that is not given to the supreme court and is not given exclusively to justices of the peace. It means that and it says that. *It does not say "cases," but all matters*, and probate matters are civil matters; they are not criminal. They belong to chancery jurisdiction."

Id. (emphasis added). Uncontested probate matters, and uncontested divorces, are not beyond the judicial power even though the interests of all parties align.

Regardless, as the Utah Attorney General points out, the statute here expressly contemplates that a petition can be challenged by an interested person, a possibility that satisfies any adversariness requirement. (Amicus Curiae Br. at 3–4.) And historically, interested parties have in fact challenged name change petitions. (*Id.* at 5 (citing *In re Cruchelow*, 926 P.2d 833, 833, 835 n.3 (Utah 1996).)

The name and sex designation change statute therefore does not raise the concerns addressed in *In re Gestational Agreement*, where the statute expressly required that "no adverse party may exist." 2019 UT 40, ¶ 11. The fact that Ms. Rice's and Mr. Childers-Gray's petitions are unopposed does not deprive this court of jurisdiction.

2. District Courts Have Handled Name-Change Petitions Since Statehood

A petition seeking an amendment to a birth certificate seeks a change to matters that Utah state courts handled at the time of statehood. Indeed, as the Utah Attorney General points out, since statehood, Utah statutes have always

vested courts with the jurisdiction to hear name change applications. (Amicus Curiae Br. at 8–11.)

This is dispositive here because, as this court recognized in *In re Gestational Agreement*, courts have "judicial power" to perform functions "over which Utah courts had historical power to preside, notwithstanding the absence of a controversy between adverse parties." 2019 UT 40, ¶ 13, 449 P.3d 69. Thus, this court has jurisdiction to decide this appeal regardless of whether there is an adversariness requirement and regardless of whether it is satisfied here.

To be clear, a petition seeking a sex designation change is no different from a name change. As pointed out in the opening brief, a sex designation on a birth certificate is the same as a name—they are both designations that reflect a person's legal status. (Op. Br. at 12–15.) This explains why the statute addresses them together—"Name or sex change." Utah Code § 26-2-11.

And as the Utah Attorney General explains, the history of name change statutes shows that courts have handled name changes since statehood. (Amicus Curiae Br. at 8–11.) This was not true before statehood, however. Prior to 1884, the authority to hear name change applications was vested with the Utah Legislature, not with the district courts. After an applicant would present his case, the legislature would vote to decide whether the applicant should be allowed to change his name. *E.g.*, Name Change Act, Jan. 30, 1872 (changing the surnames of several people); Name Change Act, Feb. 20, 1878 (changing the

name of Ephraim Powell to Ephraim Brettel Bolton); Name Change Act, Jan. 26, 1880 (changing name of Hans Jorgen Christiansen to Hans Jorgen Rasmussen); Name Change Act, Mar 13, 1884 (changing the name of six people) (attached at addendum B).

In 1884, Utah first adopted a name change law. Utah Comp. Laws, Code of Civil Procedure, Title VIII, §§ 1128–1131 (1884) (attached at Addendum C). The statute vested district courts with the authority to hear name change applications. *Id.*

In 1888, the Utah Legislature revised the statute but did not change the district court's authority to hear name change applications: "Applications for change of names must be heard and determined by the district courts." Utah Comp. Laws, Volume II, Code of Civil Procedure, Title VIII, §§ 3861–3864 (1888) (attached at Addendum D).

In 1898—soon after the Utah Constitution was ratified—the Utah Legislature again revised the statute and again required name-change petitions to be filed in the district court. Revised Statutes of Utah, §§ 1545–1547 (1898) (attached at Addendum E).

The framers made clear that the name changes should be heard by the courts, and no longer by the legislature. Indeed, the Utah Constitution originally expressly prohibited the legislature from "[c]hanging the names of persons." Utah Const. art. VI, § 26(2) (1896) (attached at Addendum F). Thus, an

amendment to a birth certificate resembles name changes, which were handled by courts at the time of statehood.

In the first part of the second question in the supplemental briefing order, this court also asked whether a petition seeking an amendment to a birth certificate is a matter "'intended by the framers of our constitution to be included in the constitutional grant [of power] to the judiciary.'" (Suppl. Briefing Order at 1–2.) The answer to that part of the question is "no." A petition seeking an amendment to a birth certificate is not a matter intended by the framers of our constitution to be included in the constitution because, as the Utah Attorney General notes, "birth certificates as we know them did not exist" at the time of statehood. (Amicus Curiae Br. at 10–11.) Thus, "the court order granting a name change did not and does not approve an amendment to a birth certificate." (*Id.* at 10.) But while the framers did not intend any branch of government (including the judiciary) to amend birth certificates (because they did not exist), the name change statutes reveal that this would have been within the judicial power.

