

cate which has been lost or destroyed he shall be detained and judgment suspended for a reasonable time to enable him to procure a duplicate from the officer granting it, and in such cases the cost of said arrest and trial shall be in the discretion of the court; and any Chinese person other than a Chinese laborer, having the right to be and remain in the United States desiring such certificate as evidence of such right, may apply for and obtain the same without charge.

"Sec. 7. That immediately after the passage of this act, the secretary of the treasury shall make such rules and regulations as may be necessary for the efficient execution of this act, and shall prescribe the necessary forms and furnish the necessary blanks to enable the collectors of internal revenue to issue the certificates required hereby, and shall make such provisions that certificates may be procured in localities convenient to the applicants. Such certificates shall be issued without charge to the applicant, and shall contain the name, age, local residence and occupation of the applicant, and such other description of the applicant as shall be prescribed by the secretary of the treasury, and a duplicate thereof shall be filed in the office of the collector of internal revenue for the district within which such Chinese makes application.

Sec. 8. That any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate, or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely represent any person named in such certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding \$1000 or imprisoned in the penitentiary for a term of not more than five years.

Sec. 9. The secretary of the treasury may authorize the payment of such compensation in the nature of fees to collectors of internal revenue for services performed under the provisions of this act in addition to the salaries now allowed by law as he shall deem necessary, not exceeding the sum of \$1 for each certificate issued.

The annexed is known as the Scott law. It was enacted in 1898, being supplementary to the anti-Chinese statute of 1882. Both of these would have expired this year, but it will be seen that the latest statute reenacts them:

Be it enacted, etc., That from and after the passage of this act it shall be unlawful for any Chinese laborer who shall at any time heretofore have been, or who may now or hereafter be, a resident within the United States, and who shall have departed, or shall depart therefrom, and shall not have returned before the passage of this act, to return to, or remain in, the United States.

Sec. 2. That no certificates of identity provided for in the fourth and fifth sections of the act to which this is a supplement shall hereafter be issued; and every certificate hereafter issued in pursuance thereof is hereby declared void and of no effect, and the Chinese laborer claiming admission by virtue thereof shall not be permitted to enter the United States.

Sec. 3. That all the duties prescribed, liabilities, penalties, and forfeitures imposed, and the powers conferred by the second, tenth, eleventh, and twelfth sections of the act to which this is a supplement are hereby extended and made applicable to the provisions of this act.

Sec. 4. That all such part or parts of the act to which this is a supplement as are inconsistent herewith are hereby repealed.

Approved October 1, 1898.

CHARGE OF NEGLIGENCE AGAINST COUNTY ATTORNEY MURPHY.

The following charge of negligence has been preferred against County Attorney Murphy by Judge Bartch and County Selectman Butter and referred with a reply to Attorney Frank Pierce to report findings back to the County Court:

To the County Court of Salt Lake county, Utah:

Your special committee, to whom was referred the matter of the county's relation to the special school tax for the year 1890, report that they have carefully investigated the matter and find the following facts:

The said tax was levied upon the tax list of 1889 and the levy and collection thereof has been declared illegal by the Supreme court of this Territory. On the 21st day of February, 1891, L. G. Hardy, county collector, had in his hands \$33,774.65 of said tax, which had been paid under protest. The Board of Education of Salt Lake City, claiming such moneys, sued out an alternative writ of mandamus to compel Hardy to pay over the same to it. Mr. Hardy, by advice of his attorney and under the order of the District Court, paid the said taxes into court September 21st, 1891.

A large number of the parties who had paid said tax were allowed to intervene in said action, and a decree was entered by consent of counsel for the collector in favor of the intervenors and against the collector and the board of education. And in said decree the court allowed the attorneys for the intervenors as fees for their services 10 per cent. and 3% per cent. on the said entire amount for referee and court fees, etc., and ordered the balance to be refunded to the taxpayers. The county attorney represented the collector as private counsel during a part of said proceedings and private parties during part thereof, as your committee is informed. That, therefore, the county was not represented by counsel or at all during said proceedings. That the county was largely interested in said fund, and the amount due the county, after deducting 13% per cent., is \$2270.

