bishop of said church. We thus see that this property had come to John Taylor, as trustee, and it was expected that it would be used for the building of the Salt Lake Temple. He, as trustee, transferred it to the Church Association, in trust, for the same purpose, amongst others, and it was transferred by the Church Association to Preston, presiding bishop of said Church, and to be used still for the same purpose. It was always, after donation, in the hands of some trustee, conveyed by one trustee to another and another, yet all the time it was being appropriated to the same purpose, to aid in the erection of the Salt Lake Temple. In all of the alleged changes, the actual appropriation to that purpose was never changed. It was at all times being used and appropriated to improve the propefty of the late corporation, and for no other purpose. In all of these alleged changes, there was no change in the manner of the appropriation, nor any important change in the individuals employed, nor in the place of employment, nor in the office, except that for a few days early in March, 1887, Mr. A. M. Cannon was acting as agent in the disbursement of the money, and appropriation of the property. During these few days, Mr. Cannon seemed to have, as agent, charge of the work that the employes were performing, and that work was for the

IMPROVEMENT OF THE PROPERTY

of the late corporation. Except for those few days, in which Mr. Cannon had charge, William B. Preston, presiding bishop, had charge, both before and after Cannon, first under Taylor, trustee, and afterwards under the Church Association. The office where all the business connected with the property was transacted was always the same, though under different names.

There evidently was a private understanding between the parties to these various transfers, that all their proceedings were in the interest of and for the benefit and use of the late corporation. They were never put to any other use.

The Territorial statute in regard to conveyances made for fraudulent purposes says:

"1017 SEC. 8. Every conveyance or assignment, in writing or otherwise, of any estate or interest in lands, or in goods, or things in action, or of rents or profits issuing therefrom, and every charge upon lands, goods, or things in action, or upon the rents or profits thereof, made with the intent to delay, hinder or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts or demands, and every bond or other evidence of debt given, suits commenced, decree or judgement suffered with the like intent, as against the person hindered, delayed or defrauded, shall be void." Compiled Laws, p. 341.

This section is substantially the same as 13 Elizabeth C, 5, and is merely declaratory of the principles of the common law. Hamilton vs. Russel, 1 Cranch, 310. It might be said, perhaps, that the section of the statute which declares invalid, as against creditors, an assignment made in trust for the benefit of the assignor, is not applicable to the case at bar, for the reason that the word "creditors" alone was used, yet the section (1,017) which we have quoted, makes void every assignment of goods, etc., "made with intent to delay, hinder or defraud creditors *or other persons* of their lawful suits, damages, *forfeitures* debts or demands." This

LANGUAGE IS BROAD ENOUGH

to reach the circumstances of the present case. John Taylor, trustee, does not, in his transfer, indicate any necessity for making the transfer, nor does he indicate any advantage to be derived to the church or to the church associations thereby. The Church Association, so far as its directors, at least, were concerned, did not seem to know what to do with the property, but, as it was understood to have been originally donated to aid in building the Salt Lake Temple, the directors concluded that the proper thing to do was to continue it in that use and convey it back, but to another trustee, for the identical purpose for which it was originally intended. The evidence does not show that there was any necessity for the transfers, nor an advantage anticipated, nor were the transfers made with any avowed object of bettering the condition of the church or of the assignees. Our attention is not called to any laudable or worthy purpose to be served by the transfer to the Church Association, or by it to Preston. On their faces and by the evidence, They seem to have been aimless transactions, made with suddenness and in a hurried and confused manner, for some purpose not avowed. The Congress of the United States had passed a bill to forfeit the property of the Church to the government for school purposes, and that bill was well known to be then awaiting the Presidents signature, or to become a law by the expiration of the constitutional period of ten days, without his signature. The ten days expired with the 2d day of March, 1887. It is not unreasonable to conclude, from all the circumstances, that the object of the transfer by Taylor, trustee, to the Church Association, was to

SAVE THAT PROPERTY

from the impeoding forfeiture. The government would be included in the words "other persons." The forfeiture did not take place until the bill became a law, but it was to avoid the apparently inevitable, that the transfer was made. If a man, indicted for a crime, which, if he should be convicted, would cause a forfeiture of his goods and should give away his goods, the gift is void under the same statute, although made only in anticipation of forfeiture. Lane 44, 45, Pauncefoot's case. (See Twyne's case, 3 Coke 80; Smith's Leading Cases, page 36.) Benjamin on Sales, section 675 N. G. (second American edition.)

