

the said Stanton three horses for the aggregate amount of three hundred and fifty dollars: That the horses names were Major, Dan and Dick, and color respectively, one grey and two bays; and also Andrew Peterson was paid \$120.00 for his grey horse. That said horses were bought by him and sold by me for use in the Salt Lake Fire department, and the sum of three hundred and fifty dollars was the price agreed upon and all I received or expect for said horses.

(Signed) PETER CHRISTENSEN.
Subscribed and sworn to before me this 23rd day of March, 1893.

MARCUS J. BENSON,
Justice of the Peace, Newton Precinct,
Utah Territory.

The following excerpt from an affidavit made April 14, 1893, by M. P. Hooker, a fireman, will be interesting in view of the recent exposures in the Ryan case:

"I, among other men in the department, have taken up the carpets from his [W. A. Stanton's] house-keeping quarters and cleaned them; have moved his furniture, stoves, etc., and some of the men at all times carry coal upstairs to his house-keeping quarters, taking the same from the coal house of the department. Ever since I went to work at the department, Chief Stanton has kept a cow there in the engine house or in the yard adjoining the same, and one of the men has always cared for her, doing the milking, etc., and feeding her out of the department bins. For several months the chief has kept a pony belonging to his son in the engine house along with the department horses, which has been shod by the department blacksmith and fed out of the department bins."

POWER OF THE COUNTY COURTS.

The Territorial Board of Equalization having called upon the law firm of Bennett, Marshall & Bradley for a legal opinion as to the power of the county courts of the respective counties in this Territory to reduce the valuation of taxable property by a fixed per cent, has received the following opinion:

Territorial Board of Equalization:

Gentlemen—You have asked us for an opinion as to the power of the county courts of the respective counties in this Territory to reduce the assessment of all taxable property therein by a fixed per cent.

We think the only power such courts have in the matter is to act in individual cases on complaints made. They are mere creatures of the statute and must look to it for all of their powers. Here their powers are derived from section 2027 Compiled Laws of Utah as amended in 1890; Laws of Utah, 1890, page 52—the important portion of which is as follows:

"The county court of each county shall on the return of the assessment roll appoint a time to hear complaints, determine the assessor's and collector's compensation, also determine the rate per cent of the county tax for the current year. The clerk of the county court shall, within twenty days after receipt of the assessment roll, set the amount of tax in the proper column, opposite the name or description of property and furnish the collector with said assessment roll. On receipt of the assessment roll from the clerk,

the collector shall furnish to each taxpayer, by mail, postage prepaid, or leave at his residence or usual place of business, if known, a notice of the amount of tax assessed against him and of the day fixed by the board of equalization for hearing complaints, which notice shall be mailed at least ten days before the first day of hearing, and return said 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. Upon the hearing of complaints the board may sub-^ora and administer oaths to witnesses, and hear and take such evidence in relation to the subject pending as in its discretion it may deem proper. And if the board of equalization shall find it necessary to add to the assessed valuation of any property on the assessment roll, they shall direct the clerk to give notice to the persons interested by letter, postage prepaid, deposited in the postoffice or otherwise, naming the day when they shall act in the case, and allowing a reasonable time for such party to appear."

THE DUTY OF THE ASSESSOR.

The duty of fixing the value of property for taxation is vested in the assessor under our statutes. It is made his duty to ascertain "by diligent inquiry and examination all property in his county, real and personal, subject to taxation," and to "determine the fair cash value of such property."

To insure the performance of this duty the assessor is made liable on his official bond on account of property assessed by him at less than its cash value.

THE POWER OF THE EQUALIZERS.

In the statutes of the various states boards of review or equalization are provided for one or both of the following purposes:

First—To examine individual assessments with a view to correct errors and inequalities; or

Second—To examine the assessments as a whole with a view to determine whether they are relatively equal as between different parts of a district within which a tax is to be laid, and if not, to make them so by increasing those which are too low and diminishing those which are too high.

It will be seen that a uniform reduction of the entire assessment of the county would not subserve the latter purpose, because it would not tend to correct inequalities, and our statutes have limited the power of county courts to effecting the first purpose. This purpose can be completely attained by authorizing such courts to act in individual cases on complaints and in accordance with evidence. If it was intended that it should act on the entire roll on their own motion without evidence, it would doubtless have been made their duty to diligently inform themselves by examination of the values of the lands assessed and some safeguard against assessment at less than the cash value of property assessed would have been enacted.

MAY CORRECT ERRORS ONLY.

The county court of each county is required to appoint a time to hear complaints, not to make an original assess-

ment, and it is only because it "shall have power to determine all complaints made in regard to assessed value of any property" that it "may change and correct any valuation either by adding thereto or deducting therefrom."

As such court in changing an assessment reviews the discretion of the assessor as to matters of fact, its power should not be extended beyond the plain language of the statute. As in the statute its power to change or correct is given as an incident to its power to hear and determine complaints and is but the means of executing its determination, we think it has no power to so change and correct the assessment in the absence of such complaints. And this is in accordance with the California decisions under the revenue act of 1881, which does not differ materially from the statute in question.

Other reasons could be found against the exercise of the power to the extent claimed. Its only moral justification would be an actual error in the assessment which was sought to be corrected in this manner. It would be improbable, to say the least, that the assessor had assessed all the many classes of property just the same per cent above the real value. Besides this, the law provides that money loaned, on hand or on deposit shall be assessed at its legal value, leaving no room for discretion, and to justify a uniform decrease in all of such assessments it should appear that the assessor, in violation of his oath, had deliberately in all cases assessed such money in excess of its legal value.

Respectfully,
BENNETT, MARSHALL & BRADLEY.

PRUNING TREES.

Charles Walker, whose orchard is in Sugar House ward, on Eleventh East, between Eleventh and Twelfth South streets, has produced some very fine peaches this year, both as to size and quality. One item in his experience this season is worth noting for the benefit of fruit culturists hereabout. One of the peach trees in his orchard was producing small fruit, though given the usual pruning. Early this spring it was partly broken in a storm, thus necessitating its being heavily cut back in all the branches. Subsequently developments have surprised Mr. Walker, who says he will profit by what he has learned. The extensive pruning of the peach tree had the effect of bringing out from the new wood an increased yield of fruit, of more than double the former size, and of unusually excellent flavor. The lesson thus taught Mr. Walker is one that has been learned by many experienced horticulturists elsewhere, but seems not to be understood by orchard owners generally here. Judging by the way fruit trees are allowed to spread and grow branches, the pruning often being confined to clipping off a few twigs. The orchards of this section would be made to produce manyfold the quantity of fruit now yielded if by judicious pruning the vigor of the trees was directed to fruit production instead of being permitted to run to wood.

THE CLEAREST case of reciprocity for the season comes in the announcement from Jere Simpson that he doesn't want to be governor of Kansas.