

## Chapter XVII

### 1887, Part Two

#### Henry Wise Hobson and the Mormon Church

THE Republican Party platform of 1856 described slavery and polygamy as the “twin relics of barbarism.” Henry Wise Hobson was born two years later at Eastwood, a farm in Goochland County, Virginia, where his family owned slaves. John S. Wise, Henry Hobson’s uncle, visited Eastwood in 1860 and recounted in *The End of an Era* an episode when a sermon by a Dr. Palmer, entitled the “Divine Origin of Slavery,” was read aloud and after which one of the guests suggested sending a copy to Abraham Lincoln. John Wise responded and proposed that a copy should also be sent to Brigham Young, for, as he quipped, “For every argument of Dr. Palmer, based on slavery of the Old Testament, is equally available for Brigham Young in support of polygamy; and I sympathize with Brigham.” Soon after this, the young Henry Wise Hobson would be a witness to the Civil War and the end of slavery, and then, years later, as Special United States Attorney, he would be the principal attorney in the effort that ended polygamy.

Within the Mormon community polygamy was sometimes referred to as patriarchal marriage or plural marriage, but throughout the rest of the nation, it was referred to as the “Utah situation.” The first legislation to outlaw polygamy was introduced in Congress in 1854, but it would be another eight years before any law was passed. A very important section of the 1862 act prohibited religious and charitable organizations in any Territory from acquiring real property worth more than \$50,000, but this law proved difficult to enforce in Utah since Mormons always controlled the juries. Another piece of legislation, the Edmunds Act, was enacted in 1882, and then the Edmunds-Tucker Act was passed into law in 1887. Throughout this time there were numerous successful prosecutions of individuals for polygamy, but its practice was not condemned by the Mormon Church. The 1887 legislation specifically directed the Attorney General to initiate proceedings to forfeit and escheat to the United States all property held by the Mormon Church in violation of the law of 1862—all property in excess of \$50,000 in value. In 1887 Henry Wise Hobson was the U. S. Attorney for the District of Colorado, but he was to be called upon to argue the case against the Church of Jesus Christ of Latter-day Saints, the Mormons, in Salt Lake City. At the same time, he became engaged to Katherine Thayer Jermain, a young widow, who was living in Colorado Springs, and they were planning a December wedding. Throughout this period he kept an extensive file of newspaper clippings, correspondence, telegrams, and some of his legal notes about the Mormon case.

*Letters, notes, telegrams, and newspaper reports by:*

A. H. Garland, Attorney General of the United States

Henry Wise Hobson

G. A. Jenks, Solicitor General of the United States

George S. Peters, U. S. Attorney in Utah

Justice Zane of the Supreme Court of the Territory of Utah

*Others involved in the case were:* Colonel J. O. Broadhead, attorney for the Mormon Church and President of the American Bar Association, and J. E.

McDonald, a former Senator from Indiana and another attorney for the Mormon Church

*Letters written from:* Denver, Colorado; Salt Lake City, Utah Territory; Washington, D. C.; and aboard trains.



1887

GOVERNMENT WANTS CHURCH PROPERTY — TWO SUITS PLANTED—

In Which the Modest little Sum of \$4,000,000 is all that is asked for.—

One Million from the P. E. [Perpetual Emigrating] Fund, and \$3,000,000, Excess in Church Property.

Our readers will remember the recent visit of Solicitor-General Jenks and the peculiar air of mystery that shrouded his movements at that time... When pressed for information in regard to the purpose of his visit he said: "Oh, it will all be made public in about two weeks time." This was on the 10th, and yesterday, just twenty days afterwards, the object of his mission was disclosed in the planting of suit in the Supreme Court against the Mormon Church to recover, under the Edmunds-Tucker law, all property in excess of the \$50,000 held by the church or by its Trustee-in-Trust.

—*The Salt Lake Herald*, July 31, 1887.

Department of Justice October 5, 1887 File No. 4320.

Henry W. Hobson, Esq., Denver, Col.

Sir: *You are hereby appointed a Special United States Attorney for the following purposes:*

To assist the United States Attorney for the Territory of Washington in the conduct of the case of the *United States vs. The Northern Pacific Railroad Company, et al*, now pending in the District Court of the 3rd Judicial District of said Territory.

Also, to assist the United States Attorney for the Territory of Montana in the conduct of the several cases brought by the United States against The Northern Pacific Railroad Company, the Montana Improvement Company, or either of them, their officers, agents, and employees and also against their co-defendants, and which cases are now pending in the different Courts of the different Judicial Districts of said Territory of Montana.

Also, to assist the United States Attorney for the Territory of Idaho in the conduct of the several cases of the United States against the Northern Pacific Railroad Company, the Montana Improvement Company, their officers, agents and employees and their co-defendants, now pending in the several

Henry Hobson was appointed Special United States Attorney immediately after he had become engaged to be married. The letter from the Attorney General specifies cases in Washington, Montana, Wyoming, and Utah in which Henry Hobson was to be involved. Many years later his daughter would describe her father's position as being "Special U. S. Attorney for all the States and Territories West of the Mississippi."

District Courts of the respective Judicial Districts of said Territory.

Also, to assist the United States Attorney for the Territory of Wyoming in the conduct of the case or cases brought by the United States against Isaac Coe and Levi Carter, and which cases are now pending in the several Courts of the respective Judicial Districts of said Territory.

Also, to assist the United States Attorney for the Territory of Utah in the conduct of the cases of the United States against The Perpetual Emigrating Fund Company, and the *United States vs. The Church of Jesus Christ of Latter Day Saints, et al*, now pending in the Courts of said Territory.

You are hereby directed and authorized to enter your appearance in the above named cases without delay, to make such investigation of the same as may be necessary, to confer about them with the respective United States Attorneys above referred to, and in conjunction with them to take such steps and proceedings in said cases as may be deemed advisable and for the public service, subject to the direction and control of this Department.

Your compensation as Special Attorney herein, is fixed at the sum of Five thousand dollars (\$5,000) a year or at that rate, to commence from the date of your qualification as such Special Attorney, and in addition thereto you will be allowed your actual and necessary traveling expenses whilst away from your domicile and whilst engaged in the conduct of business connected with said cases and the discharge of your duties hereunder, said expenses to be stated and reported in the usual manner required by law and the Rules and Regulations of this Department.

Under this appointment you will also be expected, without additional compensation, to appear and act as Special United States Attorney in any Judicial District outside of that of Colorado in such cases of the United States as may be from time to time designated by the Attorney General and concerning which you will receive special instructions. The said appointment is to be taken subject to any change that the Department may make. —*A. H. Garland*, Attorney General.