3. Utah Code Section 26-2-11 Does Not Violate the Separation of Powers

Utah Code Section 26-2-11 requires the state registrar to amend a birth certificate after a person has a name or sex change approved by a court. Utah Code § 26-2-11(2). This section does not violate the separation of powers principle because it does not instruct the state registrar (an executive agency) to exercise the powers properly belonging to another governmental department.

The registrar need only comply with a court order issued pursuant to a statute. Under these circumstances, the refusal to comply with a court order would raise more concern than compliance with the statute would.

Article V of the Utah Constitution provides that none of the three branches of government may exercise the powers properly belonging to another branch. Utah Const. art. V, § 1. Specifically, it provides that "[t]he powers of the government of the State of Utah shall be divided into three distinct departments, the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted." *Id.*

Under this separation of powers, the executive branch has the power to enforce the rules enacted by the legislature. *Carter v. Lehi City*, 2012 UT 2, ¶ 37, 269 P.3d 141. "Once a general rule is established by the legislature, its enforcement is left to the executive (by applying it to the particularized circumstances of individuals, through functions like prosecution or licensing) and its adjudication is left to the judiciary (by resolving specific disputes between parties as to the applicability of the law to their actions)." *Id.* (footnote omitted).

Here, the statute instructs the executive branch to enforce a district court's determination that a person is entitled to a name change. This is precisely the

division of power contemplated by article V and the separation of powers principle. As the Utah Attorney General points out, "[a]t most, the statute merely assumes that courts have preexisting jurisdiction to address name- and sex-change petitions." (Amicus Curiae Br. at 16.)

If the statute had granted authority to the state registrar to determine whether a name change was appropriate (a judicial function), then the separation of powers principle might have been violated. But because the statute directs the state registrar to exercise only its executive power, there is no such problem.

Conclusion

For the reasons set forth above and in the Utah Attorney General's brief, the answers to the questions in the supplemental briefing order are "no," "yes," and "no."

DATED this 6th day of January, 2020.

WHARTON O'BRIEN, PLLC

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Certificate of Compliance

I hereby certify that:

1. This brief complies with the Utah Supreme Court's August 23, 2019 Supplemental Briefing Order because this brief contains less than 25 pages.

2. This brief complies with the typeface requirements of Utah R. App. P. 27(b) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in 13-point Book Antiqua.

3. This brief complies with Utah R. App. P. 21(g) regarding public and non-public filings.

DATED this 6th day of January, 2020.

/s/ E. Kyler O'Brien

Certificate of Service

This is to certify that on the 6th day of January, 2020, I caused two true and correct copies of the Supplemental Brief of Appellants to be served by first-class mail, with a courtesy copy by email, on:

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Addendum A

Series 3212

Box 2
Fld 1

FIFTIETH DAY.

Monday, April 22, 1895.

Convention was called to order at 9 a m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Attewell Wootton of the Church of Jesus Christ of Latter-day Saints.

Journal of the forty-eighth day's session was read and approved.

File No. 326, signed by Andrew Funk and 35 others from Brigham City, asking that woman's suffrage be submitted as a separate article to a vote of the people, by Gibbs of Box Elder, by request.

MR. ALLEN: Mr. President, I wish to make a motion and before doing so, it will be necessary to make a few remarks. The convention will remember that when we passed section 4 of the article on elections, it was left in such a manner that the election for judicial officers would be as a separate election-- separate and apart from all other elections. Since this was passed, I believe that a great majority of the members

MR. EVANS: (Weber). That is just the point. Hasn't the court the right, having that jurisdiction and that power-- hasn't any judge of the court the right to issue these writs?

MR. VARIAN: I think not.

The amendment of Mr. Varian was agreed to.

MR. GOODWIN: Mr. Chairman, the gentleman's first amendment, section 7, "district court and the judges thereof," it seems to me, it would be more euphonious to say, "the district courts and any judge thereof."

MR. VARIAN: I guess it would.

THE CHAIRMAN: If there is no objection that change will be made.

MR. CRANE: Mr. Chairman, I wish to make an amendment to this section. I wish to strike out in section 7, line 2, the word "matters" and the word "and" after the word "civil" and insert between the word "criminal" and the word "not" the words "and probate matters."

MR. THURMAN: Mr. Chairman, I do not see what is the object of that; the words "civil and criminal not excepted in this constitution and not prohibited by law," will cover everything relating to probate matters, as well as anything else. The object of this section is to give to the district court jurisdiction over every case that is not given to the supreme court and is not given exclusively to the justices of the peace. It means that and it says that. It does not say "cases", but all matters, and probate matters are civil matters; they are not criminal. They belong to chancery jurisdiction. That

We discussed that matter in the committee.

MR. CRANE: I would like to ask the gentleman from Utah County what it means, "and not prohibited by law?"

MR. THURMAN: "Not prohibited by law" simply means anything that is not prohibited to this jurisdiction, which this court has.

