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EVENING NEWS

CHARLES W. PENROSE, EDITOR.

November 7, 1887 Monday,

was glaringly unfortunate and -abhis allegation let the reader peruse

THE RECEIVERSHIP DECISION.

In this issue we place before our readers the decision, rendered on Saturday evening (Nov. 5th), by the Suprem+ Court of Utah in the matter of the application of the attorneys for the government, in the suits against the Church, for the appointment of a receiver to take charge of the property of the Latter-day-Saints as a religioubody. It was generally anticipated that the result of the application would be as it is, not that it could be so on the slightest foundation of right but simply because of the identity of the people whose property rights are thus ruthlessly and unwarrantably assailed.

The Court, in its decision, wades through a mazy labyrinth of sophistry before the main point at issue is reached-the appointment of a receiver to take charge of the property in dispute. Probably more than hall the document is devoted to an attemp to show the right of Congress-to summarily wipe the corporation of the Church out of existence. Placing it in its real light, there is an endeavor to show that Congress has a right to impair the validity of a contract To hold that it has is to asser superiority of that body over the Constitution, which prescribes the limit of legislative, judicia and executive power, and expressly forbids any of these departments to perform any such act. It is folly to assert that the granting of a charter to a corporation is not a contract entered into between the grautor and the grantee, and if the former does not reserve the right to annul it must stand until the consent of the other party is given. Of course there is ad effort to show that Congress was not a party to the contract, but this position is un tenable, because on the legislative side there was a duality, consisting of the Territorial Legislature and the Congress of the United States. It was competent for the local law-manibody to enact, but the measure could not stand unless it was submitted t the Congress, that it might have an opportunity to disapprove if it was so disposed, and the failure to take that step has the full force and effect of an approval. This being the case, Congress as well as the Territorial Legislature was a party to a contract whose validity may not be constitutionally impaired.

Much labor is expended by the court

capacity is granted to act in various | tion and laws with respect to marriage, broes must shake its gigantic frame ways, and to make laws and regula- tithing, fellowship, etc. It confers t the bare contemplation of the proptions with respect to very many sub-in express terms upon the in express terms upon the church power and suthority to origi-nate, make and pass rules, regula-tible to repair! The situation is rendered tible to repair! The situation is rendered capacities; some of them, it is believed, still more pathetic when it is considered are above the reach of

ment of human happiness.

ground and to

The charter of a corporation should

always specify the purpose for which

BUILD A CHURCH

and a parsonage, and to employ a min-

powers adapted to municipal govern

ment, or to the purchase and sale o

eal and personal property without

ister, the charter should authorize the

corporation to do so, but should not

HUMAN LAWS. The lawmaking power of the State, chase or otherwise real and personal han the dwellers on the Fiji Islands for the purpose of better government property and to sell and dispose of it

or any other remote portion of our and for the public good enacts char-the have some of the powers conters conferring a portion of the powers entrusted to it, upon the people of a ferred upon this Church corporation city or village; others authorizing by this remarkable act. To such a an act of Congress rather than of the Te charitable, educational, or religious charter it is claimed the Church has ritorial government. * * Congress iastitutions; and others providing for acquired a vested right. If this propvarious pursuits and enterprises osition is sound, the corporate body These artificial agencies are provided known as the Church of Jesus Christ in order that the people may more con-veniently and successfully co-operate for the good of all and for the advance-To busy a track to be the second secon

TO DISTANT AGES.

But we are of the opinion that a yested

right could not be acquired in such a charter.

power to enact laws for the govern-ment of the Territories. It may make provision for Territorial governments and extend the authority of Territorial Legislatures to all rightful subjects of legislation. Such Territorial governments occupy toward Congress someallowed to engage in general business. thing of the same relation as munici-If a charter authorizes the organizapalities-such as city governments-fill toward the State Legislatures. A serve it from loss, or where a clear case tion of a company to acquire and oper s shown of fraud and imminent danger ate a railroad, the power to engage in State Legislature can repeal the char-

gress can repeal the organic act of a Territory and all territorial enactments, in pursuance of the OrganicAct. longress is the sovereign power to legislate for the Territories, and all charters from Territorial Legislatures must be held to have been accepted confer upon such an organization with the knowledge that Congress pos-

