

THE DESERET NEWS.

SUPPLEMENT.

Salt Lake City, Wednesday, August 13, 1879.

AN IMPORTANT SUIT.

INVOLVING OVER ONE MILLION DOLLARS.

The Church of Jesus Christ of Latter-day Saints and its Trustee-in-Trust.

The Executors, Heirs, Legatees and Receivers of the Estate of Brigham Young, deceased.

COMPLAINT.

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

The Church of Jesus Christ of Latter-day Saints, a Corporation created under and by virtue of the Laws of Utah Territory, and John Taylor Trustee-in-Trust for said Church, plaintiffs,

vs.
George Q. Cannon, Brigham Young and Albert Carrington, Executors of the last will of Brigham Young, deceased, W. S. McCornick and M. Shaughnessy, Receivers; John Sharp, Edward Hunter, Horace S. Eldredge, George Goddard, Leonard W. Hardy, Theodore McKean, Joseph C. Kingsbury and Angus M. Cannon; Mary Ann Angell Young, Brigham Young, Luna Young Thatcher, John Willard Young, Brigham T. Young, Richard W. Young, Catherine Young, Amelia Young, Joseph A. Young, Briant S. Young, Walter S. Young, Lester K. Young, Junius Young and Eugene J. Young, children and heirs at law of Joseph A. Young, deceased, and Alexander C. Pyper guardian of said Richard W. Young, Catherine Young, Amelia Young, Joseph A. Young, Briant S. Young, Walter S. Young, Lester K. Young, Eugene J. Young, and Junius Young, minors; John Willard Clawson, Leo H. Clawson, Walter Clawson, and Seldon Clawson, minors, children and heirs at law of Alice Young Clawson, deceased, and H. B. Clawson their guardian.

Lucy Ann Decker Young, Fanny Caroline Young Thatcher, Heber Young, Ernest Irving Young, Shamira Young, Arta D. Christa Young, Feramorz Little Young, Clarissa Hamilton Young.

Ella Elizabeth Young Empey, Marinda Young Conrad, Hyrum Smith Young, Emeline A. Young, alias Emeline A. Young McIntosh, Louisa W. Young Ferguson, Lorenzo D. Young, Alonzo Young, Ruth Young, Johnson and Adella Elvira Young, and Hyrum S. Young guardian of Alonzo Young and Adella Elvira Young, minors.

Emily D. Partridge Young, Emily Augusta Young, Caroline Young, Joseph Don Carlos Young, Miriam Young Hardy and Josephine Young.

Clara Decker Young, Jennette Richards Young, Snell, Nabby Howe Young, Charlotte Talula Young and Clara D. Young, guardian of Charlotte Talula Young, a minor.

Lucy Bigelow Young, Dora Young, alias Dora Young Dunford, Susa Young Dunford, Rhoda Mabel Young, and Lucy B. Young, guardian of Rhoda Mabel Young, a minor.

Eliza Burgess Young and Alfales Young, Margaret Pierce Young, and Brigham Morris Young.

Zina D. Huntington Young and Zina P. Young Williams.

Harriet E. Cook Young and Oscar Brigham Young.

Harriet Barney Young, Phineas Howe Young and Harriet B. Young, guardian of Phineas Howe Young, a minor.

Mary Van Cott Young, Fanny Van Cott Young, and Mary Van Cott Young, guardian of Fanny Van Cott Young, a minor.

Susanah Snively Young and Julia Young Burton alias Julia Young.

Elizabeth Young Ellsworth and Vilate Decker.

Mary Eliza Croxall and Willard Croxall, minors, and Mark Croxall their guardian, Maria Young Dougall, Willard Young and Phebe

Young Beatie, children of Clara Ross Young.

Evaline L. Young Davis, Mahonri Moriancumer Young.

Eliza R. Snow Young, Naamah K. J. C. Twiss Young, Martha Bowker Young, Harriet Amelia Felsom Young and Augusta Adams Young, defendants.

The plaintiffs complain and allege:

I. That Brigham Young, deceased, died resident of, and in the County of Salt Lake, Territory of Utah, on the 29th day of August, 1877, testate, and that his will was duly probated in the Probate Court for Salt Lake County aforesaid, which said Court had jurisdiction thereof; a copy of which is hereto attached and made part hereof marked Exhibit A.