#### MR. HOBSON'S NEW OFFICE

He Is Appointed Special Government Attorney for the Entire West

H. W. Hobson, Esq., United States District Attorney for Colorado, returned yesterday from a three weeks visit to the National Capital. While there Mr. Hobson passed much of his time with Attorney-General Garland. It has been learned that Mr. Hobson was highly complimented upon the enviable record which he has made in Colorado. In recognition of the esteem with which he is regarded by the Administration, Mr. Hobson has received the appointment as Special United States District Attorney for all of the Western Districts extending to the Pacific Coast. Mr. Hobson will hold this office in addition to the one he already occupies, and his duties thereunder will consist in his appearing and assisting in conjunction with the regular District Attorneys of other districts of such important Government cases as the Attorney-General may designate. This gives, in a measure, jurisdiction to Mr. Hobson as District Attorney throughout the entire West. He has already been assigned to duty in important land cases in Utah. He will leave for Salt Lake City on Friday for the purpose of appearing with the District Attorney of Utah in the important cases recently instigated by Solicitor-General Jenks, to confiscate the entire property of the Mormon Church, valued at nearly \$5,000,000. Notwithstanding that Mr. Hobson's duties outside of his district will require much

of his time, he will continue to devote special attention to Colorado Affairs. This will necessitate the employment of an additional assistant, who will be commissioned upon Mr. Hobson's return from Salt Lake.

This new appointment, in conjunction with his position of United States District Attorney for Colorado, insures Mr. Hobson a salary which is most gratifying.

—Unidentified newspaper clipping, 1887.

*The Republican* congratulates Henry W. Hobson, Esq., upon his appointment as Special United States Attorney for the Western Districts of the United States. This is in addition to his office as District Attorney for Colorado. The appointment is a recognition of his services to the Government in this State. Though Mr. Hobson is a Democrat, yet *The Republican* can frankly say that he is an excellent official, and it is glad to see his good qualities appreciated.

—*Denver Republican*, undated.

~ Letters to Kittie:

Marshall & Royle, Attorneys-At-Law, Salt Lake City, Utah, October 16, 1887.  
My own darling Love— Whilst waiting for a gentleman I must send you my love. I think I treat you right shabbily about writing to you, but indeed my dearest I am so crowded that my writing at all is a great big piece of evidence that my thoughts are always with you. I have to confess that I am working today, Sunday, but it is a kind of pulling of the ox out of the mud. Tomorrow I have to go into the trial of an immense case and one concerning which I knew nothing until this morning... Goodbye dear, for Mr. Marshall has come in and I must go to work... Don't be impatient about another letter for I will be heels over head in work for several days. Ever yours devotedly, —Henry W. Hobson.



Oct. 18, 1887, Salt Lake City, Utah.

The Cullen. S. C. Ewing, Proprietor — Daily Rates \$3 per day.

My Dearest Love— How much I wish to see you and how I long to get your letters for I know there are a number in Denver. Ah sweetheart, how nice it will be for us to be together for all life. One week of our time of waiting has passed and by the time you get this, a second one will be gone. Do you know Kittie I have not yet gotten over my daze about this thing. I have always had a lot of conceit about most things, but I never had any personal vanity about women, and I have never been accustomed to thinking they were in love with me. When I read your letters darling, and I do read and re-read them, and see

Trip to Salt Lake	
Oct. 14 <sup>th</sup> 1887 -	
U.S. - Church job r.c. r.	
Expns.	
Sleeping Car	
Driver to Ogden	5 00
R. R. fare by	
transportation	
over No 187	
Driver to Ogden	- -
lunch + dinner	
Oct 14	1 50
Chy. to Salt	
Lake - Bkfst	
Dinner + supper	2 75
Porter + sleep-	
ing car	.50
Ticket Ogden	
to Salt L.	2 00
Passage Hotel	.50
Salt Lake	
to Depot at	
Ogden	.50
To depot at	
Salt Lake	.50
	<hr/> 12 75

Hotel Bill	12 75
Oct 15 to 22	21 50
Waiters and Porters	
at Hotel	1 00
Blacking boots	.75
Sleeping car to	
Driver	5 00
R. R. fare Salt	
Lake to Ogden	2 00
Bkfst + lunch	
Home Oct. 22	2 25
Bkfst + lunch	
Oct 23	1 50
Porter sleeping	
car	.50
From depot to	
Home driver	.50
	<hr/> 47 75

Revised to 2 <sup>d</sup> fuel	
Oct. 25/87	
allowed for	

Detail from Henry Hobson's expense account book for his trip to Salt Lake City, October 15-22, 1887. Expenses included: Ticket from Ogden to Salt Lake, \$2.00; seven days in the hotel, \$21.50; and waiters and porters at the hotel, \$1.00. Total expenses for a week: \$47.75.

what you say about loving me, how that your love for me is more to you than anything else and much more of the same sort of loving sweet confidences, I cannot understand it, and I ask whether this is all for me. Dearest girl how I appreciate your love and confidence and believe me I will always try to deserve the same... Goodbye my love— my sweetheart— You are very very dear to me, Devotedly Yours, —H.W.H.

Oct. 18, 1887, Salt Lake City, Utah.

The Cullen. S. C. Ewing, Proprietor — Daily Rates \$3 per day.

My sweetest Darling— Only a word, but that I must send you... I am right in the middle of my case and am having a stiff fight against distinguished and able lawyers from the East. I cannot say when I will get away. Possibly I may be here all the week. Sweetheart, darling, my own dearest Kittie what would I not give for one look at you and one long sweet kiss. God bless you dear and pardon this hasty note.

—Yours devotedly forever, H.W.H.

MORMON CHURCH SUITS — A new Tack taken by the Imported Attorneys — Old Answer and Demurrer Drawn. — A new demurrer filed instead of them. — Constitutionality of the Law Denied — Other Supreme Court proceedings.

The Supreme Court of the territory of Utah convened in the Federal courtrooms at 10 O'clock yesterday morning, Chief Justice Zane and Associate Justices Boreman and Henderson being present. The clerk read the proceedings of the last day. On motion of Ben Sheaks, Colonel J. O. Broadhead of Missouri and ex-Senator J. E. McDonald of Indiana were admitted to the bar. District Attorney Peters moved the admission of United States District Attorney Henry W. Hobson of Colorado. The iron-clad oath was administered to all three gentlemen, each one swallowing it without a quiver: more than that, Colonel Broadhead and Senator McDonald seemed to regard the thing somewhat as a joke...

Ex-Senator McDonald, of Indiana, one of the imported attorneys of the Mormon Church, here arose and asked leave to withdraw the former answer and demurrer in the suits of the *United States vs. the Church of Jesus Christ of Latter-Day Saints* and the Perpetual Emigrating fund company; and the further privilege of filing a new demurrer. He also desired the postponement of the case till today at 10 o'clock. There being no objection raised by the District Attorney, the Court granted the requests.

DEMURRER The above named defendants, by protestation not confessing all or any of the matters and things in the plaintiff's bill of complaint contained to be true in such manner and form as the same is therein set forth and alleged, do demur to the said bill of complaint and for cause of demurrer show and allege:

First: That said Supreme Court of the Territory of Utah has no jurisdiction of, or over said defendants, or either of them, or of the subject matter of said action.

Second: That the acts of Congress of July 1st, 1862 and of March 3rd, 1887, referred to in plaintiff's bill of complaint... are unconstitutional and void.

Third: That said complaint does not state fact sufficient to constitute a cause of action.