limit, nor should such corporations engage in general business. It is an accepted doctrine that the

common weal demands that private The Territories are but political subdi corporations should be limited each to visions of the ontiying dominion of the United States, * * * and Congress a particular and specified purpose; even when so limited, they often acquire man great influence. If the Legislature, by its iongs, there might have been a color of justification for the proceeding. But when it ruthlessly seizes it, independent of the constitutional property rights of the possessora, it company may enter upon every fl-id oower is an incident of sovreignty, and continues until granted away Congress may not only abrogate laws of the Territoof enterptise and engage in every pursuit and may also control human conmay not only abrogate laws of the Territo-rial Legislature, but it may itself legislate directly for the local government. It may make a void act of the Territorial Legisla-ture valid and a valid act void. In other words, it has full and complete legislative authority over the people of the territories r nd all the departments of the Territories what the people, under the Constitution of the United states, may do for the States. duct by means of the powers of a municipal government, and at the same time may possess those of a relig-ious corporation, such corporate in-

The charter of the Church of Jesus Christ of Latter-day Saints is most extraordinary in the extent of the auof the United States, may do for the States. This we conceive to be the law upon the subject.

In the case under discussion the Ferritory was organized under the Organic Act approved September 9th, 1850. Among other provisions is the following:

same act. They are as follows: That the legislative power of said Terri-SEC. 13. That it shall be the duty of the Attorney General of the United States to institute and prosecute proceedings to for-feit and eschear to the United States the property of corporations obtained or held in violation of section three of the act of congress approved the 1st day of July, 1862, entitled, "An act to punish and prevent the practice of polycemus in the Tartileues of tory shall extend to all rightful subjects of rislation consistent with the Constitution the United States and the provisi HS act. All the laws passed by the Legislative Asembly and Governor shall be submitted to be Congress of the United States, and if isapproved shall be null and to no effect.

The charter in question was a law passed by the Legislative Assembly. and the right to disapprove it was exressly reserved, and the Church must e held to have accepted it with the nowledge of the reserved right of disapproval. 'that being so, the Church will not be heard to say that it

> ACCEPTED WITHOUT CONDITIONS. operty may be; Provided, That no build In order to maintain that the charter

settlement of the affairs of the corpo rusices, the defendants, wrot grafty, an a violation of the taws of the Unite-tates, still claim to hold and do exercis he powers which were held and exercises by the said corporation of the Church of lesus Christ of Latter day saints, and are ration by trustees under the super vision of the court A guo warrant proceeding was instituted against th bank. In deciding the case on appea the Courtused this language: lesus Christ of Latter day saints, and an antawfully possessing and using the rea-state mentioned above, and are receiving ind unlawfully applying to its and their own use the rents, issues and profils there of, and falsely and wrongfully claim the It has been argued in this case that a

ment, convenience and control of the Congress in creating the Territorial go ernment of Wisconsin and Jowa reserve Church (which means the whole Mormon population of the Territory), as to themselves the power of disapproving well as the right to acquire by pur-chase or otherwise real and personal ennments, and had, in the exercise of that sions of the charter of the Bank of Dubuque enacted by the Legislature of Wisconsit assenting to the residue ; that, therefore the charter of this bank should be regarded

awfully authorized to take charge of, a ge, preserve or control the property, ad personal, which on or before the offenting the Territorial governments, an in conferring upon them powers of general gislation, did not, from obvious princip. of policy and nece sity, ordain a suspension of all acts proceeding from those power-until expressly sanctioned by themselves whilst, for considerations equally strong they reserved the power of disap proving or antu'ling such acts of fer-ritorial legislation as might be deeme-detrimental. parent.

