Lorenzo Snow, Erastus Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant and John W. Taylor, were never

ASSISTANT TRUSTEES

of the corporation of the Church of Jesus Christ of Latter-day Saints never having been elected, appointed or qualified as such, and no such assistant Trustees as provided for by the Act of Incorporation were ever elected or appointed for the said John Taylor. But said last named defendants, and each of them, were the Counselors and Advisers of the said John Taylor, and advised with him, regarding the religious and charitable works and affairs of said Church, and regarding the management, use and control of the property belonging to said Church.

When said Act took effect the defendant, the Church of Jesus Christ of Latter-day Saints, by and through certain Trustees, held and owned three certain pieces, tracts or parcels of real estate described as follows, to-wit:

All of Block eighty-seven (87) in Plat A, Salt Lake City Survey, in Salt Lake County, Utah Territory, known as the Temple Block and containing ten acres of land.

That tract of land commencing four (4) rods north of the southwest corner of lot four (4) Block eighty-eight (88) Plat A, Salt Lake City Survey; thence north twenty-six (26) rods; thence east twenty (20) rods; thence south twenty-two and one half (22½) rods; thence west fourteen (14) rods; thence south three and one half (3½) rods; thence west six (6) rods to the place of beginning, containing two and 157-160 acres, known as the Tithing Houses and grounds.

All of that portion of lot six (6) in Block Seventy-five (75) in plat A, Salt Lake city survey, and bounded as follows: Commencing at the northeast corner of said lot, thence south ten (10) rods, thence west eighteen (18) rods, thence north ten (10) rods, thence east eighteen (18) rods to the place of beginning, known as the Gardo House and grounds, and the Historian Office and grounds. All of the above real estate is situated in the townsite entry of Salt Lake City and the said land was patented by the United States to the Mayor of said City on the first day of June, A. D., 1872.

The defendant, the said Church of Jesus Christ of Latter-day Saints, had occupied and claimed to possess the first of above named tracts or parcels of real estate prior to the first day of July, 1862, which said premises are described as follows:

All of Block Eighty-seven (87) in Plat "A," Salt Lake City Survey, in Salt Lake County, Utah Territory.

That the second tract of land above described as the Tithing House and grounds was occupied and used by said Church of Jesus Christ of Latter-day Saints as a Tithing House prior to 1862.

That the patent to said land having been issued as aforesaid, a deed therefor was executed to

BRIGHAM YOUNG

in his individual name. That he held the title in his individual name until his death, and after his death the Church authorities claimed said tract as property held in trust for said Church, and that in pursuance of said claim the executors of Brigham Young conveyed said property to John Taylor, Trustee-in-Trust of said Church. Brigham Young, at the time said conveyance was made to him, was Trustee-in-Trust for said Church.

The said defendant, the Church of Jesus Christ of Latter-day Saints, has acquired since July 1st, 1862, to wit: In July, 1878 the tract of real estate described as follows:

All the east half of lot six (6) in Block Seventy-five (75) Plat A, Salt Lake City survey, and bounded as follows: Commencing at the northeast corner of said Lot, thence south ten (10) rods; thence west eighteen (18) rods; thence north (10) rods; thence east eighteen (18) rods to the place of beginning.

The piece of real estate first above described, to-wit: All of Block Eighty-seven (87) in Plat A, Salt Lake City survey, had been, prior to 1862, occupied and possessed by said Church of Jesus Christ of Latter-day Saints and set apart for Church purposes. And upon the same, prior to 1862, had been built a building known as the Tabernacle, and since 1862 has been built a building known as the Assembly Hall and there has been partially built a structure

KNOWN AS THE TEMPLE,

which was commenced prior to 1862. Upon the northwest corner of said tract is the building known as the Endowment House. The Tabernacle and Assembly Hall are on the west half of said tract and the Temple structure is on the east half of said tract. The entire tract is enclosed by a stone wall and no part thereof has been used for any other purposes.