MR. CRANE: I was brought to that thought, Mr. Thurman, by reading in section 1, "and such other courts inferior to the supreme court." It seems to me that you are giving the legislature power to institute any other courts they may see proper in the years to come. You are laying the foundation here of the judicial power of the state and what the judiciary shall consist of, etc., and then you give the legislature power to institute other courts inferior to the supreme court, is that the idea?

MR. THURMAN: Yes, the object is to give the legislature the power to institute courts inferior to the supreme court.

MR. CRANE: Any other courts they may choose?

MR. THURMAN: Yes, we have limited the power, if you will notice of a justice of the peace. I do not call to mind the section that it is now, but I would like to read that in answer to your question. It is in section 8. Now, the intention was to restrict the jurisdiction of the justic s of the peace or rather not to allow an increase of that jurisdiction, that they never should have probate jurisdiction or anything else above what they have got to-day under

the laws of the territory. The legislature might cut it down, but they could not increase it. Now, suppose the legislature should want to create probate courts hereafter and confer upon them the power to transact probate business, then section 1 would mean that the judicial power of the state shall be vested in the senate, etc., (Reads).

MR. CRANE: It seems to me, Mr. Chairman, that the idea of this article and all the articles in this constitution would be to curtail the power of the legislature. It seems to me in this article you are just giving the legislature all the power that they ever had regardless of a constitution, by giving them the right to institute any new courts that they might see proper in years to come. The idea of my amendment was that it should emphasize the fact that the district court had the power--

MR. THOMAN: Do I understand now that this is a question or a speech?

MR. CRANE: No; it is a question in reply to yours or rather an answer.

MR. THOMAN: Oh, it is an answer?

MR. CRANE: My idea in this amendment was to curtail the power of the legislature. That is the idea I suppose of this article and to emphasize the fact that they had powers in probate matters.

MR. THOMAN: Would you withhold the power from the legislature to establish in the years to come if they desire a probate court in each county?

MR. CRANE: Yes; I think I would.

MR. THURMAN: Well, the committee did not--

MR. CRANE: If you have as many judges as this article calls for, you would never need any probate judges.

MR. THURMAN: The committee differed with you and thought it be ter to give the legislature power in that matter in the future to establish inferior courts.

The amendment of Mr. Crane was rejected.

Section 8 was read.

MR. BIGGNOR: I desire to ask the chairman of the Judiciary Committee a question. Are the justices of the peace to be elected at large in the county or to be elected in the several precincts?

MR. GOODWIN: Just as the legislature may provide. It is given in the hands of the legislature.

Section 9 was read.

MR. VARIAN: Mr. Chairman, in line 3, the right of appeal seems to be limited to questions of law alone. I do not know why that restriction is sought to be placed in the constitution. It might be very appropriate in criminal cases, but as broadly as that is stated, it seems to me there might be some question as to how it would be interpreted in equity cases. In equity cases the whole substance and gist of of the matter on appeal and everywhere else is the fact. The evidence goes up. The determination in an equity cause is not made on isolated propositions of law, but simply as it is prescribed by the ~~kaw~~ whole facts. It occurs to me that may be safely left to the legislature. I move to strike out, "on questions of law alone," and that will not interfere with the general

Addendum B

State of Utah
MICROFILM CERTIFICATION

Utah State Archives

(Government Entity)

LEGISLATIVE ASSEMBLY

TERRITORIAL LEGISLATIVE RECORDS 1851 - 1894

(Record Series Title)

These records are microfilmed under the authority of the Government Records Access and Management Act, Laws of Utah, 1992, Title 63, Chapter 2, 906(2)-

I, **JEFFERY O. JOHNSON**, do hereby certify that these records are the actual
(Official Custodian)

records of the **Utah State Archives,** created during its normal course of business.
(Government Entity)

(Signature of Official Records Custodian)

Aug. 20, 2001

(Date)

DIRECTOR

(Title)

Utah State Archives

(Government Entity)

State of Utah
CERTIFICATE OF CAMERA OPERATOR

CAMERA #: 202

AGENCY TITLE: Legislative assembly

ROLL#: 431

SERIES#: 3150

TITLE OF RECORD: Territorial Legislative Records 1851 - 1894

Begin: 1870 11 February; act Regulating proceedings in civil cases

Box 7 Fld 55

End:

I hereby certify that the document represented by the microphotographs appearing on this roll of film were photographed by the undersigned.

CAMERA OPERATOR: (Print) Julie Talbot DATE: 2-20-02

CAMERA OPERATOR: (Signature) Julie Talbot

REDUCTION USED: 14-1 300/30 Zeutschel

An Act

changing the names of Thomas F. Harry. Mary A. Harry. Melissa Evalina Harry. Laura Geneva Harry and Flora Ginevra Harry.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That the names of Thomas F. Harry, his wife, Mary A Harry, and his children Melissa Evalina Harry, Laura Geneva Harry and Flora Ginevra Harry; of Salt Lake City, are hereby changed to Thomas F. H. Morton, Mary A Morton, Melissa Evaline Morton, Laura Geneva Morton and Flora Ginevra Morton:

Provided that all contracts, obligations and business of every kind and nature, which may have been contracted or transacted in the name of Harry, by any of the said persons named in this Act, shall still have full virtue in law, and shall not be invalidated by this change of name.