We are referred to Angell and Ames on corporations, section 773a, for authority in a corporation to dipose of its property on the eve of dissolution. We do not find in that section any such authority, except that when a moneyed corporation is about to go out of existence it may assign its property to a trustee for the use of the stockholders, or endorse unexpired paper for the same use. That is an authority simply for dividing the property of a corporation and not to defeat or delay or hinder or defraud any one; for in the next succeeding section (779 and 779 a) it will be seen that the rule of the common law as to forfeiture has never in England been applied to insolvent or dissolved moneyed corporations.

Taking all the facts together, we do not think that there was a delivery of the property to the Church Association prior to the 3d day of March, 1887, or that there ever was any change in the actual ownership of the property in question. It is now only in the hands of a different trustee, but the transfers were merely made to enable the Church to retain what the law said it should not retain. They were not made in good faith, but for the evident

PURPOSE OF DEFRAUDING

the goverament of the benefits to be acquired under the statute. The statutes made for the suppression of frauds are to be interpreted liberally for that purpose. Twyne's Case, 3 Coke 80, s. e. 1 Smith's Leading cases, p. 1. The real gist of the transfers was intended to be a conveyance by the Church as incorporated to the Church not incorporated. As this could not be done directly, it was necessary that it be done indirectly through the Church Association, as no other object for these various transfers appears other than the evasion of the consequences of the new law. The ownership of the property remained with the late corporation and was evidently so intended, and it is being used by the defendants for the benefit of the late corporation. The Church Association was made a corporation within the late corporation. It was part and parcel of it, and its officers were officers of the late corporation, operating and acting for it. The Church controlled them as its officers, and through them, controlled the property, and the property was used and is now being used for the benefit of the late corporation.

The defendants in their arguments seem to consider that the incorporation of the Church still exists, notwithstanding its annulment by the act of Congress. That question has in this case heretofore been settled, this court holding that the

INCORPORATION CEASED TO EXIST

with the enactment of the law of Congress referred to. Yet, if it be not dissolved, but is still existing, then the property still belongs to it asmuch as it did before the transfer by Taylor, trustee. It was then held by a trustee for the benefit of the corporation—and it is now held by a trustee for the same purpose. It certainly would then be proper for the Receiver to have possession of the property, pending the settlement of the questions in issue. The Receiver is merely the custodian of it, to await the final decision of the issues in the case.

The Salt Lake Temple Block was the property of the late corporation—and is now in the hands of the Receiver. It is held by trustees, the defendants in this proceeding, said Preston, Burton and Winder. Preston is the Presiding Bishop of the whole Church, and the only one, and as such now holds the property in question, to be used to improve this Temple Block. The Receiver, it would appear, being in possession of the Temple Block itself, is the proper custodian to hold the property in question until a decision be rendered upon the final hearing.

The principal ground, however, urged by the defendants against the granting of the prayer of the petitioner is that the court has

NO AUTHORITY TO ACT

in the matter without the Church Association of Salt Lake Stake of Zion, the assignee of Taylor, trustee, shall be made a party to the suit or proproceeding. The point was not raised by demurrer or by answer. It is raised for the first time on the argument. If the Church Association has any existing interest in the property, or will be affected by the decree, it would be a necessary party. According to the terms and tenor of the assignment by Taylor, trustee, to the Church Association, that assignment committed to the Church Association a trust. In turn, the Church Association, upon the authority of the assignment, transferred all of its rights and powers to another trustee, the Presiding Bishop of said Church. If we find that the Church Association has an existing interest, we would by like reasoning have to find that the original donors, those who donated the property to the Church, to be held by Taylor, as trustee, have an existing interest. But there seems to be no question but that the donors parted with their title, although the donations were made for a specific trust purpose—the building of the Salt Lake Temple. The donors possibly might have the right