The charter of the Bank of Dubuqu enacted in all its details and power ever possessed by it, (and according to which it was in fact organized,) by the Legislature of Wisconsin, must be ooked upon as the cresture of tha The seventcenth section of the act of March \$d, 1887, under which

THIS BILL IS FILED

ESCHEAT TO THE UNITED STATES SEC. 17. That the acts of the Legislativ o be applied to the use and benefit @ Assembly of the Territory of Utan inco rating, continuing, or providing for the reportion known as the Church of Jesu imoa schools of the Territor

of Utah. thrist of Latter-day Saints, and the ornance of the so-called General Assembly of the state of Descret incorporating the Church of Jesus Christ of Latter-da "The modern English practice allowing the appointment of a receiver before an swer in cases of emergency was adopted by the English Court of Changery, and has been generally followed in this country. Ard it may now be regarded as the uniform of well-established practice to entertain the application and to grant the relief be fore answer where plann if can satisfy the court that he has an equitable claim to the property in controversy, and that a receiver is necessary to preserve it from loss, of where a clear case is shown of fraud and imminent danger unless the relief is Saints so far as the same may now have legal force and validity, are hereby disap-proved and annulled, and the said corpora-tion, in so far as it may now have, or pre-tend to have, any legal existence, is hereby dissolved. That it shall be the duty of the it tarned Order I or the United States to CHANGE OR REPEAL the law creating them. In the case of the National Bank vs. Yankton, 191 U. S., 129, the Court says: provisions of this section and wind up the affairs of said corporation conformably to 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 shall be proper to effectuate the transfer of the title to real property now held and used by said corpor then 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, and in section ection thirteen of this act, and in sectio wenty six of this act, to the respective instees mentioned in section twenty six (this act; and for the purposes of this section said court shall have all the powers of court of equity.

THE POWER OF CONGRESS

approving and annulling certain acts

the act

por the application, the question being of to dissolve the corporation styled th we degree, as to which it is impossible to ay down any precise rule." (1d 3, 19, Also ote 1, under this section.) "Where, in Charch of Jesus Christ of Latter da 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 deed, the property is as it were in medio, in the enjoyment of no one, the Court can hardly do wrong in taking possession. It is the common interest of all parties that the courts should prevent a scramble."

The last clause of that section should As to the general doctrine to the same e considered in connection with seceffect is Kerron Receivers, p. 1, 3, 4 and 5. We are of the opinion that th facts alleged in the bill are sufficient to authorize the appointment of a re-A further question arises upon the stipulation of facts upon which the motion is submitted; whether these facts are sufficient to authorize the appointment of a receiver. Among the facts contained in ractice of polygamy in the Territories of he United States and other places, and

Grant and John W. Taylor, Assistin rusices, the defendants, wrongfully, and

ght to sell, use and discove of the sa Tenth-That since the 15h day of F

1887, there has been and is no.

ad vent last aforesaid was he d, owne

stessed and used by the corporation e Church of Jesus Chr.st of Latter ints, and by reason thereof all the

nd irremediable loss and destruction,

perty as referred to in the third pur ph of this builts subject to increasab

The reas in for the statement of fac's

W ... a the corporation was dissolve

ts officers and gents no longer ha

nd dispose of it.

cy legal right to the possession of, it

ropert , to its use, to the reuts and

ous so general are sufficiently ap

THE STIPULATION

he Legislative Assembly of the Ferritor of Utah," or in violation of section eightee on which this motion is submitted are the following: undred and ninety of the Revised Statute

of the United States; and all such property so forfeited and escheated to the United states shall be disposed of by the Secretary of the Interior, and the proceeds thereoi applied to the use and benefit of the com-mon schools in the Territory in which such On the 25th day of February, 1887, John Taylor, who was then Trustee in-Trust fo Saints held in trust certain personal proj rty, Loods and chattels of the aggregate

16,745.18

11,480.06

2,716.57

3,153.20

6,044.90

32,702.70

3,049.03

25,000.00

6,992.13

15,445.50

14,033.80

6,930.36

\$8,185.77

CEDAR POSTS. our honors that the hearing of theide-

was set for Mon-Car-load on track DAND STORE, ACDIV The Court held a short consultatio ', block South Theatre. 1131 and inquired of Mr. Peters whether he was ready to make the arguments or

WANTED.

