

Under the revenue laws of this Territory there is levied and directed to be collected annually, beginning with 1890, an ad valorem tax on all taxable property in the Territory, two mills on the dollar for Territorial purposes, three mills on the dollar for district school purposes, such sums as the county courts of the several counties may designate for district school purposes in such counties not exceeding two mills on the dollar, and such sums as the county courts of the several counties may designate for county purposes not to exceed three mills on the dollar. Sec. 1, page 50, laws of 1890.

Property other than money shall be assessed at a fair cash valuation; money at its legal value. Sec. 2010 compiled laws of 1888.

Each taxpayer shall make a written statement of all the taxable property, etc., owned by him, under oath, to the Assessor, upon a blank furnished him by the Assessor. Sec. 3, page 51, laws of 1890.

After the first day of January and before the first Monday in June of each year, the Assessor shall ascertain all property in his county subject to taxation, and the names of the persons owning the same, and shall determine the fair cash valuation of such property and shall list and assess the same to the person owning such property and make return or deliver such list to the county court. Section 2024, compiled laws of 1888.

Upon the return of such assessment roll by the Assessor, the County Court shall appoint a time to hear complaints. The clerk of the court must, within twenty days after the receipt of such assessment roll, set the amount of tax in the proper column opposite the names of the persons on the roll and furnish the collector with said roll. On receipt of such roll by the collector from the clerk, the collector shall furnish to each taxpayer by mail or leave at his residence, or usual place of business, a notice of the amount of tax assessed against him and of the day fixed by the Board of Equalization for hearing complaints. After the collector has given such notices he must return the assessment roll to the county court, who shall constitute a Board of Equalization, and shall have power to determine all complaints made in regard to assessed value of any property and may change and correct any valuation either by adding thereto or deducting therefrom. Section 2027, compiled laws of 1888, as amended section 9, page 52, laws of 1890.

Under our revenue system the governor and legislative assembly have fixed the rate of taxation for certain purposes and imposes upon the county courts the duty of determining the rate of taxes for certain other purposes. Section 2008, compiled laws of 1888.

The Assessor is charged with the duty of listing the property to the owners and determining the fair cash value of such property. When he has performed this duty he returns the list or assessment roll to the county court. Upon receipt of

such assessment roll the county court is required to determine the rate per cent of county taxes for the current year. And the clerk of the county court shall within twenty days after the receipt of such assessment roll properly extend the taxes so levied or assessed and deliver such assessment roll to the collector. The collector is charged with the duty of notifying the persons respectively whose names appear upon the roll of the amount of taxes assessed and a description and valuation of the property assessed and of the day fixed by the Board of Equalization for hearing complaints, thus affording the individual taxpayer notice of the tax levied, with a description of the property and the value thereof against which it is levied, and when, where and before whom to appear and make complaint in regard to the assessed valuation of the property. After the collector has performed this duty he returns the assessment roll to the county court, who shall constitute a board of equalization, and such board shall have power to determine all complaints made in regard to the assessed valuation of any property and may change and correct any valuation, either adding to or deducting therefrom.

It is my opinion, from the foregoing, that the county court has jurisdiction only to make inquiry and sit in judgment upon the complaints made by the individual taxpayers of the county, and to compare the individual assessments upon the assessment roll one with the other, and to increase or lower the individual assessments and make them equal with each other, and equivalent to the value in money of the property assessed.

That the revenue derived from a fair valuation of the property at the rate of tax fixed by law is in excess of the amount necessary to discharge the functions of government, does not confer jurisdiction upon the county board to inquire into the matter and lower the entire assessment roll of the county to meet such contingency.

In a number of States and Territories State or Territorial boards have been created, with power to increase or lower the entire assessment roll of any, but always, so far as I have found, such boards have been confined, and their jurisdiction limited to the simple question of equalization.

The reason of the law is apparent: The value of property is measured by its money or cash value; taxation should be uniform and equal in that the burdens of government should fall alike and equal on all property; hence boards of equalization are constituted. The county board to which the individual tax payer may appeal from an excessive valuation placed upon his property by the assessor and have it equalized as compared with other property or estimated at its fair cash value, and again wherein property has been assessed below such value, to have it equalized by raising its valuation; and the State board for the purpose of equalizing the value of property

taxed the counties the one county with the other and all of the counties in the State or Territory, and such board may increase or lower the assessment roll of the entire county.

To equalize is to make equal, to cause to correspond or be alike in amount or degree as compared with something. The county board being limited in its action to equalization between the taxpayers of its county and the Territorial board to equalization between the counties.

Should the Board of Equalization of Salt Lake County lower the entire assessment rate of the county upon its own motion or upon the motion of a taxpayer, simply because, in the opinion of the Board or the taxpayer, the revenue to be derived by the valuation fixed by the Assessor at the rate of taxation fixed by law, would be in excess of the necessity of government, or for any other reason, then by what rule would you measure the decrease; or upon the other hand, should the revenue to be collected not meet the necessities, would not the board have as much authority to raise as to lower the assessment, and if so, by what rule would the board be guarded or controlled?

There could be no uniform mode of action, and instead of an equality in values it would produce an inequality in values that will work injustice and interminable confusion. Each county board acting without a positive and uniform rule, there would be as many different and perhaps unequal values as counties in the Territory, bringing about confusion and inequalities in values and taxation, such a state of affairs that the law intended to provide against.

And again, under our system of local self-government, the county courts as county boards have jurisdiction between the taxpayers of the county and the Territorial board, jurisdiction in such matters between counties of the Territory.

Your jurisdiction is limited to a comparison of the individual assessments upon the county assessment roll one with the other, and to make them equal; that of the Territorial Board to a comparison of the assessment roll of the counties one with the other and to make them equal.

I call your attention to the case of Wells, Fargo & Co. vs. State Board of Equalization, 56 Cal. p. 194, and authorities cited as decisive of this question; also see 59 Cal. page 328, and Cooley on Taxation, pp. 290, 291 and 527 and 529 Ib., 51 New York Court of Appeals, p. 616; also Sec. 5, p. 74, Laws of Utah, 1890.

#### MAY LOWER THE WHOLE ASSESSMENT.

Attorney C. K. Gilchrist August 18th filed a document with the Salt Lake County board of equalization, in which he takes a point antagonistic to that assumed by Mr. Hall, which was published in Monday evening's DESERET NEWS, and says that the board, in its power to correct any valuation, may reduce