#### October 22, 1887.

(Continued from Page 2.) Speaking of

THAT SPECIFIC ACT and its character, the learned Judge

discusses and decides it, passes judgment, and proposes to issue execution and to subject the companies to heavy penalties if they do not comply.

set the companies to heavy penalties if hey do not comply.

Now, he says that Congress cannot to that under our system of governous it cannot take up a question lowing language is found. do that under our system of govern-ment; it cannot take up a question that stands between the United States and the other contracting party, ex parte, pass judgment upon it and ord f execution, and yet that is precisely what Congress has undertaken to do de in this case-nothing more, nothing less. Now, with respect to this ordinance of incorporation, the Assistant District Attorney said that it was by its own terms creative of a corpora-tion. I do not think that is correct. It granted a charter. It is what we now call a special charter in contradistinction to other charters formed under general laws. It is of precisely the same character in every respect as the letters patent issued by the King of Great Britain to the Trustees of Dartmouth College. That, so far as the terms of the patent were concerned, created a corporation. That is, granted a special charter to the Trustees of Dartmouth College; but before it became a corporation, before there was any contract, it required the acceptance by the parties named, and the formation of a corpora-tion under the authority thus given. Itis is what it is to form a corporation: The mere grant of the sovereign could not do it. The legislature of the Territory of Utah could not do it; but It was upon its acceptance that it be-came a charter, and when it became a charter then the rights of those who had thus accepted it became vested in

AND WHAT IS A CHARTER? What are the rights vested by it? | gone before Congress, and in the Primarily and at the very foundation language of the case just quoted could so far as the right is concerned it is have been disapproved at any time by the franchise to be a corporation upon that body—that is at any time that the terms and conditions tendered in the charter. That is what it is; and somable time after its passage. There is when it has become invested with these | no particular time, and I am not going rights it is an estate. Judg's Clifford; in one of the cases that have been read to your honors—has called it an estate. He has simply called it by that name by which it has been known in the law from the time corporations were first formed. "An estate." What 1862, seven years after the validating kind of an estate? An incorporeal act, twelve years after the ordinance hereditament, exercisable within things corporate; a contract. That is what the Supreme Court of the United States said when it decided, that the State of New Hampshire could not in- property and for the worship of God validate, by her act of 1816, the charter of Dartmouth College. That is what and then to under ake in 1887—as by the Supreme Court of the United this act of 1887 it has undertaken to do States has maintained, from that the Supreme Court of the United States has maintained, from that time down to the present, not merely against state legislation; but against Congressional legislation, but against Congressional legislation, as is shown in the Sinking Fund cases to which I have referred your honors. Now that incorporeal hereditamentthat estate—was created here. Does it still continue to exist? Has its term pardon for taking up any further time been extinguished? If so, how? As upon it, that because Congress has my young friend in the argument he to the particular character of this corliscussing it. As to whether it was a little consequence. It has some fea-tures of both, more particular as a cor-and private parties or not, are subject poration sole with the power of end. to alteration, amendment or repeal.

by the Congress of the United States in 1862, so far as corporate rights were concerned. So far as its right to be a corporation, its franchise, its estate were contake to dissolve it. I want to call your honors' attention for a moment know that I need to take up your honors' time upon it, because this bill hied by the United States recognized the fact that the act of 1862 did not re- any alteration; amendment or repeal peal the charter. It is not so claimed in the bill. On the contrary the bill goes upon the assumption that the civil corporation, the artificial person cised. I say no state has ever so held. creat d by the territorial acts and in existence, continued to be in exstence after the passage of the act of will. But the estate, the franchise, 1862, and that is the only conclusion that your honors would arrive at on examination of this act of 1862. I will absolutely, because in the sinking fund read a section or two of that act: SEC. 2. And be it further enacted that the

and adopted, re-enacted and made valid by the Governor and Legislative Assembly of the Territory of Utah by an act passed Jan-uary nineteesth, in the year eighteen hun-dred and fifty five, entitled "An act in rela-tion to the compilation and revision of the laws and resolutions in force in Utah Terri-tory, their publication and distribution." and all other acts and parts of acts hereto-fore passed by the said Legislative Assembly of the Territory of Utah, which estab-lish, maintain, support, shield, or counten-ance polygamy, be and the same hereby are

Now, if it stopped there I would grant at once that there would be no question but what is was an attempt then, if it was saill in the power of right and to annul the law. But the