Mr. Peters - We do not know: that A First-Class Bookkeeper. No ont will depend larg. ly of the other side. need apply unless he intends remain-Col Broadhead - All of the points ng in the country and can identify raised have been substantially passed inself as a good citizen. on in the question that I as been before

the court. We are willing to submit the demurrer. I do not see any necessity of making any further arguments before this court.

nurrer in tuls and

demuirer.

ing, at 7 o'clock.

iav morning at 10 o'click

ESTRAY NOTICE. Judge Zine then announced that the F HAVE IN MY POSSESSION:

court would adjourn to Monday even-One roan horse COLT, 2 years old, white stripe in face, and left hund foot white. If the abuve described and it is not claimed and take, away within 10 days, it will be sold to the highest blitder at 10 s.m., November 16th, 18-7. F. S. Richards moved the admission of Mrs. Marilla M. Ricker to the bar of the Supreme Court. An order was

made admitting her. She tendered the oath now required, but it was not ad-ministered, the old form being used. ALMA PRATT. Poundveeper, Farmer's Precint, Salt L. de County, Utah, The court then adjourned.





IN WOOLEN, SILK AND MUSLIN. KNIT GOODS IN GREAT VARIETY. Ladies' and Misses' Hats, Flowers, Feathers and Ornaments,

GLOVES, HANDKERCHIEFS and LACES,

torial Supreme Court. WHOLESALE CONFISCATION OF THE

SAINTS ENDORSED.

The session of the Territorial Supreme Court on Saturday evening, was largely attended, there being present Mrs. M. M. Ricker, Judge Dusenbeiry, Mayor Dusenberry, Mayor Armstrong, Bishop J. R. Winder,

icted and enforced in despotic systems of rule. A RECEIVER GRANTED. Sophistical Argument of the Terri-

PROPERTY OF THE LATTER-DAY

hat the government has no proprie-

dobe have.

ary rights in the premises any more

In the citing of authorities the Court

urdly inconsistent. In support of

losely the solitary quotations from

High on receivership. We reproduce

"The modern English practice al

owing the appointment of a receiver

sefore answer in cases offemergency,

vas adopted by the English Court o hancery and has been generally fol

vell-established practice to en-ertain the application and to grant

he relief before answer, where plaintiff can satisfy the court that he has an equit-

able claim to the property in controversy,

mless the relief is granted."—High on Receivers, 2nd ed., sec. 105.

We assert, without fear of success-

al contradiction, that the plaintiff not

only has not shown nor can it exhibit

such reasons as are defined in the

talic portion of that authoritative

quotation. It is totally inadequate for

the government to show an equitable

claim to the property in question, for

it has no proprietary rights in the

oremises. Had the government simply

lissolved the corporation and distribu-

ted its property to those who con-

tributed it and to whom only it be-

longs, there might have been a color.

property rights of the possessors, it

perpetrates an outrage not only un-

worthy of its high calling, but har-

nonious only with the measures en-

ind that a receiver is necessary to-pre

sere the introductory one:

judges were present, and the antici- cording to the faith p

luence will be manifested as never be-

thority it assumes to confer upon, and n the number, the variety and the scope of the power 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 afterwards become res-

porate, with

idents of the Territory, are a body cor-PERPETUAL SUCCESSION, This corporation at the time of it

organization embraced nine-tenths of the inhabitants of the Territory-many thousands of people. At the present time it includes probably more than beside a majority of the members of 120,000, and if, in the future, people should continue to be gathered in the Salt Lake bar, Col. Broadhead, from all quarters of the globe as they have in the past, their number at no distant day will reach a quarter of a million. The corporation extends over the

Judge E. A. Smith, Alderman Robert whole Territory, including numerous Patrick and many others. The three congregations in various localities. At the head of this corporate body, acwas

and complete organization.

of them

INFINITE GOD

RELATIVE TO MEMBERSHIP

earth, may not legally be questioned. Here is a wide field of human conduct

for a government to agree not to ques-

tion. Human beings have the capacity

the corporation is organized, and powers adapted to that purpose should be granted. If the corporation is to be Further, Congress possesses the owed in this country. And it may a public one powers adapted to the low be regarded as the uniform and regulations of conduct and to public purposes should be given, with such incidental capacity to do business as may be es ential to such an organizaion, and no more. It should never be

agriculture should not be granted also. ter of a municipal government and the So, if a worshiping congregation ordinances passed under it; so Con-So, if a worshiping congregation should desire to purchase a lot of

s as follows: .

sessed the authority to

to explain that the powers granted in the charter are extraordinary. Suppose this were, for the sake of argument, to be admitted, the fact would read by Chief Justice Zane as follows: afford no justification to wipe the whole of it out of existence. If there are any portions of it that can be shown to be unreasonable, they are the only parts that can be justly subjected to the process of nullification, while the remainder may not be properly interfered with. The instrument itself provides that its powers must be exercised agreeably with the Constitution and the laws enacted under it.