Fourth: That the plaintiff has not, in and by its said bill of complaint, made or stated such a case as entitles it, in the court of equity, to any discovery from these defendants... or to any relief against them or either of them, as to the matters contained in the said bill of complaint, or any of such matters.

Wherefore, and for divers other good causes of demurrer appearing in said bill of complaint, the defendants do demur thereto, and humbly demand the judgment of this court whether they shall be compelled to make any further or other answer to the said bill of complaint; and pray to be hence dismissed with their costs and charges in this behalf most wrongfully sustained. —James O. Broadhead, J. E. McDonald, Franklin S. Richards, LeGrand Young, Attorneys for the defendants.

...It is a curious fact that notwithstanding the interest that one would naturally think every Mormon would have in these suits, coupled with the fact that, for counsel, there were present two distinguished gentlemen "from the States," there were not more than a dozen spectators in the court-room, and half of them were Gentiles. Inside the bar were nearly forty gentlemen, mostly lawyers.

—*The Daily Tribune*, Oct. 18, 1887.

Gentiles non-Mormons

☞ A letter to Kittie:

The Cullen, Salt Lake City, Utah. October 19, 1887.

My darling, my Darling— How I long to see you! It seems to me that each day I am away from you it is harder to bear... I enclose an extract from this morning's paper about my speech. Of course you don't want to read the legal arguments but I know you will enjoy seeing the complimentary part, for are not my successes now yours my darling. With every step upward that I

take, you go with me and do you know Kittie that I hope some day to put you in high places. I am ambitious and earnest and it remains to be seen whether I have sufficient ability to rise as I wish. I certainly have not done badly for my years and not many men of my age occupy such positions of responsibility as I do, or have to such an extent the confidence of the entire administration. There is a piece of conceit for you! Did I write you that just before I left Denver I had received a proposition from one of the best firms of Denver... I must now close for I have only a short time and I must write one or two business letters... Ah love— Kittie, how I long to take you in my arms and kiss you. —Devotedly & forever, *H.W.H.* —I write with a horrid pen. Excuse all blots etc.

THEY GO OVER AGAIN. Suggestion to avoid the taking of Testimony. Priority of Receivership Motion. Solicitor Jenks to be here to take charge of the Government's Case. Threes U. S. Commissioners Appointed.

The Supreme Court opened again at the usual hour yesterday morning. The prospects of the arguments on the church suits drew out a much larger crowd than is generally seen in the court room, and inside the railing there was a big showing of legal ability...

Mr. McDonald, of the defense, said that in all cases the plaintiff is supposed to be prepared to defend their complaint, and that the defendant is always allowed to interpose legal objections. He said that if the points set down in the demurrer should be held by the court to be well taken, there would be no necessity of appointing a receiver.

THE COURTS RULING on this point was that the matter of appointing a receiver should be proceeded with at once.

...TO OBTAIN TAKING TESTIMONY Attorney Richards, of the defense, stated that he would like to have time for a meeting of counsel of the two sides, as he thought that they might come to an agreement whereby, on the admission of the facts in the case, the taking of testimony might be obviated. On this suggestion the court again adjourned until this morning at 10 o'clock. —*The Daily Tribune*, October 19, 1887.

THAT CHURCH PROPERTY — Arguing the Motion for Appointment of a Receiver. — An Agreed Statement of Facts...

The Church cases were again the attraction of the day yesterday when the Court-room was filled with those who are interested in the important proceedings. After the opening of the court Mr. Peters stated that counsel for the two sides were about to agree upon a statement of facts and asked for a continuance until 2 p.m. in order that the arrangement might be completed. The Court granted the request and the adjournment was taken.

IN THE AFTERNOON there was the same crowd present and the interest was quite as great. Mr. Hobson, of the Government counsel, began by stating to the Court that counsel for the two sides had agreed upon a statement of facts by which the motion for the appointment of a Receiver might be argued without testimony...

The complaint which has already been published in full by *The Tribune* was read by Mr. Hobson...

...The Order of Argument. Mr. Peters announced that it had been agreed that counsel for Government should open the case; the other side should then reply; Government should have another turn; the defense should then close their argument, and the Government counsel should close the case. Mr. Clarke opened for the Government, beginning with a brief statement of the case. He said that Congress had annulled the

There are no other references in the newspaper accounts to Solicitor General Jenks being in Salt Lake City to participate in the case.

act incorporating the church, and there is no one now legally entitled to the care of the property, and it became the duty of the Court to appoint a receiver... He quoted the United States statute which limits the holding of real estate by the church to the value of \$50,000 up to the time of the disincorporation. He termed the government of a Territory a "limited democracy," having a Legislature, whose acts, however, can at any time be annulled by Congress, and claimed that Congress has a right to legislate over a Territory on any subject whatever... In conclusion, Mr. Clarke said that they would contend that Congress had the right to repeal the act under which the church was incorporated, and thereby disincorporate the church; that the property of the church is now a trust without a trustee; that it remains only for the Court to appoint a receiver to take care of the property until it is finally decided to whom it rightfully belongs. The court adjourned. — *The Daily Tribune*, October 20, 1887.

#### ARGUMENTS OF COUNSEL

Col. Broadhead's Masterly Talk Against the Law — Mr. Hobson's Conclusive Rejoinder — The Day Consumed in a Tournament of Words that Afforded a Treat to the Large Assemblage in Court —

The second day of the arguments in the great church cases attracted a crowd of spectators, which included nearly every member of the Bar Association of this city, and outside of these was a large assemblage, including many more intelligent persons than it is usual to see on the spectator's benches. In fact, it is seldom that a mere discussion will hold a crowd together as that of yesterday did; but, on the other hand, it is not often that such legal ability is heard in our courts, and to this fact, as well as to the importance of the case, may be attributed the interest so plainly shown...

#### COLONEL BROADHEAD'S SPEECH

Colonel Broadhead then arose and began his speech in opposition to the appointment of a receiver.

He began by characterizing the move for a receiver as extraordinary under the existing circumstance. He said that a remedy like this should only be applied in a case where it could be shown that the property was in danger of being wasted or destroyed or where it could be shown that the defendant was insolvent or dishonest... He claimed that no fraud had been shown and that it had not been shown that the defendants were insolvent... Colonel Broadhead then dwelt at some length upon the power of the court in the premises... Colonel Broadhead closed by stating that if the decision of this court should be against the defense they would appeal it to the highest tribunal in the land...

The Impression made by Colonel Broadhead's speech was at first profound, and many opinions verging upon extravagance, were expressed by different parties. The quiet manner and speech, and the seemingly logical deductions of the gentleman did much to produce this impression, and it is a question as to how far it is justified. Legal minds were at first struck by the argument and were unstinted in their praises, but in talking the matter over many of them agree that while the deductions were perfectly logical from the hypotheses used, the fault lay in the assumption of false premises as a basis for the conclusions, and in a failure to properly consider the difference between the Territorial condition and that of Statehood. Of course, but little can be judged on these points from the synopsis given above, as the details of the speech must necessarily be passed over...

