

rods, thence N. 20° W. 9 08-100 rods, thence N. 11° E. 219 24-100 rods, thence E. 57 8-10 rods, thence S. 0° 10' E. 100 rods, thence S. 89° 57' W. 25 rods, thence S. 60 rods, thence W. 5 rods, thence S. 5 rods, thence W. 10 rods, thence S. 20 rods, thence W. 10 rods, thence S. 15 rods, thence W. 5 rods, thence S. W. along City Creek 22 1/2 rods to the N. W. corner of the garden wall, thence S. 27° W. 33 rods and 6 feet, thence S. 82° W. 6 rods and 13 feet, thence S. W. 38 rods and 2 feet, thence W. 16 rods and 8 feet, thence N. 16 rods and 12 1/2 feet to place of beginning, containing 93 3/4-100 acres, less the following piece of land which was deeded to Lorenzo D. Young, April 28th, 1876, by Brigham Young, Sen., described as follows:

Beginning at the N. W. corner of block 89 plat A., Salt Lake City survey, thence S. 7 1-10 rods, thence N. 82° E. 13 rods, thence N. 27° E. 3 1/2 rods, thence N. 28 rods, thence S. 73 1/2° W. 6 1/2 rods, thence S. 32 1/2° W. 10 1-10 rods, thence S. 63° W. three rods, thence S. 14 rods to place of beginning, containing 2 3/4-100 acres.

Also the following tracts: Commencing at the centre of section 30 T. 1 N. of R. 1 E. thence S. 160 rods, thence W. 60 rods, thence N. E. 170 86-100 rods to the place of beginning, containing 30 acres more or less.

Also west half of the S. E. 1/4 of Sec. 30 T. 1 N. of R. 1 E. containing 80 acres.

Also the E. 1/4 of the N. E. 1/4 of Sec. 30 T. 1 N. of R. 1 E. containing 80 acres U. S. Survey of Utah.

To Angus M. Cannon commencing at the S. W. corner of lot 4 in block 88, plat A. Salt Lake City survey, thence N. 4 rods, thence E. 6 rods, thence N. 3 1/2 rods, thence E. 14 rods, thence S. 7 1/2 rods, thence W. 20 rods to place of beginning, containing 129-160 acres, situated in Sec. 31 T. 1 N. of R. 1 E.

Also commencing at the centre of the 4 rod street, 12 rods S. from the N. E. corner of Sec. 20, T. 1 S. of R. 1 E. thence S. 49-10 rods to the centre of Cañon Creek, thence north westerly down said creek to centre of a 4 rod street running N. and S. thence N. on centre of said street 13 7-10 rods to centre of a 4 rod street running E. and W. thence E. on centre of said street 108 rods to place of beginning containing 21 3/4-100 acres.

Also the following described piece of land, to wit:

Commencing at the centre of a street 4 rods wide 50 rods E. of the N. W. corner of the N. E. 1/4 of Sec. 20, T. 1 S. of R. 1 E. thence S. 27-30 rods, thence S. 12 rods to centre of a 4 rod street running E. and W. thence W. 27-30 rods to centre of a 4 rod street running N. and S. thence N. on centre of said street 12 rods to place of beginning, containing 2 7/8-10 acres all in U. S. Survey of Utah.

IX. That after the conveyances aforesaid by the executors to said John Taylor as Trustee-in-Trust for said Church, the executors put said Trustee-in-Trust in possession of all of said property and he has remained in possession of said real estate except as to the property so conveyed to the defendants John Sharp, Edward Hunter, Horace S. Eldredge, George Goddard, Leonard W. Hardy, Theodore McKean, Joseph C. Kingsbury and Angus M. Cannon and is now in possession thereof, claiming and using it as the property of said Church.

X. Plaintiffs say that of the property so received from said executors in liquidation of said account, Brigham Young had for a valuable consideration by a written lease dated September 1st, 1876, signed by himself individually, leased the Gardo House lot premises and furniture to himself as Trustee-in-Trust for said Church, and to his successors in office for 99 years from September 1st, 1876 at the nominal yearly rent of one dollar, and he thereby declared a trust in himself as Trustee for the use of said Church to said property for 99 years, and that said Church, and the said John Taylor as its Trustee-in-Trust have a right to the use and possession of said Gardo House and premises, furniture &c., for 99 years from September 1st 1876, independent of and outside of any conveyance from the executors of said Brigham Young's last will and testament.

Plaintiffs also say that of the one hundred and twenty thousand dollars allowed to the executors and legatees &c., for said Gardo House &c., ten thousand dollars each were to be paid to the two widows Mary

Ann Angell Young and Amelia Folsom Young for their interest for life in said property under said will.

