DESERET EVENING NEWS.

Friday, August 21, 1896.

THE COUNTY'S DEBTS

Must Not Exceed the Amount of Taxes Which It Receives.

ATTORNEY GENERAL INTERPRETS

Several Sections of the New county Government Law—An Opinion Important to County Officials.

An opinion which is of much importance to all county officials has been promulgated from the office of the attorney general. It deals particularly with chapter 101 of the laws of Utah, 1896, and with the limit of indebtedness which a county is entitled to incur. The opinion is as follows:

Hon. J. K. Reed, County Prosecuting Attorney, Orangeville, Utah:

DEAR SIR—I have considered your communication of August 19, 1896, in relation to the construction of chapter 101 of the laws of 1896, "so as to establish a uniform system of county government," your particular inquiry being as to whether or not a county officer or a warrant issued on a claim allowed by the county commissioners is a liability and indebtedness of the county within the meaning of the act.

Section 3 of said act, found on page 107 of the laws of 1896, provides "no county shall incur any indebtedness or liability to any manner, or for any purpose, in excess of the revenue of chapter 101 of the laws of 1896, provides, in substance, that the county commissioners shall have power to levy a tax upon the property in the county for the current year, without the assent of a two-thirds majority of such qualified electors as shall have paid a property tax thereon in the year preceding such election, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same. An indebtedness or liability incurred contrary to this provision shall be void." Section 6 of the same act provides that "all contracts, agreements, obligations, payments and liabilities to pay, made or attempted to be made in violation of this act, shall be void, and no county shall never be the foundation or basis of a claim against the treasury of such county, and all officers of the said county who charged with notice of the condition of the treasury of the said county and the extent of the claims against the county."

In answering your inquiry intelligently, it may be proper to observe that the first question which arises under the law is, what is the limit of indebtedness or liability to be incurred in any one year? Under the free classes above or out I am of the opinion that the Legislature intended to limit the indebtedness or liability to be incurred in any one year to the amount of the taxes actually received for that year, without taking into consideration any outstanding indebtedness which may have been incurred during any prior or years previous. The language is plain and free from any ambiguity and it entitled in that interpretation and meaning which the words used ordinarily and in common acceptation denote. "No county shall incur any indebtedness, etc., exceeding in any one year the taxes for the current year." The same idea may be expressed by substituting the sentence so as to make it read, no taxes collected in any one year shall be equal to the indebtedness or liabilities incurred during the year. To illustrate, suppose the revenue of a county for the year 1896 was $25,000 for county purposes, that on January 1 there was an outstanding or floating indebtedness of the county for $10,000, and that during the year, say November 1, the county commissioners had incurred an indebtedness to the extent of $25,000, would the county, applied with the outstanding indebtedness of the preceding year, constitute the equivalent of taxes for the current year? The same idea may be expressed by substituting the sentence so as to make it read, no taxes collected in any one year shall be equal to the indebtedness or liabilities incurred during the year. To illustrate, suppose the revenue of a county for the year 1896 was $25,000 for county purposes, that on January 1 there was an outstanding or floating indebtedness of the county for $10,000, and that during the year, say November 1, the county commissioners had incurred an indebtedness to the extent of $25,000, would the county, applied with the outstanding indebtedness of the preceding year, constitute the equivalent of taxes for the current year? The same idea may be expressed by substituting the sentence so as to make it read, no taxes collected in any one year shall be equal to the indebtedness or liabilities incurred during the year. To illustrate, suppose the revenue of a county for the year 1896 was $25,000 for county purposes, that on January 1 there was an outstanding or floating indebtedness of the county for $10,000, and that during the year, say November 1, the county

commissioners had incurred an indebtedness to the extent of $25,000, would the county, applied with the outstanding indebtedness of the preceding year, constitute the equivalent of taxes for the current year? The same idea may be expressed by substituting the sentence so as to make it read, no taxes collected in any one year shall be equal to the indebtedness or liabilities incurred during the year. To illustrate, suppose the revenue of a county for the year 1896 was $25,000 for county purposes, that on January 1 there was an outstanding or floating indebtedness of the county for $10,000, and that during the year, say November 1, the county

I think that in the use of the words "condition of the treasury," in section 6, it was intended that the county officers should be informed of the condition of the treasury, as to the amount of money which shall have been collected during the year, and that in the use of the words, "no county shall never be the foundation or basis of a claim against the county," it meant that they must know, at any time during the year, the amount of the liability which had been incurred during that year.

Reading the whole act together, I think it evident that it was not the intention of the Legislature, beginning with January 1, 1896, to authorize their the indebtedness or be incurred in any one year to the actual revenues of the county derived during that year. This view of the law is strengthened by the provisions of subsections 1 of section 10 of the same act which provides, in substance, that no county commissioners or any county officer shall be authorized to issue any warrant in payment of any claim against the county for an outstanding indebtedness on January 1, 1896, exceeding two hundred dollars, unless there be sufficient funds in the treasury applicable to certain purposes, if they shall be for the public interest, and also refund