Lorenzo Snow
President of the Council

Orson Pratt, Sen.
Speaker of the House of Representatives

Approved January 30th A.D. 1872
Geo. D. Woods
Governor of Utah Territory

State of Utah
CERTIFICATE OF CAMERA OPERATOR

CAMERA #: 202

AGENCY TITLE: Legislative assembly

ROLL#: 433

SERIES#: 3150

TITLE OF RECORD: Territorial Legislative Records 1851-1894

Begin: 1876 Challenge of voters in Tooele County

Box 8 Fld - 134

End:

I hereby certify that the document represented by the microphotographs appearing on this roll of film were photographed by the undersigned.

CAMERA OPERATOR: (Print) Julie Talbot DATE: 2-25-02

CAMERA OPERATOR: (Signature) Julie Talbot

REDUCTION USED: 14-1 300/301 zeutschel

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Series 3150

Box 9
Fld 37

An Act

to change the Name of Ephraim Powell to Ephraim Brettel Bolton.

Sec. 1.— Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, that the name of Ephraim Powell of Piute county be changed to Ephraim Brettel Bolton and that any and all Legal rights and obligations existing in the name of Ephraim Powell are hereby continued to Ephraim Brettel Bolton.

Orson Pratt, Sen.,
Speaker of the House of Representatives.

Lorenzo Snow
President of the Council.

Approved Feb. 20, 1878. Geo. W. Emery
Governor of Utah Territory.

74471

I hereby certify that the within C. F. No 28. Originated in the Legislative Council

L. John Nuttall
Chief Clerk of the Council

1878

Amounts

State of Utah
MICROFILM CERTIFICATION

Utah State Archives

(Government Entity)

LEGISLATIVE ASSEMBLY

TERRITORIAL LEGISLATIVE RECORDS 1851 - 1894

(Record Series Title)

These records are microfilmed under the authority of the Government Records Access and Management Act, Laws of Utah, 1992, Title 63, Chapter 2, 906(2)-

I, JEFFERY O. JOHNSON, do hereby certify that these records are the actual
(Official Custodian)

records of the Utah State Archives, created during its normal course of business.
(Government Entity)

(Signature of Official Records Custodian)

Aug. 20, 2001
(Date)

DIRECTOR
(Title)

Utah State Archives
(Government Entity)

State of Utah
CERTIFICATE OF CAMERA OPERATOR

CAMERA #: 202 **AGENCY TITLE:** LegisLATive AssemBLy

ROLL#: 434

SERIES#: 3150

TITLE OF RECORD: TERRITORIAL LegisLATive RecORds 1851 - 1894

Begin: 1878 COUNCIL MINUTES

BOX 9 FLd 82

End:

I hereby certify that the document represented by the microphotographs appearing on this roll of film were photographed by the undersigned.

CAMERA OPERATOR: (Print) Julie TALBOT **DATE:** 2-26-02
CAMERA OPERATOR: (Signature) Julie Talbot

REDUCTION USED: 14-1 300/301 ZeutschEl

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An Act

to change the name of Hans Jorgen Christiansen to Hans Jorgen Rasmussen.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:- That the name of Hans Jorgen Christiansen of Salt Lake County in the Territory of Utah, be changed to Hans Jorgen Rasmussen; provided, that nothing in this Act shall release said Hans Jorgen Rasmussen from any responsibilities in law or equity hitherto incurred under the name of Hans Jorgen Christiansen; nor deprive him of any rights, privileges or powers, in law or in equity, which he has hitherto enjoyed, or would still enjoy by retaining his former name.

Sec. 2. This Act shall be in force from and after its passage.

Orson Pratt, Jun.

Speaker of the House.

Lorenzo Snow
President of the Council.

Approved January 26, 1850.

Arthur L. Thomas.
Acting Governor.

Council Chamber
Salt Lake City U.T.
January 22nd 1880

I hereby certify that this Bill (C.F.2.)
originated in the Council.

Chas. W. Stayner
Chief Clerk.

