

was sold by Dr. Park to a third party and by him transferred to Mr. McCor-nick. Judge Hall in the following decision found that plaintiff has no inter-est whatever in the property in question and quiets defendant's title to the

## THE COURT'S FINDING.

In the district court in and for the Third Judicial district, county of Salt Lake, state of Utah. Annie F. A. Hil-ton, plaintiff, vs W. S. McCornick, defendant. Decision.

The above entitled action came on for trial and was tried before the court without a jury; N. V. Jones appearing as attorney for the plaintiff and Stewart & Stewart appearing as attorneys for the defendant. All and singular evidence and proofs having been adduced by the respective parties and the arguments of the respective attorneys having been made, the case was submitted to and taken under advisement by the court. The court having fully considered the evidence and proofs now delivers the following decision:

The decisive fact in this action is: Was John R. Park, deceased, and the plaintiff maried on the 5th day of De-cember, 1872? I find from the evidence, that on said 5th day of December, 1872, Daniel H. Wells, John R. Park and the plaintiff and all of the witnesses, ex-cept the defendant, McCornick, were bers of the Church of Jesus Christ of Latter-day Saints, commonly called the "Mormon" Church, and resided at Salt Lake City, Utah.

Dainel H. Wells, was a High Priest, a member of the First Presidency of the Church and a counselor to Brigham foung, the president of the Church. That by the doctrines, covenants and ordinances of the Church the said Wells, as such High Priest, was authorized to perform marriages and sealings between members of the Church

## PLAINTIFF'S MAIDEN NAME.

At this date the plaintiff's maiden name was Annie F. Armitage. was about eighteen years of age, un-married, and resided with one of the families of President Young. cording to her own test Ae. she was possessed of the proper qualifications to enter into the marriage John R. Park was about 40 relation. years of age and a bachelor. He was not a society man, in the ordinary acceptation of that term, but devoted his time and means to educational matters, and at the time of his death was su contendent of public instruction for the state

The acquaintance between Mr. Park and the plaintift began several years prior to the said 5th day of December, 1872, but the social relations between and the them was friendly and no more. He hever courted or professed a love for or asked her to be his wife, nor does the evidence show that the plaintiff enter. tained any closer relation to Mr. Park than that of a friend.

## MR. PENROSE'E TESTIMONY.

From the testimony of Mr. C. W. Penrose I find that he is and for many years last past has been a High Priest In the "Mormon" Church, and also the editor of the Deseret News, the official organ and newspaper of the Church, That he is well acquainted with and knows the doctrines, ordinances, cove-nants and ceremonies of the "Mormon" Church, relating to marriages and seal-His testimony establishes the ect that on the 5th day of said Deember there were, according to such doctrines, covenants, ordinances and ceremonies, the following kinds of marriages and sealings solemnized and certified, viz:

1-Marriage for time. 2-The marriage and sealing for both time and eternity.

3-The marriage or sealing for eternity only

That a divorce from the marriage for That a divorce from the marriage for time in the first and second classes could only be granted by a court of competent jurisdiction. But as to the marriage or sealing for eternity only in the third class, according to the docnes, ordinances and customs of the Church, is that the relation between the man and the woman so sealed or married may be dissolved and the partles freed from the obligations thereof by the man giving to the woman a bill

livorce, commonly known and called

"John Rockey Park, born Tiffin, Seneca, Ohio, 7 May 1833." "Anne Flora Armitage, born Nottinghill, London, 19 February, 1853." "The above parties were scaled by President D. H. Wells in the presence

of Émeline Free Young, at her resi-dence in Salt Lake City, U. T., December, 5, 1872. The lady being on her sup-posed death bed.

"DANIEL H. WELLS."

But on the other hand the plaintiff in her testimony attempts to give in detail the ceremony, the words used by the officiating priest and the rejoinders both of Mr. Park and herself; wherein Mr. Park was asked if he, John R. Park, would take Annie F. Armitage to be his lawful and wedded wife and his response "I do;" the like question to her, if she would take John R. Park to be her lawful and wedded husband and her response "Yes," whereupon the officiating priest pronounced them husband and wife for time and eternity.