The attempt of the Court to show that a right was given by the incorporation ordinance to provide for the regulation of the affairs of the Church 1 relation to fellowship was dangerous, is disingenuous and absurd. It is merely emphasizing by law an inherent right of churches to be the judges of what shall constitute fellowship, or conduct that will be sufficient to render its members liable to expulsion by excommunication. The right was not long since exercised by the Catholic Church in reference to the noted Dr. McGlynn.

Even if the reasoning of the Court should on the first division of the subject with which it deals be deemed proper-we do not, however, admit proved by the Governor of the Territhis for a moment-it would form not the most-siender justification for the action of wresting property by confiscation from the hands of its owners No sophistical apology, no matter from

whence it emanates, can justify such a high-handed and dishonest proceeding. The fact that a government and not an individual is the perpetrator only makes the matter assume a more sinister aspect, because of the alarmsinister aspect, because of the alarm-ing departure from its specific duty of a great protective body whose noble function is to shield the citizen from so palpable a wrong. It is insisted by the Court that the corporators must have accepted the charter with the understanding that

the law-making power held the right, when deemed expedient, to annul it. This is a rather bald claim, seeing that the Legislature made no provision for twelve assistant trustees, to receive, hold, buy, sell, manage, use and control the real the establishment of such an understanding or belief. This would have been a matter of great simplicity -by the insertion of a clause to that effect. The ordinance does not emeffect. The ordinance does not em- faithful performance of their several duties body any such proviso, and how, therebody any such proviso, and how, there-fore, could the incorporators gain the inderstanding which the const a field in the general hurch recorder's office, at the seat of general Church business, when understanding which the court so flatsaid bonds are approved by said conference and said trustee and assistant trustees shall ly asserts they must have possessed? ontinue in office during the pleasure of This position will be admitted to have said Church, and there shall also be made by the clerk of the conference of said Church, a no small weight when it is considered that the general custom in granting charters is to make the reservation of the right to annul. If it is a principle of law that such a reserved prerogative should always be understood, what necessity is there to include it in the enactment? If such is an understood principle, then its in-sertion is a superfluity. It seems real to include it is the enactment? If such is an understood principle, then its insertion is a superfluity. It seems realic worship and instruction, and the well-being of said Church. SEC. 3 And be it further ordained: That, sonable that the legislative department inserts it on three grounds-(1) That it does actually reserve that right. (2) That it takes this method of making the fact known to the corporators. (3) That it is thus made a part of the

ciples of truth, and to solemnize marriage compatible with the revelations of Jesus Christ; for the security and full enjoyment contract. These being the evident of all blessings and privileges embodied in the religion of Jesus Christ free to all it is also declared that said Church does and shall reasons for the insertion, those for the omission must be exactly the oppo-

possess and enjoy continually the power and authority, in and of itself to originate, make, pass and establish rules, regulations, ordinances, laws, customs and criterions, We have already stated, however, that the burden of the introductory

pated decision on the question of ap- and revelator, who receives in revelapointing a receiver in the suit of the tion the will of the government against the Church was concerning the duty of man to himself, THE OPINION. to his fellow-beings, to society, thuman government and to God. I In the Supreme Court of the Territory

of Utah, June term, 1887. United States of America, Plaintiff. The Church of Jesus Christ of

Latter-day Saints et al., Defendants. Zane C. J/

The complainant filed in this Court ts bill in chancery under an act of ongress in force March 3d, 1887. ill prayed that a decree be made by

as this, unusual and extraordinary his Court forfeiting the charter and powers are conferred by this charter, such as the right of acquiring and dis-nosing of real and personal property without fishit and with exemption from taxation; the althority to solemnize marriage according to revelation; the continuous and inherent authority to dissolving the corporation known as the Church of Jesus Christ of Latter-day Salets, so well as for the appoint. av Samus, as well as the assets of the orporation, until disposition could e made thereof according to law, and or other relief. The motion for the make laws and "criterions" for the appointment of a receiver is now supgood order, safety, government, con nitted for our decision, on the pill and venience, comfort and control of the Church, which is equivalent to saying the Mormon people; also for the punthe facts as stated in a stipulation entered into by the parties and filed in ishment or forgiveness of all offenses

ne case On the 8th day of Eebruary, 1851, the Assembly f the so-called State of Deservet, afterwards organized as the according to Church covenants; tha Ferritory of Utan, passed an ordinance incorporating the Church of Jesus is to say, the church may impose or in flict any punishment, if according to