XI. The plaintiffs now allege that they are informed and believe that a very large majority, indeed all but seven or eight or nine of said legatees, devisees and beneficiaries under said will, are still willing to abide by said settlement so made by the executors with said John Taylor, Trustee-in-Trust, and are still willing to abide by their releases so executed to said executors, and by said instrument executed between them and said John Taylor, Trustee-in-Trust, dated May 30, 1878, yet notwithstanding all the matters and things hereinbefore set out, and the allotment and apportionment of said estate among them and the receipt by them of their full shares so allotted to each of them respectively, save alone Nabby Howe Clawson who has not been paid in full as plaintiffs are informed and believe, still a portion of said legatees, devisees, and beneficiaries under said will, are setting up claim to said property so conveyed and assigned by said executors, to said John Taylor Trustee-in-Trust as aforesaid.

XII. And plaintiffs aver that said Emeline A. Young did on the 15th day of December, 1877, appoint by power of attorney, duly acknowledged before John Hamill, a commissioner of deeds appointed by the Governor of Utah for the State of California, as her agent to transact her business in the settlement and winding up of said estate, Heber P. Kimball, which power of attorney is now of record in the Recorder's office of Salt Lake County, Territory aforesaid, a copy of which is made part hereof marked Exhibit C.

And that said Heber P. Kimball as her said agent, as Plaintiffs are informed and believe, obtained for her \$21,000.00 as her full share of said estate, and before he received the same, he had a personal interview with said Emeline A. Young, and fully explained to her the facts and matters of the instruments that he would have to sign for her and in her name, both to the executors and to John Taylor, Trustee-in-Trust, and that if she received said amount, and said instruments were signed, she never could obtain any further amount from said estate, and that he was unwilling to sign for her, said instruments, without giving her full information, and without her approval of the same, and this too in the absence of all the executors and of said John Taylor; whereupon she directed him to receive said amount and to execute said papers, Exhibits B. and No. 19.

Still notwithstanding all these things hereinbefore alleged, said Emeline A. Young, did on the 14th day of June, 1879, file in the District Court for the said Third Judicial District for Utah Territory, a complaint against said executors, John Taylor, John Sharp, Edward Hunter, Horace S. Eldredge, George Goddard, Leonard W. Hardy, Theodore McKean, Joseph C. Kingsbury and Angus M. Cannon, but did not make said Church or said Corporation, nor the Trustee-in-Trust for said Church, John Taylor, in his fiducial relation, party to said suit, and neither of them are yet made parties thereto.

And the said plaintiff Emeline A. Young being but one of sixty four legatees, devisees and beneficiaries named in said will and without either of the others of said legatees, devisees, beneficiaries, or the representatives of such as have since died being made parties to said suit, either as plaintiffs or defendants and without notice to these plaintiffs or either of them, and without notice to any of said defendants to her said suit she did obtain from the then Judge of said Third Judicial District Court, an order of injunction restraining the said executors and John Taylor from disposing of the assets in the executor's hands and from selling or disposing of the property so conveyed by the executors to said John Taylor as Trustee-in-Trust or otherwise, and an order appointing W. S. McCornick and M. Shaughnessy receivers, with directions to said executors to turn over the assets remaining in their hands to said receivers, and directing said John Taylor to turn over to said receivers, all the real and personal property received from the executors, or conveyed by them as aforesaid; copies of these orders are made part hereof marked exhibit No. 24.

And this too on the bond of said Emeline A. Young, signed by her

sureties, in the sum of one thousand dollars, only, a copy of which is made part hereof as exhibit No. 25, and said receivers were directed to give bonds in the sum of one hundred thousand dollars each; a copy of the bond of said Shaughnessy as receiver is made part hereof as exhibit No. 26, and the bond of said McCornick is of like import. Said McCornick declined to take possession of the real estate or any part thereof. Plaintiffs allege that the sum of one thousand dollars, the penalty of the bond signed by the sureties of said Emeline A. Young, is greatly inadequate to the damage which has and will accrue to said plaintiffs, by reason of the said injunction order, even if they were parties to said suit and could recover thereon, and when the other defendants to her said suit are considered it is so greatly inadequate as to be literally no security. But said plaintiff aver that they are advised that neither said Church nor its Trustee-in-Trust in his fiducial relation are parties to said suit, nor obliges in said bonds, and have no legal remedy thereon, and that neither the sureties of said Emeline A. Young, nor the sureties of said Shaughnessy are bound to these plaintiffs to pay any damages which may result to them by reason of the suing out of said injunction, or the appointment of said receivers, nor are the sureties of said Shaughnessy bound to these plaintiffs for any loss of the property or assets of said Church, which have gone or may go into his hands as receiver, aforesaid, nor are the sureties of said McCornick bound to them for any loss of the assets which have gone into his hands, or may hereafter go into his hands, as property of said Church, or to which it sets up claim.