DID NOT DIE. Contrary to the expectations of the participants and the attending friends Miss Armitage, the plaintiff, did not die, but shortly thereafter recovered her accustomed health. John R. Park being silent as to the relations that obtain between husband and wife, the plaintiff sought and inquired of him as to what their relations were and he in-formed her that in so far as they being married that was impossible. That he had an impediment that prevented him from ever being married, the na-ture of which it would not be proper for

a young woman like her to know, and that he would give her a divorce, which is as follows: "Known all men by these presents;

and Annie, his wife, before her marriage to him Annie Armitage, do hereby mutually covenant, promise and agree to dissolve all the relations which have hitherto existed between us as husband and wife, and to keep our-selves separate and apart from each

other, from this time forth. In witness whereof we have here-unto set our hands at Salt Lake City, U. T., this 19th day of March, 1873. (Signed) "JOHN R. PARK, "ANNIE FLORA PARK."

Signed in the presence of D. McKenzie, James Jack.

After the ceremony and the plain-

tiff's recovery she, in discussing the affair with some of her female acstated that she was not quaintances, married to Mr. Park, but only sealed to him for eternity. She was called and went by the name of Annie Armitage and did not assume or take the name of Park, but held herself out to the community as a single person, until the

since have been and are now husband and wife

hesitation on the part of the plaintiff reproducing the ceremony in its enthreiy, but that Mrs. Wells and Mrs. Young refused to do so, because of their obligation to the Church not to reveal it. Also Mr. Penrose refused to state the sealing ceremony because it was a sacred secret of the Church and was never divulged. This is peculiar. If the sealing ceremony is as the plaintiff states it to be, I cannot ascribe any reason why either Mrs. Wells or Mrs. Young would have refused to state the same in evidence, if in fact it did exist. And the same may be said as to the refusal of Mr. Penrose

to state what the sealing ceremony of the Church for eternity only was. My opinion is that the plaintiff's memory is at fault. Mr. Preston, upon an ex-amination of the certificate of the cere-mony, that in accordance with the doc-trine and upuages of the "Mormon" trine and usuages of the "Mormon" Church in such matters, the ceremony was a sealing for eternity only, because the certificate contained the statement death bed." He also examined the so-called divorce and explained that such

used exclusively for free library purposes forever.

The announcement of the munificent gift was made by City Attorney Stephens, who, after explaining the details. made the following comment: "You have seen that the only condition Mr. Packard attaches to his gift is that the city perpetually maintain the building

as a free public library and reading rooms with a hall suitable for lectures on literary, scientific and educational topics. I take it that you on behalf of the people will accept the trust." Naturally, the city council was willing, and promptly adopted a set of resolutions, prepared by Mr. Stephens, of the stairway is the principal reading .

That we, the undersigned, John R. Park

ADMITTED NON-MARRIAGE.

corrupt knaves, whom you without the least difficulty.

year 1875, when she and William Hilton were married. And that they ever

It will be observed that there was no

temporal, the parties could assume or | and that the mutual intent of the plaindissolve the relation between them-selves at pleasure. Daniel H. Wells was the High Priest who performed the sealing ceremony between the plaintiff and Mr. Park and also the marriage ceremony between the plain-tiff and Mr. Hilton, and it will be assumed that he undersetood, knew and intended that the ceremony he per-

formed between the plaintiff and Mr. Park was only for eternity, and was no legal or religious disability on the part of the plaintiff and Mr. Hilton entering into a marriage. NO AFFECTION PRESENT.

Ordinarily affection is the gravitating influence that brings the sexes into the marriage relation, that has es-tablished and maintains the righteous and fundamental principle of religion and civil government and is based upon the mutual consent and agreement of the contracting parties. And further the consent and intent of the parties

must mean all the usual confidences, endearments, solicitudes and responsi-bilities that the union implies, and I find all these absent in this case. But called divorce and explained that such was usually given in like cases, where the parties desired it. That the two taken together did not constitute the ordinary marriage. That the ceremony was a sealing for eternity and the di-I do find that the plaintiff and John R. Park, and all those present, thought that the plaintiff was dying and the salvation of the departing spirit of the vorce dissolved that relation. The sub-ject being wholly spiritual, and having a Church divorce. That a sealing or I nothing, whatever, to do with things plaintiff was the uppermost thought property described in her complaint in also of Germany residing abroad to ob- ings.

property of Nabble Y. Clawson, de-ceased. It is a beautiful piece of ground, and admirably located for the ourposes intended

