

## ASSESSMENTS IN THIS COUNTY.

County Attorney Holds That the  
Whole Matter Rests With  
The Assessor.

IS INSTRUCTED TO GO AHEAD.

Contents That State Board of Equal-  
ization Has Nothing to Do  
With It.

Upon request of County Assessor Eld-  
ridge, an opinion has been rendered by  
County Attorney Westervelt in regard  
to the relative powers of assessing  
property for taxation in this county by  
the state board of equalization and the  
county assessor. The county attorney  
holds that the assessor is the only offi-  
cial authorized to make assessments of  
property in this county and he advises  
that official to go ahead and assess all  
property subject to taxation and not  
pay any attention to the state board.  
By an amendment to the statute au-  
thorizing the board of equalization to  
make certain assessments, the Legis-  
lature of 1899 brought that statute in  
direct conflict with the Constitution of  
the state, hence the county attorney  
holds that such amended statute is un-  
constitutional and the board, therefore,  
has no assessing power. The opinion  
of the county attorney follows:

### COUNTY ATTORNEY'S OPINION.

To begin with, the taxing power is  
inherent and absolute in the sovereign  
people of the commonwealth or state,  
and the Legislature, in the absence of  
any express or necessarily implied con-  
stitutional prohibition or limitation,  
may by law express and define the  
mode and extent of the exercise of this  
power without restriction. If, however,  
the Constitution of the state contains  
any restriction or limitation upon the  
exercise of this power by the Legisla-  
ture, or prescribes definitely the man-  
ner in which such power may be exer-  
cised, the Legislature is definitely  
bound thereby. As for instance, if the  
constitution should provide that the  
Legislature may confer the taxing pow-  
er for certain purposes upon certain ex-  
pressly described officers, any attempt  
on the part of the Legislature to con-  
fer such power on any other than these  
described officers would be unconstitu-  
tional and void.

The evident intent of the framers of  
the Constitution of Utah, as expressed  
in Sec. 11, Art. 13, and as further evi-  
denced by the proceedings of the Con-  
stitutional Convention, was that the  
state board of equalization should act  
as simply an equalizing board, and  
nothing else. It is true that the con-  
cluding words of the section provide  
that the board shall "also perform such  
other duties as may be prescribed by  
law. But it seems unnecessary to  
point out that these "other duties" can-  
not be held to include any duties or  
powers which the Legislature, in viola-  
tion of any constitutional limitation,  
might seek to impose or confer upon  
the board.

Art. 13, Sec. 5 of the Constitution of  
Utah reads as follows: "The Legisla-  
ture shall not impose taxes for the  
purposes of any county, city, town or  
municipal corporation; but may, by  
law, vest in the corporate authorities  
thereof respectively, the power to as-  
sess and collect taxes for all purposes  
of such corporation."

What the Legislature cannot do di-  
rectly it can no more do by indirection.  
It is forbidden to impose taxes for the  
purposes of a county, or to confer upon  
any one except the corporate authori-  
ties of such county, the power to as-  
sess or collect taxes for any county  
purpose.

It would appear that the Legisla-  
ture had deliberately overstepped this  
limitation in Secs. 2513, 2590, 2551, 2554  
and indirectly in some other sections)  
of the Revised Statutes. By these sec-  
tions the Legislature has attempted to  
confer upon the state board of equal-  
ization the power to assess the property  
and franchises of certain classes of com-  
panies operating in more than one  
county in this state; to provide the  
method of levying such assessment,  
and to declare (Sec. 2553) that "the as-  
sessment made by the county assessor,  
and that of the state board of equal-  
ization, . . . is the only basis of tax-  
ation for the county," etc. This law  
was passed in 1898, and in 1899 the Leg-  
islature, apparently emboldened by the  
success of this venture, proceeded still  
further, struck out the words "operat-  
ing in more than one county," and in-  
cluded in the classes of property to be  
assessed the property of any kind or  
character which the state board should  
deem proper to be assessed by the  
county authorities of the county.

The county assessor is a part of the  
corporate authorities of his county, and  
the Legislature, in Secs. 2516, 2558 (and  
other sections) has imposed upon the  
county assessor certain duties in re-  
gard to the assessment of property  
within his county, and making cer-  
tain exceptions in regard to property  
to be assessed by the state board. In  
my opinion, the state board cannot be  
given under the Constitution any power  
to assess any property whatsoever for  
county purposes.

