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5. Quo Warranto

1. Definition

A quo warranto is a prerogative writ by which the Government can call upon any person to show by what warrant he holds a public office or exercises a public franchise.⁴⁴¹

2. Quo Warranto as distinguished From Election Contest

If the dispute is as to the counting of votes or on matters connected with the conduct of the election, quo warranto is not the proper remedy but an election protest.⁴⁴² When the dispute is on the ineligibility of a person sought to be ousted, quo warranto is the proper action.⁴⁴³

3. Peculiarities of Proceedings

3.1 When the Solicitor General or a public prosecutor commences the action at the instance of another person, leave of court must first be secured.

3.2 The motion for leave must be set for hearing with notice to the respondent so that he may be heard; and

3.3 The court issues the order allowing the filing of the action within the period fixed therein.

⁴⁴¹ 3 Moran 208 [1970].

⁴⁴² Caesar v. Garrido, 53 Phil. 97 [1929].

⁴⁴³ Fortuno v. Palma, No. L-70203, December 18, 1987, 156 SCRA 691.

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