The size of the building is 70x20 feet. The height is two stories, though the window division and height of the first story suggests three stories. The ma-terial will be kyune store and terra cotta for the walls, of an Italian-Romanesque style, with copper Spanish tiled roof, and broad copper paneled cornices There is to be a spacious and classic looking porch in front which adds dignity and impressiveness to the ensem ble of the elevation, and the ornamental environment is in excellent taste The interior finish will be of oak mainly, with tile and hardwood floors. On the first floor will be a large vesti-bule, with iron and slate stairs leading up into a spacious lecture hall capable of scating 500 people comfortably. Back toriety.

most experienced architects in the west. Mr. Hale is now receiving bids, and will be able next week to announce names of the contractors. It is Mr. Packard's purpose to take up of construction as early as possible in the spring, and push it through to completion, with as few delays as possible. He is now in California but will return to Salt Lake within the next few weeks. Mr. Packard, the donor of the princey gift, was born in Johnstown, N. Y. about 75 years ago, and received his ed. ing and other industries in this state His property interests are such as to

ucation in the great metropolis. He has been a resident of Utah for nearly 35 years, and is largely interested in min. Capt. Pabst, survives William J. Lemp. place him in the front rank of the wealthy men of Utah. He is a man of strong personality, retiring disposition, and much averse to receiving public no

Rabbi Reynolds Takes Issue with Col. Holmes

Born and Reared in the Land of the Big Bear, He Exclaims: "If it is a Christian Country, Then God Save the World From Christianity"-Sympathy All With the Little Brown Men.

of oppression; that keeps millions of acres fallow, forests untouched, moun-tains of metal undug-in a word, that view with Col. Holmes, published in your issue of the 10th inst., the gentleman is quoted as saying: "I cannot paralyzes industry and forces destitusee, individually, why the powers should tion upon its own citizens rather than to open the country up and expose it to influences, which might bring freewant Russia to get out of Manchuria.

That nation brings Christianity and dom and enlightenment to the people. places it where Pagarism reigns." Is a government Christian that denies iberty of conscience, freedom of the liberty To one born, reared and educated in press, that keeps a closed door and, in the name of religion, allows scenes so Russia like myself, it is quite evident that the aforementioned gentleman, heartrending and revolting as the Kish-ineff massacre to take place? notwithstanding his pleasure trip

Ask the people of Finland, Liftand, Estiand, Courland, Poland or of any of the so-called "conquered provinces," what feelings they harbor towards Rusaround the world, has not even as much as a superficial idea of the real political economic and spiritual conditions in sia, their master. Ask these peoples, who have gradually and cruelly been squeezed out of the last remnants of their ancestral liberties, if they would not rather be the subjects of Japan theory of Paratic ask the Russia. If the general conditions of life, as they now obtain in Russia; may be termed Christian, then God save the world from Christianity! I fail to see than of Russia: ask these peoples, who are devout and loyal Protestants, whehow a free-born and sovereign Americ.n can admire a country where nearly ther they consider Russia Christian! The answer they will give is that Rus-80 per cent of the population is illiterate by compulsion; where a peaceable sia is an incubus, a deadly microbe that paralyzes everything it touches, that blights industry and logitimate underand law-abiding citizen cannot travel from town to town without a special official permit; where the whole governtaking in its mortal fear of the civiliza-tion it might bring.

ment, from beadle to the highest judi-cial functionary, are a set of venal and Japan is a lively, progressive country, iospitably open to all peaceful and law you may bribe abiding comers) it invites and thirsts for the highest forms of European civi-I cannot see how one can call Chris-lian a tyranny that cruelly, mercilessly and with the fierceness of the beast lization; it cannot do enough to spread and foster popular education; it cheer-

from time into eternity.

But

tiff and John R. Park in the ceremony was limited to the specific purpose of consecrating the death of the plaintiff in this world into an exalted resurrec-

tion in the world to come, in accordance

with the doctrines and useages of the "Mormon" Church; in other words

that the intent and agreement in the

that the intert and aging for eternity only, and solely for the spiritual wel-fare of the plaintiff as a certain and more exalted passport of her spirit

DOES NOT INHERIT PROPERTY.

