

**DECISION OF JOHN F. PHILIPS, JUDGE,
IN TEMPLE LOT CASE: THE
REORGANIZED CHURCH OF JESUS
CHRIST OF LATTER DAY SAINTS VERSUS
THE CHURCH OF CHRIST, ET AL**

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VARIOUS

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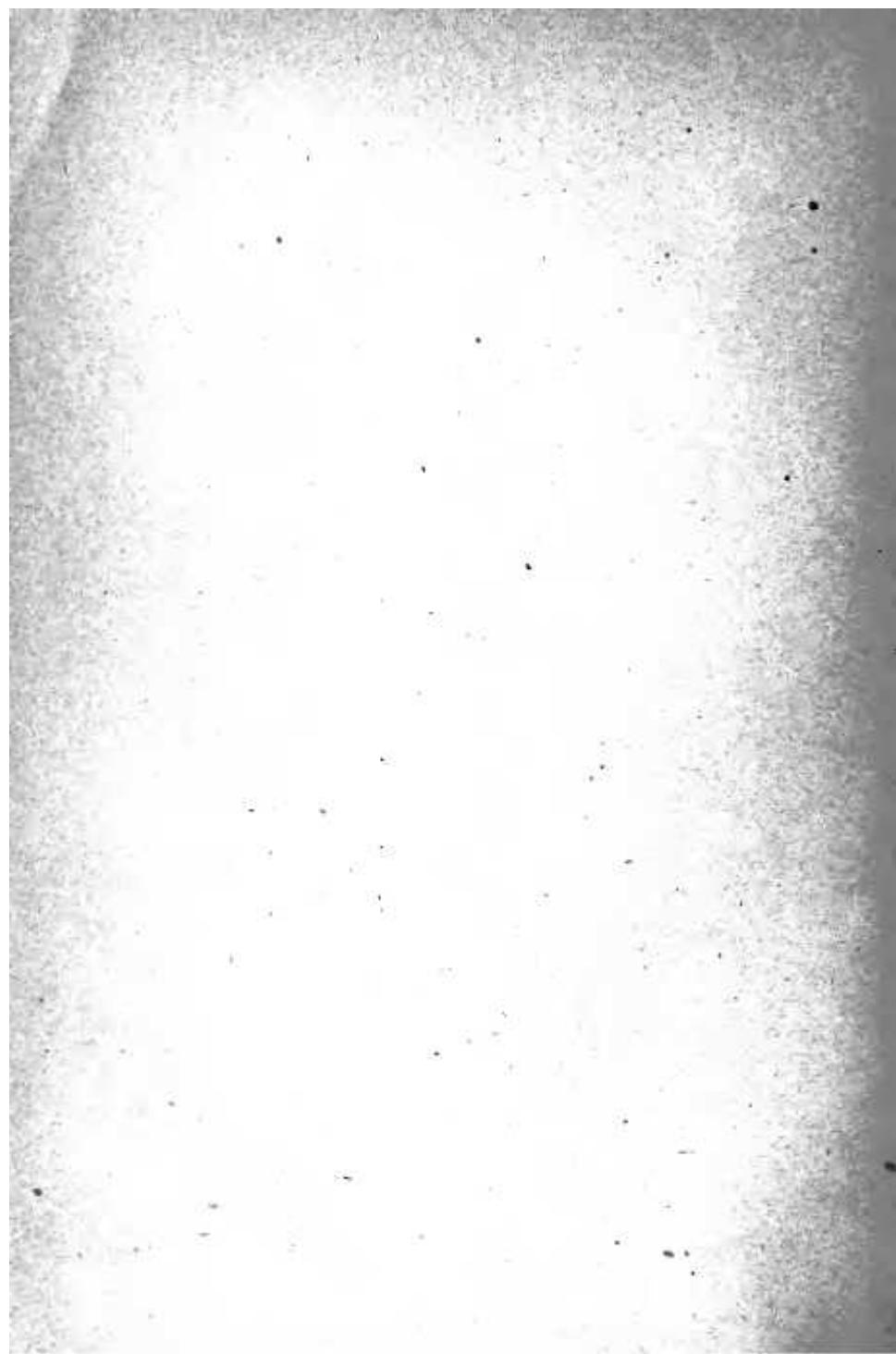
IN THE
CIRCUIT COURT OF THE UNITED STATES
FOR THE
Western Division of the Western District of Missouri

*W. A. Circuit Court (34th
Circuit)*

DECISION
of
JOHN F. PHILIPS, JUDGE
in
Temple Lot Case

The Reorganized Church of Jesus Christ of Latter Day Saints
VERSUS
THE CHURCH OF CHRIST, ET AL.

LAMONI, IOWA
**PUBLISHED BY THE REORGANIZED CHURCH OF JESUS CHRIST
OF LATTER DAY SAINTS**



102730

History of Suit

On the 22d day of December, 1832, the Original Church of the Latter Day Saints through its Presiding Bishop, Edward Partridge, purchased for church building purposes the plat of ground located in Jackson County, Missouri, particularly described in this case, and set the same apart for church uses, designating it the "*Temple Lot*."

The following year troubles arose between these people and other citizens of Jackson and adjoining counties on account of—

First, differences in religious opinions;

Second, differences upon political questions; the Latter Day Saints at that time being almost wholly from the Middle and New England States and not in sympathy with slavery.

As a result of these differences the Saints were forcibly driven from the county and their property wrested from them, and later they were driven from the State and openly denied and refused protection of their rights and property by the Governor of the State.

