

Salt Lake Lithographing Co.....	13 50
A. W. Caine & Co.....	1 60
Utah Paint & Oil Co.....	5 00
Salt Lake Power, Light & Heating Co.....	6 00
Grant Bros.....	10 50
R. M. Jones.....	4 50
G. M. Scott & Co.....	60 00
T. C. Armstrong, Jr.....	17 90
R. E. McConaughy.....	150 00
Hyman Harris.....	50 00
W. S. McCornick.....	117 06
H. W. Lawrence.....	35 25
C. M. Dull.....	2 95
Culmer & Jennings Paving Co.....	3105 90
Tribune Job Co.....	2 40
Tom McCoy.....	5 00
Salt Lake Lithograph & Printing Co.....	5 50
A. W. Caine & Co.....	75
Hyrum Coney.....	25 00
Utah Paint & Oil Co.....	1 40
Prospect Park Brick Co.....	181 50
Eagle Foundry.....	50 35
Salt Lake Hardware Co.....	24 50
People's Forwarding Co.....	234 84
Rogers & Co.....	65 24
Martin Landon.....	500 00
Engle Crematory & Sanitary Co.....	500 00

Total.....\$ 6712 96

#### TO PLANK THE AQUEDUCT.

Rich offered the following motion:

That the street supervisor be and is hereby authorized to plank to the full width of the streets all portions of North Temple street aqueduct at its intersections thereof.

Adopted.

#### TO LOWER A FLUME.

Folland offered the following which was adopted:

Resolved, That the water master lower the flume at the intersection of South Temple and Seventh West so as to drain Seventh West street north.

An adjourned session of the City Council was held last night, President Loofbourow in the chair. The councilmen in attendance were Rich, Folland, Hardy, Karrick, Kelly, Horn, Evans, Beardsley, Simondi, Bell, Wantland, Lawson, Moran.—13. Absent—1.

The minutes of the previous meeting were read by Deputy City Recorder Dennis, and thirty-five minutes were devoted to that work.

#### The Proceedings.

J. C. Ross asked permission to erect a six-ton Fairbanks weigh scales near the corner of South Temple and Third West streets. Committee on markets.

Mrs. W. L. Price asked permission to lay a sewer main between Fourth and Fifth South on the west side of West Temple street. Committee on sewerage.

John B. Reed and about forty others asked that the nuisance of dumping barnyard manure and other filth on North Temple street, between Sixth and Eighth West streets, be abolished.

Councilman Wantland explained that the street supervisor had been instructed to use the locality referred to as a dumping ground. Not, however, in an offensive sense, but simply as a matter of convenience and economy. Care should have been exercised in doing so, and he moved that the petition be referred to the street supervisor with instructions to see that the petitioners were given the relief prayed for. The motion prevailed.

#### GRADE STAKE FEES.

The city engineer sent in a communication referring to a communication submitted by him to the Council in February of last year relative to the collection of fees for setting grade stakes and

calling attention to the fact that private individuals owed the city about \$1000 therefor. It was ascertained at that time that this money—most of it in small amounts—could not be refunded as the law prohibited that being done although it was very desirable to do so. He had submitted bills from month to month, but the delinquent list was almost as large as ever and he now sent in their names that it might be known how the matter stood. Committee on finance.

#### THE MAYOR'S VETOES.

The following communication was received from the Mayor:

SALT LAKE CITY Dec. 14, 1892.

C. E. Stanton, Esq., City Recorder:

Dear Sir:—I herewith return, unapproved, bill No. 250, "for an ordinance, revising the ordinances of the city," passed on the 9th inst., for the following reasons:

Section 1, chapter 2, of revision provides that the officers therein mentioned, appointive by the Mayor, under the statute of the Territory, shall hold their offices for two years unless sooner removed by the City Council.

Section 3 of the Territorial Statutes provides "that hereafter the Mayor shall appoint, by and with the advice and consent of the council, all officers who are now made appointive by said council."