TO COMPEL THE USE

of the property for trust purposes; and to prevent its being used for anything else. The Church Association has in an equally absolute manner, conveyed away whatever rights they had in the property. It had no interest except for trust purposes, and that is what it transferred to Preston, the Presiding Bishop of the Church. It parted completely and absolutely with its title. The answer alleges that the Association "assigned, set over, and transferred and delivered all the property" to Preston, and that is the purport of the transfer itself. If, on the other hand, it be true that the Church Association should be made a party because it was the beneficiary party in the transfer to it, then it would follow, by parity of reasoning, that the present unincorporated Church of Jesus Christ of Latter-day Saints, should be made a party, for the transfer to Preston, Presiding Bishop, purports to make the present Church, the beneficiary. It would not be necessary to make Preston a party to this proceeding if he did not have possession of the property. We see no reason, on any ground, to say that the Church Association

IS A NECESSARY PARTY.

Its rights will in no manner be affected by any decree in the case. It was like Taylor or Preston, simply one trustee in the chain of trustees, and when that was ended by the assignment to Preston, its connection with the property ended. Preston was no more its agent than was it the agent of Taylor, trustee, or than Taylor was the agent of the original donors. The character in which each held the property was the same. The Church Association could, therefore, in no sense be a necessary party.

Bailey vs. Inglee et al., 2 Paige 278.

We see no reason to hold that the property in question is, or at any time since February, 1887, has been the property of any one other than the late corporation. The prayer of the petitioner is granted, with costs.

CHIEF JUSTICE ZANE

dissented from the foregoing decision, and filed the following opinion:

I dissent from the judgment of the Court. The Receiver asks the Court to order Wm. B. Preston to deliver forthwith to him as Receiver, the personal property in his possession and described in the petition. It is alleged in the petition that the title and possession of this property was in the defendant, the Church of Jesus Christ of Latter day Saints, at the time of its dissolution by the act of Congress of March 3rd, 1887. That corporation and a number of other defendants file their joint and several answer in which they allege that on the 28th day of February, 1887, the late John Taylor was the Trustee-in-Trust for the corporation above-named, and was in possession of the property in question and on that day as trustee, he assigned, transferred and delivered the same to the Church Association of the Salt Lake Stake of Zion, a corporation, which then and there took possession of it and that afterwards, on the 12th day of March, 1887, the latter corporation assigned and transferred the property to William B. Preston, presiding bishop of said church, in trust to be used and employed in the construction of the Salt Lake Temple, property owned by the church on and before July 1st, 1862, and that said property at all times has been by it used exclusively

FOR RELIGIOUS PURPOSES;

and that Preston then and there took possession of such property and is using it in building the Temple and in no other way.

The assignments above mentioned are produced in evidence and the incorporation on the 3d day of July, 1886 of the Church Association of the Salt Lake Stake of Zion is also shown. This latter corporation is not made a party to the original bill or to this proceeding. In view of these facts and without a trial ought the Court to assume that this corporation and its trustee Preston has no right or title to the possession of the property, and grant a peremptory order to deliver the property to the Receiver or should the Court leave the Receiver to his appropriate remedy by action? When the Receiver finds property in the possession of a person other than the defendant, and that person claims the right to it by virtue of a superior title, he should institute an appropriate action to determine the title and right of possession. Courts will not assume that such third party claiming by virtue of a superior title has no right to the property, and peremptorily order him to turn over the possession to the Receiver, unless it is clear that such third party has no right to it; the Court can act in such

A SUMMARY WAY

only when the rights of the parties are obvious and not the subject of serious controversy.

High on Receivers, sec. 149.

Gelpeke vs. Milwaukee & Honicon Ry. Co. 11 Wis., 454.