#### MR. HOBSON

Mr. Hobson began by stating that he had not expected to enter into the argument of the case and was, therefore, at a disadvantage, but he showed before the close of his



address that he was not to be handicapped much by this fact.

Mr. Hobson said that the object of the suit was to dissolve the church incorporation, giving the surplus property to the school fund, and distributing that which remained among those who were entitled to it. Congress had placed the matter in the hands of this Court and the government now asked that a receiver be appointed to take care of the property and to see that it was not allowed to go to waste or be destroyed. Congress has vested this Court with this exclusive right to administer on the church property, and there is no alternative but to appoint a receiver. Although the complaint in the case might be defective, yet the Court has a right to take the matter in hand and make the appointment requested. In any case where there is an equitable proceeding with a view to the distribution of property, if that property is in danger of being destroyed, the Court has a right to take it in custody. Mr. Hobson said that in this case the property is in danger, and all who know anything of the ways of the Church of Jesus Christ of Latter-day Saints, must recognize the fact. Should the Court allow the personalty to remain in the hands of the church trustees until the case is finally settled, it might be scattered to the four winds, and it would be impossible to collect it again. Pandora might as well attempt to bring back the evil spirits escaped from her box.

Mr. Hobson argued, first, the reserved right in the organic act, whereby Congress may revoke or annul enactments of the Territorial Legislature; that the incorporation of the church, and the resulting accumulations of the church conferred no vested rights, but such incorporation was simply a license, subject to the reserved supervision of Congress. Further, Congress provided in 1862, together with the limitation of church holdings to \$50,000, that property so held should not be used to encourage polygamy or immorality, whereas it is notorious that the Mormon Church property has been used strenuously and continually for this forbidden purpose. That church acquisitions have been in contempt of this statute and its use of them in defiance of it. Its real estate has also been acquired since the passage of the law of 1862, for it was not till 1868 that any of these land titles passed from the Government. Therefore, both because the titles had been acquired subsequent to the passage of the limiting law and because the use made of the property is contrary to law, it is the duty of Congress to intervene and enforce the escheat.

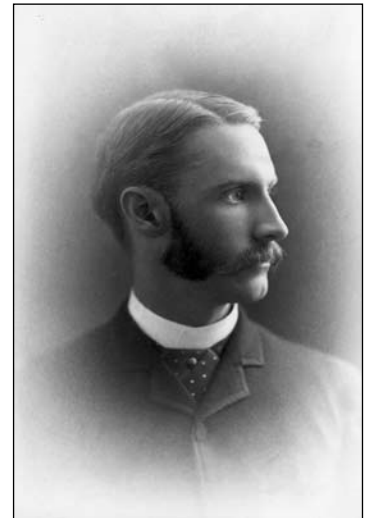
Second, even though no express reservation had been made in the Organic Act, it follows from the nature of the fundamental supremacy of Congress in Territorial affairs, and in the exercise of its supreme police powers, (undisputed instances of which were given) that the National Legislature necessarily has the right to intervene to protect the Nation from the gross and treasonable evil attacking it. And in the exercise of this intervention it designates this Court as the tribunal in equity whereby the remedy may be made effectual. And the power of Congress to fix and amend the jurisdiction of its Territorial Courts cannot be questioned.

That this property would be used to help the fight for the supremacy of polygamy, Mr. Hobson said was a well-known fact, and therein it would be used against the Government of the United States.

That portion of Mr. Hobson's speech referring to the polygamy evil was to the point and must have told with the court.

"How long," the speaker asked, "must the finger of scorn be pointed at us from foreign lands because we are powerless to suppress this shame which we all recognize and which we all abhor?" He argued that in refusing to appoint a receiver the Court would perpetuate the power of the church, and would thereby cripple the efforts of Congress to down the monster.

In regard to the legality of the acquisition of the church personalty, Mr. Hobson said that over \$250,000 worth of property had been acquired since the passage of the



*Henry Wise Hobson. Photo by J. E. Beebe, 1716 Arapahoe Street, Denver.*

law of 1862, which placed the limit at \$50,000. He knew that at least \$250,000 worth had been accumulated since that time, and he wanted a receiver to find out how much more. In a charitable trust the property does not go back to the donors in the case of the dissolution of that trust, as they have no further interest in their gifts after they are once made.

Mr. Hobson called attention to the fact that certain stocks and bonds had not been included in the conveyances, and asked what had become of these stocks and bonds? Mr. Hobson closed his address with another eloquent appeal for the appointment of a receiver.

THE SPEECH was a striking contrast to that of Colonel Broadhead (attorney for the church), a contrast as striking as that between the two men themselves. Hobson's was full of the fire, spirit and eloquence of youth, and his logic was sound and conclusive. Many high compliments were paid the gentleman on his great effort, and none will say that they were not deserved.

The Court adjourned until 10 a. m. today.

—*The Daily Tribune*, October 21, 1887.

### Legal notes:

Included in the files with the newspaper clippings, letters, and telegrams are ten pages of what appear to be Henry Hobson's notes used in the oral arguments. The notes, all in his handwriting, are excerpted here.

...With regard to vested rights — A vested right is one which vests upon substantial equities and it must have its reasonable limits and restrictions, it must have regard to the general welfare and public policy. A party cannot have a vested right to do wrong, to violate the law. A vested right cannot be a mere expectation. Rights are not vested in a charter, but in the power to be exercised thereunder etc...

...As to reservation of power of Congress to disapprove Territorial rights...

...Difference between repeal and disapproval...

...True if rights become vested under a power given by Congress prior to revocation of that power vested rights cannot be impaired, but as soon as that power is revoked or restricted, no rights thereunder can be acquired...

...Examine Act of Incorporation together with Organic Act... In the first place the right to hold property is not an unlimited right... The legislature in many respects legislated on questions which were beyond their control and was in excess of its powers...

...The Act of 1862. (a) The circumstances under which it was passed & the object to be attained, (b) The title of the Act., (c) The law was intended to revoke the Act of Incorporation., (d) An act can be repealed or changed either expressly or by implication... (e) Corporations in taking corporate franchises are subject to any future legislation... (f) The Act of 1862— if it meant anything, means that after that date restriction was placed on the Church of J. C. of L.D.S. as to its acquisition of property. And that said property could not be used either directly or indirectly for purposes of encouraging polygamy...

...The Act of 1887. (a) It dissolved the Corporation & vested its estate entirely in the Court for administration. (b) The Trustee was officially defunct and had no further powers. (c) The Act was constitutional...

...Congress could pass Acts of 1862 and 1887 by virtue of its police powers... Discuss general nature of Police Powers... Discuss the Church & the bearings of this doctrine thereupon...

...Take up statement of facts and discuss some...

...All of the Real Estate has been acquired since 1862. The Church authorities prior to that time were only squatters. The public lands in Utah prior to 1862 were not open to entry. No right whatsoever could have become vested... After the passage of the Act of 1887 control and authority over the Real Estate was absolutely taken away from the Church and Trustee and it was absolutely under the control of this Court to dispose of according to said Act and the principles of Equity...