I therefore find, both as a matter of law and fact: That by the law mar-miage, in its inception, is a contract, to which there must be the consent of

both parties. Like other contracts in must be mutual. There must be an of-

fer of marriage and an acceptance within a reasonable time and it must appear that the parties intended mat-

rimony. The agreement must be, in substance, to be husband and wife un-

Editor Deseret News: In an inter- , crushes its own children under the heel , worship God according to the dictates of their conscience; it is scrupulously honest in its international relations; it affords ample protection to native born and alien. Whatever advantages deposits show a decline, though in the Japan will gain will be open to the aggregate they exceed the loans by upworld! Russia, on the other hand, is barbar-

wards of \$26,000,000, ous and retrogressive, hostile to every thing that is foreign and civilizing. is internationally known as the thief and liar of Europe. It violates treaties of Pittsburg, capitalized at \$50,000, was closed today by order of the state bank-ing department. The state bank exand keeps no promises. Wherever Rus-sia will be allowed to gain a foothold that place will be closed to the world By its system of passports, arbitrary aminer is temporarily in charge. expulsion and official confiscations, will keep the enterprise of the world away from its doors. It will turn all Washington, Feb. 13 .- The bank was losed by resolution of the borad of dithese possessions into penal colonies where its best men will be fortured and rectors and a national bank examiner

its women brutally knouted. No intelligent American need have any difficulty to foresee the quences of Russian victory. He need only compare the Alaska of Russian days to the Alaska of today to see how days to the Alaska of today to see how even the coldest, bleakest, most unin-viting country may be transformed un-der the magic touch of a higher civiliza-tion. For the sake of the fairness, freereaction of the currency has received a teles gram announcing the suspension of the First National bank of Matthews, Ind. The bank's capital was \$25,000, and it dom-loving instincts and progressive pirit of our beloved country, I hope that the sympathy which we are lowed to give will go to the valiant lit-tle nation that is now taking up the fight of international equality against

the selfish exclusive pirate power of RABBI LOUIS G. REYNOLDS.

the

Marine Inspector Whitneys and Turner announced today that it would be impossible to give a decision in the steam-ship Clallam investigation before next this action. That the plaintiff is not, but that the defendant, W. S. McCor-nick, is the owner, entitled to and in Saturday for the reason that the stonthe possession of the premises des ographer's notes of evidence have not been returned to the inspectors. It in the complaint in this action and that his title thereto is confirmed and quietwill take several days to complete ed. That the facts in this action are transcription. not res adjudicata. Having found and decided that the

plaintiff and John R. Park were never married precludes a finding on the question of estoppel, that issues being The San Francisco at Port Said. Port Said, Egypt, Feb. 13.-The United States cruiser San Francisco, which arrived here Feb. 10 from Beirut promerged in the former W. C. HALL, Judge. ceeded today for Bombay and Singa-

..... **CERMANY DECLARES** 

## HER NEUTRALITY.

Berlin, Feb. 13 .- The imperial chan cellor, Count von Buelow, in the Reichsangleger, the government's official organ, today issued the following proclamation: "In consequence of the official declar-ation of war between the imperial gov-

der the law. That by the doctrines and usuages of the "Mormon" Church a sealing for eternity only is not a mar-riage. That John R. Park was never ernment of Russia and the imperial warried to plaintiff and did not sur-vive him as his widow. That the plain-tiff is not the owner of any part of the plan pire and in the empire's colonies and pire and in the empire's colonies and

Without having disease which could be diagnosed, he became feeble and gradually become despondent. When Fred Pabst, the Milwaukee brewer died Yes; give me some of that whisky

dmitted to the nesidence.

yet been recovered.

tured.

Remains Not Recovered.

Manila, Feb. 13 .- The remains of none

of the people drowned in the recent capsizing of a boat off Tayabas have

Mutineers Captured.

13 of the runaway mutineers of the Vegan constabulary have been cap-

Manila, 12 .-- It is reported here that

Russian Staff Embarks.

Yokohama, Feb. 13.-The Russlan dip-

omatic and consular staffs embarked

Loan Account Increase.

New York, Feb. 13 .-- The loan account

f the associated banks shows a further

crease this weeek, bringing the grand

For the first time in four weeks

total up to \$999,569,900, a new high rec-

Pittsburg Bank Closed.

Pittsburg, Feb. 13 .- The State Bank

ins been appointed receiver. The bank

New York, Feb. 13 .- According to a recent statement the Bank of Pitts-

INDIANA BANK CLOSED.