Therefore, my advice to you is this:  
That in reading the law which pre-  
scribes your duties in regard to as-  
sessing property to your county, you elimi-  
nate therefrom and disregard all ex-  
ception made in favor of the state  
board of equalization. In other words,  
that you make your assessment upon  
all taxable property within the county,  
making no exception of any kind or  
class of property whatsoever, except of  
course such as is exempt by law.

I am aware that this construction  
may be regarded by some as revolu-  
tionary in a measure. I am also  
aware that the exercise of these powers  
by the state board has been generally  
acquiesced in for a number of years.  
Such acquiescence may be the result  
of one or more of a large variety of  
reasons. But if the exercise of these  
powers is in fact wrongful, acquies-  
cence will not make it right. More-  
over, the fact that these laws have  
hitherto been acquiesced in is no guar-  
anty whatever that they will never be  
questioned.

If, as I am convinced is true, the as-  
sessment of any property whatever for  
county purposes by the state board is  
an absolutely unconstitutional and void  
act, then one possible result of such act  
is at least readily apparent. Any per-  
son or corporation whose property has  
been assessed by the state board, and  
who is dissatisfied with such assess-  
ment, may with good reason refuse to  
pay its tax on the ground that it is  
based upon a void and illegal assess-  
ment.

This being a question of such wide  
and far-reaching importance, I have  
endeavored to give you my reasons for  
this opinion thus fully and in detail, in

# Ayer's

Don't try cheap cough medi-  
cines. Get the best—Ayer's  
Cherry Pectoral—pay the  
price. Your doctor uses it for  
coughs, colds, bronchitis.

Made by J. C. Ayer & Co., Lowell, Mass.  
Also manufacturers of  
AYER'S HAIR VIGOR—For the hair.  
AYER'S SARSAPARILLA—For the blood.  
AYER'S PILLS—For constipation.  
AYER'S AGUE CURE—For malaria and ague.

## Cherry Pectoral

order that my position in the matter  
may be thoroughly and clearly under-  
stood. Respectfully,  
GEORGE WESTERVELT,  
County Attorney.

### OLD-TIME MINER DEAD.

Heart Failure Removes William Gun-  
dry, a Well Known Tintic Operator.

William Gundry, who for the last 25  
years has been actively engaged in  
mining in the Tintic district, died yes-  
terday afternoon at his Salt Lake resi-  
dence from heart failure, aged 58. He  
had not been feeling well for some time  
and went to California in search of  
health, which he failed to find. He  
leaves a wife and six children. Mr.  
Gundry has always been engaged in  
mining. He came to the United States  
when 17 years of age, and became a  
miner at the Calumet & Hecla prop-  
erties at Lake Superior. In 1875 he re-  
moved to Utah and located in the Cot-  
tonwoods, but subsequently removed to  
Tintic, where he remained. Deceased  
leaves, besides his family, a brother,  
Richard at Stockton, Utah, and John  
at Pachuca, Mex. The funeral will be  
held tomorrow, from the residence.

### FREE NIGHT SCHOOL.

One Will be Established at the Frank-  
lin School by Board of Education.

The board of education passed a resolu-  
tion last night providing for a free public  
night school in this city, and it is be-  
lieved that this is the beginning of good  
work in this line. The action of the  
board was the result of a request from  
Principal Hallock of the Franklin school,  
who offers his services gratis in the in-  
terest of higher grade pupils unable to  
attend school during the day time. The re-  
quest of Principal Hallock was endorsed  
by Supt. Christensen, and commended by  
the committee on teachers and school  
work. The letter from Mr. Hallock reads  
as follows:

"Franklin School, Salt Lake City,  
Utah, Jan. 20, 1904.—To the Board of  
Education, Gentlemen: I see that in  
some eastern cities they are opening  
school rooms in the poorer localities for  
night schools.  
"If permitted, I shall be glad to open  
the Franklin school for personal charge  
without pay. The electric lights could be  
extended from the basement to a room  
without increased risk of fire.  
"We have a small library and about 25  
of the best weekly and monthly periodi-  
cals, from which I should like to teach  
my pupils. (The other grades) to read  
—forming the reading habit.  
"Respectfully,  
"E. S. HALLOCK, Principal."