The Church of Jesus Christ of Latter-day Saints is the name adopted by a religious sect or denomination that professes a set of doctrines held by the members in common. The Church consists of societies and congregations in this and other Territories and in the various States and foreign countries. Its members residing in Utah incorporated under a specific act of the Territorial Legislature in force January 19, 1855. That act was repealed by the Congressional enactment of March 3, 1887. But it appears that the members of the Church in Salt Lake County associated themselves under the name of the Church Association of Salt Lake Stake of Zion, and by that name were incorporated under the general law of the Territory authorizing incorporations for religious, educational and other purposes. This is not the corporation organized under the special act of 1855 and disincorporated by the act of Congress of March 3rd. The Church Association of the Salt Lake Stake of Zion

IS STILL IN EXISTENCE,

and I am not prepared to say that it had not the right to receive such money and property as might be necessary in order to acquire such real estate as might be necessary, whereon to erect houses of worship and parsonages and for burial grounds, and to receive the funds and means necessary to erect such houses of worship and parsonages and to improve such burial grounds. Such right is clearly recognized by sections 13, 17 and 26, of the act of Congress of March 3rd, 1887.

In view of some of the positions taken and arguments advanced by the majority of the Court, and in order that I may be better understood, I will refer to the sections mentioned in connection with section 3 of the Act of Congress of July 1st, 1862. This last section prohibited any corporation or association, for religious purposes, from acquiring or holding real estate in any Territory of the United States of greater value than $50,000, declared that such real estate acquired or held contrary to such provision should be forfeited and escheat to the United States, and provided that vested rights then existing in real estate

SHOULD NOT BE IMPAIRED

thereby. Section 13 of the Act of Congress of March 3d, 1887, made it the duty of the Attorney General to prosecute proceedings to forfeit and escheat to the United States for the use of common schools, the property of corporations obtained or held in violation of said section 3, but providing that no building or the grounds appurtenant thereto, held and occupied exclusively for the purpose of worship of God, or parsonages connected therewith, or burial grounds, should be forfeited. This section does not limit the value of real estate acquired after the act of 1862 to $50,000, but exempts from forfeiture all buildings and the grounds appurtenant thereto, held and occupied exclusively for the purposes of the worship of God, and parsonages connected therewith, and burial grounds, even though exceeding that value.

The seventeenth section of the act of March 3, 1887,

ANNULS THE CHARTER

of the corporation called the Church of Jesus Christ of Latter-day Saints, dissolves the corporation, and requires proceedings to be taken to wind up its affairs, and makes it the duty of the court to make proper decrees for transferring the title to real property held and used by the corporation for places of worship, parsonages and burial grounds of the description mentioned in sections 13 and 26, of the same act, to the trustees named therein. While this section dissolves the corporation and annuls its charter, it does not, in terms, forfeit and escheat to the United States any property. It does provide for the transfer of real estate of the description named to trustees mentioned in sections 13 and 26. Section 26 authorizes the authorities of any sect, society or congregation, to hold, through trustees, such real property for houses of worship, parsonages and burial grounds, as may be necessary for the convenient use of the several congregations of such religious sect. To this extent the right is expressly given by this section to hold real estate, and, by implication, to acquire real estate, and to erect houses of worship and parsonages, and to improve burial grounds, and to receive and expend the money or other means necessary to those ends.

We cannot assume that the act of March 3, 1887, forfeited and escheated to the United States all the property held by the corporation known as the Church of Jesus Christ of Latter-day Saints at the time that act took effect. It only forfeited and escheated

SUCH REAL ESTATE

as had been obtained and was held in violation of the act of 1862, and only so much of that as did not consist in buildings and the grounds appurtenant thereto, held and occupied exclusively for purposes of the worship of God, and parsonages connected therewith, and burial grounds. Real property consisting of houses of worship, parsonages, and the grounds necessary therefor, and burial grounds, such as were necessary for the convenience and use of the several religious congregations and societies of such sect, were not forfeited and escheated to the United States. Such property, the seventeenth section mentioned, required the Court by decree to transfer to the trustees of the congregations or societies of such sect, mentioned in Section 26. To whom the personal property of the late corporation of the Church of Jesus Christ of Latter-day Saints, owned by it at the time of its dissolution, shall go, must be determined by the final decree. In the case of the United States vs. the Church of Jesus Christ of Latter-day Saints et al. (15 Pacific Reporter 473) the Court said: In deciding this motion we are not called upon to finally determine the rights of the parties with respect to the property involved in this case. Such rights will be decided as they ultimately appear. And if the receiver appointed shall claim a right to the possession of the property, as receiver, to which third parties also claim a right, the issue will then be determined." And in my judgment, if such third party in possession claims a right, by a superior title, as in this proceeding, the proper remedy to test the right, is an appropriate action,