The piece of property known as the Gardo House was, after its acquisition and up to the time of the death of John Taylor, occupied by him as President of said Church, as his residence. And upon its acquisition a General Conference of said Church of Jesus Christ of Latter-day Saints designated said Gardo House as the residence of the President of said Church, and it has been since so considered.

Claiming to act under the requirements of the 26th section of the act of Congress referred to in plaintiff's bill of complaint as having been passed February 19th, 1887, application was made to the Probate Court in and for the County of Salt Lake, Utah Territory, for the appointment of

THREE TRUSTEES

to take the title to, and to have and to hold the said three tracts or parcels of real estate hereinbefore described, and the said court did, claiming to act pursuant to said section of said Act of Congress, on the 19th day of May, 1887, appoint Wm. B. Preston, Robert T. Burton and John R. Winder, Trustees to take title and to have and to hold the said three tracts or parcels of real estate hereinbefore described; and afterwards deeds were executed purporting to convey and transfer the said three tracts of real estate to the said Preston, Burton and Winder, claiming to be Trustees by virtue of the proceedings aforesaid, and said tracts of land are now claimed to be held by said Preston, Burton and Winder, claiming to be Trustees for said Church as aforesaid.

On the 28th of February, 1887, John Taylor, who was then Trustee-in-Trust for the Church of Jesus Christ of Latter-day Saints, held in trust certain personal property, goods and chattels of the aggregate value of $268 982 30½, which it is claimed by the defendants and denied by the plaintiff, had theretofore been contributed by the individual members of said Church for the purpose of building temples, and for other charitable and religious purposes. On said last named date the said John Taylor, as Trustee-in-Trust, executed an instrument in writing, a copy of which is hereto attached and made part hereof, marked Exhibit "A"

That in pursuance of the provisions of the instrument aforesaid, certain property of the value approximately as set out below

WAS DELIVERED

to the following named ecclesiastical church corporations created and existing under the laws of the Territory of Utah:

To the Church Association of Cache Stake of Zion	$45,036 08
To the Church Association of Box Elder Stake of Zion	16,745 18
To the Church Association of Weber Stake of Zion	11,400 06
To the Church Association of Morgan Stake of Zion	2,716 57
To the Church Association of Summit Stake of Zion	3,153 20
To the Church Association of Wasatch Stake of Zion	6,044 90
To the Church Association of Salt Lake Stake of Zion	32,702 70
To the Church Association of Tooele Stake of Zion	4,591 10½
To the Church Association of Juab Stake of Zion	3,049 03
To the Church Association of Utah Stake of Zion	25,000 00
To the Church Association of Sanpete Stake of Zion	6,992 13
To the Church Association of Sevier Stake of Zion	15,445 50
To the Church Association of Millard Stake of Zion	14,083 89
To the Church Association of Beaver Stake of Zion	6,980 36
To the Church Association of Panguitch Stake of Zion	8,137 30
To the Church Association of St. George Stake of Zion	28,638 41
To the Church Association of Kanab Stake of Zion	38,185 77
Total	$268,982 30½

The members of the said Stake corporations are members of the Church of Jesus Christ of Latter-day Saints, and it is claimed by defendants and denied by plaintiffs that they were substantially the original donors of said property in their respective Stakes.

The Church of Jesus Christ of Latter-day Saints was a corporation for the purposes set out in the act incorporating said Church at the time the Act of Congress of 1887, heretofore set out, took effect and has claimed to exist as a corporation ever since that time.

THE TITHING HOUSE

and grounds as hereinbefore set out are not and never have been used as a place of worship or parsonage connected therewith, or as burial ground, nor are they appurtenant to any thereof.

The portion of the third tract of land set out in the first part of this agreement, as the Gardo House and grounds and the Historian's Office and grounds, which is known as the Historian's Office and grounds, comprise a tract about eight by ten rods. The building thereon is a three-story adobe building, about 35 feet by 45 feet. The grounds of the Gardo House and the grounds of the Historian's Office are separated by a terrace and for a part of the way by an evergreen hedge.

The Historian's Office and tract has been used as the Office and Residence of the Historian of said Church and as a depository for the records of said Church and for library purposes, and has been so used since prior to 1862.

