

therefor, and present the same to the recorder, who shall thereupon issue to the applicant a certificate of license, which certificate shall state that the person or persons therein named are duly authorized to carry on the business of manufacturing, selling, bartering or otherwise disposing of intoxicating liquors, as the case may be, at the place and at the time therein specified." That by section 46 of the said chapter xxlii of said revised ordinances it is provided that the applicant for such liquor license shall pay into city treasury in advance, for such license, if the same be for a license for a retail dealer, the sum of \$300. That all of the provisions of said chapter xxlii are and at all times herein mentioned were in full force and effect as a part of the ordinances of said Salt Lake City, Utah Territory. That by the provisions of section 323 chapter X of the compiled laws of Utah, 1898, it is enacted that said City Council shall have power "to license, regulate and restrain the manufacturers, sellers or vendors of spirituous and fermented liquors, tavern-keepers, dram and tippling shop keepers, grocers and keepers of ordinaries, boarding, victualing or eating houses, saloons or other houses or places for the selling or giving away of wines or other liquors whether ardent, vinous or fermented."

That at the times herein referred to the said laws and ordinances hereinbefore set forth were in full force and effect and were the full source of the power whereby said City Council derived any power to grant or regulate the sale of liquors within said city.

IV. That heretofore, to wit on the 25th day of September, 1891, the plaintiff made application by petition to the City Council as required by said laws and ordinance for a license as a retail dealer to sell or otherwise dispose of spirituous, vinous, malt or other intoxicating liquors at No. 31 Franklin Avenue, within said Salt Lake City, that the plaintiff filed with said petition a bond to Salt Lake City in the sum of \$1000, conditioned as required by law and the ordinances of said city, which said bond was duly accepted by said city.

That on the said 15th day of September, 1891, plaintiff paid into the city treasury of Salt Lake City, at the time of filing said petition and bond with recorder as aforesaid, the sum of \$300.00, lawful money of the United States for the license petitioned for as aforesaid; that on the same day plaintiff caused said bond and petition to be presented to said City Council, at a regular meeting of said Council, and the said City Council thereupon duly and regularly granted said petition and caused to be issued under the seal of said city a license to the plaintiff as a retail liquor dealer for the term commencing Sept. 25th, 1891, ending December 24th, 1891, in words and figures following, to-wit:

CERTIFICATE OF LICENSE.

To all who shall see these presents greeting. No. 326.

Know ye that B. F. Stewart..... having complied with the law of the Territory of Utah, and the ordinance of Salt Lake City, in such case made and provided, and having paid to the treasurer of said city the sum of \$300, is hereby authorized to carry on the business of retail liquor dealer one bar as provided

in said ordinance, at No. 31, Franklin Avenue, Salt Lake City, for a period of three months, commencing on the 25th day of September, 1891, and ending the 24th day of December, 1891.

In testimony whereof I, J. F. Jack, Recorder of Salt Lake City, have hereunto set my hand and affixed the corporate seal of Salt Lake City, this 21st day of September, 1891.

[SEAL.]

J. F. JACK,
Recorder.

This license is not transferable.

That said license was by said Salt Lake City, Utah, delivered to the plaintiff, who accepted the same, and on the said 25th day of September, 1891, entered upon the business of a retail liquor dealer at No. 31 Franklin Avenue, Salt Lake City, Utah Territory, under the authority of said license, and at all times thereafter fully complied with the requirements of law and the conditions of said bond as said retail liquor dealer.

That on the first day of December, 1891, the said City Council of Salt Lake City, upon the application of the plaintiff, made as required by law, granted a renewal of said license for a term of three additional months, whereupon the plaintiff executed and delivered to said city a bond, condition as required by law, covering said period of three months.

VI. That on the 15th day of December, 1891, the City Council of said Salt Lake City, Utah Territory, composed among others of the defendants George M. Scott, Frank H. Hyde, Richard W. Young, Andrew J. Pendleton, Eli A. Folland, Oscar H. Hardy, William J. Tuddenham and William F. James, who were duly elected and qualified members of said City Council, was duly and legally assembled and convened as such City Council, and said defendants, George M. Scott, Frank H. Hyde, Richard W. Young, Andrew J. Pendleton, Eli A. Folland, Oscar H. Hardy, William J. Tuddenham and William F. James, were acting by virtue of their said office, as the City Councilmen respectively of said city, passed the following motion revoking plaintiff's said license, viz: "On motion of Councilman Hyde the liquor license of the Franklin Avenue Theatre was revoked; on motion of Councilman James the city marshal was instructed to investigate the matter thoroughly and make any arrests for violations of the city ordinance." That the acts of said City Council and of the defendants named, pretending to and acting by virtue of their said offices in revoking said license as aforesaid, was wholly unauthorized by law, or any or either of the ordinances of said city, was without just cause or notice of any kind to said plaintiff and was a wanton violation of the plaintiff's rights in the premises, and was wilfully and maliciously perpetrated by the said defendants, who then and there conspired and conferred together for the sole purpose of injuring and defrauding the plaintiff and destroying his said business.

That on said 15th day of December, 1891, and prior thereto, this plaintiff had a large and extensive credit in Salt Lake City, and other business centers; that by reason of the wrongful and illegal acts of said City Council the said defendants, acting by virtue of their said office, in breaking up and destroying his said

business, plaintiff's financial standing and credit have become greatly impaired, to his damage in the sum of \$5000. That the said defendants well knew that they and each of them were wholly without authority to revoke plaintiff's said license; that by their said acts he was subjected to the surveillance of the police officers of said city and other indignities, and was compelled to close up and abandon his said business.

For a further and second cause of action the plaintiff alleges that at the times thereinbefore stated the plaintiff was conducting and carrying on a part of his business of retail liquor dealer, a general theatrical business at said No. 31 Franklin Avenue, in said Salt Lake City, which was being run in connection with and as a part of said retail liquor business, and had at the time of the revocation of said liquor license as herein stated in his employ and working for him under contract to render professional services to him during the full time covered by both of said liquor licenses so as aforesaid granted to him, some twenty or more theatrical performers and other servants; that by reason of the revocation of plaintiff's said license, as herein set forth, and the closing of his said bar, the patronage of his house both as a drinking resort and theatre was wholly and completely broken up and destroyed, his said employes thrown out of employment; by reason whereof he was compelled to expend a large sum of money for service, breach of contracts and other causes and to continue many employes in his said service under pay without being able to conduct either said saloon or theatre business, to his damage in the sum of \$5000.

By reason of all of which facts and the premises aforesaid the plaintiff has been damaged by the defendants in the several ways as fully set forth herein and by reason of the acts of the several defendants as hereinbefore set forth and arising out of the illegal and wrongful revocation of plaintiff's said liquor license, in the sum of \$10,000.

Wherefore plaintiff prays judgment against defendants in the sum of \$10,000, together with costs of suit.

REILLY & KANE,
Plaintiff's Attorneys.

MR. ELLIS VS. THE "TRIBUNE."

Editor Deseret News:

For many years I have fought against the so-called Christian belief in "Total depravity." I still believe, and am ready yet to maintain, that no being bearing the human form can fall so low as to become totally depraved. But my experience with the Salt Lake Tribune convinces me that it employes creatures that are so near total depravity as to make the distance they have yet to fall imperceptible. For years that paper has had nothing but villification and malicious inuendo for every man or woman who has spoken or written against the inhuman and un-American treatment the Tribune clique of adventurers has extended to the Mormon people. I happen to be the only non-Mormon who has met that scurrilous sheet on its own ground and whipped it. For this, of course, I am an ever-present object to excite its anger and draw its venom.