

employment for hosts of people while hundreds of thousands at home hover between existence and death from starvation because of the hardness of the times. The remarks of the Premier in reference to the material aspect of his country indicate a time of increased distress for the British people.

### THE CHURCH CASES.

According to prior arrangement, the three cases known by the title of the United States vs. certain real estate belonging to the late corporation of the Church of Jesus Christ of Latter-day Saints came on for hearing today. The question involved is whether the following properties should be escheated: The Tithing-house, Gardo House, Church Farm, and Historian's Office.

District Attorney Varian represented the Government and asked leave of the court to have the name of Judge J. A. Marshall entered on the record as associate counsel for the plaintiff, and also that of Attorney J. S. Rawlins, who, he said, had been appointed by the Attorney General as special counsel for the Government of the United States.

The defendants were represented by Attorney Dickson, Hon. F. S. Richards and Attorney Le Grande Young.

Mr. Richards, in the outset, asked permission to file a petition of intervention in each of the cases. From the first one read we extract the following:

Now come James P. Freeze and Spencer Clawson and file this petition in intervention on behalf of themselves and all others who are members of the Church of Jesus Christ of Latter-day Saints, and for their grounds of intervention allege:

That the members of said Church are more than two hundred thousand in number, and so numerous that they cannot, without inconvenience and oppressive delays in the said action, be brought before the court; that all of said parties have an interest in common with said intervenors in the subject of this petition and the questions involved in this action; wherefore said intervenors file this petition for the benefit of all its members.

That these intervenors and the members of said church are equitably the owners of the property hereinafter described, and that the legal title is now held by the defendants, William B. Preston, Robert T. Burton and John R. Winder, as trustees, for the voluntary religious association known as the Church of Jesus Christ of Latter-day Saints, in trust for religious and charitable purposes; that the said Church is, and has been ever since the 3rd day of March, 1887, a voluntary association for religious and charitable uses and purposes, and has the right to own and hold such property, through trustees, to be used for such purposes; that the said defendants were in possession of said property at the time it was seized by the United States Marshal pursuant to the information proceedings had herein, said property being a part of what is known as the tithing office and grounds.

That at the time of the enactment of the law of Congress of July 1st, 1862, and long prior thereto, the said Church as a religious association held, posses-

sed and occupied the above described real estate and had a vested right to and interest in the same, and it ever since has had and still has such vested right to, and interest in, said property.

After reciting the facts upon which such vested right and the defendants' claim to said property are founded the petition says: Some time in the year 1856 the Church took possession of the south half of lots five and six, block eighty-eight, plat A, of Salt Lake City survey, and placed valuable improvements thereon and have continued to occupy the same with said improvements down to the present time; said lots were a portion of the townsite entry made by the mayor of Salt Lake City, as aforesaid, pursuant to the said act of Congress of March 2, 1867.

The said Church by its trustee, Brigham Young, duly filed claim in the Probate Court of Salt Lake county, Utah Territory, under the townsite act of the legislative assembly of Utah, approved February 17, 1869, for the south half of said lots five and six, and the said court duly adjudicated all such premises to Brigham Young, who was then trustee in trust for the Church and took and held the same under such deed for its benefit.

At the time the act of Congress of March 3rd, 1867, took effect, the legal title was held by Robert T. Burton, in trust and for the use and benefit of the said Church; and on the 2nd day of July, 1887, said Robert T. Burton conveyed the same to William B. Preston, John R. Winder and himself, as trustees.

Intervenor allege that no part of the property was ever acquired or held in violation of the provisions of any law of the United States, but all of it was acquired for the religious and charitable uses of the Church, and the purchase price thereof and the cost of the improvements were paid from voluntary contributions made to the Church, from time to time, by the members thereof, to be held, managed and applied by the Church through its officers and trustees chosen and elected by the members to religious and charitable uses and purposes in which the Church and its members were interested; that the property and the whole thereof was at all times prior to the time when it was seized and taken possession of by said Receiver held, used and applied by the Church, through its officers and trustees, to such religious and charitable uses and purposes, and not otherwise; and at no time was the same or any part thereof used or applied to establish, maintain, aid, support or encourage the practice of polygamy or plural marriage, or to any other unlawful use or purpose. And that said property was not worth more than ten thousand dollars on the 1st day of July, 1862.

The intervenors further say that the plaintiffs ought not to be permitted to prosecute this action, because all proceedings to forfeit or escheat such property, or any part thereof, are barred by section 1047 of the revised statutes of the United States, and the action did not, nor did the alleged cause of forfeiture mentioned in the complaint accrue, within five years before the commencement of these proceedings or the filing of said complaint, or

within five years prior to said dissolution of said corporation.

Plaintiffs have the right to forfeit or escheat the property for the reason that the Church corporation, by its officers and agents, were in the possession and occupancy of all the premises and property prior to and since the first day of July, 1862, the date of the passage of act of Congress entitled, "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah," approved July 1st, 1862. Petitioners pray that it be decreed that the property belongs to the Church of Jesus Christ of Latter-day Saints, and that the members thereof be authorized to appoint a trustee or trustees to hold, manage, and apply the property to the purposes for which it was originally given; and that the United States marshal deliver the possession of said property, together with its proceeds and income in his hands, to said trustee or trustees as may be named and appointed at a general conference of the members of the Church.

Mr. Richards said the other two petitions were substantially the same as the foregoing, except so far as related to the acquisition and use of the respective properties.

Mr. Varian objected to the filing of the petitions. These actions, he said, were all brought originally in the form of a general information filed against the property described, by the attorney general. The practice assumed by the officers of the government had been affirmed by this court, previously and twice decided. That information was a general one and gave notice to all persons claiming any interest in the special parcels of realty to attend before this court, on a day specified, then and there to set up claims they might have to the title. The possession was already in the Supreme court, through its Receiver. These were actions at law, having for their object the forfeiture or escheating of the title or fee to the United States, to be devoted to certain purposes. The sole ground of action by the United States was, as alleged, that the property was acquired and held in violation of the law of 1862, which prohibits religious corporations or associations from acquiring or holding realty in the territories of the United States in excess of value \$50,000. That was the issue presented on behalf of the United States. The defendants joined issue upon that and in addition pleaded the statute of limitations. The holders of the legal title were before the court. Counsel on the other side seemed to have proceeded on a question of equity. For what purpose was leave now asked to intervene? To accomplish something that could not be accomplished as the matter now stood. Was not the Church itself represented by those persons who held the legal title as trustees for the Church? It was sought by these petitions to do something that this court could not do. They sought to have an order made by this court as to the determination of this property, to take it out of the hands of the Supreme court of this Territory and devote it to trust purposes, entirely foreign to these actions. He contended