

property. The argument was had on the following motion:

In the District Court of the Third Judicial District of the Territory of Utah, Salt Lake County.

In the matter of proceedings for the forfeiture of certain real estate, formerly held and owned by the corporation of the Church of Jesus Christ of Latter-day Saints.

Please take notice that we appear in this action for Francis Armstrong, Angus M. Cannon, Jesse W. Fox, Jr., and the Church of Jesus Christ of Latter-day Saints, for the purpose of this motion only, and no other purpose, and upon the information filed herein by A. H. Garland Attorney General of the United States, and George S. Peters, Attorney of the United States for the Territory of Utah; the motion and attachment filed herein directed "to the marshal of the District of Utah and the return of Frank H. Dyer, U.S. Marshal and all the proceedings of record in said matter.

We shall move the court at the Federal Court Room in Salt Lake City, Territory of Utah, on the 20th day of December, 1888, at the opening of court on that day or as soon thereafter as counsel can be heard for an order that the said motion and attachment, the alleged service thereof, and all proceedings thereon be set aside, and that the whole of said proceeding, including said information, be dismissed with costs upon the following grounds:

1. This court has no jurisdiction of the subject matter of said proceeding nor of the property or any part thereof described in said information; nor of the parties whose interests, right or title of, in or to said property are sought to be affected, forfeited or escheated.

2. There are no parties to or named in, said proceeding, or any of them either plaintiffs or defendants, and said proceedings being directly against property *in rem* is contrary to law and the practice of this court and wholly unauthorized.

3. No complaint has been filed in said proceeding naming the proper or any parties—either plaintiff or defendant—stating any cause of action therein whatever, in conformity with law.

4. No summons has been issued in said proceeding directed to any officer for service, nor has any service been made of any summons, motion, attachment or other process upon any person or party whose interest in said property is sought to be affected by said proceeding.

5. Said proceedings and each and every part thereof are irregular and without warrant or authority of law and contrary to the practice of this court.

6. This court has no jurisdiction of said real estate for that the same is in the custody of the Supreme Court of said Territory through its receiver, and no lawful attachment and seizure thereof has been or can be made under or by virtue of any process of this court. And said pretended attachment is irregular and void.

7. Said process of motion and attachment was not directed to any officer known to the law but "to the marshal of the District of Utah" and the pretended service thereof made by Frank H. Dyer, United States Marshal, who is and was at the time of said pretended service the receiver appointed by and required to hold said property, for said Supreme Court of Utah.

-To George S. Peters, Attorney for the United States for the Territory of Utah,
SHEPES & RAWLINS,
Attorneys.

Mr. Rawlins reasoned with great ability and clearness in support of the foregoing propositions, maintaining that the only orderly, certain, proper and lawful method of determining the claims of the parties named in the motion was that prescribed by the code of civil procedure; that the parties in interest whose rights in or claims to the property in dispute were in jeopardy had a right to be apprised, by an information which it was the duty of the government to file, of the facts or alleged facts upon which the claims of the government to the property in controversy were based. He showed that this procedure included the filing of a complaint, the issue, service and return of summons, the opportunity to join issue by answer, and to have a jury trial. He held that the plaintiff in the case, notwithstanding that it was the sovereignty, had no right to prescribe, in its own interest, an abnormal arbitrary and summary method of procedure such as had been taken.

Mr. Varlau insisted that when the sovereign proceeds against the property of offenders it has a right to designate the tribunal before which the proceedings shall be conducted, and the mode of procedure that shall govern. He held that the mention had been due notice to all the world to appear in court and file claims to the property in question, if any existed. But Mr. Rawlins showed that, even were this done, there still existed a quandary. The filing of claims by his clients did not remove the fact that the government had presented them with no allegations which they could answer, and that, therefore, no issue could be joined, and without an issue there could be no trial, by a jury or otherwise.

Judge Zane listened with marked attention, and took the matter under advisement.

CITY COUNCIL.

Henry Raddon and others complained of the delay in laying the water mains on Fourth, O, P and Q streets, that had been ordered by the Council. Referred to the committee on waterworks.

A. L. Simoudi and others asked that the old canal on Seventh West, between Second and Sixth North streets, be either repaired or abandoned. Referred to the canal committee.

Z. Wood presented a proposition to take care of the garbage of the city, which went to the sanitary committee.

Peter Tomney joined the army of bidders for a lease of the Warm Springs. He offered \$100 per month for the first year, and \$200 per month for the second. Referred to committee on public grounds.

Another numerous signed petition asking that the city tax be reduced to two and a half mills, was filed.

J. A. Fritch and others asked to have water mains laid on Arsenal Street. Referred to committee on waterworks.

G. M. Forbes and others asked to have Thirtieth East or U Street extended northward to their property. Referred to committee on streets.

The committee on streets made the following recommendations: That the profile of First South street, presented by the engineer, be adopted. In the opinion of the committee it was not necessary to bring the street to the grade established, and they recommended that, in order to preserve the shade trees, the north sidewalk be temporarily extended, and by stopping the extended portion bring the same down to the required grade, thus allowing the sidewalk to conform to the natural lay of the land as nearly as possible, consistent with the construction of the sidewalk. They recommended that the walk be constructed of cement.

The city engineer presented a profile showing street and sidewalk grades on East Temple street, between South Temple and Third South streets. Referred to the committee on streets.

The city engineer presented specifications for cement sidewalks on Commercial street, which were read. The specifications provide that the pavements are to be made of the best English-Portland cement and to have a uniform thickness of six inches. The width is to be such as will cover the entire surface of the walk from the curb to the building line. The substratum is to be of concrete five inches thick, of which one part shall be cement, two parts sand, and four parts fragments of stone, furnace slag, hard burned brick or clean gravel. The specifications describe the manner in which the pavement is to be constructed, and provide that the pavement shall be paid for by the square foot of finished pavement.

The committee on waterworks recommended that the superintendent of waterworks be authorized to purchase a delivery wagon, to cost not more than \$80.

The committee on municipal laws reported an ordinance amending an ordinance relating to the keeping of swine and cows; an ordinance regulating the erection of poles in the streets; an ordinance amending the ordinance defining the duties of the board of public works; an ordinance amending an ordinance regulating the use of sewers, private drains, etc. Adopted.

The committee on canal recommended that the petition of E. B. Wicks and others, asking that the canal on Seventh and Eighth West streets be filled up be granted. Adopted.

The engineer also reported specifications for rock asphalt pavements, which provide that such pavements shall be paid for by the square yard; the contract price shall include all necessary grading, etc. Such pavements shall be not less than one and one-half inches in thickness and shall have a concrete foundation six inches thick; all rock asphalt shall contain not less than 6 per cent. of pure asphalt; the rock asphalt shall be ground to a fine powder and then heated to expel all moisture and