DOES NOT STOP there, for it continues and says:

and construed as not to affect or interfere with the right of property legally acquired under the ordinance heretofore mentioned, nor with the right "to worship God accord-ing to the dictates of conscience," but only to annul all acts and laws which establish, naintain, protect, or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, cerenonies, consecrations or other contrivan-

That was the purpose of it. Congress understood in some way, or be-lieved, that this corporation—created under the act of the provisional government, validated by the Territorial legislature, and in force and organized-favored a practice which Congress was endeavoring to strike in it intended to countenance the practice of polygamy-is hereby repealed, but the right to hold property and the right to worship God according to the ictates of conscience are not affected, and to that extent, and for these purposes that act has to be regarded as approved. There is a limita-

LEFT IN FULL FORCE.

court vesterday insisted that the right to annul and set aside the acts of the that is classed as legislation, whatever may be its character, and that it be exercised at any time. It makes no difference at what time-that a charter granted in 1851, under the full power conferred by Congress upon the Territorial legislature to legislate upon all rightful subjects of legislation—could now be annuled, and that this general power is to be regarded as if it was embraced in each one of the acts of incorporation passed, and was accepted by parties to the contract between the government and the corporations. For I say to you that if this is a contract, it is not a contract between the tract, it is not a contract between the Territory of Utah and this corporation; it is a contract between the United States of America and the cor: poration. The territorial government of Utah was but its instrument, its could have been any question at all about the power originally granted, the dectrine of

could have been any question at all there could have been any question at all about the power originally granted, that doctrine ever held anywhere; that doctrine ever held anywhere; the doctrine of the citizen. This doctrine of the citizen that where contract obligations have been entered into, one party could not come to this Church intil subsequent to that, and that the government, as he would expound lit, would justify the consent of the citizen. This doctrine of the citizen that my friend spoke about while alluding to the police power of the act of 1862, and that the actual legal title did not come to this Church intil subsequent to that, and that the government, as he would expound lit, would justify the clitzen. This doctrine that my friend spoke about while alluding to the police power of the act of 1862, and that the actual legal title did not come to this Church intil subsequent to that, and that the contract without the consent of the other? It is true that a party may be strong enough to refuse the principal ratifies. But what has the Supreme Coart of the District Attorney, required to original authority may be strong enough to refuse the says they are "squatter of the execution; may have the power to set what has the Supreme Coart of the District Attorney, required to original authority may be strong enough to refuse the says they are "squatter of the Easy they are "squatter of the Easy they are "squatter of the District Attorney, required to original authority may be strong enough to refuse the power to set the principal ratifies. But the district of the act of 1862, and that the contract without the constant may be strong enough to refuse the power of the party may be strong enough to refuse the pri

out some light on that subject. There was another act of the Territory of Utah under consideration before the Supreme Cault before this. That related to the summoning and selection of jurors. The question was whether the jurors of the Territory should be selected or summoned under the Territorial act or whether the general act of Congress relating to the selection of jurors for federal courts should apply. Now, if Congress had made a special of Congress relating to the selection of jurors for federal courts should apply. Now, if Congress had made a special act for the Territory of Utah, as it might have done in the exercise of its legitimate powers, or as it has done in this case, such action could not be questioned, as a matter of course. There was, however on the statute books of Utah Territory, an act passed by the legislature of the territory, that provided how the selection of jurors should be made, and that was brought in this bill can have no effect or standing in this court except what it derives from the force and effect or standing in this court except what it derives from the force and effect or standing in this court except what it derives from the force and effect or standing in this court except what it derives from the force and effect or standing in this court except what it derives from the force and effect of the act of 1887. My friends say that although it is in the form of a pure of a que varianto. I our honors, sitting as a caurt of equity, would not entered the provided how the selection of jurors is what it is and it is nothing else; and it is brought for the purpose of deshould be made, and that was brought in question in the Supreme Court and was passed upon in the case of Clinton

In the first place, we observe that the law has received the finiplied sanction of Congress. It was adopted in 1559. It has been upon the Statute book for more than twelve years. It must have been transmitted to Uongress soon after it was enacted, for it was the duty of the Secretary of the Territory to transmit to that body copies of all laws, on or before the first of the next Describer in each year. The simple disapproval by Congress at any time, would have anulted it. It is no unreasonable inference that it was approved by that body.