The board decided to teach typewriting  
in the high school, and 10 machines will  
be rented at a yearly cost of \$150. They  
will be used in connection with stenog-  
raphy. The following teachers were  
recommended on recommendation of the  
committee on teachers and school work:  
Miss Lydia Messerschmidt, \$30; Miss Olga  
Reese, \$30; Miss Josephine Harriman, \$30.  
Judge Henderson, who attended the resolu-  
tion as he held that the teachers re-  
ceiving \$40 should have \$50 instead. The  
treasurer's report for January, showing a  
balance on hand of \$107,283.97, was ap-  
proved, as were also the payrolls for the past  
month, amounting to \$10,210.95.

### UTAH'S OPENING DAY.

Will be April 30 at St. Louis World's  
Fair—What State Has Spent.

The Utah world's fair commission is  
pushing things as fast as possible that  
the state's exhibits may be in position  
by April 30 next, the date of the anni-  
versary of the signing of the Louisiana  
purchase. The fact that the judges will  
begin immediately thereafter passing on

### DIDN'T BELIEVE

That Coffee Was the Real Trouble.

Some people flounder around and take  
everything that's recommended to them  
but finally find out that coffee is the  
real cause of their troubles. An Ore-  
gon man says:

"For 25 years I was troubled with my  
stomach. I was a steady coffee drinker  
but didn't suspect that as the cause. I  
doctored with good doctors and got no  
help, then I took almost anything which  
someone else had been cured with but  
to no good. I was very bad last summer  
and could not work at times."

"On December 2, 1902, I was taken so  
bad the Doctor said I could not live  
over twenty-four hours at the most and  
I made all preparations to die. I could  
hardly eat anything, everything dis-  
tressed me and I was weak and sick all  
over. When in that condition coffee  
was abandoned and I was put on Postum,  
the change in my feelings came so  
quickly after the drink that was poison-  
ing me was removed."

"The pain and sickness fell away  
from me and I began to get well day by  
day so I stuck to it until now I am  
well and strong again, can eat heartily  
with no headache, heart trouble or the  
awful sickness of the old coffee days. I  
drink all I wish of Postum without any  
harm and enjoy it immensely."

"This seems like a wonderfully strong  
story but I would refer you to the First  
National Bank, The Trust Banking Co.,  
and the Commercial Bank of Oregon, in  
regard to my standing and I will  
send a sworn statement of this if you  
wish. You can also use my name."  
Name given by Postum Co., Battle  
Creek, Mich.

Still there are many who persistently  
foot themselves by saying "Coffee don't  
hurt me," a ten days trial of Postum in  
its place will tell the truth and many  
times save life.

"There's a reason."

Look for the little book "The Road to  
Wellville" in each pkg.

the various displays, is a special incentive  
to celerity in getting the exhibits of this  
state into position.

The commission will discuss at its next  
meeting the appointment of a committee  
of women to act as hostesses at the Utah  
building during the exposition, the women  
to be appointed from over the state. The  
commission has expended \$15,750 so far on  
the Utah exhibits, and it hopes to have  
\$15,000 on hand when the fair opens for  
exposures during the great show.

### MAY BE ONLY TWO.

County School Districts May Reach No  
More Than That Number.

As a result of the meeting of the trust-  
tees of several of the county school dis-  
tricts yesterday, County Supt. of  
Schools Ashton may make a material  
change in the plan of consolidation of  
33 school districts of the county. Instead  
of making eight districts there may be  
only two. A number of the trustees who  
met with the county commissioners and  
the county superintendent yesterday were  
at first opposed to any merger at all.  
They had the impression that a consolida-  
tion meant that a number of the smaller  
schoolhouses would be done away with  
and their children would have to go fur-  
ther to school. After the matter was ex-  
plained to them by Supt. Ashton and the  
commissioners they were more favorable.  
It was then suggested that perhaps it  
would be better to merge all the Jordan  
valley districts into one large district.  
The suggestion seemed to meet with  
favor and a committee was appointed to  
call meetings throughout the state to ex-  
plain the proposition to the people. The  
committee consisted of Supt. Ashton, Dr.  
Draper, H. C. Montee of Union, and E.  
H. Richards of West Jordan. Should this  
effort meet with success the remaining  
districts will probably be consolidated in-  
to one district. The two districts will  
elect three trustees to act until the Leg-  
islature meets next year, and then 300  
so as to permit of a larger number of  
trustees being elected.