...The action of the Church was that of a dead defunct body. It pretended to still have existence. As well might the stockholders of a defunct business corporation attempt to act... The action of the Trustee was manifestly to defeat the operation of this law and to deprive this Court of its jurisdiction. The whole transaction bears the impress of fraud... This court sitting as a Court of Equity must take steps to recover it...

#### CLOSE OF THE ARGUMENT

Senator McDonald Considered to Have Done Poorly—

The great speeches of Thursday were a big advertisement for the Supreme Court as a place to pass away a few hours to advantage and the crowd of spectators was, therefore, again a very large one yesterday morning when the tribunal assembled to proceed with the church cases.

The arguments were resumed immediately upon the opening of the court, the first speaker being Ex-Senator McDonald of the defense. To the surprise of many, the Senator did not attempt to refute the masterly argument of Mr. Hobson; but, with a little slur at that gentleman's speech he passed to the points that had already been presented by Colonel Broadhead and proceeded to argue upon those grounds...

...After consulting briefly, the Court announced that the opinion would be delivered two weeks from tonight, Nov. 5th, at 7:30 o'clock.

—*The Daily Tribune*, October 22, 1887.

☞ A letter to Kittie:

Oct. 26th, 1887. Denver.

My darling Love— ...I have about decided not to go into that firm I wrote you of. There are many considerations which lead to this course and which I cannot explain in a letter... Yours devotedly, —*Henry*.

#### THE RECEIVER GRANTED

Exhaustive Opinion by Chief Justice Zane, for the Court. Boreman and Henderson Concur.

The Whole Question Examined in Every Light and the Law Fully Expounded—a Very Able Document.

At 7:30 o'clock last evening the Territorial Supreme Court met in the Federal Court Room, for the purpose of rendering a decision in relation to the motion to appoint a receiver in the case of the Government vs. the Mormon Church Corporation.

Special U. S. Attorney Henry W. Hobson was in Tacoma, Washington Territory, arguing another case on behalf of the United States Government.

All of the Judges were present, as were District Attorney Peters and Assistant District Attorney Clarke, on behalf of the Government, and J. O. Broadhead and F. C. Richards on behalf of the Church.

#### OPINION OF THE COURT

On the opening of the Court the clerk read the minutes of the previous session and then Chief Justice Zane delivered the following decision: *In the Supreme Court of the Territory of Utah, June term 1887, United States of America, plaintiff vs. The Church of Jesus Christ of Latter-day Saints, et al.*, defendants:

Zane, C.J.— The complainant filed in this court its bill in chancery under an act of Congress in force March 3d, 1887. The bill prayed that a decree be made by this court forfeiting the charter and dissolving the corporation known as the Church of Jesus Christ of Latter-day Saints, as well as for the appointment of a receiver for the assets of the corporation, until disposition could be made thereof according to law, and for other relief. The motion for the appointment of a receiver is now submitted for our decision, on the bill and the facts as stated in a stipulation entered into by the parties and filed in the case.

On the 8th day of February, 1851, the Assembly of the so-called State of Deseret, afterwards organized as the Territory of Utah, passed an ordinance incorporating the Church of Jesus Christ of Latter-day Saints. After the organization of the Territory of Utah, this ordinance was re-enacted January 19th, 1855, by the Legislature and approved by the Governor of the Territory...

#### SCOPE OF THE INCORPORATION.

The purposes of the corporation as indicated by the powers conferred upon it by this charter are numerous and varied. Some of them, it is true, are expressed in vague terms; but the capacity is granted to act in various ways and to make laws and regulations with respect to very many subjects. The corporation is confined to no particular purpose. No precedent can be found for conferring upon a private corporation such a variety of capacities; some of them, it is believed, are above the reach of human laws...

The charter of a corporation should always specify the purposes for which the corporation is organized, and powers adapted to that purpose should be granted. If the corporation is to be a public one, powers adapted to the regulation of conduct and to public purposes should be given, with such incidental capacity to do business as may be essential to such an organization, and no more...

#### EXTRAORDINARY POWERS CONFERRED

The charter of the Church of Jesus Christ of Latter-day Saints is most extraordinary in the extent of the authority it assumes to confer upon, and in the number, the variety and the scope of the powers it places in the hands of a religious body. It declares in effect, that all the Mormon people, who at the time of its enactment were, or who might afterward become residents of the Territory, are a body corporate with perpetual succession...

#### THE RIGHTS GAINED

In this charter, the respondent insists the church gained a vested right upon its acceptance, and that Congress has no power to disapprove, or to annul it. We know of no precedent for holding that a corporation could obtain a vested right in a charter like this... The case of *Dartmouth College vs. Woodward* has been regarded as settling

the question that the charter of a private corporation constitutes a contract between a State and a corporation... But we find no case holding that a charter granted by the Legislature of a Territory gives such a vested right...

...Such are some of the powers conferred upon this church corporation by this remarkable act. To such a charter it is claimed the church has acquired a vested right. If this proposition is sound the corporate body known as the Church of Jesus Christ of Latter Day Saints may endure under this charter to distant ages. But we are of the opinion that a vested right could not be acquired in such a charter.

#### THE POWER OF CONGRESS

Further, Congress possesses the power to enact laws for the government of the Territories. It may make provision for territorial governments and extend the authority of Territorial Legislatures to all rightful subjects of legislation...

In the case under decision the Territory was organized under the Organic Act approved September 9th, 1850. Among other provisions is the following: "That the legislative power of said Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act... All the laws passed by the Legislative Assembly and Governor shall be submitted to the Congress of the United States and if disapproved shall be null and of no effect."

#### THE CHARTER IN QUESTION

The charter in question was a law passed by the legislative assembly, and the right to disapprove it was expressly reserved, and the church must be held to have accepted it with the knowledge of the reserved right of disapproval. That being so the church will not be heard to say that it was accepted without conditions...

We are of the opinion therefore, from a view of the whole subject both from the nature of the powers granted by the charter itself, and from the form of the grant and of the acceptance that the acceptance did not give the corporation a vested right in it...

...From the provisions of the act of 1862 it is clear the Congress did not regard the charter as a contract, otherwise it would not have changed its provisions. We may assume that Congress changed the charter according to its conceptions of duty in the time with the understanding that it might be changed further or altogether disapproved, whenever in the opinion of Congress the good of society required such change or disapproval.

#### THE SEVENTEENTH SECTION

The seventeenth section of the act of March 3rd, 1887, under which this bill is filed, is as follows: Sec. 17. That the acts of the legislative assembly of the Territory of Utah incorporating, continuing, or providing for the corporation known as the Church of Jesus Christ of Latter-day Saints, and the ordinance of the so-called general assembly of the State of Deseret incorporating the Church of Jesus Christ of Latter-day Saints, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, in so far as it may not have, or pretend to have, any legal existence, is hereby dissolved. That it shall be the duty of the Attorney General of the United States to cause such proceedings to be taken in the Supreme Court of the Territory of Utah as shall be proper to execute the foregoing provisions of this section and to wind up the affairs of said corporation conformably to law; and in such proceedings the court shall have power, and it shall be its duty, to make such decree or decrees as be its duty, to make such decree or decrees as shall be proper to effectuate the transfer of the title to real property now held and used by said corporation for places of

worship, and parsonages connected therewith, and burial grounds, and of the description mentioned in the proviso to section thirteen of this act, to the respective trustees mentioned in section twenty six of this act; and for the purposes of this section said court shall have all the power of a court of equity.

