

bond in such amount and form as should be approved by the city attorney.

Mr. Hall moved that Watson Brothers be required to give a \$5000 bond, on the grant for the street in front of the Clark-Eldredge property. Laid on the table till called for.

J. E. Dooley and others asked that Seventh South Street, between Tenth and Thirteenth East streets, be graded. Referred to the committee on streets.

R. J. Jessup asked that his dog tax be made to cover four months beyond its present term, as his dog had been in Colorado six months. Referred to the committee on license.

The Salt Lake City Railway Company sent in a petition asking for a franchise for twenty years to operate a single or double track railway upon the following streets: Ninth East, from Ninth South, south to the southern limits of the city; First East, from First North to the southern limits of the city; Seventh East, from Ninth South to the southern limits of the city; First Street, from First East to A Street, thence north to Third Street, thence east to E, on Third Street from the corner of B north to Sixth, thence east to the cemetery; from the corner of Fourth South and Tenth East streets, thence south to Fifth South, thence east to Mount Olivet; from the terminus of the Warm Springs north to Beck's Hot Springs; on North Temple Street from Fifth West to the city limits. The company in consideration of this franchise agrees to relinquish all rights granted to it prior to 1889, and to light with electric lights the streets designated for a period of five years, free of cost to the city. Referred to the committee on streets.

McCormick & Co. submitted a communication from a company at Beatrice, Nebraska, with respect to furnishing brick pavement for the city. Referred to the mayor.

Pratt Brothers stated that they owned the waters of North Mill Creek, Davis County, representing that they owned 640 acres on which were located and used six springs, furnishing over 3000 gallons of water per minute. The stream would run a saw mill, and could be brought around to the base of Ensign Peak, and furnish water for that part of the dry bench. They would sell the whole thing for \$25,000. Referred to the committee on waterworks.

J. A. Hyde and others asked that certain streets in the southwest part of the city be repaired. Referred to the committee on streets.

P. L. Williams and others asked that additional accommodations be provided for those of the public who desire to attend the City Council sessions. Referred to the city marshal, with instructions that he provide seats for the audience, commencing at the next session of the Council.

A petition, signed by a large number of citizens, was granted. It asked that the franchise petitioned for by Mr. White, for the Salt Lake Railway, on Third South Street, be granted, with the condition that the road

be completed within one year. Referred to the committee on streets.

A communication to the recorder from the R. G. W. Railway company stated that the place where the railroad crosses the canal in the Jordan Narrows would be made safe by walls of masonry. Received and filed.

City Attorney Merritt reported on the claim of Judson White, for \$5000 damages, for injuries received by falling into the excavation made on Second South Street for the Chamber of Commerce building. Col. Merritt stated that there was no doubt of the city's liability, as the Chamber of Commerce had no property and could not be proceeded against. He had talked with the officers of the Board of Trade, however, and they had agreed to pay \$750 if the city would pay a like amount, and he had ascertained that this would satisfy Mr. White.

The attorney and committee on waterworks reported adversely on the claim of F. Heath to be exempted from tax for water mains because of the expense he had gone to in making connections with the mains a block away. Adopted.

The attorney and special committee reported as follows on the matter of the Salt Lake City Street Railway Company's franchise:

*To the Mayor and City Council of Salt Lake City:*

The undersigned to whom was referred the inquiry as to the rights, if any, claimed by the Salt Lake City Railroad Company to maintain and operate a street car railroad on First East Street in this city, beg leave to report that the Salt Lake City Railroad Company, by its attorneys, have submitted elaborate arguments and briefs on the question, as have also the attorneys representing the Rapid Transit Company, and after carefully and patiently examining the question submitted to us, and the several briefs and arguments filed, we state the facts and our conclusions thereon:

The Salt Lake Railroad Company was incorporated on February 1, 1872. Article 6 of their act of incorporation provides, "That this corporation is organized for the purpose of constructing, maintaining and operating a single or double-track street railroad in Salt Lake City, Salt Lake County, Utah Territory, beginning at the Utah Central Railroad depot on South Temple street and running thence easterly to a point at or near the eastern limits of said city, with deviations and branches on adjoining streets as the demands of travel may require, and also two principal branches of said road extending as follows, to wit: The first connecting with the main line above described at the most suitable point between East Temple street and the said railroad depot, and running thence in a northerly direction to the Warm Springs, near the northern limit of said city; the second connection with either the main line at or near the said railroad depot or with the first branch where it crosses North Temple street, and running thence westerly to or near Jordan bridge, near the western limit of said city, the entire length of said road to be about nine miles."

The first grant by the city to said company to construct its road in the streets bears date April 26, 1872; this grant included the right to construct on First East Street between First and Third South streets, a distance of two

blocks, and required that the same should be completed within twelve months after the passage of said resolution. Subsequently, by a resolution of the City Council, passed May 27, 1873, the time for the completion of said railway on First East street, between First and Third South streets, was extended "during the pleasure of said company to any period within the limits of their charter."

On the 6th of January, 1876, the City Council passed a resolution as follows, to wit:

"Be it resolved by the City Council of Salt Lake City, that the Salt Lake City Railroad, its successors and assigns, have the authority and consent of the City Council, and permission is hereby granted it, to construct a double-track switch commencing at the intersection of First South and Second East streets and running north on Second East Street twenty rods, thence east four rods across sidewalk to company's stables, and also to construct and operate a single or double-track railroad, together with all necessary switches for the accommodation of said road on other streets within the corporate limits of Salt Lake City, where a railroad is not now running, as it shall be needed hereafter, subject to the same conditions, obligations, restrictions and provisions as are contained in the resolution of said Council, granting to said street railroad on certain streets therein named approved April 26, 1872, and for the same term dating from 26th April, 1872."

In our opinion these several grants were good and valid grants to said Salt Lake Railroad Company, and within the power of the City Council to make, and are still the property of said road, except as the same or any of them may have been forfeited by abandonment or otherwise.

By the act under which the railroad company was incorporated it is provided that if a company fails to finish the road which it is incorporated to build, and put the same in full operation within six years, its act of incorporation shall be void. (Compiled Laws 1876, page 217). Under such statutory provisions a failure on the part of the company to comply with these requirements operates to forfeit its charter. Recognizing this condition of the law, the company so amended its articles of incorporation within six years from its original incorporation in respect to the route and terminal of its railway as to prevent such forfeiture. The amendment which was made in 1878, just before the expiration of six years from the original filing of the articles of incorporation, will be found to confine its route and terminal to the railway at that time actually constructed and operated. By this amendment it will be seen that First East Street is excluded throughout its entire length. This was a voluntary act on the part of the said railroad company, depriving itself of the corporate right of constructing or owning or operating a railway thereon.

The articles of incorporation of the Salt Lake City Railroad Company remained as thus amended until the 20th day of February, 1889, when Article 6 of the articles as amended in 1878 was reamended so as to read as follows: "This corporation is organized for the purpose of constructing, maintaining and operating a single or double-track street railroad in Salt Lake City, Salt Lake County, Utah Territory, upon each and all of the streets of said city, to the full extent and within the terminal limits thereof."