For the purposes of this motion the

PROBABLE VALUE

of the real estate herein described is estimated as follows:

1. The Temple and Tabernacle Block, One Hundred and Fifty Thousand Dollars.

2. The Tithing House and grounds, Twenty-five Thousand Dollars.

3. The portion of tract three known as the Gardo House and grounds, Fifty Thousand Dollars.

4. The portion of tract three known as the Historian's Office and grounds, Ten Thousand Dollars.

The proceedings and resolution hereto attached and made part hereof, marked Exhibit B, were held and passed at a General Conference of the Church of Jesus Christ of Latter-day Saints, which was in session April 8th, 1887.

The exhibit hereto attached as a part hereof, marked Exhibit C, shows the action of the Church authorities in nominating trustees as provided for by said General Conference, as set out in Exhibit B.

Nothing admitted or set out in this agreement shall in anywise

BIND A RECEIVER

in case one be appointed by the Court, upon the motion pending, nor shall his powers be in anywise limited or abridged by anything herein set out.

The motion for Receiver now pending, and the hearing thereon, shall be determined upon this agreement of facts alone, neither party offering any evidence.

Dated Oct. 19, 1887.

GEORGE S. PETERS,
United States Attorney.
JAMES O. BROADHEAD,
JOS. E. MCDONALD,
FRANKLIN S. RICHARDS,
LE GRAND YOUNG,
Attorneys and Counsel for Defendants.

Exhibit A is a conveyance of property to the various Stakes, as set forth in the stipulation of facts.

Exhibit B is the preamble and resolutions adopted by the General Conference of the Church, at Provo, Friday, April 8th, 1887, nominating Bishops William B. Preston, Robert T. Burton and John R. Winder as Trustees for the property of the Church, under section 25 of the Edmunds-Tucker law.

Exhibit C is the petition of the First Presidency to the Probate Court for the appointment of the trustees before mentioned.

Mr. Peters announced that counsel had agreed upon an arrangement for the arguments, if acceptable to the Court. This arrangement was that the attorneys for government should open the case; then the defense should occupy the time; then the plaintiff, defense and plaintiff, in the order named to the close.

Judge Zane inquired how long the arguments would take, and Senator McDonald replied that they would probably last till Friday noon, the 21st.

Assistant District Attorney Wm. J. Clarke made the opening argument for the plaintiff. He said the Territorial Supreme Court had been vested with equity powers by Congress for the trial of this suit. Congress, in the exercise of its sovereign powers over the Territories, had disincorporated the Church, and there being no one legally entitled to the possession of its property, the government asked the appointment of a receiver to take possession of the said property until it should be finally disposed of.

Mr. Clarke was still speaking when the NEWS went to press.

FROM THURSDAY'S, DAILY, OCTOBER 20.

Funeral Services.

A congregation large enough to crowd the Third Ward meeting-house attended the funeral services over the remains of Brother Truman O. Angell, Sr., yesterday afternoon. The speaking was characterized by a deep impressiveness. Most of the speakers had known deceased for from thirty to forty years, and some of them had been intimately associated with him during most of that time. They were as follows: A. M. Musser, George Romney, D. H. Wells, James Moyle, Henry Grow, Bishop Weiler, J. C. Kingsbury.

The remains were followed to the grave by a long procession of vehicles.

THE BIG SUITS.

Col. Broadhead Presents an Unanswerable Argument.

In his argument yesterday afternoon in the suits against the Church and P. E. Fund Company, Mr. Clarke laid down the proposition that Congress, in the organic act, provided for the disapproval of any act of the Territorial Legislature, and that this provision was a reservation of a right, to be exercised at any time, to disannul any act of the Legislature and

DISSOLVE ANY CORPORATION

organized under such act. He then occupied an hour and a half in arguing that if such a right had been reserved, its exercise was not an impairment of a contract. He further argued that as the Church incorporating act was annulled, there was no one to take care of its property, and the Court should therefore appoint a receiver. He also claimed that the distribution of the property to the various stakes only three days before the law went into effect, was a misapplication of the funds because it was evidently done so that the government could not gain possession of it. He asked that a receiver be appointed forthwith to take charge of all the Church property.

