

THE SUIT AT LAW.

THE MATTER OF CONTEMPT.

ANSWERS OF THE EXECUTORS AND TRUSTEE-IN-TRUST.

FOLLOWING is the full text of the answers of the executors of the B. Y. estate, and the Trustee-in-Trust for the Church, as filed in the Third District Court yesterday afternoon, too late for publication in our issue of last evening:

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

Emeline A. Young, on behalf of herself and the heirs at law and legatees and beneficiaries under the last will and testament of Brigham Young, late of Salt Lake County, Utah Territory, deceased, plaintiff, vs. George Q. Cannon, Albert Carrington and Brigham Young, executors of the last will and testament of Brigham Young, late deceased, and John Taylor, John Sharp, Edward Hunter, Horace S. Eldredge, George Goddard, Leonard W. Hardy, Theodore McKean, Jos. C. Kingsbury, Angus M. Cannon, defendants.

TERRITORY OF UTAH, } ss.
County of Salt Lake.

This respondent, John Taylor, in response to the proceedings commenced against him and others, as in contempt on the 12th day of July, A.D. 1879, will state that he has not, in deed, word or intent, committed any contempt of the court or its orders made herein, nor has he in any manner treated said orders of the court with disregard; but, on the contrary, with all due diligence and dispatch, he has in good faith attempted to comply with said orders, as appears from the correspondence with W. S. McCornick, one of the receivers appointed by the court in the above entitled suit, copies of which from said McCornick to this respondent, and from him to said McCornick, receiver aforesaid, are hereto attached as part hereof, marked "Exhibits Nos. 1, 2, 3, 4, and 5." Respondent will state that whilst he is not a party to said entitled suit, in his fiducial character of Trustee-in-Trust for the Church of Jesus Christ of Latter-day Saints, and which church is also a domestic corporation, but not made a party, although it is the beneficiary and he its Trustee-in-Trust, yet without said corporation being made a party, or he, as its Trustee-in-Trust being so made, or without said corporation or he as its Trustee-in-Trust, being before the court in said entitled suit, or the court having any jurisdiction over said corporation or its Trustee-in-Trust, the said court or its judge did issue an order of injunction enjoining and restraining him as Trustee-in-Trust, or otherwise, from doing the things therein specified, and did appoint receivers to take possession of the property as therein designated, as will appear from said orders herein referred to as part hereof, and which things he has studiously refrained from doing, and has done nothing in contravention thereof; but has in all things, so far as he could, complied with the requests and demands of said McCornick, receiver as aforesaid. He has had no correspondence either written or verbal, with the other receiver appointed by the court, Mr. Shaughnessy, nor indeed has he yet been informed that Mr. Shaughnessy has executed bond or been qualified as directed by the court. This respondent further alleges and states:

I.—As to the personal assets received from the executors, he will state that the financial operations of the Church, through its various departments and ramifications, are large and somewhat complicated, and that he has but little personal knowledge thereof but depends upon the proper authorities of the various departments for correct information, and that owing to this, and the absence of some of the proper authorities he was necessarily delayed a considerable time in the ascertainment of the condition of the personal assets received by him as Trustee-in-Trust for said Church, from the executors of the last will of Brigham Young, deceased, and that when he had received this information, with due dispatch he informed the said receiver, McCornick, the next day by letter, dated July 9, 1879, copy of which is "Exhibit 5." He says