II. That the executors therein named, to-wit: George Q. Cannon, Albert Carrington and Brigham Young, a son of testator, duly qualified as such and gave bond with approved sureties in the sum of one hundred thousand dollars each, for a faithful performance of their duties as such executors and trustees, conditioned according to law.

III. That by virtue of an ordinance of the Provisional Government of the State of Deseret, entitled "An Ordinance Incorporating the Church of Jesus Christ of Latter-day Saints," approved February 8th, 1851, which said ordinance was legalized by a joint resolution of the Legislative Assembly of the Territory of Utah, entitled, "Joint Resolution Legalizing the Laws of the Provisional Government of the State of Deseret," approved October 4th, 1851, and by certain other public statutes of said Territory and of the United States of America, the said plaintiff, The Church of Jesus Christ of Latter-day Saints, was incorporated under the original manner and style of The Church of Jesus Christ of Latter-day Saints, with powers to sue and be sued, and with perpetual succession. The powers, privileges and trusts of said Corporation are set out in its Charter, the various statutes of the Territory of Utah and of the United States, relating thereto, and that said Testator immediately on its incorporation became the President of said Church Corporation, and so remained until his death, and was also its sole Trustee-in-Trust until the 23d day of June, 1873, when George A. Smith qualified as Trustee-in-Trust, he having been previously elected to act under the supervision and control of said Testator, and said Smith continued to act as such Trustee under the supervision and control of said Testator until his death, September 1st, 1875, that said Testator continued all the time to act as such supervising Trustee, and still received the funds of the Church and controlled its assets and property and kept the account just as before the said election of said Smith, but said Smith signed all the necessary papers to be executed by the Trustee-in-Trust, and after said Smith's death, said Testator continued to act as sole Trustee-in-Trust for said Church until his death, which occurred August 29th, 1877.

IV. That very soon after the death of said testator, Brigham Young, John Taylor was elected the President of said Church Corporation and Trustee in Trust for said Church and has ever since been the recognized and acting President of said Corporation and Trustee in Trust for said Church.

V. That said Testator by his last will and testament directed his Executors to make proper conveyances for all trust property held by him and to make settlement and to pay all debts that he might owe in relation to said trust, and in pursuance of said provisions and directions of said last will, said Executors and said Corporation and Church by its acting President and Trustee in Trust, John Taylor, came to an accounting and settlement of the trusts of said testator both as to the property held by him in trust for said Church, at the time of his death, and his indebtedness growing out of his said trusteeship and the estate and assets which had from time to time come to his hands as such trustee, and which belonged to or was owing to said

beneficiary, and on the 25th and 28th days of March and 10th day of April, 1878, said executors conveyed to said John Taylor as Trustee in Trust for said Church the property which said testator held in trust for said beneficiary. And said plaintiffs aver that said testator did hold said property for the use and benefit of his said beneficiary and not as his own individual property; said property is fully described in the said deeds of conveyance, copies of which are made part hereof as exhibits No. 1, 2, 3 and 4.

VI. That said John Taylor, as Trustee in Trust for said Church made out and duly verified an account for nine hundred and ninety-nine thousand six hundred and thirty-two 90-100 dollars against the said testator's estate, growing out of his liabilities to said Church as its Trustee in Trust, for the property and assets and effects of said Church, which he had received and had not appropriated to the use of the Church, but for which he had made himself personally liable and which he directed by his last will should be settled and paid by his executors, and said account was duly allowed and approved by the said executors by written endorsement thereon, signed by them, and also approved and allowed by the Probate Judge for Salt Lake County by written endorsement thereon, signed by him, a copy of which account and endorsements thereon is filed herewith as part hereof marked Exhibit No. 5.

That in liquidation of this account, the said executors conveyed to said John Taylor, as Trustee-in-Trust for said Church, certain real and personal estate, which is fully described in the instrument of confirmation and mutual releases between the legatees, devisees, beneficiaries, etc., under said last will of said testator and of said John Taylor, Trustee-in-Trust for said Church, dated May 30th, 1878, a copy of which is hereto annexed as part hereof marked Exhibit B.