The Court then adjourned till 10 a.m. to-day.

This morning Col. Broadhead opened the case for the defense. He suggested that, as all the questions in the demurrer were being considered, and to-day was the time set for its hearing, it be included in the issues before the Court.

Mr. Hobson opposed this, stating that the Solicitor-General of the United States had expressed a desire to

BE HEARD PERSONALLY

on the demurrer, and the counsel for the government could not properly go on without him.

Colonel Broadhead insisted that it was proper for the court to hear the whole case. When the defense were through with the arguments on the question of a receiver, they would have nothing to say on the demurrer. It was a little peculiar, and a cause of unnecessary delay, to await the arrival of the Solicitor General, who would only have to go over the case again in the United States Supreme Court.

The Court refused to entertain the proposition to take up the whole case.

COL. BROADHEAD

then commenced his argument against the appointment of a receiver. His lungs were affected by a cold, but he spoke in a clear, firm voice, and presented the case in a masterly style, it being impossible to do him justice in a synopsis.

The proceeding, he said, for a receiver, under the facts shown in this case was an extraordinary one. Such a remedy should only be adopted when it was shown that the property was liable to be wasted or destroyed, or that the defendant was insolvent or dishonest. In this case no such conditions existed. The only averments to be considered in the bill were to the effect that the trustees of the Church were unlawfully using its property; and that there was no one lawfully authorized to take care of the property, and in consequence it was subject to

LOSS AND DESTRUCTION.

Col. Broadhead argued that there was no way pointed out whereby the property was liable to be lost or destroyed. It was not shown that there was any fraud, or that the defendants were insolvent. Because the government wanted to get the property was no reason why a receiver should be appointed. It must show a condition of facts on which to base the request. There must be some tangible allegations made, supported by sufficient proof. Admitting all the facts in the statement agreed on, there was

NO JUSTIFICATION WHATEVER

for the appointment of a receiver. The property was shown to be in safe hands, and the court was not authorized to remove it therefrom.

The Supreme Court of the Territory of Utah had been set apart specially by Congress to pass upon the laws enacted by that body. All courts should be outside of prejudice, and should be just; and no one could be just without being charitable. Courts have the power to override the legislature and the executive, in having the right to determine the validity of the law. The proposition made by counsel on the other side, that an incorporating act by the legislature could be repealed by that body if the right to do so was reserved, would not be controverted by the defense, who realized that the proposition was correct. Nor would they oppose the doctrine that Congress had supreme power to legislate for the Territories. But if Congress granted a franchise, reserving no right to repeal or amend it, it could not exercise an unreserved power without

VIOLATING AN EXECUTED CONTRACT.

Because the government had reserved the right to disapprove the acts of the Legislature, was not to say that it had reserved the right to go any further. There was no provision in the charter of the Church, or in the organic act, reserving the right to alter, amend or repeal an incorporating act. The contract made with the Church was a valid one, and any violation of its provisions would be an impairment of the contract. No provision had been made changing the incorporating act; it was made unconditional, and the Constitution forbade the impairment of the obligations of the contract thus entered into. (Col. Broadhead cited numerous authorities in support of his propositions.) He said there could be found no authority for the claim that Congress had reserved the right to disapprove or repeal an incorporation act, unless that reservation had been specially designated. The reservation by Congress in the organic act was never intended to apply after 30 years, in the shape of an

ACT OF SPOLIATION,

unequaled in the history of the country, to take from a corporation the property it had rightfully acquired. The act instructing this court what steps it should take between the parties litigant was invalid. Congress had no right to make the act of July 1, 1862, limiting the Church property, when the Church held a contract to hold an unlimited amount; this act was a violation of the contract and was forbidden by the Constitution. That act recognized the validity of the act of the Legislature incorporating the Church; it had in fact approved of the act, except any provision that might have recognized polygamy; these it repealed, if any existed. The law of Congress also limited any future incorporated churches from acquiring more than $50,000 worth of real estate; and provided for the punishment of polygamy. That was all that it did. Its language was "to only annul all acts and laws which establish, maintain, protect or countenance the practice of polygamy, evasively called spiritual marriage." It had also declared, "That this act shall be so limited and construed as

