

substance, that the collector shall take possession of his office in the June following his election; but under the statute the election of the collector is fixed for the even-numbered years, so that the regular election will be next year. Yesterday Mr. Williams filed his bond with the County Court, in the sum of \$550,000, and this was approved. He argues that the office should be turned over to him forthwith.

County Attorney Murphy was asked to give his legal opinion on the subject in dispute, and yesterday presented the following at the County Court's session:

To the County Court of Salt Lake County:

Gentlemen—In pursuance of your request for an opinion upon the present status of the incumbency of the collector of Salt Lake county, I would respectfully submit the following:

The history of Mr. L. G. Hardy's tenure of the office appears to be as follows: On November 24th, 1886, Mr. N. V. Jones, the then collector who had been elected to the office at the general election of 1884, presented his resignation, both for the term then unexpired under his election in 1884, and also for the term to which he had been elected in 1886, which, under the statute, commenced on June 1st, 1887, and expired on June 1st, 1889. The resignation was accepted, and on the same day the County court appointed Mr. Hardy "collector for the unexpired term, and also for the term commencing June, 1887, and until his successor shall be elected and qualified."

On June 6th, 1887, the County court made an order that "N. V. Jones, the elected collector, having failed to file his bond within the time allowed by law, Leonard G. Hardy be and he hereby is appointed collector of Salt Lake county taxes of 1887, to fill the vacancy caused by the failure of N. V. Jones to file his bond."

The statute creating (or recreating) the office of collector (approved February 20, 1878), provides "that at the general election in 1878 and biennially thereafter there shall be elected by the qualified voters of the several counties of the Territory an assessor and a collector, whose terms of office shall be for two years and until their successors are duly elected or appointed and qualified."

No election was held for collector in the years 1888 and 1889, the years in which under the statute an election for collector ought regularly to have been held, but elections for collector were held at the general election of 1887, 1889 and 1891.

At the elections of 1887 and 1889 Mr. Hardy was elected and at the election of 1891 Mr. A. L. Williams was elected.

The County court appointment of November 24, 1886, was void, so far as it purported to appoint Mr. Hardy for the term to which Mr. Jones had been elected in 1886. The law regulating the filling of vacancies as it existed at the time of the appointment was as follows:

Section 13 of the act of February 22, 1878 (Compiled Laws of Utah, p. 88, section 2020), provided: "In case of the office of the Collector or Assessor becoming vacant the County Court of the county where such vacancy occurs shall have power to fill such vacancy by appointment until the next general election."

Section 2 of an act of February 18, 1880, provided: "In case of vacancy by death, resignation or other disability of any county or precinct officer except probate judge or justice of the peace, made elective in any county in this Territory, it shall be the duty of the County court in such county to fill such vacancy by appointment."

Section 3 of the same act provided: "All officers elected or appointed to fill vacancies as provided in this act, shall, before entering on the duties of their office, qualify in the same manner as though they had been elected at any general election and shall hold office until the ensuing general election or until their successors are elected and qualified."

The County court of November, 1886, should have followed the language of the last quoted section. As made it constituted Mr. Hardy the legal collector for the unexpired term of Jones under the latter's election in 1884, which ended on June 1, 1887. From June 1, 1887, Mr. Hardy as an appointee to fill a vacancy, legally held over in the office under section 3 of the act of 1888, "until the ensuing general election, or until his successor was elected and qualified."

What is the meaning of the latter phrase? It is suggested upon the one hand that its meaning is "until the next general election held on an even-numbered year, when in due and uninterrupted course an election would be held for collector under the statute if no vacancy had occurred," in which case the elections of 1887, 1889 and 1891 would be void, and Mr. Hardy, as an appointee of the County court, would be entitled to hold over under the act of 1880 until the general election of 1892, or until a successor should be elected and qualify.

But the language of the statute is plain and unambiguous. It provides that when a vacancy occurs the person elected or appointed to fill it shall hold the office until the "ensuing" general election. It is the policy of the law in the case of vacancies in the elective offices to restrain any provisional appointive power within as narrow limits as public necessity and convenience require, and to present to the electors an opportunity to exercise again their choice at the earliest practicable date. In this case no consideration of even public inconvenience or public economy weigh against a construction which would give the people at the earliest possible election an opportunity to choose a collector, since a "general election" is held on the first Monday in August of every year, at any of which a collector could be elected with no additional inconvenience or expense.