Copies of the deeds of conveyance of said executors to said John Taylor, as Trustee-in-Trust for said Church, in liquidation of said account, are also hereto attached as part hereof, marked Exhibits No. 6, 7, 8, 9, 10, 11 and 12. And said plaintiffs aver that, after allowing several large amounts as credits aggregating over \$100,000, and also credits for about \$75,000, there remained due to said Church from said testator's estate, nine hundred and ninety-nine thousand, six hundred and thirty-two 90-100 dollars, but to have the same settled agreeable to all parties concerned, and that no further difficulty might be presented to its settlement, a credit for three hundred thousand dollars was allowed thereon, after its said allowance and approval, for the services of said testator rendered to said Church corporation.

VII. And said plaintiffs aver that after said settlement of the trust property so held by said testator in trust for the Church, and after the liquidation of the amount of the claim as aforesaid, and its approval and allowance by the executors and the Probate Judge as aforesaid, and after the conveyance aforesaid, made by the executors to said John Taylor as Trustee-in-Trust aforesaid, the said legatees, devisees, beneficiaries, and heirs, on their own motion, had said executors cited to appear before the Probate Court of Salt Lake County, where in said will had been probated and which Court had jurisdiction thereof, as will appear by a copy of said motion, endorsed, filed April 15, 1878, herewith filed as part hereof and marked Exhibit No. 13.

And whereon a citation, endorsed as filed April 17, 1878, was duly issued by said Probate Court, a copy of which is filed as part hereof, marked Exhibit No. 14.

And that by an instrument in writing, dated May 7, 1878, a majority of the mothers of testator's children then living, selected, designated and appointed A. O. Smoot, Nicholas Groesbeck and Theodore McKean as valuers to act with the executors in the valuation and partition of the testator's estate; a copy

of which instrument is filed herewith as part hereof, marked Exhibit No. 15.

And by a written instrument of same date, addressed to said executors, signed by all the surviving mothers and all the children of said testator of full age, consented and solicited the executors to have a speedy winding up of said testator's estate; and that said executors do and perform all things necessary and proper and consistent with the will for that purpose; a copy of which paper, with their names attached thereto, is made part hereof, marked Exhibit No. 16.

And said valuers, Smoot, Groesbeck and McKean, were duly sworn to discharge their duties as such, as will be seen from a copy of their said oath, taken May 9th, 1878, made part hereof, marked Exhibit No. 17.

A copy of the telegram from St. George, sent May 9, 1878, by Lucy B. Young, Endora Young, alias Dora Young Dunford, and Susan A. Young to said executors, authorizing Brigham Young to sign their names to such papers, is made part hereof, marked Exhibit No. 18.

Plaintiffs aver that after all the aforesaid proceedings had in the Probate Court, and after the execution of said papers, and after said valuers Smoot, Groesbeck and McKean, together with said executors, had valued and apportioned to each class or individual, said estate; and in order that a prompt and legal partition might be at once had, said parties signed the said instrument, Exhibit B, dated May 30, 1878, and also the releases and covenants to and with the executors, made parts hereof and marked Exhibits Nos. 19, 20, 21, 22 and 23. And all the other legatees, devisees and beneficiaries signed similar releases and covenants, save Nabby Howe Clawson. And all of said papers were executed by them with full knowledge of the settlements by and between said executors and said John Taylor, as Trustee-in-Trust, as aforesaid.

By all of which actings and doings plaintiffs claim that the matters and differences and all causes of litigation between them and the executors, legatees and devisees, heirs at law and beneficiaries under said will have been forever closed, and that the parties are forever barred and estopped from going behind said settlement, conveyances, release, etc., or from reopening in any manner said settlement for readjustment or litigation.

VIII. Said plaintiffs aver that after said conveyances aforesaid by the executors to said John Taylor, Trustee-in-Trust aforesaid, he as trustee aforesaid, for a valuable consideration, transferred of the property so conveyed to him as Trustee-in-Trust, as aforesaid, the following described property to the following defendants respectively, to-wit: To John Sharp, part of lot one (1), block seventy-five (75), commencing at the southeast corner of said lot, thence west one hundred and five (105) feet, thence north ten (10) rods, thence east one hundred and five (105) feet, thence south ten (10) rods, to place of beginning, containing 105-264 of an acre as platted in plat A, Salt Lake City survey, also the building known as the Salt Lake Theatre and appurtenances thereon.