what remained on hand of the said personal assets as set out in "Exhibit B" of the respondent's answer to said entitled suit, and which answer with the exhibits, particularly "Exhibit B," are referred to as part hereof, was on July 9, 1879, delivered to said McCornick, as receiver as aforesaid, and his receipt therefor taken, a copy of which is made a part hereof, marked "Exhibit 6." He cannot hand over the other portions of said personal assets because they had been converted to the use of the Church, and passed out of its hands before the granting and issue of said injunction orders, etc. But if required by the court, a bond, with good surety, to pay any judgment which may finally be rendered in behalf of the plaintiffs, will be executed. He says the notes of the Washington Factory for \$60,000, received from the executors, has been paid and expended in the building of the St. George and Manti temples. One hundred thousand dollars of the capital stock in Zion's Co-operative Mercantile Institution has been deposited with the Zion's Savings Bank and Trust Company as collateral security for the liabilities of the Trustee-in-Trust, due it for \$25,000; and \$18,000 of said stock has been deposited with Edward Hunter as collateral security for a note held by him against the Trustee-in-Trust for \$6,000, besides interest thereon. The \$80,000 in stock of the Salt Lake Gas Company has been used and consumed in the payment of the acceptances of the said testator Brigham Young, as Trustee-in-Trust for sterling exchange on account of foreign immigration carried on by the Church. Sixteen of the Utah Southern Railroad bonds of \$1,000 each, have been deposited as collateral security with Mrs. Barratt, to secure in part, a note held by her of the Trustee-in-Trust for \$30,000. The other four of said bonds have been sold for supplies for public hands, working for the church on its public works. The remaining part of said personal assets named in said "Exhibit B," to-wit: Capital stock in the Provo Woolen Factory, nominal, \$50,000; capital stock in the Salt Lake City Railroad Company, nominal \$50,000, have been delivered to said McCornick, receiver, as per his receipt of July 10th, 1879, copy of which is made part hereof, marked "Exhibit 6." The desk, secretary and portraits, furniture and library in the office, and mentioned in "Exhibit B," of defendant's answer, are and ever have been the property of the Church, but were included in the deed for the offices as part of lot 1, block 88, plot A, Salt Lake City survey, as set out in said "Exhibit B," but did not enter into the consideration of the \$7,000 therein set out, but were included merely through prudential motives and for which no demand has ever been made.

[Exhibit 1.]

Salt Lake, Utah, June 19, 1879.

John Taylor, Esq.,

Dear Sir—You referred me to your attorneys in respect to complying with the order of the court requiring you to deliver over to me the personal assets in your hands derived from the estate of Brigham Young, deceased. I cannot apply to any other person than you for those assets, and you will please consider this as a repetition of the request for them. Hoping that by your silence or refusal, I shall not be obliged to report to the court that you decline to comply with the order, I am respectfully, yours,

W. S. McCORNIC, Receiver.

[Exhibit 2.]

Salt Lake City, Utah,
June 20, 1879.

W. S. McCORNIC, Esq., Receiver, &c.:

Dear Sir—Yours of 19th inst., received, contents noted. In reply, I would say that during our short interview of yesterday, I did not comprehend the scope of your demands, and hence referred you to my counsel. I now learn by your letter of yesterday that it is personal assets only that you require. Permit me to inform you that I am not aware of having any personal assets in my possession received from the estate of the late Brigham Young, having transferred them to the proper officers long before you were appointed receiver. As I am informed, those assets have generally, if not entirely, been converted in due course of business. I am inquiring into this matter, and

hope to be prepared in a day or two to present to you a satisfactory exhibit of the disbursements thereof.

I am, respectfully yours,

JOHN TAYLOR.

[Exhibit 3.]

Salt Lake City, June 24, 1879.

W. S. McCornick, Esq., Receiver, &c.:

Dear Sir—On the 20th inst., I sent you a letter in answer to yours of the 19th, relative to your demand for personal assets, received in settlement of account against the estate of the late President Brigham Young. I have since then been using all diligence in the matter, by two of the committee who have those matters in charge, the other two being absent, I find it very difficult, in the absence of those members of the committee, in so short a time, to give you the information promised in my former letter; but as I am desirous to comply with the requisition of the court, and give you no unnecessary trouble, I would state I am making all arrangements possible for the accomplishment of this object. I shall be under the necessity of asking your indulgence for a short time, until this can be consummated. The bearers of this, Messrs. Sharp and Clawson, will confer with you on any subject connected herewith.

Very respectfully yours, &c.,
JOHN TAYLOR.

[Exhibit 4.]

Salt Lake City, Utah,
June 24, 1879.

