

Today the court followed the decision of yesterday, and terminated the lease of the Tithing Office grounds, and ordered that the receiver advertise for bids for a new lease, from month to month, for the premises.

Judge Zane said he wanted a provision inserted in the order that the premises were not to be used for tithing purposes.

This the other judges thought unnecessary, and made the order without the provision. The order has not yet been reduced to writing.

From this decision of the court Judge Zane dissented, and filed the following opinion:

In the Supreme Court of the Territory of Utah.

The United States of America, Plaintiff, vs. the Late Corporation, The Church of Jesus Christ of Latter-day Saints, et al., Defendants.

ZANE, C. J.—I dissent from the order of the court allowing the renting of the Tithing Yard to the highest bidder, because the order does not forbid the leasing of the premises for tithing purposes. The premises have been leased ever since November 15, 1887, to Bishop W. B. Preston, Bishop R. T. Burton and John E. Winder. These men are merely the agents, simply an artifice of the Mormon Church, for obtaining the use of these premises for tithing purposes. The Church is now and has been ever since Nov. 15th, 1887, using these premises under the lease made at that time by Mr. Dyer, the Receiver to these men nominally, without the authority of this Court so far as I am advised. The Church has now been using this property for tithing purposes for many years, and will, I have no doubt, obtain another lease under this order. The Act of Congress depriving the Mormon Church of such of its real estate as was not used as houses of worship, parsonages and burial grounds, was intended to deprive it of the power to that extent, to maintain, propagate and perpetuate polygamy. The principal source of the pecuniary power of the Church has been and now is the money and property obtained through tithing. The Government of the United States through the instrumentality of this Court or otherwise cannot justify itself before the civilization of the age in taking property from the Mormon Church because it is using and may use it to maintain and perpetuate polygamy or any other unlawful and immoral practice, and then turn around and give the same Church the use of it for the same purposes upon the payment of \$200 per month or any other sum, however great. The government cannot become a party to such a transaction; it cannot in that way, or any other, sanction the collection of tithing by the Mormon Church in return for a pitiable revenue. The object of the government in taking any portion of the Church's property from it was not to obtain money for the benefit of the schools of Utah, or to obtain money for any other purpose. No such sordid and unworthy motive as that actuated the law-makers.

The motive was to protect society from the evil effects of polygamy, by stripping the Church of the power that to a great extent maintained and propagated the immoral practice. There are some purposes for which the Government of the United States, through a receiver or otherwise, cannot rent property with any credit to itself, and among them are tithing purposes; especially so when the purpose, as in this case, is contrary to the sole reason of the law under which the authority is obtained. And the court is authorized to assume from the fact that the Church has been using the tithing yards since November 15th, 1887, under the lease to these men as it had been for many years before, and from the statements of the receiver and his counsel, that this property will be leased again to Bishops Preston and Burton and Mr. Winder, and that through this subterfuge it will continue to be used for the purpose of collecting tithing.

SUIT AGAINST THREE "LIBERAL" COUNCILMEN.

The following is the complaint filed in the Third District Court on behalf of the People's candidates for councilmen, whom Judge Zane ruled were elected to the City Council:

In the District Court in and for the Third Judicial District of Utah Territory, Salt Lake County:

The People of the Territory of Utah, residing in Salt Lake City, on relation of Richard W. Young, John Fewson Smith and William J. Tuddenham, plaintiffs, vs. Louis Cohn, Worden P. Noble and Lucius E. Hall, defendants.

The People of the Territory of Utah, by James H. Moyle, prosecuting attorney of the County of Salt Lake, and Territory of Utah, on relation of Richard W. Young, Wm. J. Tuddenham and John Fewson Smith, the individuals above named, complain of said defendants and allege:

First.—That there is a certain municipal corporation now existing under the laws of Utah Territory, in the county of Salt Lake, in the Territory aforesaid, by the name and style of Salt Lake City, and that the same now has and for over two years last past has had over 20,000 inhabitants, and the same is a city of the first class under the laws of Utah Territory.

Second.—That said city is and has been for more than two years last past divided into five municipal wards, which are numbered respectively one, two, three, four, and five.

Third.—That the said Richard W. Young, John Fewson Smith and Wm. J. Tuddenham aforesaid are each of them citizens of the United States of America, and that they are, and have been for more than one year last past, residents, and freeholders, and qualified electors in the fourth municipal ward of Salt Lake City.

Fourth.—That on the 10th day of February, 1890, there was an election held in the said city of Salt Lake for the purpose of electing,

among other officers, one mayor, fifteen councilmen, three from each municipal ward, to serve in said city as the city council thereof, for the ensuing two years.

Fifth.—That on said election day, to wit, on the 10th day of February aforesaid, the said Richard W. Young, John Fewson Smith and Wm. J. Tuddenham were then and there qualified to hold the office of councilmen, and being then and there candidates for such office, received of the legal qualified voters of said fourth municipal ward of said city each 482 votes, and that no other persons were voted for in said ward or by the qualified electors thereof for said offices of councilmen save and except three persons, the defendants aforesaid, namely Worden P. Noble, Louis Cohn and Lucius C. Hall; and that each of said last named persons, on said day, received only 305 votes for said offices, being a less number of legal votes than was cast and received in favor of said first named plaintiffs.

Sixth.—Plaintiff further alleges that said Richard W. Young, John Fewson Smith and Wm. J. Tuddenham were on said day, and now are, the duly qualified and elected councilmen for and from said fourth municipal ward, of Salt Lake City; that they have accepted the said offices and are now ready and have offered to enter upon the discharge of the duties thereof.

Seventh.—Plaintiff further alleges that the said defendants, Louis Cohn, Worden P. Noble and Lucius E. Hall, pretending to be the councilmen of said fourth municipal ward, have unlawfully usurped and intruded into, and now are unlawfully usurping and holding said offices, and are unlawfully pretending to be councilmen from and for said ward, to the damage and injury of the people of said ward, and to the damage of said plaintiffs.

Wherefore, the plaintiffs pray judgment against said defendants and each of them, that they be excluded from the office of councilmen from said ward in said city, and that they be forbidden to further exercise any rights thereunder, and that the plaintiffs, Richard W. Young, John Fewson Smith and Wm. J. Tuddenham be adjudged to be the rightful holders of said offices of councilman from said ward; and that upon taking the oath of office and executing the official bond required by law, they be authorized to take upon themselves the rights and execution of said offices; and for such other and further relief as said relators may be entitled to.

JAMES H. MOYLE,

Prosecuting Attorney for Salt Lake County.

LE GRANDE YOUNG,

F. S. RICHARDS,

Counsel.

WASHINGTON, March 4.—Ex-Congressman Taubee, who was shot by Correspondent Kincaid on Friday, is very dangerously ill, his case having changed for the worse. The patient's condition is such that the physicians are fearful of the results of the operation to remove the ball.