

any manner interfere with the existing qualifications of the electors or officers, or with the manner of selecting the officers." The Court also held in the case of Bynon vs. Page, Supra., that Salt Lake City belonged to the first class.

Giving to the language used in the section quoted its ordinary meaning, it would require the mayor in cities of the first and second classes to be elected by a majority of the electors voting in the entire city, and the councilmen to be elected by a majority of the electors voting in the respective wards. In Section 17 of the same act this language is used: "And fifteen councilmen, three from each ward."

\* \* \* Councilmen shall be chosen by the qualified voters of their respective wards." And in the following section, 18, this language is found: "And the councilmen shall be chosen by the qualified voters of their respective wards." Thus the Legislature has manifested an intention in various sections of the act to give to the people of the respective wards of cities of the first and second classes the right to elect their councilmen. The election of a resident of the ward by a majority of the electors of the entire city does not satisfy the requirements of the law. The councilmen must be elected by the electors of the ward they are to represent.

It is argued, however, that the proviso to section one above quoted annuls the provisions requiring councilmen to be elected by the voters of the respective wards which they are to represent. The language relied upon is: "Nor shall this act \* \* interfere with the manner of selecting the officers." While the term "elected" is used in other places in the section quoted, the term here used is "selecting." The former refers to an election by the voters, while the latter term includes such an election and appointments by the mayor and council as well. Before the act under consideration took effect some of the officers of the city were elected and others were appointed by the mayor and council. By this provision the intention was to prevent any inference of a change in the manner of selecting officers. The construction contended for by the defendant brings the phrase in conflict with three plain provisions of the section in which it is found, and also with other provisions of the act of which it is a part. In cities elsewhere councilmen are usually elected by the voters of municipal wards. Local representation is a cardinal principle in our system of government. By confining the provision in question to the class of cities mentioned in the proviso, or to regard it as simply relating to the manner of selecting the officers of the city and not to the territorial limits of the municipal districts, makes it accord with the provisions of the act pointed out.

In construing the language of a statute the court will presume that the legislature intended it to have its ordinary meaning, unless it clearly appears from the connection in which it is found, or the purpose

of the enactment, that a different meaning was intended. And the act should be so construed as to give effect to all of its provisions and it should have a reasonable construction in view of its purposes and objects. It is apparent from the whole tenor of the act in question that the intention of the legislature was to give to the people of the municipal wards in cities of the first and second classes, through their electors, the right to elect their own councilmen. Physically, a municipal ward consists of the territory within its limits and the people residing upon it. But the political action of those people with respect to the municipal government is quite another thing. The municipal wards are composed of different people, but the manner of their political action is precisely the same in all. It appears plain that the legislature in the use of the phrase "nor shall this act \* \* interfere \* \* with the manner of selecting the officers" did not intend to require the councilmen of the respective wards to be elected at large.

But it is said that the Supreme Court of this Territory, in the case of Watson vs. Corey, decided at the January term, 1889, held that phrase last quoted required the councilmen to be elected as they were under the old law. In considering the question as to whether sections 16, 17, 18 and 19 applied to existing cities not reincorporated under the laws in which they were found, the court incidentally referred to the provision now under consideration. In that opinion the Court did not consider and construe section one of article six of the act. I do not regard the point now under consideration as decided so as to make it binding upon this Court in deciding the question.

But counsel contend that the electors of the respective wards have no authority to elect councilmen until the city council has divided the city into five wards under the act of 1888 above referred to. The pleadings assume that the city was divided into five wards when that act took effect, and counsel concede it in their argument. And the Court in deciding the case of the People ex rel. Bynon vs. Page assumed the fact in holding that the officers to be elected in Salt Lake City were those mentioned in the act of 1888. The election of three councilmen for each of the five wards must have been based on the assumption of the existence of those wards. It also appears that the defendant canvassed the votes of the Fourth Ward and found that the plaintiffs were the three candidates for councilmen who received the highest number of votes from the electors of that ward. I am of the opinion that the existence of five municipal wards at the time the act of 1888 took effect and at the time of the election in question, was sufficient. These five wards constituted local subdivisions of the city, which the court may take notice of. It appearing that the plaintiffs were elected by the electors of the Fourth Ward of the city, they

are entitled to their certificates. The fact that the defendant has issued certificates to the candidates who received the fewest number of votes in the ward, and that he has delivered the returns to the officer entitled to their custody, furnishes no excuse for not issuing the certificates of election to the plaintiffs. It was his duty to canvass the votes and declare the result, and give certificates showing the result to the persons receiving the most votes from the electors of the ward.

The peremptory writ of mandamus asked for is granted.

Messrs. McBride and Dickson gave notice that they would appeal from the ruling of the court, and the bond on appeal was fixed at \$300.

### THE NEW CITY COUNCIL.

Shortly after seven o'clock February 18 members and members-elect of the City Council began to arrive at the Council Chamber. The old members took their accustomed seats, while in a row of chairs just within the desks sat some of the "Liberal" members and the contestants from the Third and Fourth wards. The extra space in the council room and the ante room was occupied by spectators, who were present in a dense crowd. Soon after the proceedings began.

By request of the mayor, Treasurer Whitney opened the proceedings with prayer.

The minutes of the previous meeting were read and approved. During the reading of the minutes, Mayor-elect Scott entered, and took a seat by the side of Mayor Armstrong. Louis Hyams, recorder-elect, occupied a seat in the northeast corner of the chamber.

Recorder Wells announced that a number of petitions and communications had been filed, and suggested that as they were new business, the Council should decide whether it would consider them, or leave them to the new Council. On motion they were laid on the table for the new Council.

Recorder Wells made a report of the filing of a plat showing certain waterworks extensions which had been ordered. Received and adopted.

Jesse W. Fox, Jr., made a report of the city's share of the Capitol Hill reservoir. Adopted.

Marshal Solomon's report from Jan. 1 to date was accepted and the amounts called for therein appropriated.

The reports of several city officers upon matters of routine but unimportant business were read and adopted.

The committee on sewerage reported favorably on a report of expenses on sewerage.

The committee on waterworks reported upon certain extensions that had been made. Adopted.

The committee on irrigation returned as unfinished business several petitions which had been referred to them, and reported on a number of minor matter which had been under consideration by them. The committee on cemetery re-