Your committee is of the opinion that the county attorney should have represented the county in said action, and that the county should be reimbursed for loss sustained by not being represented, to-wit., the 13% per cent. deducted out of the county's money. We are of the opinion that proper steps should be taken to recover the same.

Respectfully submitted,
G. W. BARTCH,
JOHN BUTTER,
Committee.

MURPHY'S ANSWER.

To the County Court of Salt Lake County:

Gentlemen—The report of your committee to whom was referred the matter of "the county's relation to the special school tax of 1890," has been placed in my hands.

I desire to say first, that at the time I became counsel for Mr. Hardy in the litigation which grew out of these taxes, Salt Lake county had no interest whatever in the controversy, and, as I shall show, never ought to have had any interest in it.

I did not, therefore, represent Mr. Hardy as county attorney. Mr. Hardy retained me as private counsel to represent him, as other public officers retain counsel to represent them in matters wherein their official acts may impose a personal liability upon them, but in which the public has no interest. I have never had any connection whatever with any of the litigation in question as county attorney.

The question as to whom I did represent had no relevancy to the subject of your committee's inquiry; the only question relating to my action in the matter with which it had any concern was, primarily at least, whether I ought to have represented the county. But since the subject is referred to in the report, I desire to say that I represented Mr. Hardy alone in all the suits which grew out of the special school tax in question, until after the Supreme Court of the Territory had declared the taxes void. Mr. Hardy was a mere stakeholder of the fund, having no personal interest in the fund, although formally a defendant. His sole interest in the mandamus suit was to obtain such a judgment or order of a court of competent jurisdiction as should protect him in making any particular payment or delivery of the fund. After the taxes were declared void by the Supreme Court and Mr. Hardy paid the money into court under provisions of Sec. 3338 of the Compiled Laws of 1888, Mr. Hardy was absolved from all further liability with respect to the fund, and his interest in the suit ceased. The law being that taxes collected will be ordered paid to the officer or board, or into the treasury directed by a statute, notwithstanding that they have been paid to a collecting officer under protest, unless the taxpayer takes steps to recover them back, intervention was made in the suit by, and on behalf of the taxpayers who had paid the taxes in question, and I, with other attorneys, represented intervenors. The intervention, under Sec. 3184, Compiled Laws of 1888, was made on behalf of all the taxpayers, and since it redounded to the benefit of all, the Third District Court saw fit to enter a decree in ordering repayment of the fund to the taxpayers instead of to the Board of Education, plaintiff, to charge upon the fund in its custody a fee to the intervenors' attorneys, a commission to the Clerk of Court for the labor of disbursement, and a per diem compensation to the referee appointed by it to determine the names of all the taxpayers who had paid part of the fund and the amount paid by each. This decree has since been excepted to and affirmed by the Court.

With regard to the propriety of the payment of the fund into court, which has been criticized by a member of your committee, I have to say that I am accustomed to take such steps on behalf of my clients as are dictated by my own judgment, and shall continue to do so; but under the circumstances I am willing to say further that at the time this step was taken I had no knowledge that such a decree would be entered or was contemplated. It was taken for the sole purpose of relieving Mr. Hardy from any further liability with respect to the money. A deposit in court, which is authorized by statute, and was permitted and directed by the court, is not a proper subject of criticism.

The county's interest in the matter arose, it seems, as follows: Default was made in payment of taxes of 1890 on a large number of pieces of real estate, including Territorial and county taxes, and also the void special school taxes in question. Many of the parcels, when put up for sale for the delinquent taxes, found no bidders, and in accordance with section 2031, Compiled Laws, were thereupon struck off to the probate judge "for and in behalf of the county."

This section provides that in such case "the clerk of the County Court shall credit the collector with the amount of the city tax due thereon and costs to date of sale." Instead of directing the clerk to follow this provision of law by giving the collector a credit, the County Court made an actual appropriation of money to the collector, and the same was drawn out of the county treasury by him, for