Christ of Latter-day Saints. After the its covenants; what those covenant rganization of the Territory of Utan, may be the public may not know. his ordinance was resenacted January Further, it is declared that the en joyment of life in every capacity of public association, domestic happiness, 9th, 1855, by the Legislature and aptory. This is and temporal expansion upon the

THE CHARTER

in question; its terms are as follows: An ordinance incorporating the Church of Jesus Christ of Latter day Saints.

to associate publicly for very many SEC. 1. Be it ordained by the General As-sembly of the State of Deseret: That all that portion of the inhabitants of said State, purposes and such association may be come disorderly and require legal con-trol. In "domestic happiness" this which now are, or hereafter may become residents therein, and which are known and distinguished as "The Church of Jesus Church professes to believe, is includ-ed polygamy; in the estimation of others domestic happiness might in-Christ of Latter day Saints," are hereby clude some other practice injurious to corporated, constituted, made and de society. In the same manner "temporal expansiou" might take a direc-

tion requiring control. This grant of power was followed by a proviso that the laws and customs established should "relate to solemnities, sacraments, ceremonies, consecrations, endowments, tithing, marriages, fe lowship or the religious duties of man to his Maker; and that the same at pleasure SEC. 2. And be it further ordained that support virtue and increase morality

and are not inconsistent with or re-pugnant to the "Constitution of the said body or church as a religious society may, at a general or special conference electore "trustee in trust," and not to exceed United States or of this State, and are founded in the

REVELATIONS OF THE LORD."

The above terms, solemnities, sac raments, ceremonics, consecration: and endowments may be polygamy and unlawful conabitation in disguise; in fact marriage is uscluded in terms in the charter without specification of the kind of marriage. This is probably the first time that any Legislature committed the regulation of marriage and tithing to a private corporation It is safe to assume that the right to egulate such matters was never before attempted to be contracted away to a church or any other body of men. Nor are we aware that the right to regulate man's duty to his Maker was ever included in a contract. And finally this charter provides that such laws and customs shall be founded in the revelations of the Lord. This too, probably, is the first time that a legislature expressly limited the rules and laws that a corporation might make by the revelations of the Lord, and made a grant thereof to any person, natural or

artificial In this charter the respondent insists the Church gained ', .

A VESTED RIGHT

apon its acceptance, and that Congress has no right to disapprove or to annul it. We know of no precedent for

when accepted became a contract inding on Congress it is necessary to assume that the acceptance was un conditional; otherwise it is simply an act of the Legislature giving to the corporation the use of the authority subordination to this head are a vast ontained in it during the pleasure of number of officers of various kinds and longress. The acceptance of the descriptions, comprising a most minute charter subject to disapproval could Th nake the charter no more than a people comprising this organization icense to the corporation to use the claim to be directed and led by inspiraauthority granted during the pleasure tion that is above all human wisdom,

We are of the opinion therefore, and subject to a power above all municipal government-a ove all "man-made laws." These facts belong to rom a view of the whole subject, both y the charter itself, and from the history, therefore we have taken notice orm of the grant and of the accept-Upon such a religious organization ance that the acceptance did not give he corporation a vested right in it. But, assuming that the acceptance of he charter did new site a vested right a h, the claim is made that the second section of an act of Congress approved July 1st, 1862, made the char-ter as thereby limited a

LAW OF THE UNITED STATES.

