

In the event of your refusal to issue certificates of election as requested, I would respectfully ask you to furnish us with a certificate of the number of votes cast for the offices named in the Third and Fourth municipal wards with the names of the persons voted for.

Very respectfully,
RICHARD W. YOUNG.

The Secretary did not furnish the certificates asked for, as they had been issued to the "Liberal" candidates.

The following was filed in the Third District Court, Friday afternoon, February 14th:

In the Third District Court of the Territory of Utah:

Richard W. Young, John Fewson Smith and William J. Tuddenham, being first duly sworn, on their oaths do say:

That they are, and at all the times hereafter named have been, citizens of the United States.

That Salt Lake City is the name of a municipal corporation existing under the laws of Utah Territory, and that it is a city of the "first class," it having an inhabitaney of over 20,000 people at and before the time of the election herein mentioned. That for the last one and a half years they have been and now are, actual, bona fide residents of the Fourth municipal ward, in said city of Salt Lake, Salt Lake County, Utah Territory.

That each of said affiants has been, during the period last aforesaid, and is now, over the age of twenty-one years; and they have been during said period, and now are, duly registered and qualified electors and free holders in the municipal ward and city aforesaid.

That, to-wit, on the 10th day of February, 1890, affiants allege that there was a municipal election held in said city, for the purpose of electing one mayor and fifteen councilmen, and other officers of and for said city, for the ensuing two years; and that at the election affiants, and each of them were candidates for the office of councilmen from said Fourth Municipal Ward, and then and there each of them received 432 votes for the office of councilman in said city, from said municipal ward.

Affiants further state that they received the highest number of votes of any person or persons from said municipal ward for the office of councilman, and that no other persons or candidates were voted for said office except three, whose names are as follows, to-wit: Worden P. Noble, Louis Cohn and Lucius E. Hall; and that neither of said candidates, last aforesaid, received as great a number of votes as were cast in favor of affiants, and that said three last named persons obtained only 304 votes that were cast in said municipal ward at said election for said offices of councilmen therefrom.

Affiants further state that they are informed and believe that one Elijah H. Sells has been named and authorized by the duly qualified officers of the law to issue to the persons obtaining the highest number of votes, and the one authorized to hold said office, a certificate of election or a certificate to that effect; and that affiants acting on said information and belief, subsequent to said 10th day of February, 1890, applied to said Elijah H. Sells, as such officer, and duly requested him to issue to them the said certificate, showing that they were the parties so elected to the office aforesaid, and each of them; but said Sells then

and there declined and refused to issue said certificate to them, or either of them.

Wherefore affiants ask this honorable court to issue an order to said Elijah H. Sells, commanding him to issue to each of said affiants a certificate of their election to the office of councilor of said city from said municipal ward, or in default thereof to show cause why he did not issue said certificate, before this honorable court, at the hour of 10 a.m., on the 17th day of February, 1890.

RICHARD W. YOUNG,
JOHN FEWSON SMITH,
W. J. TUDDENHAM.

Subscribed and sworn to before me, this 14th day of February, 1890.

I. M. WADDELL, Notary Public.

The following certificate of the vote in the Third and Fourth precincts accompanies the affidavit:

Number of votes received by the councilmen in the Third and Fourth municipal precincts of Salt Lake city as shown by the official canvass:

THIRD PRECINCT.

H. Pembroke	365
Dan Wolstenholme	365
F. W. Armstrong	353
O. H. Hardy	716
Frank H. Hyde	707
Ed A. Pollard	705

FOURTH PRECINCT.

W. P. Noble	304
Louis Cohn	285
L. E. Hall	299
R. W. Young	432
William J. Tuddenham	433
J. Fewson Smith	432

SECRETARY'S OFFICE, TERRITORY OF UTAH, } ss.

I, Elijah Sells, secretary of the Territory of Utah, do hereby certify that the above and foregoing is a full, true and correct copy of votes cast for councilmen at the last municipal election, held on the tenth day of February, 1890, in the Third and Fourth municipal precincts of Salt Lake City, Utah.

In testimony whereof, I have hereunto subscribed my hand and affixed the great seal of the Territory. Done at Salt Lake City, Utah, this 13th day of February, A. D. 1890.

[SEAL] ELIJAH SELLS,
Secretary of Utah.

Only the Fourth Precinct is acting in the contest, as the result will also decide the Third Precinct. Upon the affidavit filed, Judge Zane issued the following writ of mandate:

Be it remembered that on this fourteenth day of February, 1890, Richard W. Young, John Fewson Smith and William J. Tuddenham filed their written affidavit in this court, therein stating that they were and have been for over one year last past bona fide residents and freeholders of the Fourth Municipal Ward in Salt Lake City, County of Salt Lake, Utah Territory, and therein lawfully registered electors and voters; that on the 10th day of February, 1890 they were respectively candidates for the office of Councilmen in said city of Salt Lake in said county and Territory, and that they received and obtained a majority of the votes cast in said municipal ward for said office of Councilmen, and that they are legally entitled to a seat and place in said municipal council for the ensuing two years. Affiants further state that they and each of them have applied to the defendant herein as canvasser of the votes in and for said city, and required and requested that said defendant issue to them and each of them a certificate of their election to the office of Councilman of said city. That notwithstanding the aforesaid facts and allegations in said

complaint, the said defendant has refused and still does refuse to issue said certificate, to their injury and damage. Now, it appearing from the affidavits of said affiants that they have been duly elected to said office aforesaid, and that the said defendant is withholding the said certificate to their injury and harm, you, Elijah H. Sells, canvasser of the votes for said city, are hereby commanded to issue to said affiants and each of them, a certificate of their election, or to show cause before this court why you do not issue said certificate, at 10 o'clock a. m. on the 17th day of February, 1890, at the court room in Salt Lake City.

C. S. ZANE, Judge.

As the certificates of election have already been issued to the "Liberal" candidates. Secretary Sells will appear on Monday to show cause why they should not be issued to the People's candidates.

THE SALT LAKE CONTEST.

Feb. 17, was the time set for Col. Sells, Secretary of the Territory, and canvasser of the municipal election returns, to show cause why he had not issued certificates of election to the People's candidates for justice of the peace and councilmen in the Fourth Precinct, as they had received a majority of the votes there. This case involves a construction of Section 1, Article VI, of the municipal incorporation law, upon which there have already been two decisions. One of these was the Ogden case, in 1889, when the question arose as to whether that municipality should hold its election under the new law referred to, or its old charter, and the court decided that the new law did not apply. The other decision was in regard to Salt Lake City, when the court ruled that the law was applicable to Salt Lake as to the officers to be elected, that being the only question at issue. Now comes the question as to whether the officers designated in the new law shall be elected from wards, as prescribed therein. Following is the section referred to:

"There shall be elected in all of the cities of this Territory the following officers: In cities of the first class, a Mayor, elective at large, and three Councilmen from each municipal ward. In cities of the second class, a Mayor, elected at large, and two Councilmen from each ward. In cities of the third class, a Mayor and seven Councilmen elected at large; and in addition there shall be elected in all of said cities a Recorder, Treasurer, Assessor and Collector, Marshal, and in cities of the first and second class, a Justice of the Peace from each municipal ward, and in cities of the third class, two Justices of the Peace, to be elected at large; *Provided*, That in the case of an incorporated city in which, at the time of the passage of this act, the members of the Board of Aldermen or Council are elected from districts or wards, the provision of this section shall not apply, nor shall this act in any manner interfere with the existing qualifications of electors or officers, or with the manner of selecting the officers."

To the citation for Secretary Sells to show cause, his attorneys, Messrs