The power of Congress to dissolve the corporation styled the Church of Jesus Christ of Latter-day Saints necessarily follows the right to annul its charter, which we have held could be done. This disposes of the question raised upon the first clause of the seventeenth section of the act...

The second clause of the seventeenth section quoted makes it the duty of the Attorney General of the United States to institute proceedings in this court to wind up the affairs of the corporation dissolved by the first clause of the same section, and gives the Court power to make such decree as may be proper to transfer the title to real property held and used by the corporation for places of worship and parsonages connected therewith and burial grounds, as mentioned in the proviso to section thirteen and in section twenty-six of the same Act. For the purpose of such proceeding the Court is given all the powers of a court of equity... The property so forfeited and escheated to the United States and the proceeds thereof are to be applied to the use and benefit of the common schools in the Territory in which such property may be.

#### THE ACT OF 1862

Section three of the Act of 1862 is as follows: Sec. e. *And be it further enacted*, that it shall not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the Territorial government of a greater value than fifty thousand dollars; and all real estate acquired or held by any such corporation or association contrary to the provisions of this Act shall be forfeited and escheat to the United States...

It will be seen that section thirteen of the Act of March 3, 1887 authorizes the forfeiture only of the property obtained or held in violation of section three of the Act which took effect July 1st 1862—that is to say, property acquired after the Act took effect and in violation of it. And we here remark that the policy of limiting the amount of land which religious corporations may hold is not new; but it is a practice that has obtained for ages. It was announced in Magna Charta more than six hundred years ago and continued by many enactments of Parliament designed to meet the evasions and contrivances of the church for escaping the laws. It has been the settled policy in this country as shown by the statutes of various States and a quarter of a century ago Congress limited the amount of real estate that any church might hold in any of the Territories. It has been the settled design of such statutes to confine church holdings to the amount necessary simply for church purposes; and the observance of such laws has been secured by forfeiture, which seems the most appropriate and effectual method.

#### VESTED RIGHTS NOT DISTURBED

We are unable to discover that any of the provisions of the Act of Congress of March 3rd, 1887, relating to the corporation of the Church of Jesus Christ of Latter-day Saints interferes with vested rights or is in conflict with any provision of the Constitution of the United States...

That since the 19th day of February, 1887, there has been and is no person lawfully authorized to take charge of, manage, preserve or control the property, real and personal, which on or before the day and year last aforesaid was held, owned, possessed and used by the corporation of the Church of Jesus Christ of Latter-day Saints and by

reason thereof all the said property as referred to in the third paragraph of this bill is subject to irreparable and immediate loss and destruction.

The reasons for the statement of facts in terms so general are sufficiently apparent. When the corporation was dissolved its officers and agents no longer had any legal right to the possession of its property, to its use or to the rents and profits thereof.

It further appears from the allegations of the bill that the respondents are receiving and applying to their own use the rents and profits of the property and claiming the right to sell, use and dispose of it.

Assuming the facts to be as alleged in the bill, a portion of the property must be forfeited and must escheat to the United States to be applied to the use and benefit of the common schools of the Territory of Utah...

We are of the opinion that the facts alleged in the bill are sufficient to authorize the appointment of a receiver according to the prayer...

...From these facts it sufficiently appears that the defunct corporation has in its possession real property in value exceeding fifty thousand dollars, the limit fixed by the act of Congress of 1862 and that a portion of it is not a building or the grounds appurtenant thereto held for the purpose of the worship of God or parsonages connected therewith or burial ground, and that title to a large portion of the same property was acquired subsequently to the time the act of 1862 took effect...

Boreman, Justice, concurs.

Henderson, Justice, concurs.

Filed Nov. 5, 1887.

—*The Daily Tribune*, November 6, 1887.

#### THE MORMON CHURCH CASE

Salt Lake, Utah. The Supreme Court tonight, by unanimous decision, decided to appoint a Receiver for the Mormon Church property in excess of the limit fixed by Congress in 1862, Judge Zane writing the decision. A review is made of the Territorial act incorporating the church and the power of Congress to annul it is affirmed...

—*The New York Times*, Sunday, November 6, 1887.

The *News* recently drew public attention so emphatically to the unfitness of Mr. Henry Hobson to appear for the government in the Mormon church case at Salt Lake against Ex-Senator McDonald and other distinguished lawyers of national reputation who appeared for the Mormons, that the friends of our talented young townsman will be peculiarly gratified to learn that he has beaten Senator McDonald and the whole brilliant array of legal talent employed for the defense out of their boots—routed them horse and foot. The Supreme Court of Utah has sustained him at every point and placed the Mormon Church property and the perpetual emigration funds in the hands of a receiver. Mr. Hobson is among the brightest young men of the west and the spiteful attacks of the *News* can only serve to fix public attention on his superior talents. He is not yet thirty and he is already launched upon a brilliant career. It would satisfy most men to close their lives with as much distinction as his is opening. He is one of the courageous young leaders of the clean democracy of Colorado, and he has since his appointment to the government service evinced such a clear, and fearless sense of duty that his honor not less than his ability commands the confidence and respect of even his political opponents. His success in this Mormon case will give him a national reputation as a lawyer.

—*The Denver Republican*, undated, 1887.



Geo. S. Peters, U. S. Attorney, Sale Lake City, Utah.  
Nov. 10th, 1887.

Henry W. Hobson Esq., Denver, Col.

Dear Sir: The Court sustained us in all of our points in the church case. Yesterday evening the Court overruled the demurrer filed by the Defendants and there-upon they filed answers. The copies which they furnished me I sent to the department in order that the Attorney General might be fully advised of the exact condition of the case.

It will be necessary for us to file a replication within the next twenty days. When and where can we get together and consult further in the case?

I have mailed you newspapers containing full accounts of the proceedings from day to day. The Court has been in session every night since Saturday night and I have been kept quite busy, preparing entries, settling differences with the other side, etc. etc. In my judgment the answer does not raise any question that has not been already settled by the Court in passing on the motion and demurrer. Thanks for the copies you sent me of complaints in timber cases. I have the decision to which you refer so you need not trouble yourself further by sending me another. —Very Truly Yours, *Geo. S. Peters.*

~ A letter to Kittie:

Nov. 12, 1887, *U. P. Ry. between Pocatello & Cheyenne.*

My own sweetest Kittie— How I was rewarded for my *impatient* waiting, when I got to Pocatello and found a nice packet of five letters from your own darling self. And do you know love, as I read your letters (four times since receiving them) I felt that my letters must be so cold and commonplace as compared with yours, rich in the burst of love, confidence, and joy that form a mosaic of most delicious sentiment.