And plaintiffs allege that all these things, whether acts of omission, oversight, irregularities or otherwise, are contrary to law and equity, and violative of the rights of said Church, and its Trustee-in-Trust, and said corporation.

XIII. And plaintiffs further state that in the said order so made by the Judge of said District Court, said John Taylor is commanded to turn over to said receivers, property which for thirty years has been dedicated to the use of said Church, as a place of worship, and to carry on its financial operations, and which have all this time been constantly recognized by said testator as being the property of the Church, up to the time of his death, and not claimed by him during any of that time as his individual property; of such property the plaintiffs name the Temple Block, whereon stands the Tabernacle, a house built for and dedicated to the worship of God, and whereon now is being erected a second Tabernacle, and a Temple of large dimensions and at great cost, and which are still unfinished, but in process of erection and completion, and on which plaintiffs now have as employees, artisans, mechanics and laborers, over two hundred operatives at daily labor.

Also the Council House and Tithing Offices, which are dedicated to the use of said Church as part of its public property, necessary to carry on its operations, and which has been used as such by the Church for thirty years, and so continuously recognized by testator to the time of his death as Church property, and which he by deeds conveyed to George A. Smith as Trustee-in-Trust, and to his successor in office, copies of which are made part hereof, marked Exhibits No. 27, 28 and 29.

XIV. Plaintiffs also aver that after the obtaining of said order of injunction, etc., and the execution of said bond by said Emeline A. Young, without notice to these plaintiffs, or either of them, or notice to any of the defendants in her said suit, as they are informed and believe, and without any of the parties signing the petition or verifying the same or executing any bond whatever, the Court admitted as co-plaintiffs with said Emeline A. Young, in her said suit, Louisa W. Ferguson, Dora Young Dunford, Marinda Hyde Y. Conrad, Ernest Irving Young, Elizabeth Y. Ellsworth, and Vilate Decker; a copy of the said petition and order admitting them as co-plaintiffs are made part hereof as Exhibits Nos. 30 and 31. All of which doings are as these plaintiffs are advised, and believe, and so charge irregular, illegal and violative of their rights.

XV. That the heirs, devisees, legatees and beneficiaries, under said will, are very numerous, the testator

having had numerous wives, families and children by different marriages, all of whom he recognized as legitimate wives and children, and divided them by his will into nineteen different classes, as follows:

Class one—Mary Ann Angel Young and her children, Joseph Angel Young, Brigham Young, Jr., Alice Young Clawson, Luna Young Thatcher and John Willard Young, all of whom are living, except Joseph A. Young and Alice Young Clawson, who are dead, leaving the following named children and heirs-at-law, to wit: Brigham T. Young, Richard W. Young, Catherine Young, Amelia Young, Joseph A. Young, Briant S. Young, Walter S. Young, Junius Young, Lester R. Young and Eugene J. Young, children of Joseph A. Young, deceased, and John Willard Clawson, Leo H. Clawson, Walter Clawson and Seldon Clawson, children of Alice Young Clawson, deceased.

Class two—Lucy Ann Decker Young and her children Heber Young, Fanny Caroline Young Thatcher, Ernest Irving Young, Shamira Young, Arta D. Christa Young, Feramor Little Young, and Charissa Hamilton Young, all of whom are still alive.

Class three—Emeline Free Young and her children, Eda Elizabeth Young Emey, Marinda H. Young Conrad, Hyrum Smith Young, Emeline A. Young McIntosh, Louisa W. Young Ferguson, Lorenzo D. Young, Alonzo Young, Ruth Young, and Adella Elvira Young, all of whom are still living except Emeline Free Young, the mother of the class, who is dead (Alonzo Young and Adella Elvira Young are minors).

Class four—Emily D. Partridge Young and her children, Emily Augusta Young Clawson, Caroline Young Croxall, Joseph Don Carlos Young, Miriam Young, and Josephine Young, all of whom are still living.

Class five—Clara Decker Young and her children, Jennette Richards Young Snell, Nabby Howe Young Clawson, and Charlotte Talula Young, all of whom are living (Charlotte Talula Young is a minor).

Class six—Lucy Rigele Young and her children, Dora Young Dunford, Susa Young Dunford, and Rhoda Mabel Young, all of whom are living (Rhoda Mabel Young is a minor).

Class seven—Eliza Burgess Young and her child, Alfales Young, both of whom are living.

Class eight—Margaret. Pierce Young and her child, Brigham Morris Young, both of whom are living.

Class nine—Zina D. Huntington Young and her child, Zina P. Young Williams, both of whom are living.