State of Utah
MICROFILM CERTIFICATION

Utah State Archives

(Government Entity)

LEGISLATIVE ASSEMBLY

TERRITORIAL LEGISLATIVE RECORDS 1851 - 1894

(Record Series Title)

These records are microfilmed under the authority of the Government Records Access and Management Act, Laws of Utah, 1992, Title 63, Chapter 2, 906(2)-

I, **JEFFERY O. JOHNSON**, do hereby certify that these records are the actual
(Official Custodian)

records of the **Utah State Archives,** created during its normal course of business.
(Government Entity)

(Signature of Official Records Custodian)

Aug. 20, 2001

(Date)

DIRECTOR

(Title)

Utah State Archives

(Government Entity)

THE GREAT SEAL OF THE STATE OF UTAH
INDUSTRY
1847
1896

State of Utah
CERTIFICATE OF CAMERA OPERATOR

CAMERA #: 202 **AGENCY TITLE:** Legislative Assembly

ROLL#: 436

SERIES#: 3150

TITLE OF RECORD: Territorial Legislative Records 1851-1894

Begin: 1884 11 February; H.F. 33, Act Restraining Bulls from Running at Large During Certain Seasons

Box 10 Fld 115

End:

I hereby certify that the document represented by the microphotographs appearing on this roll of film were photographed by the undersigned.

CAMERA OPERATOR: (Print) Julie Talbot **DATE:** 3-1-02

CAMERA OPERATOR: (Signature) Julie Talbot

REDUCTION USED: 14-1 Bay 301 Zeutschel

An Act

Changing the names of Hans Olsen, Lous Strusberg, Alexander Hedquist, Olof Andehlin, Christen Anderson and John Conrad Naile.

Be it enacted by the Governor and Legislative Assemble of the Territory of Utah: That the name of Hans Olsen of Richfield, Sevier County be and the same is hereby changed to Hans O. Hansen. That the name of Lous Strusbery of Tooele County be and the same is hereby changed to Louis Strasburg. That the name of Alexander Hedquist of Utah County be and the same is hereby changed to Alexander S. Anderson. That the name of Olof Andehlin of Manti, San Pete County, be and the Same is hereby changed to Olof A. Andelin. That the name of Christen Anderson of Ephraim, San Pete County, be and the same is hereby changed to Christen Franson. That the name of John Conrad Naile be and the same is hereby changed to John Conrad Naegle. And that any and all legal rights and obligations existing in the respective names of Hans Olsen, Lous Stursberg, Alexander Hedquist, Olof Andehlin, Christen Anderson and John Conrad Naile be and the same are hereby continued in the respective names of Hans O. Hansen, Louis Strasburg, Alexander S. Anderson, Olof A. Andelin, Christen Franson and John Conrad Naegle.

James Sharp
Speaker of the House of
Representatives
W. H. Shupp
President of the Council
Approved
Mar 13th
1884
Eli H. Murray
Governor of the Territory of Utah

I hereby certify that this Bill - C. B. #76, originated in the Council at this the twenty-sixth Session of the Legislative Assembly

Chas. W. Haynes
Chief Clerk

Addendum C

LAWS

OF THE

TERRITORY OF UTAH,

PASSED AT THE

TWENTY-SIXTH SESSION OF THE LEGISLATIVE ASSEMBLY,

HELD AT

The City of Salt Lake, the Capital of said Territory,
Commencing January 14, A. D. 1884, and
Ending March 12, A. D. 1884.

PUBLISHED BY AUTHORITY.

SALT LAKE CITY:
THE TRIBUNE PRINTING AND PUBLISHING COMPANY.
1884.

CERTIFICATE OF AUTHENTICATION.

TERRITORY OF UTAH, }
SECRETARY'S OFFICE. } *ss.*

I, ARTHUR L. THOMAS, Secretary of the Territory of Utah, do hereby certify that the printed laws and joint resolutions contained in this volume are true, correct, and full copies of all the enrolled laws and joint resolutions that were passed at the Twenty-sixth regular session of the Legislative Assembly of said Territory, begun and held at the city of Salt Lake, the capital of said Territory, on the 14th day of January, A. D. 1884, and ending on the 12th day of March, A. D. 1884, with the exceptions of corrections in orthography and punctuation, and omissions inserted in brackets.

In Testimony Whereof, I have hereunto set my hand and affixed the great seal of said Territory. Done at the city [L. S.] of Salt Lake, the capital of said Territory of Utah, this 31st day of May, A. D. 1884.

ARTHUR L. THOMAS,
Secretary of Utah Territory.

Exceptions.

SEC. 1124. Nothing in this Code must be construed to abrogate or repeal any statute providing for the taking of property in any city or town for street purposes.

TITLE VIII.

OF CHANGE OF NAMES.

Jurisdiction.

SEC. 1128. Applications for change of names must be heard and determined by the district courts.

Application for change of name, how made.

SEC. 1129. All applications for change of names must be made to the district court of the judicial district where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, by one of the parents, if living; or if both be dead, then by the guardian; and if there be no guardian, then by some near relation or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary or scientific corporation, or any corporation bearing or having for its name or using or being known by the name of any benevolent or charitable order, or society, may, by petition, apply to the district court of the judicial district in which the property of said corporation is situated, for a change of its corporate name. Such petition must be signed by the trustees of the corporation, or by a majority of them, and must specify the date of the formation of the corporation, its present name, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings must be had as upon application for changes of name of natural persons.