The election held in 1887 for a collector is therefore in my opinion to be sustained as a valid election, under the clear implication of the statute that such an election should be held in case of temporary incumbency of the office, and made Mr. Hardy the legal collector "until the ensuing general election (in August, 1888) or until his successor should be elected and qualify." No person being chosen as collector at the election of 1888 the office did not (nor did it at any time since Jones' resignation) become vacant, but Mr. Hardy, under the act of 1880, held over as the legal collector.

In like manner the election for collector held in 1889 is to be sustained as an election to fill the period from that time "until the ensuing general election (in August, 1890)," etc. In like manner the election held in 1891 is to be sustained as a valid election to fill the period between the elector's qualification and "the ensuing general election (in 1892)," etc.

This construction is probably not altogether free from doubtfulness, but it seems to be both a possible and a reasonable construction, and certainly accords more fully than the other with that spirit of the law which assures lawful electors of their official representation of their own choice within as short a time as is reasonably possible.

Mr. Hardy, having a legal right to hold over under the act of 1880, there is no recovery of the office, and therefore no power in the County Court to appoint.

But Mr. Williams is, in my opinion, entitled to assume the duties of the office by virtue of his election immediately upon qualifying in the manner prescribed by law. Your duties in the premises, therefore, will be merely to fix the amount of his bond and approve the bond, if satisfactory, upon his application. Mr. Williams' term of office begins upon his qualification and continues until the general election of 1892, or until

his successor shall be elected and qualify. The provision of the act of 1878, that the collector shall enter upon the duties of his office on the first day of June next following his election, does not, in my opinion, apply to the case of a collector elected under the act of 1880 in consequence of a failure of a regular election, since under the terms of the statute the prior incumbent holds not for the unexpired term, but until the ensuing general election or until his successor shall be elected and qualify.

Respectfully,
WALTER MURPHY,
County Attorney.

THE COUNTY ASSESSMENT.

County Clerk Allen has just completed footing up the totals of the city and county assessment rolls as compiled by County Assessor Lynch. The subjoined series of tables are the result:

| SALT LAKE CITY. | Total Tax. | Ab't'm't. | To be Collected. |
|--------------------|--------------|-----------|------------------|
| American Ntl. Bk. | \$ 252 63 | | \$ 212 53 |
| Com'l Ntl. Bank. | 2,744 27 | | 2,714 27 |
| Deser. Ntl. Bk. | 8,449 00 | 1,431 28 | 7,014 82 |
| Utah Ntl. Bank. | 1,790 50 | | 1,790 50 |
| Union Ntl. Bank. | 3,570 01 | | 3,570 01 |
| Ntl. Bk. & Public. | 4,250 00 | | 4,250 00 |
| Ward 1. | 9,431 85 | 61 00 | 9,370 85 |
| Ward 2. | 5,111 25 | 72 08 | 5,042 27 |
| Ward 3. | 6,781 39 | 41 76 | 6,739 63 |
| Ward 4. | 6,439 50 | 70 44 | 6,369 06 |
| Ward 5. | 4,916 48 | 94 00 | 4,822 48 |
| Ward 6. | 5,385 85 | 74 20 | 5,311 65 |
| Ward 7. | 19,012 51 | 141 72 | 18,870 79 |
| Ward 8. | 16,671 89 | 78 87 | 16,593 02 |
| Ward 9. | 6,519 87 | 197 51 | 6,412 33 |
| Ward 10. | 9,036 93 | 315 62 | 8,741 41 |
| Ward 11. | 13,322 86 | 221 75 | 13,101 11 |
| Ward 12. | 13,624 84 | 77 71 | 13,547 13 |
| Ward 13. | 86,103 25 | 590 99 | 85,512 26 |
| Ward 14. | 79,354 12 | 1,269 75 | 78,084 37 |
| Ward 15. | 16,528 77 | 107 60 | 16,421 17 |
| Ward 16. | 11,421 20 | 251 81 | 11,209 39 |
| Ward 17. | 13,981 68 | 167 24 | 13,814 44 |
| Ward 18. | 21,156 81 | 306 00 | 20,850 81 |
| Ward 19. | 7,702 28 | 297 31 | 7,404 97 |
| Ward 20. | 12,687 91 | 132 80 | 12,555 11 |
| Ward 21. | 11,649 61 | 287 51 | 11,362 10 |
| Ward 22. | 13,323 24 | 227 46 | 13,095 78 |
| Plat O. | 6,311 29 | 97 77 | 6,213 52 |
| Total for city. | \$441,540 10 | \$796 18 | \$433,743 52 |