John Taylor, Esq.,

President, &c., City:

Dear Sir—I am in receipt of your favor bearing even date, and in reply will say that, relying on your promise to use diligence in the preparation of a statement of the personal property received by you from the executors of the estate of the late Brigham Young, and appreciating the possible difficulty you may have in making such statement on a short notice, I am willing to grant you further reasonable time. Trusting that you will expedite matters as much as may be possible,

I am, dear sir, yours respectfully,
W. S. McCORNIC, Receiver.

[Exhibit 5.]

Salt Lake City, Utah, July 9, 1879.

W. S. McCornick, Esq., City:

Dear Sir—A further examination by the committee of the affairs upon which we have corresponded, enables me now to inform you that at the death of the late President Brigham Young, the Church of Jesus Christ of Latter-day Saints was considerably in debt. A large portion of personal assets paid by the executors of his last will and testament to the Church as Trustee-in-Trust funds were used to meet these liabilities. The remainder I have on hand. They are as follows:

500 shares of Provo Manufacturing Company's capital stock.

1,101 shares of Salt Lake City Railroad Company's capital stock.

I will further state that any bond with any security which may be demanded by the court, will be at once executed to indemnify the plaintiffs against any supposed danger of loss by reason of the acts of the Church or its Trustee-in-Trust, or to secure the payment of any judgment which plaintiff may ultimately obtain by reason thereof.

Permit me to inquire whether your co-receiver, Mr. Shaughnessy, has returned and executed bond and qualified as receiver.

Very respectfully,

JOHN TAYLOR.

[Exhibit 6.]

Salt Lake City, Utah,
July 10th, 1879.

Received of John Taylor, Trustee-in-Trust, the following personal property, as property involved in the suit of Emeline A. Young vs. George Q. Cannon & al., and heretofore held by John Taylor, as Trustee-in-Trust of the Church of Jesus Christ of Latter-day Saints, to-wit:

500 shares of Provo Manufacturing Company's Capital stock.

1,101 shares of Salt Lake City Railroad Company's capital stock.

W. S. McCORNIC, Receiver.

And as to the real estate received by the respondent as Trustee-in-Trust from said executors, no demand has ever been made of him, and he learned from said McCornick, as receiver, that he did not wish to take formal possession thereof. But that, as he is informed and believes, Wm. A. Rossiter was acting as the agent for the owners of said property in leasing the same and collecting the rents, so far as it had been rented and that said orders of injunction, etc., were made by the court, said Rossiter has been the agent for said McCornick, receiver, to lease and collect the rents thereof, at least this respondent has had nothing to do with the leasing or collecting the rents of said property, nor has he intervened with the same.

The Temple block, No. 87, plat A, Salt Lake City survey, (the Council House lot and Litching Office property,) never was held by Brigham Young, deceased, as his private and individual property, but by deed bearing date November 27th, 1873, conveyed the Temple block to George A. Smith, as Trustee-in-Trust for said Church, and to his successors in office, a copy of which deed is made part hereof (Exhibit 7) and he conveyed the other pieces aforesaid by other deeds, and that said testator, Brigham Young, held it as the successor in office of said George A. Smith, until his death, without any conveyance from Smith, and for the same uses and trusts, and the legal title to which, as this respondent is advised, passed, by operation of law, to him, as Trustee-in-Trust, as the successor of said testator, but or prudential reasons it was thought best to also have a conveyance from said executors for said property, but this property has never been rented out, and not designed for rent, but for the use of the Church, as a place of worship, and it has not been deemed necessary, under the order of the court, by this respondent or the receiver, to stop the work and discharge the hands, but the work on the buildings now being erected thereon has progressed since, just as it did before said orders were issued.

[Following this is exhibit 7, being a copy of the deed from Brigham Young, sett., and Mary Ann Young, his wife, to George A. Smith, Trustee-in-Trust for the Church, which relates to the Temple block, and is described as "all of block 87, containing ten acres of ground, as platted in plat A, Salt Lake City Survey."]

And as to the Gardo House and premises, said testator, Brigham Young, did on September 1st, 1876, in his own individual and personal right, declare a trust in writing, by way of a lease for ninety-nine years to himself, as Trustee-in-Trust for said Church, and thereafter held said property as Trustee-in-Trust for said Church and as its President and chief officer as a corporation, and this property has ever since been held and possessed as Church property during the continuance of such lease.