Corporation, change of name of.

Publication of petition for.

SEC. 1130. A copy of such petition must be published for four successive weeks, in some newspaper printed in the judicial district, if a newspaper be printed

therein, but if no newspaper be printed in the judicial district, a copy of such petition must be posted for a like period at three of the most public places in the county in which the property of such corporation is situated, or in which the petitioner resides, if the petition is for the change of the name of a natural person, and proofs must be made of such publication or posting before the petition can be considered.

Hearing of application and remonstrance.

SEC. 1131. Such application must be heard at such time during the term as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court good reasons against such change of name. On the hearing the court may examine upon oath, any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name or dismissing the application, as to the court may seem right and proper.

TITLE IX.

OF ARBITRATION.

What may be submitted to arbitration and when.

SEC. 1135. Persons capable of contracting may submit to arbitration any controversy which might be the subject of a civil action between them, except a question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

Submission to arbitration to be in writing.

SEC. 1136. The submission to arbitration must be in writing and may be to one or more persons.

Submission may be entered as an order of the court.

SEC. 1137. It may be stipulated in the submission that it be entered as an order of the court, for which purpose it must be filed with the clerk of the court where the parties, or one of them reside. The clerk must thereupon enter in his register of actions a note of the submission, with the names of the parties, the names of the arbitrators, the date of submission, when filed, and the time limited by the submission, if any, within which the award must be made. When so entered, the submission cannot

Addendum D

THE

COMPILED LAWS OF UTAH

THE DECLARATION OF INDEPENDENCE

AND

CONSTITUTION OF THE UNITED STATES

AND

STATUTES OF THE UNITED STATES LOCALLY APPLICABLE AND IMPORTANT.

COMPILED AND PUBLISHED

BY AUTHORITY.

VOL. II.

SALT LAKE CITY:
HERBERT PEMBROKE, BOOK, JOB AND LEGAL BLANK PRINTER, 72 EAST TEMPLE STREET.

1888.

TITLE VIII.

OF CHANGE OF NAMES.

Jurisdiction.

§ 3861. s 1128. Applications for change of names must be heard and determined by the district courts.

Application for change of name, how made.

§ 3862. s 1129. All applications for change of names must be made to the district court of the judicial district where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, by one of the parents, if living; or if both be dead, then by the guardian; and if there be no guardian, then by some near relation or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name as far as known to the petitioner, the near relatives of such person, and their place of residence.

Corporation, change of name of.

Any religious, benevolent, literary or scientific corporation, or any corporation bearing or having for its name or using or being known by the name of any benevolent or charitable order, or society, may, by petition, apply to the district court of the judicial district in which the property of said corporation is situated, for a change of its corporate name. Such petition must be signed by the trustees of the corporation, or by a majority of them, and must specify the date of the formation of the corporation, its present name, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings must be had as upon application for changes of name of natural persons.

Publication of petition for.

§ 3863. s 1130. A copy of such petition must be published for four successive weeks, in some newspaper printed

in the judicial district, if a newspaper be printed therein, but if no newspaper be printed in the judicial district, a copy of such petition must be posted for a like period at three of the most public places in the county in which the property of such corporation is situated, or in which the petitioner resides, if the petition is for the change of the name of a natural person, and proofs must be made of such publication or posting before the petition can be considered.

Hearing of application and remonstrance.

§ 3864. s 1131. Such application must be heard at such time during the term as the court may appoint, and objections may be filed by any person who can, in such objections show to the court good reasons against such change of name. On the hearing the court may examine upon oath, any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name or dismissing the application, as to the court may seem right and proper.

TITLE IX.

OF ARBITRATION.

What may be submitted to arbitration and when.

§ 3865. s 1135. Persons capable of contracting may submit to arbitration any controversy which might be the subject of a civil action between them, except a question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

Addendum E

REVISED STATUTES
OF
UTAH.

1898.

THE

REVISED STATUTES

OF THE

STATE OF UTAH,

IN FORCE

JAN. 1, 1898.

Revised, Annotated, and Published by Authority of the Legislature,

BY

RICHARD W. YOUNG,
GRANT H. SMITH,
WILLIAM A. LEE,
Code Commissioners.

TOGETHER WITH THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF UTAH, THE ENABLING ACT, AND THE NATURALIZATION LAWS.

LINCOLN, NEB.:
STATE JOURNAL CO., PRINTERS,
1897.

1539. Id. Pits. Slack coal burning. The owner, lessee, or agent of any mine, who, by working such mine, has caused, or may hereafter cause, the surface on the public domain, commons, highway, or other lands to cave in and form a pit in which persons or animals are likely to fall, shall cause such cave or sink to be filled up, or to be securely fenced with a good, lawful fence; and if he has heaped or piled, or shall hereafter heap or pile, slack coal on the surface, and such slack coal shall take fire and endanger the life or safety of any person or animal, he shall cause the fire to be extinguished or the burning coal to be inclosed with a sufficient fence. [C. L. § 2241.