To Edward Hunter commencing four (4) rods north of the southwest corner of lot four (4) in block eighty-eight (88), 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 place of beginning, containing 2151-160 acres (2151-160), as platted in plat A, Salt Lake City survey, and situate in section 31, township 1 north of range 1 east, U. S. survey of Utah.

To Horace S. Eldredge, lot eight (8) in block seventy-six (76), as platted in plat A, Salt Lake City survey, containing one acre and one-fourth (¼) acres) of ground, situate in section 1, township 1 south, of range 1 west, U. S. survey of Utah.

To George Goddard, part of lot four (4) in block forty-five (45),

commencing at the northwest corner of said lot, and thence running east ten (10) rods, thence south ten (10) rods, thence north 45 degs., west fourteen 24-100 (14 24-100) rods to place of beginning, containing fifty (50) square rods of ground, as platted in plat B, Salt Lake City survey.

Also part of lot four (4) in block fifty-nine (59) commencing at the northwest corner of said lot, thence south six and two-thirds (6 2-3) rods, thence east ten (10) rods, thence north six and two-thirds (6 2-3) rods, thence west ten (10) rods to the place of beginning, containing sixty-six and two-thirds (66 2-3) square rods of ground as platted in plat B, Salt Lake City survey.

Also lots one (1), two (2), three (3), four (4) and south half of lots five (5), six (6), seven (7) and eight (8) in block one hundred and fifty (150), containing seven 80-160 (7 80-160) acres.

Also a narrow strip commencing at the southeast corner of lot one (1), block one hundred and fifty (150), thence south two (2) rods, thence west forty (40) rods, thence north two (2) rods, thence east forty (40) rods, to place of beginning, containing eighty rods (80-160) of ground as platted in plat A, Salt Lake City survey.

Also lots three (3) and four (4) in section seventeen (17) and lot one (1) in section eighteen (18) and the northwest quarter (¼) of the northwest quarter (¼) of section twenty (20), containing one hundred and sixty-two (162) acres.

Also the east half (½) of the northwest quarter (¼), and the north half (½) of the northeast quarter (¼) of section twenty (20), containing one hundred and sixty (160) acres.

Also lots one (1), two (2), three (3) and four (4) and the southwest quarter (¼) of the northeast quarter (¼) of section nineteen (19), containing one hundred and sixty-four and seven-tenth (164 7-10) acres.

Also the south half (½) of the southeast quarter (¼) and lot two (2) of section seventeen (17), containing one hundred and twenty-two and one-fifth (122 1-5) acres, all in township one (1) south of range three (3) west, U. S. Survey of Utah.

To Leonard W. Hardy part of lot four (4) in block seventy-four (74), commencing at the northwest corner of said lot, thence south seventy-two (72) feet, thence east ten (10) rods, thence north seventy-two (72) feet, thence west ten (10) rods to the place of beginning, containing eleven thousand eight hundred and eighty (11,880) feet.

Also part of lot five (5) in block seventy-four (74), commencing at the southwest corner of said lot thence north twenty-two and one-half (22½) feet, thence east ten (10) rods, thence south twenty-two and one-half (22½) feet, thence west ten (10) rods, to the place of beginning, containing three thousand seven hundred twelve and one half (3,712½) feet, as platted in plat A, Salt Lake City survey, and situate in section 6, T. 1 S. of R. 1 E., U. S. survey of Utah.

Also part of lot six (6) in block seventy-six (76), commencing at the N. E. corner of said lot, thence west four (4) rods, thence south twelve (12) rods, thence east four (4) rods, thence north twelve (12) rods, to place of beginning, containing forty-eight (48) square rods of ground, as platted in plat A, Salt Lake City survey, and situate in section one (1) T. 1 S. of R. 1 west, U. S. survey of Utah.

To Theodore McKean, the east half (½) of lot six (6) in block seventy-five (75) being ten (10) rods east and west by ten (10) rods north and south, containing one hundred (100) square rods of ground, as platted in plat A, Salt Lake City survey, and situate in section 6 Township 1 south, of range 1 east, U. S. survey of Utah.

To Joseph C. Kingsbury the following described land, to-wit: beginning at a point 8 rods E. and 48 rods north of the S. E. corner of block 88 Plat A, Salt Lake City survey, thence N. 9 rods, thence N. 40° E. 12 rods, thence N. 66° E. 746 100 rods, thence N. 29° 40' E. 31 38-100 rods, thence W. 23 36-100