CONFISCATION.

The full text of the decision of the court of last resort in the case against the Church of Jesus Christ of Latter-day Saints to forfeit and escheat its property, real and personal, to the United States, has been received and we are able to lay it before our readers. A large part of the document is devoted to a history of the case with citations from the anti-polygamy laws and the findings of facts and decision of the lower court. As all of these have been published before in the DESERET NEWS we only copy the text of the decision, which is as follows:

The principal questions raised are, first, as to the power of Congress to repeal the charter of the Church of Jesus Christ of Latter-day Saints; and, secondly, as to the power of Congress and the courts to seize the property of said corporation and to hold the same for the purposes mentioned in the decree.

The power of Congress over the Territories of the United States is general and plenary, arising from and incidental to the right to acquire the Territory itself, and from the power given by the Constitution to make all needful rules and regulations respecting the Territory or other property belonging to the United States. It would be absurd to hold that the United States has power to acquire Territory, and no power to govern it when acquired. The power to acquire territory, other than the territory northwest of Ohio River (which belonged to the United States at the adoption of the constitution), is derived from the treaty-making power and the power to declare and carry on war. The incidents of these powers are those of national sovereignty, and belong to all independent governments. The power to make acquisitions of territory by conquest, by treaty and by cession is an incident of national sovereignty. The Territory of Louisiana, when acquired from France, and the Territories west of the Rocky Mountains, when acquired from Mexico, became the absolute property and domain of the United States, subject to such conditions as the government, in its diplomatic negotiations, had seen fit to accept relating to the rights of the people then inhabiting those Territories. Having rightfully acquired said Territories, the United States government was the only one which could impose laws upon them, and its sovereignty over them was complete. No State of the Union had any such right of sovereignty over them; no other country or government had any such right. These propositions are so elementary, and so necessarily follow from the condition of things arising upon the acquisition of new territory, that they need no argument to support them. They are self evident. Chief Justice Marshall, in the case of the American Insurance Company et al. vs. Canter (1 Peters, 511, 542) well said: "Perhaps the power of governing a territory belonging to the United States, which has not, by becoming a State, acquired the means of self-government, may result necessarily from the facts, that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source whence the power is derived, the possession is unquestioned." And Mr. Justice Nelson, delivering the opinion of the court in Benner et al. vs. Porter (9 How., 235, 242), speaking of the territorial governments established by Congress, says: "They are legislative governments, and their courts legislative courts, Congress, in the exercise of its powers in the organization and government of the territories, combining the powers of both the federal and State authorities." Chief Justice Waite, in the case of National Bank vs. County of Yankton (101 U. S. 129, 133), said: "In the organic act of Dakota there was not an express reservation of power in Congress to amend the acts of the territorial legislature, nor was it necessary. Such a power is an incident of sovereignty, and continues until granted away. Congress may not only abrogate laws of the territorial legislatures, but it may itself legislate directly for the local government. It may make a void act of the territorial legislature valid, and a valid act void. In other words, it has full and complete legislative authority over the people of the territories and all the departments of the territorial governments. It may do for the territories what the people, under the Constitution of the United States, may do for the states." In a still more recent case, and one relating to the legislation of Congress over the Territory of Utah itself, *Murphy v Ramsey*, (114 U.S. 15, 44,) Mr. Justice Matthews said: "The counsel for the appellants in argument seem to question the constitutional power of Congress to pass the act of March 22, 1882, so far as it abridges the rights of electors in the Territory under previous laws. But that question is, we think, no longer open to discussion. It has passed beyond the stage of controversy into final judgment. The people of the United States, as sovereign owners of the National Territories, have supreme power over them and their inhabitants. In the exercise of this sovereign dominion, they are represented by the government of the United States, to whom all the powers of government over that subject have been delegated, subject only to such restrictions as are expressed in the Constitution, or are necessarily implied in its terms." Doubtless Congress, in legislating for the Territories, would be subject to those fundamental limitations in personal rights which are formulated in the Constitution and its amendments; but these limitations would exist rather by inference and the general spirit of the Constitution from which Congress derives all its powers, than by any express and direct application of its provisions.

The supreme power of Congress over the Territories and over the acts of the territorial legislatures established therein, is generally expressly reserved in the organic acts establishing governments in said Territories. This is true of the Territory of Utah. In the 6th section of the act establishing a territorial government in Utah, approved September 9, 1850, it is declared "that the legislative powers of said Territory shall extend to all right'ul subjects of legislation, consistent with the Constitution of the United States and the provisions of this act. * * * * All the laws passed by the Legislative Assembly and Governor shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect." (9 Stat. 454.)

This brings us directly to the question of the power of Congress to revoke the charter of the Church of Jesus Christ of Latter-Day Saints. That corporation, when the Territory of Utah was organized, was a corporation *de facto*, existing under an ordinance of the so-called State of Deseret, approved February 8, 1851. This ordinance had no validity except the voluntary acquiescence of the people of Utah then residing there. Deseret, or Utah, had ceased to belong to the Mexican government by the treaty of Gaudalupe Hidalgo, and in 1821 it belonged to the United States, and no government without authority from the United States, express or implied, had any legal right to exist there. The Assembly of Deseret had no power to make any valid law. Congress had already passed the law for organizing the Territory of Utah into a government, and no other government was lawful within the bounds of that Territory. But after the organization of the territorial government of Utah under the act of Congress, the Legislative Assembly of the Territory passed the following resolution: "*Resolved, by the Legislative Territory of Utah*, That the laws heretofore passed by the provisional government of the State of Deseret, and which do not conflict with the organic act of said Territory, be and the same are hereby declared to be legal and in full force and virtue, and shall so remain until superseded by the action of the Legislative Assembly of the Territory of Utah." This resolution was approved October 4, 1851. The confirmation was repeated on the 18th of January, 1855, by the act of the Legislative Assembly entitled "An act in relation to the compilation and revision of the laws and resolutions in force in Utah Territory, their publication and distribution." From the time of these confirmatory acts, therefore, the said corporation had a legal existence under its charter. But it is too plain for argument that this charter, or enactment, was subject to revocation and repeal by Congress whenever it should see fit to exercise its power for that purpose. Like any other act of the territorial legislature, it was subject to this condition. Not only so, but the power of Congress could be exercised in modifying or limiting the powers and privileges granted by such charter; for if it could repeal, it could modify; the greater includes