Class ten—Harriet E. Cook Young and her child, Oscar Brigham Young, both of whom are living.

Class eleven—Harriet Barney Young and her child, Phineas Howe Young, both of whom are living (Phineas Howe Young is a minor).

Class twelve—Mary Van Cott Young and her child, Fanny Van Cott Young, both of whom are living (Fanny Van Cott Young is a minor).

Class thirteen—Susannah Suively Young and Julia Young as adopted child of testator, both of whom are living.

Class fourteen—Testator's daughters, Elizabeth Young Ellsworth and Vilate Young Decker, both of whom are living, and children of Miriam Works Young, deceased.

Class fifteen—Testator's grand children Mary Eliza and Willard Croxall, children of testator's daughter Mary E. Young Croxall, deceased, and his children Maria Young Dougall, Willard Young, Phebe Young Beatie, children of Clara Ross Young, deceased, and all of whom are living.

Class sixteen—Testator's children Evaline L. Young Davis and Mahonri Moriamcumer Young, children of Margaret Alley Young, deceased, and both of whom are living.

Class seventeen—Eliza R. Snow Young, Naama K. J. C. Twies Young and Martha Bowker Young, all of whom are surviving.

Class eighteen—Harriet Amelia Folsom Young, who is living.

Class nineteen—Augusta Adams Young who is still living.

And of all the above named persons as heirs, devisees, legatees and beneficiaries under said will, the following are minors under the age of fourteen years, and who have the following statutory guardians:

Fanny Van Cott Young, minor; Mary Van Cott Young, her guardian; Mary Eliza Croxall, minor; Willard Croxall, minor; Mark Croxall, her guardian.

And of the said named following are minors under the age of fourteen years, and have the following statutory guardians: Phineas Howe Young, her guardian; Alice Young, her guardian; Adel Young, Alonzo Young, and Young, their guardian; Robert Young, and Lucy R. Young, her guardian; Charlotte Young, and Clara D. Young, her guardian.

XVI. And said plaintiffs that by Exhibit No. 5, it is that said account was made date of April 8, 1878, and was filed by said Trustee in Trust, approved and allowed by the executors and by the Probate Court, April 10, 1878, and Exhibits 7, 8, 9 and 10 bear date and are acknowledged April 10, 1878, and Exhibits 11 and 12 are acknowledged April 10th, 1878. Now said plaintiffs aver that they did receive said deeds of conveyance and they delivered until after the account was duly verified by the Trustee in Trust, and duly approved and allowed by said court and said Probate Judge.

XVII. That since the said will was made his said legatee, Joseph A. Young, died this life intestate, leaving children and heirs, to wit: Young, Richard W. Young, erine Young, Amelia Young, Joseph A. Young, Briant S. Young, Lester R. Young, Junius Young and Eugene Young, and administration estate has been closed, and administrator discharged.

Said testator's daughter Young Clawson has also died since his said will was made, leaving as her children John Willard Clawson, Walter Clawson, Seldon Clawson, as her legatees, and there has been administration on her estate. That the real estate named in as being in controversy situated in the County of Salt in said Territory of Utah.

And for further cause of said plaintiffs aver and say:

I. That if said defendants, executors, heirs, legatees, devisees and beneficiaries under said testator's will, are not estopped by papers and proceedings before set out and are not said settlement, made between executors and John Taylor in Trust as aforesaid, and acting and doing as before set out; and if the Court shall find that the account between said Church and said testator was again opened for adjustment, these plaintiffs aver and say that the property conveyed as aforesaid by the executors as trust property to their testator, for the use and fit of said Church, was in fact in truth the property of said Church and so recognized by said testator and that the same was not individual property.

II. That he also held the property as Trustee for said Church, and it belonged to said Church before the legal title was perfected, and said while so holding said property as Trustee in Trust for said Church, he obtained the legal title which legal title entailed benefit of said Church, which was in his own individual or as Trustee in Trust for said Church, but the Church should reimburse him the cost and expenses incurred by him in acquiring said title and plaintiffs now claim so when the same shall be obtained. Said property is of the following description:

Part of lot 6, block 76, commencing at the northeast corner of said lot thence west 12 rods, thence south 12 rods, thence north 12 rods to place of beginning, as platted in Salt Lake City survey.

Part of lot 4, commencing at N. W. corner of said lot, thence east 10 rods, thence south 72 feet to place of beginning.

Also part of lot 5, commencing at the S. W. corner of said lot, thence east 10 rods, thence north 22 1/2 feet to place of beginning, as platted in Salt Lake City Survey.

All of lot 8, block 76, plat A, Salt Lake City Survey, except 5 rods square of the north-east