And respondent says that the other real estate conveyed by the executors not set out in said "Exhibit B," in respondent's answer, was held and possessed by said testator as Church property, and he is entitled thereto as the successor in office of said testator, as it was not held by said testator as his own and individual property, and said executors conveyed it in pursuance to testator's last will, which is an exhibit in plaintiff's complaint, and referred to as part of this response.

And having now fully responded to said proceedings, he prays to be discharged and that said proceedings be dismissed, and for all reasonable and legal costs.

JOHN TAYLOR.

Territory of Utah, } ss.
County of Salt Lake.

John Taylor, being duly sworn, on his oath says, that he has heard read the foregoing response in the proceedings for contempt in the above entitled case, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes them to be true.

JOHN TAYLOR.

Subscribed and sworn to before me this 14th day of July, A. D., 1879.

JAMES JACK,
Notary Public.

Following is the answer of the executors:

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

Emeline A. Young, on behalf of herself and the heirs-at-law and legatees and beneficiaries under the last will and testament of Brigham Young, late of Salt Lake County, Utah Territory, deceased, plaintiffs, vs. George Q. Cannon, Albert Carrington and Brigham Young, executors of the last will and testament of Brigham Young, late deceased, and John Taylor, John Sharp, Edward Hunter, Horace S. Eldredge, George Goddard, Leonard W. Hardy, Theodore McKean, Jos. C. Kingsbury, Angus M. Cannon, defendants.

Territory of Utah, } ss.
County of Salt Lake.

George Q. Cannon, Albert Carrington and Brigham Young, defendants, and are attached hereto for an alleged contempt of the court in disobeying an order to deliver property to the receiver in action, now come in their petitions, and jointly and severally make answer to the said charge of contempt, and show to the court. Each of said defendants says positively that he has not intended in any way, or in matter or thing, whosoever, to disobey the order of the court, appointing receiver and requiring the delivery of the property and effects of the estate of the late Brigham Young, deceased; but on the contrary, he has intended to obey fully complied with the said order. And these defendants, jointly and severally, deny that they, or any of them, as executors or otherwise, under color of said order, or has retained their per cent, the amount of property disposed by them to John Taylor, or any person on any property whatsoever disposed of to John Taylor in the management of said estate; or any cent, on any property which they have in any way disposed of to John Taylor, or any person, sum on any such property so disposed of; but these defendants jointly and severally say, that each individually, and in his own individual right, has received from the estate one third part of 3 per cent on a valuation of \$361,170, being valuation on which they charged percentage, under the will of the testator of the property by the said testator, as set forth in the pleadings in this case on the record, and also refer to their answer in principal case, and ask the court may be considered in connection therewith. That such percentage was all received prior to the 31st of December, 1878; the share of defendant therein severed from property of the estate, amount charged into the court rendered to the plaintiff, and each received and has appropriated and used as his own personal estate his share thereof, and same was mingled and used in his individual funds and at time of the appointment of receiver therein did not exist as a distinct fund, and not in said estate. And each of defendants denies that he, jointly, or with any or either of the executors, or that the defendant jointly, as executors, or by said office, or otherwise, has retained in his or their hands, under his or their control, amount of the property of the estate of Brigham Young, deceased, for irregular or unauthorized disbursements, or that they, or either of them, have paid \$35,000, or any sum, for the debts of John Willard Young, any debts for which John Willard Young was liable, except some obligations of his which, for a valuable consideration, the testator, Brigham Young, had assumed and paid, and in respect to which said John W. Young had been mere surety, and for the payment of which property of the estate was pledged as security, or several hundred dollars, or any sum or amount to certain or any beneficiaries under the will of the deceased, to satisfy objections or procure consent to plans of administration of said estate, which the executors, or any of them, desired to carry out, that they have paid any sum toward any debt, or for his or her equal share in the distribution of the estate, set forth in the answer herein and authorized by said will, and the said Brigham Young, for himself, says that on or about the 19th