NOT TO AFFECT

or interfere with the right of property legally acquired under the ordinance heretofore mentioned [the ordinance incorporating the Church], nor, with the right to worship God according to the dictates of conscience." This then protected the right to property, and the law limited any Church from *in future*, acquiring more than $50,000 worth of real estate. Other property was not mentioned, yet the plaintiff is asking for other property. Congress had repealed certain provisions in the incorporating act, if they were there. It had by the action of selecting a portion of the act for disapproval ratified the remainder. It had gone further still, and declared specially that the law of 1862 should not affect the remainder of the act incorporating the Church, all of which was included in the two provisions which the law was specially forbidden to interfere with. The act of 1862 was therefore an affirmance of the act incorporating the Church. But even without that affirmance, Congress had

NO RIGHT TO DISSOLVE

the Church incorporation. That body had not been satisfied by approving the act, but had gone further and dissolved the corporation, a power never before exercised or claimed in this or any other country. The legislative department of the government had no right to do such a thing, and deprive the affected parties of the right to have their claim adjudicated. Under such an act the claim of the original donor was lost forever. Congress claimed the right to take the Church property and distribute it to persons who had no right to it. This course had been characterized by the United States Supreme Court to be unjust,

ARBITRARY AND OPPRESSIVE.

"That government can scarcely be deemed free where the property of the people is subjected to the unrestricted will of the Legislature." Congress had no right to deprive a person of property without due process of law. It had undertaken to do this in the passage of the Edmunds-Tucker law. The supreme law of the land had forbidden such a course. It gave to every one a right to a hearing before being deprived of life, liberty or property. A mob may take a man and hang him, but that is not due process of law within the meaning of the Constitution. It is the right and power that is exercised by the grizzly bear in the mountains when he seizes his prey. That is the power, unjust and arbitrary, that is sought to be used by Congress in this case.

The defendants now claim the protection of the Constitution to stop this spoliation of their property by the

OPPRESSIVE AND ARBITRARY

act of Congress. If the judgement of this court be against us we will invoke the judgment of the highest tribunal in the land.

During the entire time of the argument, the speaker was listened to with the closest interest, and at the close the court took its noon recess.

This afternoon Mr. Hobson followed for the plaintiff. He said he was embarrassed by being called unexpectedly in the debate and not having had time to prepare for a labor that he understood was to be performed by the chief government counsel. The objects of the present suit were to dissolve the Church incorporation, to forfeit the surplus of property to the government, and to distribute the balance among those entitled to it. This court was vested with the absolute right to administer on the Church property, under the law of Congress, and there was no alternative but to appoint a receiver. Although the complaint in the case might be defective, yet the court had a right to make the appointment asked. Where there is an equitable proceeding going to the distribution of property, if that property is in danger of being destroyed, the court should take it into custody. The estate was vested in the court itself for administration. It is in danger of being destroyed. And if the law under which the action is brought is valid, there is no question as to the right of the court to take the property in charge.

Mr. Hobson then argued that the claim that the Church had vested rights in the property it held was not a right, because it was only a "squatter's right," and was only held in expectancy for the time when the land was open to entry. He also argued that an act of incorporation was not a contract with the incorporation acting under it. The act which gave the Church its charter, having been disapproved, was void from the first, and the Church had been an incorporation by prescription only. Mr. Hobson occupied the remainder of the time in endeavoring to establish the right of Congress to enact the law of March 3, 1887. He was still speaking when the NEWS went to press.

Senator McDonald will make the closing argument for the defense to-morrow morning.

To the Full Term.

On Saturday afternoon Byron W. King, of Bountiful, was called to receive sentence, in the Third District Court, for living with his two wives. He declined to make any statement of his intentions regarding the future, and was sentenced to imprisonment in the penitentiary for six months and to pay a fine of $50 and costs.