Section 4 provides that "all laws and parts of laws, inconsistent with the provisions of this act are hereby repealed."

The act was approved February 27, 1892. The language employed in section 3 is the same as that employed in the national Constitution conferring upon the President his powers of appointment. The question of whether the appointive power of the President carried with it the power to remove, became a mooted question early in the history of the government and was the subject of adjudication by the Supreme Court of the United States in the case of *ex parte Hennen*, 13 Pet. 230.

The court in that case says: "This power of removal from office was a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of this government. This related, however, to the power of the President to remove officers appointed with the concurrence of the Senate, and the great question whether the removal was to be by the President alone or with the concurrence of the Senate, both constituting the appointive power. No one denied the power of the President and Senate jointly to remove where the tenure of office was not fixed by the Constitution, which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted as a practical construction of the Constitution that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution."

Examples of such legislative construction is furnished in the acts providing for the appointments of the various Territorial officers: For instance, the term of the Governor of the Territory is fixed at four years unless sooner removed by the President.

In practice the principle that the appointive power carries with it the power to remove where the tenure of office is not unalterably fixed has been adhered to ever since its enunciation by the Supreme Court.

The tenure of the office to which the third section of the Territorial act relates is not unalterably fixed by law, but is the same in effect as the tenure of the office of governor and other Territorial officers appointive by the President.

The appointive officers of the city were up to the passage of the act of the legislature of February 27, 1892, under the city charter subject "to removal at any time by vote at discretion of two-thirds of the Council." It follows from the doctrine laid down by the Supreme Court that the appointive power conferred by the third section of the Territorial act quoted carries with it the power to remove and that section 1 of chapter 2 of the proposed revised ordinances, is in conflict with it. As under the decision before quoted it is not a mooted question that the power to remove is incidental to the power to appoint. I suggest that section one be amended by inserting the words "by the mayor" after the word "removed" in line seven followed by the words "by and with the advice and consent of the City Council."

Section 27, chapter 22, should be amended by adding the following words after the word "provided" in line 3, to-wit: "or any bartender, agent or other employe," for the reason: An agent was, some time since, arrested by the police when behind the bar of a saloon on Sunday, in the act of furnishing whisky to customers; he was discharged by the police justice on the ground that none but the person holding the license mentioned in said section, was amenable under the provision of the same; that the servants employed by the person holding the license, in violating the provisions of the section, should be punished, is a proposition too manifest for argument. This section should be amended by adding the following at the end of the same, to-wit: "Any person violating any of the provisions of this section, in addition to the punishment provided herein, shall, at the discretion of the City Council, forfeit his license for the unexpired term, and may, at the discretion of the said Council, be refused a renewal of such license." The reasons for this are as follows: Over twenty persons holding licenses have been arrested and fined in sums ranging from \$15 to \$25 for violating this ordinance. In some instances the violations have been persistent and defiant.

Such persons are not entitled to enjoy the license they now hold or to have their license renewed.

There is no question but what the Council has the power to revoke the licenses of such persons and refuse any renewal of the same. See statute on page 58 of session laws of the Legislature of 1892. The enactment of this section with the amendments suggested, and its execution by the City Council in the contumacious cases referred to will, in my opinion, secure the observance of its most salutary provisions in a manner that will meet the approbation of the better class of the community at large as well as the better class of those engaged in selling intoxicating liquors.

Chapter 28 is objectionable because there is no necessity for it. Besides, it creates five new offices, which will add to the taxes of the community, which is already heavily burdened by taxation.

Section 2, chapter 29, is objectionable because it seeks to take away from the Mayor powers which properly belong to the chief executive from the very nature of that office. The police force certainly should be under the exclusive direction of the Mayor. The City Council clearly have the right to make a general rule for the government of the police department, but if the efficiency of the police is kept in sight the Mayor should be entrusted with the enforcement of all such rules, as well as all other things pertaining to the police force of a purely executive character. I therefore recommend that section 2, of chapter 29, be changed by inserting after the word "forthwith" in line five the words "to the Mayor," and inserting