No Decision in Clallam Case.

Fig Fire in Topeka.

Topeka, Feb. 13 .- Fire today destroy-

Parkhurst-Davis Mercantile

Seattle, Wash. Feb. 13 -- United States

Washington, Feb. 13 .- The comptrol-

burg owed depositors \$450,000.

was organized in 1901.

had deposits of \$75,000.

here yesterday on their return home.

Fred Pabet, the Milwaukee brewer due en Jan, H. Mr. Lemp was affected al-most as much as he had been by the death of his son. He attended the funeral and on his return was more despondeut than ever. After the death of Mr. Lemp, none but relatives and very close friends of the family were dustriated to the residues Mr. Carnegle sent me." While it was being poured out the nurse said: "Senator, we want you to take this whisky before you go to sleep "Sleep?" he said, "why I haven't had

a wink today," Besides the two sons and his widow CONDITION AT 2:30 P. M. daughter, who married a son of

At 2:30 p. m. Senator Hanna's brother tho had been in the sick room, said: "My brother's temperature has been reduced to 100.8. All conditions are favorbale."

At 2:30 p. m. Mr. Dover made the following statement:

"At 2:30 p.m. the senator was sleep-ing quietly. At noon the temperature was 103. At 1:30 p.m. after a bath, it was 100.8; pulse 112; respiration 32. He continues to take and retain nourishment well.

This was the official bulletin signed by Drs. Rixey and Carter.

1:30 p. m .- Oxygen continues to be administered at intervals of 10 minutes. Since morning three saline injections have been given. Mrs. Hanna and the rest of the immediate family have denied themesives to callers since noon, except in the case of the president. nator Gorman called at the Arling-

ton this afternoon. He saw H. M. Han-na of whom he inquired as to the enator's condition,

Mrs. Parsons, daughter of the sena-tor, accompanied by her husband, ar-rived this afternoon.

The president arrived at the Arlington at 1:30 and when informed of the slight reduction in Mr. Hanna's temperature during the last few hours said: "Oh, I am so glad. I will go upstairs at or

He walked over from the White House

President Roosevelt remained 10 minutes. He said he did not see Mr. Hanna but said he talked with Mrs. Hanna and the other members of the family.

TEMPERATURE 105.

Senator Hanna's temperature continues nigh. At 3 a. m. it reached 105, and at the same point at 6 a. m. This high fever and the fact that the temperature has rot yielded as readily to sponge baths as desired, gives those about the senator great concern, it had been hoped that the climax in the fever would have passed with the reaction from the period of deep depression of

While the general conditions were more satisfactory than they were at 6 o'clock last night, yet they are not so good as they were yesterday morning. Throughout the night oxygen was given at intervals of about one hour. While the senator responds to requests made by the doctors in his wakeful moments, he does not talk. He continues drowsy. Dr. Fulcher, assistant to Dr. Osler, remained with the senator through the night. Dr. Osler remained at the hotel and was with Drs. Rixey and Carter hotel this morning when the pulse, temperature and respiration were taken, leav-

ing about 10 o'clock for Baltimore. It is not believed that the senator an withstand a fever at so high a point as that shown throughout the lator part of the night and this morning. A fight is being made to reduce the

The senator was awake at times during the night, but on the whole the docrs say he passed a comfortable night. His stomach is in good condition and he has been able to take nourishment well thus far.

A sponge bath, given after the temperature was read at 105, only alightly reduced the fever which again crept up to the 105 point. This fact was a dis-couraging feature of the night in the patient's struggle for recovery. The senator has shown wonderful vitality. One of the nurses remarked that his rally from the sinking spell "The senator's brother, H. M. Hanne continues firm in his belief in his v

mate recovery.

9:30 BULLETIN.

The following bulletin was 130 o'clock this morning: "9:30 a. m. Senator

icals in the Mercantile company's build- 4 comfortable night.

company's building and stock, the Sells building adjoining, occupied by the Mc Cormick Harvester company and W. I.

ed the

Syck as a storage room for mattresses Total loss is estimated at \$400,000, During the progress of the fire several thousand cartridges stored on the third floor of the Parkhurst-Davis building exploded, and half a dozen spectators were hurt slightly by flames shells. The fire started from the explosion of ch

