

levy of 13 per cent. in all had been simply on those who appeared as litigants, nothing would need to be said; but, in fact, the lists on which this levy was made included many persons who had not in any way appeared as litigants, and who had no desire to appear as such; and increased more than double the amount involved in the claims of those who desired to be represented in the suits, and consequently the fees involved in the order allowing the same. We are informed that the total amount actually in controversy in the suits that entailed this court refunding was less than \$5000, and that the gross amount carried in the claims of all who finally consented that appearance might be made for them in court was about \$13,000 even by the attorneys' claims. Yet the basis of the taxing of costs and attorneys' fees was some \$33,000 and this was reckoned from, because it was the total sum at issue, whether litigants appeared or not. We are informed and believe that the representatives of much more than half of the amount would have much preferred that no notice should have been taken of them in the court procedure, preferring to rely on this board to do them justice, without waste or contention.

But another unjust feature in this matter remains to be stated. By reason of the taking of an arbitrary date, as above noted, for the line of division between those who protested against the payment of these special school taxes and those who did not, some pluckings the reverse of those above referred to took place. For whereas, in the case of those on the court list, many were there who did not wish to so appear, and for whose dragging into court no authority whatever appeared; in the case of the board's list, some appear who were in fact among the litigants; that is to say, some who actually and willingly joined in the suits were by reason of the taking of an arbitrary date instead of the fact in making up the lists, put on the board's list, and were paid in full, without rebate or taxing of costs that they themselves had been instrumental in incurring. The result of this complication was, briefly, that many who did not want to litigate were forced to do so, and court costs and attorneys fees were taxed against them, while others, who did want to litigate, and who actually did so were turned over to the board to be paid in full, without any rebate whatever.

For an exact statement of those who litigated we refer to Collector Hardy's statement as referee, appended hereto and marked exhibit "A."

In addition to the above recital, we report that some cost bills have been presented to this committee and payment asked thereon.

Our recommendation in view of the facts above cited are that the practical workings of this whole matter be presented to the court by the attorney of this board, with a view to correct such inequities as it may still be possible to reach; and that the court be asked to apply the large sum—nearly four thousand dollars—taxed as court and attorney costs in these suits, in liquidation of all fees that may have accrued, acquitting this board of all liability for the same, or any part thereof, or for

any cost in any way growing out of the suit.

Reporting further your committee adds that under its direction the sum of \$76,524.24 has been to August 1, 1892, refunded to the taxpayers of the \$85,226.82 paid on school taxes of 1890.

EXHIBIT A.

[Title of court and cause.]

To the honorable, the said court:

The undersigned was, by order of the court, dated September 21, 1891, appointed referee in this cause, to determine what parties had paid to the collector of taxes of Salt Lake county, the fund of which is the subject of this suit, being a part of the special school taxes ordered levied in the month of December, 1889, by various school districts formerly existing, included within the corporate limits of Salt Lake city, and which has been extended upon the tax assessment roll of Salt Lake county of the year 1890, and at various times paid into the hands of the collector of said county, and to report the amount of such fund now in the custody of the court which each of such parties have paid.

Your referee has for fifty-five days been continuously engaged in the taking of evidence upon the questions submitted in said order of reference, and upon said evidence now reports to the court, that, of the funds now in the custody of the court in this case, the parties whose names are alphabetically set forth in two books or lists hereto attached and made part of this report (marked by exhibits) paid to the said collector the sums set opposite their respective names, the said sums being the amounts of said district school taxes assessed respectively against said parties and borne upon said assessment roll of the year 1890.

The compensation of your referee, which, in and by said order of reference, was fixed at \$12.50 per day of each day in which he should be employed in performing the duties of said referee, amounts to the sum of \$687.50.

Your referee further reports that the time when the order was made herein, that the defendant herein, L. G. Hardy, pay into court all said special school taxes then in his hands as collector aforesaid, said defendant was unable to ascertain or calculate without a complete search of said assessment roll of 1890, and said collector's receipt of stubs of said year, the exact amount of said fund in his hands as aforesaid, but paid into court the sum of \$32,803.53, as being more than enough to cover said amount, and as being as near an approximation to the real amount as he was then able to make. But that in point of fact said sum was in excess of the actual amount in his hands with which he was chargeable as collector aforesaid by the sum of \$2011.23.

The charges upon said fund under said order are as follows, to wit:

The compensation of the referee amounts to \$687.50, which is equivalent to 2 1-25 per cent. upon the entire sum collected.

As to the compensation provided for in the decree of 10 per cent. for attorney's fees, your referee reports the following facts to the court:

After the date of the order the attorneys for the plaintiff furnished the referee with a list of persons who, it was claimed, were the plaintiffs in the suit. That list does not contain the same names as those who paid the money. The list furnished by the attorneys for the plaintiffs is to be found in a supplementary book, also herewith entered and referred to by index, and that book also contains the amount of tax thus paid by each, but in large manner the tax thus paid by each of the persons in that list have already been paid over by the Collector to the Board of Education under proceedings heretofore taken in another cause, and

had been collected and paid over to the Board of Education prior to the commencement of this mandamus suit.

The names of persons who have assisted in paying money, and who have paid a part of the money which is now on hand in court, who are also clients of the attorneys who bring this suit as appears from their list, are to be found in the original two books, and are marked with the letter "S."

The additional book, No. 3, containing the list furnished by counsel for plaintiff, is furnished at their request, together with the amount of tax paid by each.

The amount of tax collected belonging to the clients of Sutherland & Judd is \$10,956.65, as by reference to the said first two books will more fully appear.

The amount belonging to the clients of R. H. Cabell is \$2194, as will also appear.

The fund in court belonging to persons not represented by either of said attorneys amounts to \$20,531.64, as appears by the said statement.

All the foregoing sums are to be found by reference to the said three books, which are herewith returned and made a part of this report.

The per cent. to be paid every taxpayer can be ascertained only by deducting the amount to be allowed under the order of the court, to wit: — per cent. for the collector, and if that is the order, 10 per cent. for attorneys' fees.

And your referee respectfully submits to this honorable court the question as to whether 10 per cent. shall be allowed upon any, and if so, upon what sums collected by him.

L. G. HARDY, Referee.

ROUTINE BUSINESS.

Some other routine business was transacted, after which Raybould moved that a contract be awarded to the Henley & Myers Engineering company for the heating and ventilating of the Lincoln school and the Bryant school, provided that if an engine is required to run the fans that said company shall furnish an engine for \$250 for each school, which shall run at not more than ten pounds pressure; provided further, that at the figures given by them on the terms proposed by them, include entire cost of their plant and any cost of placing same in the buildings, including any changes that may be necessary in the buildings themselves.

Adopted, and the clerk and president instructed to sign the contract on behalf of the board when the same has been submitted to the board by the committee on sites and buildings.

Adjourned for one week.

MAYOR BASKIN MAKES AN APPOINTMENT WITHOUT CONSENT.

Another merry war is now threatened between Mayor Baskin and certain members of the City Council. The cause of the expected conflict was given to a News reporter today by a "Liberal" councilman who enjoys the distinction of being classed as a staunch supporter of the "minority" or "opposition." He alleges in terms more forcible than eloquent that the Mayor has been guilty of the impropriety of grossly insulting the City Council by spurning its actions and illegally assuming authority which the rights and privileges of his office do not confer upon him. The particular case to which objection is made is what some of the councilmen term the creating and filling of an office without their con-