force in any territory unless adopted by statute. It never was adopted in Utah.

But if it should be held that Congress had the power to disapprove the charter of the Church and dissolve the corporation, then the property now in possession of the receiver would belong to the members of the corporation, and it should have been set apart, by the court below, for their use and benefit.

If it should be held by this Court that the act of July 1, 1862, was valid and constitutional in all its provisions, then, whether said act operated to dissolve the corporation or not, it is a clear proposition from the provisions of that act that the government has no right in law or equity to forfeit or escheat to the United States, by any subsequent act of legislation, any of the property, real or personal, belonging to the corporation at the time of the passage of said act of 1862, because all property legally acquired under the ordinance, as well as all existing vested rights in real estate, were reserved from the operation of the act; and if Congress, by the provisions of that act, intended to recognize the continued existence of the corporation, that property so reserved, real and personal, belonged to the corporation. If on the other hand Congress, by the act of 1862, intended to repeal and disannul the charter of incorporation, and the act should be held valid for that purpose, then all the property, real and personal, held by the corporation at the time of such dissolution in 1862, became the property of the voluntary association known and recognized as the Church of Jesus Christ of Latter-day Saints, and all the property thereafter acquired, whether real or personal, was acquired by those who represented the voluntary disincorporated association which was still known as the Church of Jesus Christ of Latter-day Saints, and therefore could not escheat or be forfeited as the property of this corporation, but should have been set apart for the benefit of the members of the association, as prayed for in the petition of intervention by Romney, Dinwoodey, Watson, and Clark.

In the well-considered opinion of the Court of Appeals of New York, recently rendered in the case of the People v. O'Brien, Northeastern Reporter, pages 696, 698, 699, and 704, in speaking of the property of a dissolved corporation, the court says:

"It is urgently contended that none of the franchises of the corporation survived its dissolution. * * If it could be supposed for a moment that this claim was reasonably supported by authority, or maintainable in logic or reason, it would give great cause for alarm. * * It is a proposition so repugnant to reason and justice, as well as the traditions of the Anglo-Saxon race, in respect to the security of rights of property, that there is little reason to suppose that it will ever receive the sanction of the judiciary. * * * We think that there are no reported cases in which the judgment of the court has ever taken either the franchises or property of a corporation from its stockholders and creditors, through the exercise of the reserved power of amendment and repeal, or transferred it to other persons or corporations, without provision made for compensation. * * *

"We are of the opinion that the Broadway Surface Railroad Company took an estate in perpetuity in Broadway, through its grant from the city under the authority of the Constitution, and the act of the Legislature. It is also well settled authority in this State that such a right constitutes property, within the usual and common signification of that word. * * * It is earnestly contended for the State that such a franchise is a mere license or privilege, enjoyable during the life of the grantee only, and revocable at the will of the State. We believe the proposition to be not only repugnant to justice and reason, but contrary to the uniform course of authority in this country. * * *

"It cannot be necessary at this day to enter upon a discussion in denial of the right of the government to take from either individuals or corporations any property which they may rightfully have acquired. In the most arbitrary times such an act was recognized as pure tyranny, and it has been forbidden in England ever since *Magna Charta*, and in this country always. It is immaterial in what way the property was lawfully acquired, whether by labor in the ordinary avocations of life, by gift, or descent, or by making a profitable use of a franchise granted by the State; it is enough that it has become private property, and it is thus protected by the law of the land."

The decision and reasoning of the court in this case would seem to be conclusive as to the continuance of the rights of the individuals composing a corporation to the property acquired during its existence, even after the death of the corporation, and as to the lack of power in the legislature or the government to put to other uses the property so acquired. The principle involved in the above case is identical with that in the case now before this court, and the doctrine enunciated is that which has been long established, and the opposite, as the court declares, is contrary to both reason and justice.

The language of this Court in the case of Greenwood vs. Freight, Co., 105, U. S. 19, clearly recognizes the right of the members of a dissolved corporation to its property, and although it was used with reference to a business corporation, the same principle applies to religious and charitable organizations, and it would be repugnant to the whole theory of our government and the genius of republican institutions to permit the United States to confiscate and escheat the property of such dissolved corporations.

Sixth.

All the personal property was legally acquired by the Church, and Congress never attempted to limit or restrict it as to the kind or amount of personal property it might acquire and hold. Such property is not subject to escheat to the United States on account of the failure or illegality of the trusts to which it was dedicated at its acquisition, and for which it had been used by the corporation, because the Act of Congress of March 3, 1887, recognizes the power and right of the Church to hold property, by directing that so much of its real estate as is used for the purposes of the worship of God, or parsonage connected therewith, or burial-ground, shall be transferred to and held by trustees for the Church. And because, if it be conceded that the promulgation of polygamy, to a small extent, as appears from the findings of the court below, is one of the uses to which it has been devoted, still there are numerous other uses, which are both legal and moral, to which it was dedicated and for which it should be used.

There is nothing in the act of March 3, 1887, nor in any other act of Congress, which provides that property of this kind shall escheat to the United States on account of the failure or illegality of the trusts to which it had been dedicated.

There is no rule of equity jurisprudence which authorizes a chancellor to declare as forfeited or escheated to the government property which has been used for an illegal or immoral purpose. Courts of equity will refuse to carry into effect illegal or immoral contracts. Of this there are numerous instances, but we know of no case in which a court of equity, in the absence of any statutory provision on the subject, has been authorized to escheat, or forfeit to the government, property which has been illegally acquired, or which is held for illegal or immoral purposes.

The Court finds as one of the facts in this case that the corporation of the Church of Jesus Christ of Latter-day Saints was, in its nature and by its statute of incorporation, a religious and charitable corporation for the purpose of promulgating, spreading and upholding the principles, practices, teachings and tenets of said Church, and for the purpose of dispensing charity, according to said principles, practices, teachings and tenets.

The Court further finds as a fact that the personal property, set out and described in the findings of the Court, had been accumulated by the corporation prior to the passage of the act of February 19, 1887; that such accumulation extended over a period of twenty years or more; that this personal property had been used for and devoted to the promulgation, spread and maintenance of the doctrines, teachings, tenets and practices of the Church of Jesus Christ of Latter-day Saints, and that the doctrine of polygamy or plurality of wives was one of said doctrines, tenets and practices, but that only a portion of the members of the congregation, not exceeding twenty per cent of the marriageable members, male and female, were engaged in the actual practice of polygamy; that since the passage of the act of Congress of 1887 the voluntary religious sect known as the Church of Jesus Christ of Latter-day Saints