

Section 3 of the act of February 12th, 1869, entitled, "An act for the incorporation of railroad companies and the management of the affairs thereof," under which this railway company was incorporated, required that the articles of incorporation should define the termini of the proposed railroad company, and should specify its general route and mileage. From the time then when the Salt Lake City Railroad Company amended its articles, to-wit: January 30, 1878, until they reamended the same on February 12, 1889, the constructing and maintaining of a railroad on First East Street was beyond the scope of the declared purpose of the organization and existence of that company. During all this period of more than eleven years it said in effect to the City Council, daily, that it did not intend to avail itself of the privilege heretofore granted it by the city, of constructing or maintaining a track on First East Street, or on any of the streets in said city, other than those specifically enumerated in its amended articles of January, 1878.

While the fact of abandonment is always a question of intention, and, therefore, this action on the part of the company may not be conclusive proof of an abandonment of the right to build on First East Street, yet it is very cogent evidence of such an intent.

However this may be, it seems to us quite clear that after such action on the part of this company the city was no longer under any obligation not to revoke the privileges theretofore granted to the company, except so far as the same had been acted upon and executed by the company. A revocation under the circumstances involved no breach of faith. On the contrary, the conditions existing at the time of the several grants by the city to the company, above referred to, may have since then, and since the company's amendment of its articles in 1878, been so materially changed as to justify call for such revocation.

For instance, it is generally believed, and is doubtless true, that the city has more than doubled in wealth and population since that date, and while it might have been quite judicious at the time those several ordinances and resolutions were passed to confer without price the privileges that were so conferred upon this company, yet it might be most unwise to do so now, when perhaps the granting of the same or like privileges could be made a source of revenue to the city.

Has there ever been a revocation of the privilege once granted this company to construct and maintain a street railway on First East street? We think so; if not expressly, yet by necessary implication, from the following facts: September 10, 1889, the Salt Lake City Railroad Company petitioned the City Council for permission to construct and operate by horses, electric or cable motive power, a single or double track street railroad on various streets of said city, particularly specified in said petition, among others being First East street.

On February 11, 1890, the City Council, answering this petition passed a resolution granting such permission as to many of the streets embraced in the petition, but omitting therefrom First East street entirely. Here is a plain refusal of the prayer of the petition so far as First East street is concerned. Moreover, the sixth section of this resolution provided that if the company failed to accept in writing within thirty days the grant contained in the resolution with the terms and conditions thereof, then the said grants should become null and void. The

company did so accept, and thereby we think relinquished the right, if any, which it may have theretofore had to construct its lines on First East Street.

In our opinion, the Salt Lake City Railroad Company has a right to operate railways in all the streets in the city, upon which they now have roads in operation, but upon no other streets for which they have not obtained specific grants since the reamendment of their articles of incorporation.

Copies of the articles of incorporation of the Salt Lake Railroad Company, of the amendment of article 6 thereof, and of the reamendment of article 6, are hereto attached marked A, B and C, respectively.

S. A. MERRITT, City Attorney.  
W. H. DROKSON,  
W. G. VAN HORNE.

Exhibit A refers to the original charter, Exhibit B to the amendment of February 20, 1888, and Exhibit C to the amendment of February 20, 1889.

The report was adopted.

City Attorney Merritt recommended that Andrew Stevens be given a corrected deed to his property. Adopted.

Charles Wilcken submitted the report of the city watermaster's office up to March 31, 1890. Referred to the committee on finance.

George M. Ottinger reported the condition and business of the fire department for the quarter ending March 31, 1890. Referred to the committee on finance.

Charles Wilcken reported on Liberty Park for the quarter ending March 31. Referred to the committee on finance.

H. M. Wells submitted the report of the city auditor for the quarter ending March 31. Referred to the committee on finance.

Police Justice Laney made his report for March. It shows 203 cases tried, and fines to the amount of \$2582.85 assessed. Of this amount \$1292.85 was paid in cash, \$1259 in labor, \$6 was remitted and one \$25 case had been appealed. Referred to the committee on finance.

The street supervisor and city engineer reported adversely on the petition of G. R. Bothwell and others for the grading of certain streets, and advised the graving of Sixth West, from Second South to Fifth South Street, and that the R. G. W. be requested to haul the gravel. Adopted.

Recorder Hyams reported that he had appointed Thomas Shannon as deputy recorder; the appointment was approved.

Recorder Hyams reported that the newly appointed city officers had filed their bonds. Filed.

Recorder Hyams also reported that he had not advertised for bids on two parcels of land, as instructed, for the reason that on investigation he had ascertained that the city did not own one piece, and the title to the other was in doubt. His report was adopted.

W. H. Ryan, superintendent of the waterworks, reported the cost of certain extensions of the water mains. The report was adopted, and notices of intention ordered issued.

Mr. Ryan also stated that he needed a tool house, tools, etc., for his department, and asked that they

be furnished. He submitted a report of what was on hand. Referred to the committee on waterworks.

J. M. Harvey, watermaster, reported that he had appointed as assistant watermasters, Levi Axtell, First Precinct; W. P. Rowe, Second Precinct; Samuel Galazzi, Third Precinct; W. W. Foot, Fourth Precinct; Thomas Hutchinson, Fifth Precinct. The appointments were approved.

City Engineer Doremus asked for permission to employ assistance in his department, and to purchase a set of necessary instruments. He also asked that the Council order the work of his department crowded as quickly as possible. His requests were granted.

W. A. Stanton submitted the following, which was referred to the committee on fire department:

SALT LAKE CITY, April 8, 1890.  
To the Honorable Mayor and Members of the City Council:

Gentlemen—In assuming charge and control of the fire department of this city I discover that we have one Silsby's steamer, fourth-class, that is to say it is quoted as a fourth-class engine in good order. The purpose of this communication is to petition your honorable body to lay before the proper committee the facts relative to the poor condition of this department, that they may see the necessity of taking action to improve the same, and I would respectfully suggest the following:

First—That the engine which is not in service at the present time be placed in the vicinity of the lumber-yards in the south and west part of the city.

Second—That the ground adjacent to the present engine-house, and which is owned by the city corporation, be utilized by the erection thereon of a suitable engine-house in which to keep the engine now in service, and that the present apartment be used for a hook and ladder-house.

Third—That one Hay's extension hook and ladder truck be purchased, as the present facilities in this regard are inadequate.

Fourth—That two Silsby's beaters for steam engines be purchased, in order to have the engine charged with from fifteen to twenty pounds of steam before they are run out of the house; as it is it takes at least five minutes to obtain this power after the alarm is given.

Fifth—That I have an additional 1000 feet of hose, the purchase of which has already been recommended by my last predecessor in one of his last reports to the City Council.

Sixth—That the present force of call-men, which numbers forty, be reduced to twenty good men, who can be relied upon at all times. As it is the present force can never be relied upon, at least the majority of them cannot. My present force at the department is ten men, three of whom are always off duty, which leaves me with a force of but seven. My predecessor, who has been Superintendent of Waterworks as well as Chief of Fire Department, has always filled the places of men that were off duty, when they have been needed, with men from the Waterworks Department. As I have not this source to fall back upon I respectfully ask that I am given two more men, at a salary of \$75 per month each, on my force, which will make me nine men on duty at all times. The addition of two more practical firemen on the force will be of more use by