

AN IMPORTANT SUIT.

A suit of more than ordinary importance has been brought in the Third District court against the Salt Lake City Railroad Company, Francis Armstrong, Walter P. Reed, A. W. McCune, R. W. Chambers, Spencer Clawson and Joseph S. Wells, the plaintiffs being Samuel M. Jarvis and Roland R. Conklin.

In their complaint the plaintiffs state that at the time the company was originally incorporated, January 26, 1872, its capital stock was valued at \$180,000, divided into 3600 shares, to be issued at the rate of \$20,000 per mile for each mile of single track of railway constructed, which at that time was not to exceed nine miles. On January 30, 1878, the articles of incorporation were amended providing for the further construction of the road, and on the 20th of February, 1889, the articles of incorporation were amended increasing the capital stock to \$1,000,000, divided into 20,000 shares, to be issued at the rate of \$20,000 per mile for each mile of single track so constructed, and making it the purpose of the company to construct, maintain and operate lines upon each and all of the streets of this city "to the full extent and terminal lines thereof." Since the date last mentioned no other amendments have been made to the charter of the company in anywise affecting the capital stock and purposes of the company, and, beginning with July 24th, 1889, the plaintiffs have, from time to time, purchased 2389 shares, 2167 4-7 shares being held by Jarvis & Conklin, 200 shares by Priscilla Jarvis, 10 5-7 shares by Samuel M. Jarvis, and 10 5-7 shares by Roland C. Conklin. Notwithstanding the purposes of the incorporation limits its powers, as stated, to the building of lines within the corporate limits of the city, the board of directors (the defendants) have, without the consent of the plaintiffs and against their objections constructed and are now operating lines of street railway outside of the corporate limits of the city; that the number of miles so constructed and operated is two and one-fourth miles; that the cost was \$35,000; that at the time of construction the finances of the company were in an embarrassed condition; that there was no business necessity for the construction of the extra mileage of railway; that the same was constructed through territory at a time when it was well known that the same would not be profitable; that the corporation of the extra mileage necessitated the purchase and equipment of extra motor power and cars, and the employment of an extra force of motormen and conductors and in the repair department, and has otherwise increased the daily expenses of the company; that the amount by which the daily expenses is increased is largely in excess of the earnings of these portions of the railway system, and that the operation thereof is at a great loss of money. The plaintiffs further allege that since July 24, 1889, the number of shares of stock actually issued has not exceeded 6000 shares, and of that number they own 2389; that the officers and directors of the company, well knowing that the building, etc., of railway lines outside of the limits of the city

was contrary to the charter powers of the country, and that in order to amend the articles of association so as to give the right to build such outside lines of railway it would be necessary to have a vote at a meeting of the stockholders called for that purpose, which should represent at least two-thirds of the capital stock, held a meeting in this city on April 21st, 1891, at which 3508 4-7 shares were represented, the plaintiffs not being present, nor any portion of their stock represented, an amendment to the articles of association was proposed, whereby further extensions of the railway system were to be authorized. The meeting, says the complaint, was an annual one, and the plaintiffs, whose residence is at Kansas City, sent notice that they could not attend, and requested that the meeting be adjourned until May 20, 1891, and as shown by the records the request was disposed of as follows:

On motion of R. C. Chambers (seconded by Mr. Wells), the following resolution was ordered spread upon the minutes of the meeting:

"Resolved, That in consequence of the inability of S. M. Jarvis and R. R. Conklin to attend this annual meeting of the stockholders of the Salt Lake City Railway Company, that this annual meeting be adjourned until May 30, 1891."

This resolution received no second and was therefore not voted on.

Notwithstanding the large interests of the plaintiffs, the complaint goes on, and well knowing that they would oppose the extending of the lines of railway of the company and increasing the indebtedness and operating expenses of the company for such purpose. A. W. McCune, Walter P. Reed, R. C. Chambers and Spencer Clawson, controlling said meeting of shareholders, refused to in any way recognize or pass upon the said request of the plaintiffs; and that in so doing and in the subsequent election of officers and directors they were, save Joseph S. Wells, secretary and treasurer, "parties to the conspiracy and plan for the conduct of the said corporation, contrary to its charter powers and to the wrong and damage of the interests of the plaintiffs as aforesaid."

Since that time the acts of the board of directors and officers have been without the knowledge or consent of the plaintiffs, for the benefit of themselves and against the interests of the plaintiffs. They further allege that A. W. McCune, R. C. Chambers, Francis Armstrong, Spencer Clawson and Walter P. Reed have conspired together to manage the affairs of the company to the injury of the plaintiffs, and in order to build, equip and maintain the lines outside the city limits, they have permitted the liabilities of the company, exclusive of bonds, to increase to the present amount of \$84,000; that heretofore, with the knowledge and consent of all the stockholders, including the plaintiffs, it was voted to issue its bonds in the amount of \$600,000, the same to be secured by a first mortgage upon all the property, right and franchises of the company, said bonds to be held by the company and sold to raise money for the legitimate corporate uses thereof; that said bonds being duly executed, the directors, in order to provide for the largely increasing expenses caused by the extensions, borrowed \$100,000, depositing as collateral \$400,000 of

bonds; that the said indebtedness matured on August 29, 1891, and that being unable to raise the money arranged with the bank that they might have \$100,000 of the \$400,000 of bonds released on payment of \$50,000 of said \$100,000 indebtedness, and thereupon the directors obtained \$50,000 from another bank, maturing January 10, 1892, and deposited as collateral \$100,000 of bonds, leaving the other \$300,000 with the first bank as collateral security for the payment of \$35,000 remaining unpaid of the \$50,000 indebtedness which is due upon demand; that said company, under its present management, is not able to make payment of the \$35,000, and the \$400,000 bonds of the company are in jeopardy, and if placed upon the market to be sold as collateral would necessarily be sold at a sacrifice, and the property lost to its shareholders; that the parties through whom these two several loans of \$50,000 had been obtained, and to whom they are due, are friendly to the interests of the defendant directors, and if said bonds were offered at forced sale as collateral, their purchase, the foreclosure of the same, and the reorganization of the company under such foreclosure could be so conducted, and it is the intention of the said directors that it shall be so conducted as to secure to them the whole of the property of the company, thus ignoring entirely the interests of the plaintiffs.

Plaintiffs further allege as evidence of the plan and purpose of the board of directors to wreck the railway system and wrong the plaintiffs, that it has been grossly mismanaged; that while there have been many improvements made and put in recently to the better operation of an electric system, and while the knowledge of methods of the economic conduct of such systems has greatly increased, the directors have persistently and continuously refused to adopt improved methods in their operation of the railway system; that they have maintained said system, which now has thirty miles of lines, with one electrical circuit, and as a result thereof a breaking in the line carrying the current, at any point, would cause the shutting down of the entire system and the stoppage of every car.

The manner in which the cars, apparatus, etc., are said to be neglected, is dwelt upon at length, and the statement is made that because of the attention which has been given to the extensions "with the motives aforesaid," the proper attention has not been given to the use of the company's property for its care and preservation and for the most profitable operation of the road.

The manner in which the road is operated and the alleged employment of a large number of unnecessary men on account of the repairs needed on account of the tax system comes in for a fair share of attention, the complaint stating that by reason thereof the expenses of the road are increased to an unusual and unreasonable amount; that the books of the company show that while the gross earnings are increasing, the expenses are increasing in a much larger proportion; that the books show that during May, 1890, the earnings of the road were \$14,727.65 and the operating expenses \$9,513.18;