intention of the body adopting it that it should have such operation and treat it accordingly." There was no United States land office established in Utah until long after 1862. Congress is presumed to have known that the legal title to no single foot of land in the Territory had passed from the government to any individual or corporation at the time this law took effect. As we have shown, it was intended to affect only the rights and interests of the Mormon Church in Utah. It cannot be seriously claimed that the purpose of Congress in the proviso of section 3 under the circumstances was to preserve and protect only some legal vested estate or interest in land for the reason that it was impossible to do this. The Church against which the legislation was directed could not have prior to that time acquired any such interest. We are of opinion that this property involved in this action was not subject to forfeiture or escheat under the provisions of the act of 1862, and that the judgment of the court below should be reversed and the case remanded with directions to dismiss the action, and it is so ordered.

We concur, MINER, J.
BARTCH, J.

The United States, plaintiff, vs Gardo House and Historian Office et al, defendant. Smith, J.

This proceeding is in its general features like the case of the United States against the Tithing yard et al, just decided, and is governed by the decision in that case, except for the difference in the state of facts.

The property called the Gardo House property, being the east half of lot 6, in block 75, plat A of Salt Lake City, as shown by the findings of fact, was not acquired by the Church until 1877 and the Church had no interest in it on July 1st, 1862; hence under the conclusion reached in the Tithing yard case the property just described as the Gardo House is subject to forfeiture and the decree escheating it to the plaintiff should be affirmed.

As to the property described in the complaint and findings as a part of the west half of lot 6, block 75, plat A in Salt Lake City, commencing at a point 10 rods west of the northeast corner of said lot 6, thence south 10 rods, thence west 7 rods, thence north 10 rods, thence east 7 rods to the place of beginning, and called the Historian office and grounds, it appears:

That the property was acquired by the Church in 1855 and was then substantially improved, and that the Church was on July 1st, 1862, and ever since has been, in the actual possession of this property.

We hold that the Church had a vested interest in this property at the time of the passage of the act of 1862, and that it was reserved to the Church and not rendered subject to escheat by the provisions of that act as indicated in our opinion in the tithing yard case.

We deem it proper to add to this opinion the following which was omitted from the opinion in the principal case. It was suggested rather than urged on the argument that the right of the Government to a forfeiture in all of these cases was already adjudicated in favor of the Government by the decision of the Supreme Court of the United States in the case of United States vs Church, 136, U. S. 1.

We cannot agree to this view; that was an action commenced in this court under special powers conferred on this court by the act of March 3rd, 1887.

It is not to be contended that this court had any jurisdiction in the premises except that conferred by the act. An examination of the act and the provisions of sections 17 and 26 will show that the jurisdiction of this court was limited to two subjects:

First—To appoint a receiver for the property of the Church corporation until it could be disposed of, and finally to dispose of it for lawful purposes of like nature with those or which it had been given to the Church.

Second—To set apart and place in the hands of the trustees the real estate of the Church used for places of worship, parsonages and burial grounds.

This we think was the full extent of the jurisdiction of this court in that case, and this seems to have been the view of both this court and the Supreme Court of the United States in deciding that case.

This being the case, of course the right of the government to escheat the property proceeded against in these actions was not and could not have been involved.

This view is fully supported by the opinion of the Supreme Court of the United States in the case referred to. In the opinion 136 U. S. 64 the court says: "This suit is in some respects an auxiliary one instituted for the purpose of taking possession of and holding for final disposition the property of the defunct corporation in the hands of a receiver and winding up its affairs. To that extent and to that extent only the decree of the circuit court has gone.

In the proceedings which have been instituted in the District Court of the Territory it will be determined whether the real estate of the corporation which has been seized (excepting portions exempted by the act) is or is not to be escheated or become forfeited to the United States."

See 136, U. S. 64.

From the above citation it will be seen that the Supreme Court expressly holds that the matter of whether the property in controversy here is subject to escheat and forfeiture is still open for adjudication.

This action is instituted by express authority of section 13 of the act of March 3rd, 1887. It is and was intended to be a proceeding wholly independent of the action in the Supreme Court provided for in sections 17 and 26 of that act.

It results from the conclusions announced that the decree in this case should be affirmed so far as it declares a forfeiture of the Gardo house property, and in so far as it declares a forfeiture of the Historian office property it should be reversed and remanded to the district court with directions to dismiss the action.

We concur, MINER, J.,
BARTCH, J.

The United States vs The Church Farm et al. Smith, J.

The findings of fact in this case show that the Church first acquired an interest in the real estate proceeded against in this action and which is known as the Church Farm in the year 1874, and in accordance with the views expressed in the case of the United States vs Tithing yard the decree of the district court declaring the property escheated to the United States is affirmed.

We concur, BARTCH, J.,
MINER, J.

The United States vs the Church Coal Lands and A. M. Cannon, Trustee. Smith, J.

The Church first obtained an interest in the lands proceeded against in this case on April 3rd, 1880, as shown by the findings of fact and not disputed.

In accordance with the opinion in the United States against the Tithing yard, the judgment of the district court declaring the land proceeded against herein escheated to the United States is affirmed.

We concur: MINER, J.,
BARTCH, J.

TO BE APPEALED.

Counsel on both sides have given notice of appeal to the Supreme Court of the United States.

SALT LAKE TO DENVER.

DENVER, Colorado, Aug. 29, 1893.

To a great many "continental" travelers who, while the train is in motion, spend most of their time sleeping or dozing in a Pullman, a trip from Salt Lake City to the Missouri river is at the present time void of interest; but to me, who purposely sat up most of the time last night viewing mountain, valley, gorge and plain in the beautiful moonlight, as the train sped on its way toward the East, the journey has by no means been tedious or dull so far. The full moon beaming upon the earth through a cloudless sky lent to every familiar object along the road a peculiar enchantment; and had I been a poet, my lyre would certainly have received new inspiration and additions been made to the poetical compositions of the world; but as it is, I must borrow from a descendant of a Norse sea king, who, in his preparations of "Elverhoj," wrote:

Luna sit Solverbaand
Snoer om Kndymion,
Speider i Busk og i Dale;

which was strikingly true last night.

On a short mission to the United States, during which I also expect to visit the World's Fair in Chicago, I left Salt Lake City last night (Monday, Aug. 28, 1893) on the Union Pacific "Atlantic Express." Ogden was soon reached, and passing up through Weber canyon and valley and Echo canyon we climb 2523 feet and thus reach an altitude above the level of the sea of 6824 feet at Wasatch, Ogden being 4301 feet. This difference in altitude also makes a striking difference in temperature. At Ogden one felt uncomfortably warm, and every car window was kept open in order to admit as much cool and fresh air as possible; at Wasatch the passengers were tempted to put on overcoats, the windows of the cars were closed, and the porter was soon afterwards requested to make a fire in the stove, which he did, and that kept the travelers comfortable during the remainder of the night.