| SALT LAKE COUNTY. | Total Tax. | Ab't'm't. | To be Collected. |
|-------------------|--------------|-----------|------------------|
| School Dist. 21. | \$ 1498 42 | 61 77 | \$ 1436 65 |
| School Dist. 22. | 1900 08 | 41 15 | 1858 93 |
| School Dist. 23. | 1062 69 | 24 16 | 1038 53 |
| School Dist. 24. | 1035 23 | 2 98 | 1032 25 |
| School Dist. 25. | 1969 67 | 62 46 | 1907 21 |
| School Dist. 26. | 9 02 | 24 64 | 885 44 |
| School Dist. 27. | 8399 99 | 6 98 | 8393 01 |
| School Dist. 28. | 1045 45 | 18 09 | 1027 36 |
| School Dist. 29. | 938 30 | 142 30 | 924 00 |
| School Dist. 30. | 925 71 | 40 86 | 884 85 |
| School Dist. 31. | 1171 37 | 9 45 | 1161 92 |
| School Dist. 32. | 2040 68 | 10 20 | 2030 48 |
| School Dist. 33. | 623 25 | 14 01 | 609 24 |
| School Dist. 34. | 284 33 | 9 44 | 274 89 |
| School Dist. 35. | 7572 09 | 32 92 | 7539 17 |
| School Dist. 36. | 234 65 | 27 53 | 207 12 |
| School Dist. 37. | 5526 06 | 21 35 | 5504 71 |
| School Dist. 38. | 846 25 | 18 50 | 827 75 |
| School Dist. 39. | 931 79 | 46 56 | 885 23 |
| School Dist. 40. | 7076 67 | 24 86 | 7051 81 |
| School Dist. 41. | 1744 00 | 69 40 | 1674 60 |
| School Dist. 42. | 249 68 | | 249 68 |
| School Dist. 43. | 1450 00 | 30 60 | 1419 40 |
| School Dist. 44. | 474 79 | 8 60 | 466 19 |
| School Dist. 45. | 176 02 | 8 67 | 167 35 |
| School Dist. 46. | 528 16 | 15 80 | 512 36 |
| School Dist. 47. | 1712 09 | | 1712 09 |
| School Dist. 48. | 1879 53 | 112 90 | 1766 63 |
| School Dist. 49. | 471 96 | | 471 96 |
| School Dist. 50. | 849 57 | 53 24 | 796 33 |
| School Dist. 51. | 1077 26 | 16 00 | 1061 26 |
| School Dist. 52. | 366 40 | | 366 40 |
| School Dist. 53. | 629 20 | 21 25 | 607 95 |
| School Dist. 54. | 243 72 | 1 98 | 241 74 |
| School Dist. 55. | 695 77 | 11 22 | 684 55 |
| School Dist. 56. | 391 95 | | 391 95 |
| School Dist. 57. | 219 72 | | 219 72 |
| School Dist. 58. | 6597 31 | 443 10 | 6154 21 |
| School Dist. 59. | 4980 16 | | 4980 16 |
| School Dist. 60. | 297 27 | | 297 27 |
| School Dist. 61. | 796 89 | | 796 89 |
| School Dist. 62. | 1867 45 | | 1867 45 |
| School Dist. 63. | 545 28 | | 545 28 |
| School Dist. 64. | 49 30 | | 49 30 |
| School Dist. 65. | 64 36 | | 64 36 |
| Totals. | \$507,683 62 | \$906 52 | \$496,677 10 |