Now, what becomes of the doctrine that my friend insisted on so strenuously yesterday-that

NOTHING CAN BE INFERRED against the government? There are certain high rights and privileges which the government has retained that are not to be invaded; but the Supreme Court does not seem to regard the reservation of this right to repeal, or alter, or to refuse to ratify or negative these acts of a Territorial legislature to be of that character. On the contrary it says that this act which had been standing on the statute books for twelve years; an act under which no vested right could be se-cured; an act that could have been repealed by that Legislative Assembly, the next day or at the next session, or an act might have been substituted by ongress at any time; that such an act as that was presumed have been ratified and affirmed by the lapse of twelve years—by the fact that it must necessarily, as a territorial act, have to fix any, but the Supreme Court has the government upon this question, in the light of these authorities, when in as it did in the act of 1862, recognize those acts as valid as to all rights of cording to the dictates of conscience,

contended, and the contention has BEEN SO CLEARLY MET on, I shall not take up time in reserved this power to annul, that sing it. As to whether it was a therefore all acts of the legislature, of corporation aggregate or sole is of whatever kind, whether they amount less succession. But has its existence terminated? Its

LEGAL EXISTENCE WAS RECOGNIZED to a number of decisions in the different states some of which they referred to a number of decisions in the different states some of which they referred to a number of decisions in the different states some of which they been passed upon by the Supreme Court, where the reservation by the states of this power has been held to be valid and that their exercise of it afterwards did not impair the obligation of the contract-that is, a contract to be a corporation; for I want your honors to bear that distinction in mind all the time. The Supreme Court of the United S ates has never held, nor has any state court ever held that the exercise of that right by a state could divest property, or that of a charter under the power reserved could affect rights that had been cised. I say no state has ever so held. The Supreme Court has never intimated anything of the kind and never absolutely, because in the sinking fund case your honors will find the Supreme Court have made a distinction. While SEC. 2. And be it further enacted that the following ordinance of the provisional government of the State of Deseret, so-called namely: "An Ordinance Incorporating the Church of Jesus Christ of Latter day Saints," passed February 18th, in the year 1851, terfere with the substantial rights and adopted re-enacted and made valid by the power to repeal is not impaired, of the grantees. Now let me discuss that equestion for a

colleague clearly demon-yesterday, referring to the as my strated subject of the granting of the charter, the franchise could not be recalled, the CONTRACT COULD NOT BE BROKEN by a state, but reserving that right it may annul that contract in the future. Our friends say that because Congress has reserved the right to annul acts of the Territorial Legislature, that is equivalent to the reserved power, under state laws and under state con-Congress, to exercise this reserved stitutions. I respectfully submit, your honors, that there is wide difference between the two. The legislature of a state did not have to reserve any right to repeal a law. That right was always existing. The Congress of Provided, that this act shall be so limited and construed as not to affect or interfere serve any right to repeal a law for serve any right to repeal a law for locality acquired. that is always existing. One legisla-tive assembly cannot bind another, not even bind itself; for what it passes to-

moment by way of additional illustra-tion only. Without that reservation,

day it may repeal to-morrow, and that reaches all laws and it would reach all charters that had not been accepted and become contracts. However soleme might be the terms of the grant; however direct and positive might be the provisions in regard to the formation of the corporation, until it became a corporation, until the corporators had ac-cepted the grant, until it had clothed itself with the franchise therein contained, the legislative power over it, whether that be Congress or a state, was unqualified. But the Supreme down; and therefore it said that Court heid that where there was no all of that law-or whatever there is reservation of the right, then the sc-

CONTRACT WAS UNCONDITIONAL; where there was a reservation of the right then the acceptance was upon the condition contained in the reservation, and that was all there was of it. But if the corporators accepted a her counsel here, and the de-conditional contract they accepted it fendant through its counsel here, have with its frailties; but if it was agreed as to what these facts are. Open all churches and church corporations or associations in regard to the further acquisition of real estate to be United States in direct terms as to the property that this court can take into owned or held hereafter, by the 3rd states, and by those broad provisions section, but the right to hold and enjoy of magna charta that have been incorsection, but the right to hold and enjoy property, and the right to worship God according to the dictates of the conscience of those who are members of it, were