### STRUCK IN THE EYE.

W. H. Foster Made the Victim of  
Youthful Snowballers.

Yesterday afternoon as W. H. Foster,  
the veteran wood turner, was driving  
in the vicinity of the Grant school, a  
gang of young hoodlums, engaged in  
the dangerous pastime of "snowball-  
ing," took it into their heads to give  
him the benefit of their amusement.  
Accordingly they directed a perfect  
fusillade of icy snowballs in the direc-  
tion of the gentleman's buggy, and one  
of them, said to have been thrown by  
William Murdoch, struck the veteran in  
the left eye, causing a painful and very  
serious wound. Mr. Foster was im-  
mediately removed to the office of Dr.  
Stauffer, who was under the necessity  
of performing a delicate operation in  
order to save the sight of the injured  
member. Mr. Foster was later re-  
ported to be improving nicely.

A similar occurrence was reported a  
day or two ago when E. S. Lovey,  
president of the Utah Beekeepers' as-  
sociation, was assaulted near the corner  
of State and Seventh South streets.  
In this instance Mr. Lovey was struck  
in the back of the head and so severely  
injured that for a time the aged  
apiarist was threatened with congestion  
of the brain. Cases of like character  
are reported from the vicinity of Second  
South and Seventh West streets, where  
young hoodlums congregate and pester  
passersby with snowballs as hard as  
rocks. On more than one occasion the  
aged mother of E. H. Marine has been  
attacked by the ruffians, until the  
police have had to be appealed to to  
stop the practice and throw the offend-  
ers into jail. This will doubtless be  
the outcome of the whole affair.

Coughs and colds, down to the very  
borderland of consumption, yield to the  
soothing healing influences of Dr.  
Wood's Norway Pine Syrup.

### SOCIAL AND PERSONAL.

The dancing party given by Mr. A. E.  
Holden at the Ladies' Literary club last  
night was a delightful affair. The main  
hall, reception and down stairs rooms  
were beautifully decorated, palms,  
plants, cut flowers and vines being  
lavishly used, while oriental rugs, di-  
vans and draperies added to the attrac-  
tive effect. The music was especially  
captivating and the dancing and all  
ended thoroughly enjoyed.

Mrs. Ellsworth Daggett entertained  
at luncheon today in honor of Mrs. J.  
W. Beattie of Boise. Covers were laid  
for 25.

Miss Mary Olive Gray, Miss Esther  
Allen and Miss Berkhoff gave a suc-  
cessful musical recital in Logan on  
Monday night, and returned home yes-  
terday delighted with their reception  
in the northern metropolis.

Mr. and Mrs. J. C. Cutler and family  
left yesterday for California where Mrs.  
Cutler and the children will stay till  
spring. Mr. Cutler returning in a short  
time.

Miss Mabelle Snow will be entertained  
by the Navajo club tomorrow, at the  
home of Mrs. Le Roi C. Snow.

Tonight Mr. and Mrs. J. C. Cutler, Jr.,  
and Miss Mabel Cutler will give a  
dancing party in the Twentieth ward  
amusement hall. About 250 invitations  
have been issued, and the event prom-  
ises to be among the pleasantest of the  
week.

## COMPLAINTS OF LETTER CARRIERS

They Will Have a Hearing Before  
House Committee On  
Postoffices.

### WILL ASK INCREASE OF SALARY

Added Work Has Not Been Followed by  
Added Pay—Strange Promotion  
Practices.