Dearest, sweetest I thank you so for all your letters and if mine seem cold remember that I am not much learned in the art of saying nice things and that my epistolary practice has been for years in the field of business correspondence... Ah sweet you are my honor, my pride, my hope and with you and about you are gathered my day-dreams and ambitions. I always thought my Mother flattered and praised me too much, but you, why you are an Arch-flatterer and you say such things as were never said before to me by anyone. But I am glad you say them dear! ...As matters now stand I think we can stick to 17th of Dec. as our wedding day, and I do not anticipate anything arising to change my plans... I will be in Fitchburg a day before our wedding and end our short engagement in the sweetest mellowest glow of our lover's twilight. The next day *cherie* we will begin the long day of our married love and happiness... I am glad you liked my letter to Mr. Jermain. I will, as you suggest, copy it and make such changes as may be necessary on account of the lapse of time etc. and then send it to you to be forwarded... Of course my love, we will be asked to entertainments in Richmond for the city is usually very gay during Xmas season. I used to be quite a favorite socially in Richmond and had many warm friends, socially speaking and I hope I have many true friends still there. I am sure we will be warmly received and yet we must remember that I have been away eight years nearly, and things have changed much since then and I have not been



back a great deal. Still I think as an original proposition, you can count on going out a good deal.

So you think I was a pleasing mixture of indifference and boldness in the days of my courtship! Why you sweet love. You would not have cared for me nearly so much or so quickly if I had been otherwise. You did not start out with the idea of loving me but of having me love you. I started out with both ideas and confess Dearest that my way and my success are the nicest... I spent yesterday at Blackfoot Idaho, right up amongst the Shoshone and Bannock Indians. I saw a lot of them and such funny looking creatures they are with their freshly painted faces and in their fantastic dresses and costumes. Everywhere I go I am recognized as the man who argued and won the big Mormon Church case at Salt Lake. It is quite a *cause celebre* in the West and I have many nice things said to me. I have been investigating a terrible tangle of important cases, which the Attorney General has instructed me to clean up. Well my darling I have written you quite a long scribble in pencil, and I am going to close. Goodbye my own, my darling. Ah sweetheart, your very name is precious to me. —Your Devoted *Henry*.

1888

☞ Legal matters:

Geo. S. Peters, U. S. Attorney, Salt Lake City, Utah.

January 19, 1888.

Henry W. Hobson Esq., Denver Col.

Dear Sir— Yours of the 11th was received a few days since. I have been quite busy in the Supreme Court for the past ten days. Have had another contest in the church case. They made an application to the Court for the allowance of an appeal to the Supreme Court of the U. S. from the order appointing a receiver, which after a somewhat protracted discussion, was on yesterday by the Court denied. I enclose herewith a newspaper clipping containing the decision of the Court. They will probably review their application at Washington.

The cases are at issue and we expect to begin the taking of testimony at an early day. In my judgment the testimony should be very full, and show clearly the kind and quantity of the Defendants property, the uses it has been put to etc. There is a vast amount of property in the Territory which belongs to the church, if we are able to research it and bring it to light.

Hope you may find time to impart to me from time to time such suggestions as may occur to you respecting the conduct of this important litigation. I shall keep you advised of the progress. Mr. Clarke has not yet returned from the East. —Very Truly, *Geo S. Peters*, U. S. Atty.

January 27, 1888.

Henry W. Hobson Esq., Denver Col.

Dear Sir: In reply to yours of the 23rd, I will say that if you can find the time to do so I would be pleased to have a conference with you respecting the future management of the Church case. Suit your own convenience as to time. —Yours truly, *Geo. S. Peters*.

February 24, 1888.

Henry W. Hobson, Esq. U. S. Attorney, Denver, Colorado.

Sir: ...the bringing of suits by the Receiver against the parties holding the property in trust seems to be the proper one to pursue. —Very respectfully, *A. H. Garland*, Attorney General.

Department of Justice, Washington, March 13, 1888.

Henry W. Hobson, Esq. Special U. S. Attorney, Denver, Colorado.

Sir: If, from your knowledge of the facts and circumstances surrounding the cases to which you refer, you believe your presence is necessary at Salt Lake City, you are authorized to go there to make the necessary examination, consult, and prepare paper. —Very respectfully, *A. H. Garland*, Attorney General.

April 12, 1888.

Henry W. Hobson, Esq. U. S. Attorney, Denver, Colorado.

My Dear Sir: ...The Attorney General has written to Mr. Peters communicating to him the propriety of acting in conformity to your suggestion, if it can be done in view of all the circumstances of the case. —Yours Truly, *G. A. Jenks*, Solicitor General.

July 10, 1888.

Henry W. Hobson, Esq., U. S. Attorney, Denver, Colorado.

My Dear Sir: I regret that the probable absence of the Attorney General during the month of which you speak will render it impossible that I should enjoy the pleasure of accepting your invitation. The case to which you refer, I feel confident, is in good and competent hands. The work seems, from what I learned from reports of the United States Attorney and yourself, to be progressing as favorably as we could hope... With sincere regards and kind wishes to Mrs. Hobson and yourself, I am, —Yours truly, *G. A. Jenks*.

Department of Justice, Washington. July 16, 1888.

H. W. Hobson, Esq., U. S. Attorney, Denver, Colorado.

Sir: I just received yours of the 11th instant, with reference to the property turned over by the Mormon Church to the Receiver. The amount aggregates about \$780,000, exclusive of the temple, and the buildings appurtenant to it. Mr. Peters was here this morning, but I have not had full conference with him, and cannot speak with precision. I will have him call on you at Denver on his return, and explain all to you, so that you may act in conformity with your joint judgment. This turning over of property, if it be all that can be recovered, will, of course, lead to a final decree. With reference to that, you will want to examine with care, and see that it conforms to the full justice of the case. We will not consent to, nor finally formulate the decree, until it shall have been submitted to you, and you shall have joined in a report thereon. —Very respectfully, *G. A. Jenks*, Acting Attorney General.

August 6th, 1888.

Henry W. Hobson, Esq., U. S. Attorney, Denver, Colorado.

My Dear Sir: ...I think it quite important that we have a conference soon with respect to the entering of a final decree and the filing of an information

to escheat the property in the Church cases. Would it be possible for you to come over the last of this or the first of next week? —Very Respectfully,  
*Geo. A. Peters.*

THE WESTERN UNION TELEGRAPH COMPANY

Night Message. Sept. 8, 1888.

To: H. W. Hobson, U. S. Atty Denver, Col. — Case set for fifteenth. Come at once.

*Geo. S. Peters.*

September 24, 1888.

Henry W. Hobson, Esq., Special U. S. Attorney, Denver, Colorado.

Sir: Your report of the 18th instant just reached me. The cases at Salt Lake City are so important that, if Mr. Peters desires you to go back on the 6th of October, comply with his request, if possible. Your letter, to which you refer, concerning the Northern Pacific cases, has been referred to the Secretary of the Interior for his consideration and recommendation. I saw him personally a day or two ago, and suggested to him the propriety of speedy action, and stated my approval of the course suggested by you. I trust I will soon have his reply, when I will communicate with you further. Very respectfully, G. A. Jenks, Acting Attorney General.

#### A VICTORY FOR THE GOVERNMENT

The Church Sat Down Upon by the Supreme Court—Salt Lake City, Utah.