States, and by those broad provisions of magna charta that have been incorporated into the Constitution of the United States, as to the United States, as to the United States, as explained by Justice Bradley in the life pieces of real estate. This agreement shows three pieces of real estate, two of them Sinking Fund cases. Now, then, if there Sinking Fund cases. Now, then, if there was the necessity to make this reser- act of 1862. The legal title was not vation, was it not just as important that Congress should make it as the legislatures of the states? A charter tendered without limitation as to time Territorial legislature is a perpetual right, and that it not only extends to the ordinary legislation of a Territory, but to all legislation, or everything that is classed as legislation, what-

of Utah was but its instrument, its agent, and the doctrine of agency applies to this as well as to anything else gut facil per alian facit per se. What the government did through the agency of this legislature in regard to this matter, it did of itself, and if there could have been any question at all that doctrine ever held anywhere?

is brought for the purpose of declaring forfeiture. That is the purpose of it and from the organization of courts of equity down to the present time it has been a standing axiom that a court of equity NEVER DECLARES FORFEITURES. It is not one of its prorogatives; it is not within its jurisdiction, it don't belong to it. After a forfeiture has been declared as in the case of office found upon quo warranto, the court of equity may gather up and admidister the equities arising from that forfeiture. That is all that it
is, and that is all that Congress undertakes to do in this instailer i behavise the men who passed
this law knew perfectly well that they
could not clothe a court of equity with
the power to entertain a quo warranto
proceeding, and pass upon questions

proceeding, and pass upon questions of torfeiture. The Constitution, in express terms, prohibits anything of that kind. I call your honors' attention to the seventh amendment of the Constitution, which is as follows: In suits at common law, where the value controversy shall exceed twenty dollars, the light of trial by jury shall be preserved and no fact tried by a jury shall be other wise re-examined in any court of the United States than according to the rules of the

common law. Will this Court presume that Congress was so careless of the powers they were exercising or the restric-tions under which they were acting as to seek to clothe a court of equity with that power? It has constituted this court a court of equity; it has made has court for this case of special furisdiction. This is an appellate court for the Territory and exercises the ordinary appellate powers. It is not a court in which parties can sue each other originally, but a court in which cases come up on appeal or by writ of error, but Congress clothed this court with equity pawers that it might administer the equities of this case, but not to declare a forfeiture of a purchase as upon a quo warranto proceeding. On the contrary it assumes the very opposite, for it says, after referring to the acts, that so far as they still have legal existence—that is, I suppose, so far as they have a right to property and a right to worship—that the corporation is hereby dissolved; that is such a decree or judgment as would be entered at nisi priis in a quo warranto. That is the decree that Congress undertakes to enter in this case; but Congress has no judicial power to enter a decree disselving this or any other corporation, nor to take away from it its estate, and then clothe this court with the powers of a cour-of equity to administer whatever trusts may arise under it. If it had no power to do that, that

ENDS THIS CASE.

It is unnecessary for me to follow still progress to some termination, al- pose to though the declaration that this corporation was dissolved was inoperative and void. Well, to go back to an old and quite often repeated illustration, that would be very much like undertaking to play the of Hamlet with Hamlet left

Your honors, I will now come to the other question that is involved here, and embraced in the statement of facts agreed to by the parties, which, by the agreement of parties, are all the facts to be considered in connection with this motion, and neither side can offer any other. We were pre-cluded from doing so and I insist that the government counsel shall not volunteer any. We shall offer no and we respectfully submit that your honors will consider no other. Now, holds that Congress may enter a deof dissolution, and then turn the equities that may arise over to the courts of the country to be administered, then I wish to call your honors' attention to the property, because that be-comes then an important element in the question of the appointment of a receiver. Before, however, saying any-thing upon that subject, I desire to call your honors' attention to this fact; that the cause pending before this court is an adversary proceeding. It does not present the condition affairs of property in limini; but of property in contention, where it is admitted by the bill to be in the possession of one party, and is sought to be taken out of the possession of that party by the court pendente lite; that is the condition of the court pendente lite; that is the condition of this case. The authorities therefore that my friends have read in reference to the fact that a court cannot be wrong in taking hold of property that is in limint does not apply here at all. In a case of this kind, what is the rule of law? The party who seeks the interposition of the court, and invokes this strong power of a court of chancery must establish two things before the demand can be granted. First he must establish a prima facie right to property. The claim that he has set up to the property must be established so as to make a prima facie right in his case.