nd not subject thereafter to disap-

SEC. 2. And be it further enacted, that the sollowing ordinance of the provisional gov-name at of the State of Deseret so called, amely: " 'n ordinance incorporating the Durch of Jesus Christ of Latter-day saints," passed February eight, in the year ighteen hudored and fifty-one, and adoptd, re-enacted, and made valid by the gov-mor and Legislative Assembly of the Fertory of Utah by an act passed January ineteenth, in the year eighteen hundred and fay live, eatitled "An act in relation to the compliation and revision of the laws and resolutions in force in Utah Terri-tory; their publication and distribu-tion," and all others acts and parts of acts heretotore passed by the said legislative Assembly of the Territory of Utah, which establish, support maintain, shield or countenance polygamy, be, and the same hereby are, disapproved and an-nulled: Provided, That this act shall be so limited and construed as not to affect or interfere with the right of property legally acquired under the ordinance heretofore mentioned, nor with the right "to worship pliation and revision of the laws and mentioned, nor with the right "to worship God according to the dictates of con-science," but only to annul all acts and laws which establish, maintain, protect or countenance the practice of polygamy, evasively called spiritual marriage, how-ever disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, conproperty so ecrations, or other contrivances.

In the enacting clause of this section the charter in question termed "An Ordinance incorporating the Church of Jesus Christ of Latter-day Saints" is

REPEALED IN EXPRESS TERMS:

feilows:

but the proviso limits the effect of the entire act in these respects; first, so that it shall not affect the right to property legally acquired under the harter; second, so as not to interfere with the right to worship God accorda greater value than 300,000, and all real es-tate accarred or held by any such corpora-tion or association contrary to the provi-sions of this act shall be forfeited and es cheat to the United States; *Provided*, that existing vested rights in real estate shall not be impaired by the provisions of this section. ing to the dictates of couscience; third, so as to annul only sil acts and laws which establish, maintaiß, protect of countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or eccl.sisection astical solemnities, sacraments, cere-It will be seen that section thirteen of the act of March 3d, 1887, author-ics the forfaiture only of the property obtained or held in violation of section three of the act which took effect July monies, consecrations or other contrivances. The enacting clause was not mited to the proviso in the two repects first mentioned, because that clause simply repealed the charter without interfering with the rights of prop-erty which had been acquired under it, nor did it interfere with the right to worship God according to the dictates of conscience. And it is not clear that he third limitation mentioned left standing any portion of the charter; for it is expressly stated that the in-tention of the law was to annul all, laws countenancing polygamy or spiritusl marriage, though appearing in the law disguised by the name of a solemnity, a sacrament, a ceremony, a con-secration, or under any other contrivance; and under just such marks as these, we think,

POLYGAMY

does appear in the charter of the Church of Jesus Christ of Latter-day

e defendants and dealed by the fp. or the grounds appurtenant therete had theretofore been con ributed by the i dividual members of said Church for th which is hald and occupied exclusively to purposes of the worship of God, or parson age connected therewith, or burial ground surpose of building temples, and for othe sharitable and religious purposes. On said ast named date the said John Taylor, a hall be forfeited SEC. 3. That all religious societies, sects and congregations shall have the right to have and to hold, through trustees appoint Trustee-in Trust, executed an instrument writing, a copy of which is hereto attache and made part hereof, marked "Exhibit A. That in pursuance of the provisions of th d by any court exercising probate powers n a Territory, only on the nomination of he anthoraties of such such society, sect, instrument aforesaid, certain property of the value approximitely as set out below was delivered to the following names eccongregation, so much real property closinstical Church corporations created and existing under the laws of the Territory

the eraction or use of houses of worship, and for such parsonages and borial grounds as shall be necessary for the convenience and use of the several congregations of of Utah: tch religious society, sect, or congrega

To the Church Association of Cache Stake of Zion.......\$ 45,056.90 To the Church Association of Box Elder Stake of Zion.... To the Church Association of Weber stake of Zion..... The second clause of the seventeentl section quoted makes it the duty of the Attorney-General of the United States to institute proceedings in this To the Church Association of Morgan Stake of Zon...... To the Church Association of court to wind up the affairs of the the Charch Association Summit Stake of Z on corporation Summit Stake of Z on......
To the Church Association of Wasatch Stake of Zion.....
To the Church Association of Salt Lake Stake of Zion....
To the Church Association of Tooele Stake of Zion.....
To the Church Association of Juab Stake of Zion......
To the Church Association of Utah Stake of Zion...... 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 'o real property held and used by the corporation for places of worship and parsonages connected therewith proval or appeal. The section is this: and burlal grounds, as mentioner SEC 2. And be it further engeled, that the in the proviso to section thir To the Church Association of Utah Stake of Zion......
To the Church Association of Sanpete Stake of Zion.....
To the Church Association of Sev ir Stake of Zion......
To the Church Association of Millard Stake of Zion......
To the Church Association of Millard Stake of Zion...... teen, and in section twenty-six of th same act. For the purpose of proceeding the Court is given all the powers of a court of equity. The proviso of section thirteen exempts just such property as last described from forfeiture, with no limitation Panguitch Stake of Zion... 8,137.50 To the Church Association of St George Stake of Zion... 28,638.41 Fo the Church Association of value as in the act of 1862; and section tweaty-six gives to all religious sicle ivs, sects and congregations the right o hold through trustees nominated Kanab Stake of Zion