The church upon this occasion took refuge in an adjoining State, but continued to assert its claims to the property in question without protest or dissension in the body until the death of its President and one of the two leading counselors, June 27, 1844.

The violent death of these principal officers brought about by the intrigue and work of their old enemies in Missouri proved to be a decisive event in the church's history. Many claimants for place and power arose, calling upon the smitten flock to follow in as many ways and directions. Of

the various divisions and bodies which started up during this chaos, all claimed, in one form or another, succession to the Original Church, and adhered to a belief in the public setting apart under divine direction, for church uses, of this property in controversy; and that in a proper time a temple should be built thereon for public worship. After the expulsion of the church from Missouri, in 1839, attempts were made by parties living at Independence, Missouri, to acquire title to this property for speculative purposes; and to further this a paper purporting to be a deed from part of the heirs at law of Edward Partridge was obtained by James Poole, of Independence, Missouri, and Defendants have claimed this as color of right, with mesne conveyances, to show title by adverse possession of premises.

The immediate parties to this action, the Complainant, the *Reorganized Church of Jesus Christ of Latter Day Saints*, presided over by Joseph Smith, son of the founder of the church, and the Defendants, the "Church of Christ," or Hedrickite body, and others at Independence have for several years been in antagonism as to the question of ownership, which culminated on the 11th day of June, 1887, in the Reorganized Church giving the Defendants written notice to remove and quit possession of the premises and not to erect any buildings or make any other improvement. The Defendants refused to surrender the possession and the *Reorganized Church* was left to a choice of two things; viz, to submit to a deliberate and cunning alienation of

its property, or appeal to the high Courts of *Equity* of the country for a fair hearing and adjudication of the respective claims. It chose the latter course, and in August, 1890, filed Complaint in equity setting out its claims as the only true and legal succession to the Original Church of the Latter Day Saints and right to the *Temple Lot* property. The Defendants were directly aided and supported in the suit by the factional church in Utah which followed the leadership of Brigham Young during the schismatic disruption; the President of that body, Wilford Woodruff, and the President of its Quorum of Twelve, Lorenzo Snow, and other leading men and women voluntarily becoming witnesses for the Defendants; and many other witnesses answering to the *personal* summons of Mr. Woodruff came from different parts of the Territory to testify in behalf of the Defendants.

The result of the contest is the clear and masterly opinion of Judge Philips, an official copy of which is hereinafter set forth, declaring Complainant in legal succession and confirming its title to the property.

Attorneys and Counsel for the Complainant:—

P. P. KELLEY, Glenwood, Iowa.
L. TRABER, Kansas City, Missouri.
GEORGE EDMUNDS, Carthage, Illinois.
SMITH MCPHERSON, Red Oak, Iowa.
E. L. KELLEY, Lamoni, Iowa.

Respondent's Attorneys and Counsel:—

J. N. SOUTHERN, Independence, Missouri.
W. O. BROADHEAD, Saint Louis, Missouri.

LAMONI, IOWA, March 20, 1894.

IN
THE CIRCUIT COURT
OF THE UNITED STATES,
FOR THE
Western Division of the
WESTERN DISTRICT OF MISSOURI.

THE REORGANIZED CHURCH OF JESUS
CHRIST OF LATTER DAY SAINTS, }
vs. }
THE CHURCH OF CHRIST, *et al.*

STATEMENT OF CASE.

This is a bill in equity to declare a trust in favor of the Complainant, a religious body, as to certain real estate, situated at Independence, County of Jackson, State of Missouri, known as the "Temple Lot." The controversy is between the two divisions of what is popularly known as the "Mormon Church."

The lot in controversy was bought in 1832 by one Partridge, Bishop of the then Church of Jesus Christ of Latter Day Saints, with its central organization at Kirtland, Ohio, with funds furnished by said

church for such purpose. In the view of the church this spot was to be the future site on which was to be erected the great Temple of the Church, and was to be to it the New Jerusalem.

In 1839 said Partridge made the following deed, declaratory of said trust:

KNOW ALL MEN, that whereas there was money put in my hands to wit, in the hands of Edward Partridge, by Oliver Cowdery, an elder in the Church of Jesus Christ of Latter Day Saints, formerly of Kirtland, State of Ohio, for the purpose of entering lands in the State of Missouri, in the name of, and for the benefit of said church; and whereas I, Edward Partridge, was Bishop of, and in said church he took said money and funds thus put in his hands and entered the land in his own name, in the County of Jackson, State of Missouri, in the name of Edward Partridge, the signer of this deed.

Now know ye for the furthering the ends of justice, and as I have to leave the State of Missouri, by order of Governor Boggs, and with me also our Church, I do, for the sum of one thousand dollars, to me in hand paid, by said Oliver Cowdery, do give, grant, bargain and sell to John Cowdery, son of Oliver Cowdery, now seven years old; and Jane Cowdery, three years, and Joseph Smith Cowdery, one year old, all the lands entered in my name in the County of Jackson, in the District of Lexington, in the State of Missouri. Said Edward Partridge the first party and signer of this deed does also sell, alien and confirm to the aforesaid John Cowdery all real estate and lands he hath both entered as aforesaid, and all he owns in his own name by private purchase and holds by deed of gift, being intended for the use of the Church of Latter Day Saints or otherwise. This sale is to embrace all lots of all sizes, situated in Independence, and to embrace the lot known as the Temple Lot, and all other lands of whatever description said Partridge the first party is entitled to in said Jackson County, in the State of