1540. Penalty. Any person failing to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be liable for all damages. [C. L. § 2242.

TITLE 43.

MINORS.

1541. Period of minority. The period of minority extends in males to the age of twenty-one years; and in females to that of eighteen years; but all minors obtain their majority by marriage. [C. L. § 2560.

Guardianship terminated by marriage, ⁋ 3996.

1542. Minors' contracts. Disaffirmance. A minor is bound not only by contracts for necessaries but also by his other contracts, unless he disaffirms them before or within a reasonable time after he attains his majority and restores to the other party all money or property received by him by virtue of said contract and remaining within his control at any time after attaining his majority. [C. L. § 2561.

The rule that an infant is bound by his contracts unless he disaffirms them within a reasonable time after his majority, applies only to such contracts as are beneficial to the infant. Groesbeck v. Bell, 1 U. 338. In determining what is a "reasonable time" within which an infant must disaffirm a contract, the jury can take into consideration the nature of the contract and the situation of the parties. No particular manner of disaffirmance is necessary. Id. Persons cannot disaffirm a parol partition of their father's land made during their minority, if, after attaining majority, they retain, control, and sell parts allotted to them. Whittemore v. Cope, 11 U. 344; 40 P. 256.

1543. Id. No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his majority, or from his having engaged in business as adult, the other party had good reason to believe the minor capable of contracting. [C. L. § 2562.

Minor may keep bank account, ⁋ 381.

1544. Payment for personal services. When a contract for the personal services of a minor has been made with him alone, and those services are afterward performed, payment made therefor to such minor in accordance with the terms of the contract, is a full satisfaction for those services, and the parent or guardian cannot recover therefor a second time. [C. L. § 2563.

TITLE 44.

NAMES.

1545. Change of name of person, city, town, etc. Petition. Any person, city, town, precinct, or school district, desiring to change his or its name,

may file a petition therefor in the district court of the county where located, setting forth:

1. The cause for which the change of name is sought.
2. The name proposed.
3. If the petitioner is a person, that he has been a bona fide citizen of the county for the year immediately prior to the filing of the petition; or, if the petitioner is a city, town, precinct, or school district, that two-thirds of the legal voters thereof desire such change of name, and that there is no other city, town, precinct, or school district, in this state, of the name sought. [C. L. §§ 222*, 3861–2*.

1546. Hearing. Proof of publication. Order. At any subsequent term, the district court may order the change of name as requested, upon proof in open court of the allegations of the petition, and that there exists proper cause for granting the same, and that thirty days' previous notice of the hearing thereof has been given in a newspaper published or having a general circulation in the county. [C. L. §§ 223*; 3862–4.

1547. Effect of change. Such proceedings shall in no manner affect a legal action or proceeding then pending, nor any right, title, or interest whatsoever.

TITLE 45.

NATURAL GAS.

1548. Confining gas in unused well. Any person or corporation in possession as owner, lessee, agent, or manager, of any well in which natural gas has been found, shall, unless said gas is being utilized, within three months from the completion of said well, or at any time upon ceasing to use such well, confine the gas in said well until such time as it shall be utilized; *provided*, that this section shall not apply to any well operated as an oil well. ['92, p. 41.

1549. Plugging abandoned well. Upon abandoning or ceasing to operate any well sunk in exploring for gas, the person or corporation that sunk the same shall fill up the well with sand or rock sediment to a depth of at least twenty feet above the gas-bearing rock, and drive a round, seasoned wooden plug, at least three feet in length, equal in diameter to the diameter of the well below the casing, to a point at least five feet below the bottom of the casing; and immediately after drawing the casing, shall drive a round, seasoned wooden plug, to a point just below where the lower end of the casing rested, which plug shall be at least three feet in length, tapering in form, and of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the hole below the point at which it is to be driven. After the plug has been properly driven there shall be filled on the top of the same, sand or rock sediment to a depth of at least five feet; *provided*, that in case such geological formation shall be encountered in the bore as to make some other method more effective for preventing flooding by water from superposed strata, the inspector may direct what other plan shall be pursued without unreasonable cost to the owner or lessee of the well. ['92, pp. 41–2.

1550. Penalties for neglect. Any person or corporation who shall violate any of the provisions of sections fifteen hundred and forty-eight and fifteen hundred and forty-nine, shall be liable to a penalty of two hundred dollars for each and every violation thereof, and to the further penalty of two hundred dollars for each thirty days during which such violation shall continue; and all such penal-

Addendum F

Constitution of the State of Utah

the fust Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election, shall commence on the fust Monday in January next following the date of their election. Municipal and School officers shall be elected at such time as may be provided by law.

Sec. 10. All officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.