NOT A PEREMPTORY ORDER,

such as is asked. Under the facts, as they appear, I am clearly of the opinion the receiver should institute the proper action, if he wishes to test the right of the Church Association of the Salt Lake Stake of Zion and its trustee, to the property in question. Then they would be given their day in Court, and have an opportunity to be heard on the facts and the law; such would be due process of law. I am unable to concur in much of the reasoning of the majority of the Court, and in the conclusion reached.

Le Grand Young gave notice of an appeal to the Supreme Court of the United States, from the decision of the Territorial Court.

TRIED TO CURL HAIR.

THE STRANGE ACCIDENT WHICH BEFEL A PHILADELPHIA BELLE.

New York, April 14.—A Philadelphia special says:

"Pretty little Miss Helen Foster, a fascinating belle, won't wear her dresses cut decollette at the social gatherings of her sex for awhile, as she is obliged, through a singular and painful, though not serious accident, to wear just now linen cloths spread with cold cream on her fair back and shoulders. Helen was in the midst of her toilet last evening preparatory to making herself particularly attractive to expected company. She was engaged in the feminine occupation of enchancing her charms by curling into tiny ringlets the hair that nature had placed on the nape of her neck. To do this nicely, she used, as they say thousands of other girls do, but may stop doing after they hear of the accident that befel Miss Helen, a long ordinary slate pencil heated in the gas flame to such a degree that it almost singed her golden locks as she wrapped them around it. At the very moment of performing this, to her, necessary function in her toilet, Miss Helen was only lightly clad. She had got along in a satisfactory manner with one bunch of stray locks and was proceeding in the frizzing process, when horrible to relate, the red hot pencil slipped from her fingers down her back. It had gone into the space between her single garment and her lily white skin. She screamed a cry of pain and uttered calls for help that would have alarmed the neighbors if the windows had been raised, for the hot 'frizzer' was frizzing her back into blisters. She twisted and squirmed in the hope that the hot pencil would find its way to the floor, but it was stayed in its course and made her flesh quiver as it burned. Before the pencil could be removed Miss Helen's back had been seared into rows of red, ugly-looking blisters, from her shoulders to her waist, as though she had been gridironed by the red-hot frizzing pencil, as it rolled down her back. Poor Miss Helen suffered intense pain till her back was smeared with a cooling ointment and covered with lint."

Reforming a Husband.

I knew a young lady who had everything which usually constitutes the happiness of those who have not yet climbed the golden stairs of matrimonial paradise. Her age was 20; she was a brunette of graceful figure, with a peculiarly animated expression of countenance. Her complexion was rich and warm, her large gray eyes were merry, and her features would pass muster among sculptors. She had beaux by the score. At length she came to a decision, and I heard of her marriage. I knew the young man whom she chose and was startled. That was five years ago.

A year ago I was riding up town on a car. I heard my name pronounced, and looked, but did not at first recognize the face, which was faintly smiling at me. It was wierdly pale and wrinkled and careworn. I looked puzzled for a few moments, and then it dawned on me that this was the wreck of one of the prettiest girls in Brooklyn. I accompanied her as far as the door of her house. It was a tenement house. "I won't invite you in today," she said; "my rooms are somewhat disordered." I said nothing, but I understood. It was pitiful to see her try to keep up the pretense of being light-hearted, happy and prosperous. A week ago I heard her husband was in the lunatic asylum and her baby dead. Now she has gone home to begin life over again. She had married a man to reform him.—*Brooklyn Eagle.*

FROM THE MOUTHS OF BABIES.—Rob asked me some "puzzler" when I was worrying about the baking of my cake, and, rather impatiently, I confess, I answered, "No! no! no!" Alice, 4 years old, instructed him, and I heard her saying, "Robbie, when mamma says 'No, no, no,' she doesn't mean 'no,' she only means 'Don't bother me now!'"