

toward the sea of anarchy, where she will inevitably encounter a terrific gale of adversity. The *Star* should read up on the recent special laws and United States Supreme Court decisions aimed at the belief of the Latter-day Saints.

THE STREET-SPRINKLING TAX.

We have been requested to reply to the following:

SALT LAKE CITY,
May 22, 1890.

I am in receipt of a notice from E. R. Clute, Collector, stating my special tax for street-sprinkling, which amounts to over \$23, and I am further informed that, unless I pay it on or before June 19, it will be collected, with costs, as provided by law. Has the City Council a right to collect such a tax as this from property owners without their consent? G. C.

There has been considerable doubt as to the validity of the city ordinance which authorizes the assessment of a special tax of eight cents per foot frontage for sprinkling the streets. The rule of law is that a municipal government may not levy a special tax for any purpose without specific authority to do so, embraced in its charter, or granted by the superior legislative power. Statutes purporting to give, or which are claimed to confer, authority to levy a special tax, will be strictly construed, and the presumption will be against the claim of power, unless the intention to give it is reasonably clear. The mention of the purposes for which special taxes may be assessed has the effect, under another rule of law, to exclude all purposes not mentioned.

Subdivision 12, Section 1, Article IV. of the general municipal law reads as follows:

Twelfth — To provide for the lighting, sprinkling and cleaning of the same (the streets).

The City Council is here given power to provide for the sprinkling of the streets, but, for several reasons, it would be absurd to hold that this clause confers authority to levy a special tax for the purpose. This is the only clause in any Territorial law which specifically mentions sprinkling of the streets as a work which a city council may provide for having done. There are other clauses, however, which, in language more or less general, confer power to keep the streets in order, free from obstructions, etc., but it will not be claimed that a special tax for street sprinkling could be levied under any of them.

There is not, then, in any Territorial law now in force and applicable to this city, any provision

which directly or explicitly confers upon our City Council the power to levy a special tax to defray the expense of sprinkling the streets. Hence under the rule of law that, in the absence of specific grant of it, the power cannot lawfully be exercised, we are of opinion that the street sprinkling ordinance is invalid in so far as it provides for a special tax.

A number of purposes for which special taxes may be levied are expressly set forth in the city charter and amendments thereto, among them being sewers, pavements, grading, watermain extensions, etc. But in this category street sprinkling is not mentioned; hence under the rule that specific mention excludes the thing not mentioned, there is additional reason for holding the sprinkling tax unlawful.

THE CHURCH PROPERTY ES-CHEATED.

IN OUR remarks upon the decision of the Supreme Court of the United States in the Church property case, we have treated only upon the principles involved. These are of far more consequence than any amount of money or realty. Whatever other people may think, the Latter-day Saints are much more concerned over the inroads made upon the Constitution of our country than over the pecuniary losses that may occur to the Church. When the national judiciary joins with the legislative and executive departments of the government, in endeavoring to discriminate against and crush an unpopular religious organization, the outlook is ominous, and no lover of the liberties to perpetuate which this nation was established can contemplate it with equanimity.

But there have been many inquiries and some misunderstanding in regard to the material effects of the decision. People want to know what property is to be escheated and what is exempt. How the Church itself, as an ecclesiastical body, is affected. And whether the result will be complete deprivation of the goods, chattels, lands and hereditaments held by the organization which is sought to be destroyed.

In order to explain this it will be necessary to go back to the decree of the Supreme Court of Utah, which was appealed from to the court of last resort, and which has been affirmed by a majority of that judicial body.

The court decreed that on the 3rd

day of March, 1887, the corporation of the Church of Jesus Christ of Latter-day Saints was dissolved, and that since that date it had no legal existence.

That the property known as the Temple Block be set apart to the voluntary religious worshipers and unincorporated sect and body known as the Church of Jesus Christ of Latter-day Saints, under the management and direction of W. B. Preston, Robert T. Burton and John R. Winder, trustees appointed by the probate court, for the erection and use, by that body, of houses of worship according to the tenets of said sect and body.

That the balance of the real estate set out in the findings of fact as belonging to said corporation had not ever been used as buildings or ground appurtenant thereto, for the purposes of the worship of God, or of parsonages connected therewith, or for burial grounds, nor was it necessary for such purposes for the said unincorporated religious sect. That the legal titles of said real estate, and every part and parcel thereof, were acquired by the late Church corporation subsequent to July 1st, 1862, and that prior to that date neither the said corporation nor its trustees had any legal title thereto.

That the members of the late corporation who had petitioned as intervenors, in behalf of themselves and other members of the Church, alleging a claim to the properties in the hands of the receiver, had no legal claim or title in and to said property or any part thereof, and that their petition be denied.

That as the late corporation of the Church of Jesus Christ of Latter-day Saints had been by law dissolved, there did not exist any trusts or purposes within the objects and purposes for which the personal property was originally acquired, to or for which it could be dedicated that were and are not, in whole or in part, opposed to public policy, good morals and contrary to the laws of the United States. And that there did not exist any natural persons or any body, association or corporation who were legally entitled to any portion of said personalty as successors in interest to said Church of Jesus Christ of Latter-day Saints. And that all and entire of said personal property had become escheated to and the property of the United States subject to the costs and expenses of these proceedings.

It was ordered that the receiver