#### Special Correspondence.

Washington, Jan. 29, 1904.—A great  
many interesting facts are expected to  
be developed in the hearing this week  
to be given members of the Letter Car-  
riers' association and the Association of  
Railway Mail Clerks before the house  
committee on postoffices and postroads.  
These men who consider themselves the  
poorest paid and hardest worked em-  
ployees in the government service will  
make the strongest kind of an effort  
to influence the members of the com-  
mittee for an increase of salary. The  
railway mail service is in a particu-  
larly bad way just at present because of  
its lack of adequate force which makes  
it rather hard on the present force and  
this is in a measure the fault of the  
postoffice department in failing to make  
both reasonable and seasonable esti-  
mates to the appropriations committee  
of the house. This is evinced by the  
report of the second assistant postmas-  
ter general, who deals with this sub-  
ject as follows:

#### ESTIMATES.

"The estimates submitted to Congress  
in my last annual report for increase  
in force of railway postal clerks have  
proven inadequate to handle the unpre-  
cedented increase in postal business.  
The recent weighing in the middle west  
demonstrated the fact that the increase  
during the past four years in volume of  
mail handled was 185 per cent as against  
our previous estimate of 15 per cent.  
This explains the fact that our clerical  
force has proven inadequate to properly  
handle business thrown upon it, and  
it becomes necessary to ask Congress  
to provide in the urgent deficiency  
bill for 300 additional clerks of the vari-  
ous grades."

The appropriations committee com-  
plied with this request in a most re-  
markable way. After the language of  
the appropriation for the railway mail  
service for the current fiscal year was  
so modified as to allow this increase  
asked for by the second assistant post-  
master general, this clause follows:  
"Provided that this change shall be  
made without increasing the aggregate  
sum of money appropriated for clerks  
of the several classes of the railway  
mail service in the postoffice appropria-  
tion act of March 3, 1903."

#### A STRANGE SITUATION.

After reading this clause and then  
studying the other pages of the urgent  
deficiency bill the situation would  
strike anyone as being very unusual.  
An allowance of 300 additional men for  
the railway mail service, 24 in each of  
the first three grades and 23 in the  
last, and without an addition of one  
cent to the expense of the government  
while every other item in the deficiency  
bill is an appropriation, so to supply  
a shortage of funds in some department  
or bureau. The question naturally  
arises, how can 300 clerks be paid for  
five months' work at salaries ranging  
from \$1,000 to \$1,400 without any addi-  
tional appropriation? In other words  
the postoffice department which last  
November did not ask for this increase  
has in some way at its command from  
the appropriation of the current year,  
sufficient amount to take care of 300  
men whose aggregate salaries for five  
months would be more than \$120,000.

#### A SELF-SUPPORTING PLAN.

It is promised from some quarters  
that the investigation of the deficiency  
bill is directed to support the govern-  
ment, that while salaries on the face are  
so much yet in various ways dollars by  
the thousands are kept from the men  
every year. It is alleged that part of  
this money is collected in this fashion.  
A railway clerk gets a promotion. He  
continues on his old run and after he  
has been there for a month or six weeks  
without any advance in salary he re-  
ceives notice that he has been selected  
for the new place and anywhere from  
three to six months after he receives  
the additional compensation the pro-  
motion calls for, which should have  
been his a long time previous, the de-  
partment of the interior having practi-  
cally saved or rather taxed the man  
from \$50 to \$100. There is no doubt  
that the committee in the hearing will  
take cognizance of this surprising sys-  
tem of economics and may also inves-  
tigate in the future the complaints of  
business men and publishers of news-  
papers and periodicals as to the ineffi-  
ciency of the railway mail service in  
not having an adequate force of men to  
handle the mail which is increasing enor-  
mously every year. At present rail-  
way mail clerks, working overtime as  
they are, are unable to handle the mail  
to the satisfaction of the business ele-  
ment concerned in it.

## CASTORIA

For Infants and Children.

The Kind You Have Always Bought

Bears the

Signature of *Dr. J. C. H. H. H.*

GET WHAT  
YOU ASK FOR—  
THE GENUINE

CASTORIA Candy Cathartic are always put up in blue metal box, our trade-marked, long-tailed O  
on the cover—tablet octagonal, stamped G.O.O. Never sold in bulk. All druggists, 10c, 25c, 50c,  
Sample and booklet free. Address Sterling Remedy Co., Chicago or New York.

## After All Other Remedies Failed Pe-ru-na Saved Coroner Phillips's Life



Suffered With Catarrh of the Head and  
Throat for a Number of Years—  
Pe-ru-na Cured Him.



Deputy Coroner of Winnebago  
County, Wisconsin.