In the case of the United States Government against the Mormon Church, the Government today scored a complete and final triumph, so far as the Supreme Court of the Territory is concerned. About a year ago, shortly after the case was instituted, the Supreme Court unanimously decided the main law point of the case upon a demurrer to the bill and in the fight made against the appointment of a receiver. All the points were decided in favor of the Government.

During the last year the receiver has collected about one million and half dollars worth of property belonging to the church. On Saturday last the case came up for final hearing and determination as to whether the church corporation should be declared dissolved and with regard to disposition of its property.

There has been a bitter fight all through. Much testimony has been taken and some agreed statements of facts entered into. Today the Supreme Court disposed of the case, deciding all points in favor of the Government. It judicially declares the dissolution of the Mormon church as a corporation and the substance of the decrees is that all the property, real and personal, becomes escheated to the Government for the purpose of public schools, although the real property is held pending the completion of formal proceedings for forfeiture brought by the Government.

One of the most determined efforts on the part of the defensive was to get the property of the dissolved corporation for the unincorporated church, on the ground that it was composed of the members of the Mormon Church, who were legal successors in interest to the corporation, and on the ground that the property was acquired upon trusts, which are an item of existence. The court denied the rights of the individuals and declared, emphatically that any trusts in existence in said property which could be so devoted, were in whole or in part connected with the upholding of polygamy, and were, therefore, unlawful. The Court declared that the present church still upheld and taught the doctrine of polygamy.

The attorneys for the church at once perfected an appeal to the United States Supreme Court. The receiver meanwhile will hold the funds in his possession and should the United States Supreme Court affirm the decree of the Utah Supreme Court he will distribute the funds among the schools of the Territory.

United States District Attorney Hobson of Denver made quite a record for himself in the Church cases. He had to cope with the ablest legal talent of the country, the Mormons, in addition to able local counsel, having employed Colonel Broadhead of St. Louis, President of the American Bar Association, and Ex-Senator Joe McDonald of Indiana. —*The Denver Republican*, Tuesday, October 9, 1888.

October 16, 1888.

Henry W. Hobson, Esq., Denver, Colorado.

My Dear Sir: I received yours of the 10th instant, and will file it among my semi-official letters, as you request. I think you and Mr. Peters have done your parts well, and am exceedingly glad you have brought the business in the lower court to so favorable a result. I am not disposed to throw any obstacle in the way of an advancement of the cause. If you have any authorities or briefs in the case, I wish you would send them now. When the case comes to argument in the Supreme Court, I will consult with the Attorney General as to the necessity of having you participate therein. Personally I certainly would be very glad of your assistance. I am, Yours Truly, *G. A. Jenks*, Solicitor General.

THE WESTERN UNION TELEGRAPH COMPANY

Washington, D. C. Nov. 13, 1888.

Spcl. U. S. Atty. Hobson, Denver, Colo.—

District Atty Peters deems it very necessary you should be in Salt on seventeenth inst. In Church case. You had better make your arrangements and go. —*A. H. Garland*, Atty. Genl.

THE WESTERN UNION TELEGRAPH COMPANY

Salt Lake City. 16 November 1888.

To: U. S. Attny Hobson, Denver. Can you be here twenty-fourth. Important that you should be. Answer. —*Peters*, U. S. Attorney.

THE WESTERN UNION TELEGRAPH COMPANY

Salt Lake City. 17 November 1888.

To: U. S. Attny Hobson, Denver. Court adjourned till twenty eighth. Best could do. Do not fail to come. Have written. —*Peters*, U. S. Attorney.

THE WESTERN UNION TELEGRAPH COMPANY

Washington, D. C. November 21, 1888.

To: U. S. Atty Hobson, Denver.

Be at Salt Lake City by the twenty-eighth to look after the Mormon Church matter there. A letter from me will meet you there. —*A. H. Garland*, Atty Genl.

THE WESTERN UNION TELEGRAPH COMPANY

Washington, D. C. November 28, 1888.

To. U. S. Attorney Hobson, Salt Lake City, Utah. — I have not data sufficient to advise or instruct you certainly upon the facts there. The court should be able to deter-

mine the matter justly. You must exercise your best discretion on all the facts of the case in view of my letter to you of the twenty-second instant. The amounts do appear to me very unreasonable. —A. H. Garland, Atty Genl.

Department of Justice, Washington. December 8, 1888.

Henry W. Hobson, Esq., U. S. Attorney, Denver, Colorado.

Sir: I received yours of the 30th of November last, containing newspaper slip, and reporting your action with reference to the adjustment of the fees of the Receiver and his attorneys in the case of the United States vs. The Church of Jesus Christ of Latter-day Saints. Your action meets with my approval. You will continue to guard the interests of the Government in the matter with diligence, as the emergencies of the case from time to time demand. —Very respectfully, A. H. Garland, Attorney General.



Despite all of its efforts, the Mormon Church was unsuccessful in its appeals, including before the U. S. Supreme Court. That court agreed that Congress could both repeal the Church's charter and seize its property. In August 1889 there were local elections in Salt Lake City that the Gentiles, the non-Mormons, won for the first time. The *Sacramento Bee* reported: "The effect of the election cannot but be salutary as far as Utah's interests are concerned. The Mormons, who styled themselves as the People's Party, were opposed to any internal improvements, such as waterworks, sewage, etc, while the Liberals, or the Gentiles, were strongly in favor of such. It will result in Salt Lake City becoming the principal point between Denver and San Francisco, and will be the greatest thing for Utah that ever happened." Of this same election the *Chicago Tribune* wrote: "The result of the recent election in Salt Lake City for Territorial, Legislative and County officers is the beginning of the end so far as Mormonism is concerned. The revolution will grow and spread until the whole Territory is redeemed from the political domination of Mormon priest-craft." Both in the courts and at the polls, the Mormon Church was losing. A year later, in September 1890, Church President Wilford Woodruff issued what would be called the "Woodruff Manifesto" in which he urged the members of the Church "to refrain from contracting any marriage forbidden by the law of the land." The following year Church leaders requested amnesty for many of the individuals convicted and imprisoned for practicing polygamy. In January 1893 President Harrison granted amnesty to a limited number of persons and the following year President Cleveland granted a broader amnesty. By 1893 Henry Hobson was in private practice but was thinking about returning to government service in the new Cleveland administration. In February 1893 he wrote to his uncle, John S. Wise: "For four years I had throughout the West charge of most important Government work—the great fight with the land rings of several States and territories, sole charge of the great Mormon Church fight, of the great Mexican Land Grant cases and of all the extensive litigation between the Government and the Northern Pacific RR." He remained in private practice. In October

1893, recognizing that the Mormon Church had officially rejected polygamy, Congress voted to return to the Church some of the property that had been previously seized. A constitutional convention in Utah in 1895 included a declaration that “polygamous or plural marriages are forever prohibited,” and Utah became the forty-fifth state on January 4th, 1896. During all of this time Henry Wise Hobson was undoubtedly aware of all of the changes that had come to Utah in part because of his work. —*Editor’s note.*