Article 5.

Distribution of Powers.

Section 1. The powers of the government of the State of Utah shall be divided into three distinct departments, the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

Article 6.

Legislative Department.

Section 1. The Legislative power of this State shall

clearly expressed in its title.

Sec. 24. The presiding officer of each house, in the presence of the house over which he presides, shall sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal.

Sec. 25. All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the Legislature by vote of two-thirds of all the members elected to each house, shall otherwise direct.

Sec. 26. The Legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorce.

2. Changing the names of persons or places, or constituting one person the heir-at-law of another.

3. Locating or changing county seats.

4. Regulating the jurisdiction and duties of Justices of the Peace.

5. Punishing crimes and misdemeanors.

6. Regulating the practice of courts of justice.

7. Providing for a change of venue in civil or criminal actions.

8. Assessing and collecting taxes.

9. Regulating the interest on money.

10. Changing the law of descent or succession.

11. Regulating county and township affairs.

12. Incorporating cities, towns or villages; changing or amending the charter of any city, town or village; laying out, opening, vacating or altering town plats, highways, streets, wards, alleys or public grounds.

13. Providing for sale or mortgage of real estate belonging to minors or others under disability.

14. Authorizing persons to keep ferries across streams within the State.

15. Remitting fines, penalties or forfeitures.

16. Granting to an individual, association or corporation any privilege, immunity or franchise.

17. Providing for the management of common schools.

18. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

The Legislature may repeal any existing special law relating to the foregoing subdivisions.

In all cases where a general law can be applicable, no special law shall be enacted.

Nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume and tunnel companies, incorporated under the laws of the State or doing business therein.

Sec. 27. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or person to the State, or to any municipal corporation therein.

Sec. 28. The Legislature shall not authorize any game of chance, lottery or gift enterprise under any pretense or for any purpose.

Sec. 29. The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement,

the others, except in the cases herein expressly directed or permitted.

ARTICLE VI.

LEGISLATIVE DEPARTMENT.

Legislative power.

SECTION 1. The legislative power of this State shall be vested in a Senate and House of Representatives, which shall be designated the Legislature of the State of Utah.

Regular sessions, when held.

Sec. 2. Regular sessions of the Legislature shall be held biennially at the seat of government; and, except the first session thereof shall begin on the second Monday in January next after the election of members of the House of Representatives.

Members of House, how elected.

Sec. 3. The members of the House of Representatives, after the first election, shall be chosen by the qualified electors of the respective representative districts, on the first Tuesday after the first Monday in November, 1896, and biennially thereafter. Their term of office shall be two years, from the first day of January next after their election.

Senators, how chosen.

Sec. 4. The Senators shall be chosen by the qualified electors of the respective senatorial districts, at the same times and places as members of the House of Representatives, and their term of office shall be four years from the first day of January next after their election; *Provided*, That the Senators elected in 1896 shall be divided by lot into two classes as nearly equal as may be; seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially thereafter. In case of increase in the number of Senators, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal as practicable.

Qualifications for legislator.

Sec. 5. No person shall be eligible to the office of Senator or Representative, who is not a citizen of the United States, 25 years of age, a qualified voter in the district from which he is chosen, a resident for three years of the State, and for one year of the district from which he is elected.

Disqualifications.

Sec. 6. No person holding any public office of profit or trust under authority of the United States, or

Enacting clause

Sec. 22. The enacting clause of every law shall be: "*Be it enacted by the Legislature of the State of Utah,*" and no bill or joint resolution shall be passed, except with the assent of a majority of all the members elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length.

No bill shall pass containing more than one subject.

Sec. 23. Except general appropriation bills, and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.

Bills, how signed.

Sec. 24. The presiding officer of each house, in the presence of the house over which he presides, shall sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal.

All Acts published; take effect when.

Sec. 25. All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the Legislature by a vote of two-thirds of all the members elected to each house, shall otherwise direct.

Legislature must not enact special laws on.

Sec. 26. The Legislature is prohibited from enacting any private or special laws in the following cases:

Divorce.

1. Granting divorce.

Changing name.

2. Changing the names of persons or places, or constituting one person the heir at law of another.

County seats.

3. Locating or changing county seats.

Regulating duties of justices.

4. Regulating the jurisdiction and duties of justices of the peace.

Crimes and misdemeanors.

5. Punishing crimes and misdemeanors.

Regulating court practice.

6. Regulating the practice of courts of justice.

Change of venue.

7. Providing for a change of venue in civil or criminal actions.

Assessing and collecting taxes.

8. Assessing and collecting taxes.

Changing law of descent.

9. Regulating the interest on money.

10. Changing the law of descent or succession.

Regulating county and township affairs

11. Regulating county and township affairs.

Incorporating cities, etc.

12. Incorporating cities, towns or villages; changing or amending the charter of any city, town, or village; laying out, opening, vacating or altering town