E. T.  
PHILLIPS

E. T. Phillips, Deputy Coroner, Win-  
nebago Co., from Menasha, Wis., writes:  
"I have been troubled with a very  
serious case of catarrh of the head and  
throat for a number of years and I  
tried many prescriptions from good  
physicians but in the end I found my-  
self no better. On the advice of a  
friend who had used Peruna with good  
results I purchased a bottle, and the  
effects from that one bottle were so en-  
couraging that I continued its use and  
I think I used about six bottles in all  
which I am glad to say cured me com-  
pletely of this troublesome disease."  
"I can therefore, conscientiously  
recommend it and am a firm believer  
in the power of Peruna to effectively  
cure catarrh in all its forms."  
—E. T. Phillips.

A GREAT many remedies to tem-  
porarily relieve catarrh have been  
devised from time to time, such as  
sprays, snuffs, creams and other local  
applications, but, as a rule, the medical  
profession has little or no enthusiasm in  
the treatment of catarrh.

It is generally pronounced by them to  
be incurable.  
Therefore created a great sensation  
in medical circles when Dr. Hartman  
announced that he had devised a com-  
pound which would cure catarrh per-  
manently.

The remedy was named Peruna and in  
a short time became known to thou-  
sands of catarrh sufferers north, south,  
east and west.

Letters testifying to the fact that Pe-  
runa is a radical cure for catarrh be-  
gan to pour in from all directions.  
Thousands of letters similar to the fol-  
lowing are on file in the office of The  
Peruna Medicine Company.

Rev. E. Stubbenvohl, Pella, Wis.,  
writes: "I feel obliged to extend you  
my personal thanks for my complete

restoration. All through the winter I  
suffered with throat and lung trouble,  
but recovered my entire health by the  
use of your excellent remedy, Peruna."  
—Rev. E. Stubbenvohl.

The following letter from a prominent  
gentleman of Los Angeles, is a case in  
point:

"Mr. J. W. Fuller, President of the  
Jewelers' Association of Los Angeles,  
Cal., has been in the business in that  
city for seventeen years out of the  
forty-five that he has been engaged in  
business. Concerning his experience  
with Peruna he says:

"I was troubled with catarrh of the  
head for many years. It affected my  
sense of smell, hearing and sight. I  
spent lots of money with doctors and the  
use of local applications to relieve me  
but to no purpose, until my attention was  
called to the wonderful effects of Peruna.  
"I must say that I met with most sur-  
prising and satisfactory results. Peruna  
took hold of the complaint and drove it  
entirely out of my system."

"Although well along toward the al-  
lotted span of man's life I am pleased as  
a child over the results, and feel like a  
young man again."—J. W. Fuller.

Such letters as the above are not used  
for publication except by the written  
permission of the writer.

A pamphlet filled with such letters  
will be sent to any address free. This  
book should be read by all who doubt  
the curability of catarrh.

If you do not derive prompt and sat-  
isfactory results from the use of Peruna,  
write at once to Dr. Hartman, giving a  
full statement of your case, and he will  
be pleased to give you his valuable ad-  
vice gratis.

Address Dr. Hartman, President of  
The Hartman Sanitarium, Columbus, O.

## A Warning.

This is a splendid time to head  
off pneumonia and those trouble-  
some colds by taking Pitt's old  
time remedies, such as White  
Pine Expectant, and Cough  
Balm. It will be found of great  
benefit in all forms of Asthma,  
Catarrh and all the afflictions of  
the air passages.  
Welcome step 17. All cars start  
from

## GODBE-PITTS DRUG CO.

### How Are Your Eyes?

Bad? How Bad? Don't Know—

Costs you absolutely  
nothing. We give you  
our time—our experience  
our facilities for ascer-  
taining, but we never  
sell glasses unless the  
test proves that you ac-  
tually require them.

UTAH OPTICAL CO.,  
237 MAIN.

Four kinds of slack:  
CASTLE GATE,  
ROCK SPRINGS,  
CLEAR CREEK,  
CUMBERLAND.

## Bamberger,

161 Meigh St.  
Successor to Pleasant  
Valley Coal Co.



Don't Burn  
Your Candle  
At Both Ends.

and remember the old saying that  
"a penny saved is a penny  
earned." The man who saves in  
his youth is the man that enjoys  
the comforts of life in his old age,  
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