and appointed as therein provided, so much real property for the use of houses of worship, parsonages and burial ground as shall be necessary; nor is the value in this section limit Total...... \$268 982.39 k The members of the said Stake Corpora-tions a c members of the Church of Jesu-Christ of Latter day Saints and it is claimed by the defendants and denied by pratrices hat they were substantially the original lossers of said property in their respective ed. By the first part of section thin teen it is made the duty of the Attor-ney General to institute proceedings акея o forfeit and escheat to the United

The Church of Jesus Christ of Latter day ants was a corporation for the purposes et out in the act incorporating said Church States the property of the corporation obtained or held in violation of section three of the act of 1862, or of sec-tion 1890 of the Revised Statutes of t the time the act of Congress of 1887, here nbefore set out, took effect and has claimed the United States (which two sections to exist as a corporation ever since that are substantially the same). The The tithing house and grounds as herein

efore set out are not and have never bee FORFEITED AND ESCHEATED

before set out are not and have never been used as a place of worship or parsonage connected therewith, or as burial ground, nor are they appurtenant to any thereof. The portion of the third tract of land set out in the first part of this agreement as the Gardo House and grounds and the His-tor an's Office and grounds, which is known as the Historian's Office and grounds, com-prises a tract about %x10 rods. The building thereon is a three-story adobe building the United States and the proceeds thereof are to be applied to the use and benefit of the common schools in the Ferritory in which such property may Section three of the act of 1862 is as hereon is a three-story adobe building about 35 by 45 feet. The grounds of the Gardo House and the grounds of the His orian's Office are separated by a terrace and for a part of the way by an evergreen

SEC. 8. And be & farther enacted: That it shall not be hawful for any corporation or association for religious or charitable pur-poses 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 \$50,000; and all real esnedge. The Historian's Office and tract has been

used as the office and residence of the his orian of said Church and as a depository for the records of said Church and for ibrary purposes, and has been so used since prior to 1862. For the purpose of this motion the prob-able value of the real estate herein describ-

ed, is estimated as fo lows :

1. The Temple and Tabernacle block, one hundred and lifty thousand dollars 2. The Tithing House and grounds, twen-

y-five thousand dollars. 3. The portion of tract three, known as the Gardo House and Grounds, fifty thousand ollars.

. The portion of tract three, known as the Historian's Office and grounds, ten thousand dollars.

From these facts it sufficiently ap-pears that the defunct corporation has its possession real property in value far exceeding fifty thousand dollars, the limit fixed by the Act of Cozgress of 1862, and that a portion of it is not a building or the grounds appurtenan thereto held for the purpose of the worship of God er parsonages connected therewith or butial ground, and that the title to a large poition of the same property was acquired subsequently to the time the act of 1862 took ffect

In deciding this motion we are not called upon to finally determine the rights of the parties with respect to the



1st, 1862; that is to say, property ac-quired after the act took effect and in violation of it. And we may here remark that the policy of limiting the amount of land which religious cor-porations may hold is not new, but it is practice that has obtained for ages. it was announced in Magna Charta nore than six hundred in Magna Charta more than six hundred years ago, and continued by many enactments of Par-benent designed to meet the evasions and contrivances of the church for es-caping the laws. It has been the set-tled policy in this country, as shown by the statutes of various States, and 'a constraint of a continue and 'a quarter of a century ago Congress lim ited the amount of real estate that any church might hold in any f the Territories. It has been the settled design of such statutes to