Next it must appear that the PROPERTY IS IN DANGER of destruction or waste and that the responsible to damages for that waste. Now where these two things are made out in an application before a chancellor we have nothing to say at all against not merely the power, but the discretion of exercising that right. Has it been done in this case? It must have a relation to some property. A party cannot come into court in a bill, not even the United States on a fish ing excursion. He must start by saying in his bill that he has this right and that there is this property. That must be shown in the bill. The bill is no evidence of the facts; it is simply evikind, and then come the affidavits and decuments from the other side. In this case the agreement of the parties, the United States through

received by the corporation until since the act of 1862, but the occupancy and POSSESSION AND USE

Chief Justice Waite stated in these Sinking Fund tases:

Then, your honors, it seems to me unnecessary to take a great deal of time over this act of 1887; it undertakes to assuler, set aside the franchise of the corporation. And if it is inoperative for that purpose then the bill filed in this case must be dismissed. This bill can have no effect or standing in this court except what it IL THET HED NO RIGHTS.

I say it is a long time since this term

has been used, and it sounded a little strange to me when employed yesterstrange to me when employed yesterday. The idea that the people who came over these rugged mountains and desert plains in 1846-7-8 and 9, and who settled in this valley—some of them even before the United States had acquired any fittle here, for its title was obtained from Mexico under the treaty of Fidalgo in 1848—people who have made the sterile plains blossom as the rose, for where this heaptiful city now stands was then a beautiful city now stands was then a raw. barren wilderness-who settled upon the public land and made their homes with the tacit consent of the govern-ment—I say it sounds strange to me to hear that these people are presumed to have no rights at all. It is true the government never had given any final title, except as it had provided by the laws from time to time. Your honors will find that in 99th United States, it, in the case of Stringfellow vs. Cain, the Supreme Court of the United States beld that when any any one who had settled here, in very city, upon just such a title as that now in question, and had possessed and occipied the land, and made it had table and valuable, he had such an interest in that land as descended to his heirs. That is what the Supreme Williams Court held in that case. But it is admitted in the statement of facts that the United States did patent this land to the mayor of the City of Salt Lake, as representing the inhabitants of the city, under the townsite act, and that the mayor did convey the tracts of land under discussion, so that the legal title vested in this corporation Now, it is argued that, notwithstanding the fact that the United States did ssue that patent after 1862, it only die so for the purpose of taking it away

from this people again under the act of 1862. With regard to A VESTED RIGHT and the definition of that term, it is only necessary for me to fall you honors' attention to the idefinition of ves-ted fight to be found in 2nd Bouvier's Law Dictionary #s follows:

VEST .- To give an immediate fixed right o resent or future enjoyment. An estate vested in possession when there exists a right of present enjoyment; and an estate is vested in interest when there is a present fixed right of future enjoyment.

And it was that kind of a vested right that the Supreme Court in the Stringfellow case held passed to the beirs of the one who possessed it. I have said all upon the question of real property that I think it necessary to say, and we come now to the ques-tion of personal property. The stipu-lation discloses the lact that anterior to the taking effect of this act, usuely, on the 28th day of February, 1887, John Taylor, Trustee-in-Trust, held certain personal property in trust; that that property was located within the limits of the different local corporations of the Territory attached to this Church; that it aggregated a certain value. I want to call your honors' attention to the fact that this property was not held as corporate property. It was the gatherings of the members of that Church put into the hands of this corporation for certain specified purposes; that is what it was. It was not corporate property. It was property held by the corpora-

I think not, and I presume that your appoint a receiver to take trus property that is now in trust in other ands, for the same identical purpose for which it was offered and given, and that is percisely what the statement of facts shows. But they say that by its recitals he might have other property and they insist therefore that there is some other undefluable property. This agreement of facts goes on to show that after executing that instrument transferring this property, it was de-livered to the corporations named in the instrument. But, says the Assistadt District Attorney, bow could that be done between the 28th of February other facts, because we have said in and the 3rd of March? Well, the stiputhis agreement that we will offer none, lation of facts admits that it was done, and if it could not have been done in that time, and they were not satisfied these facts, so far as the question of property is concerned, relate to real asked for an additional statement upon this subject, or have called for additional particulars, which would unquestionably have shown just what we now claim that the statement shows. This property was turned over to the people, or corporations in the localities where it had been originally donated by them, for certain purpose The statement shows that every dol lar's worth of property that was in the hands of John Taylor, that had any was, before the taking effect of this act, put into different trusts. It had been conveyed to local corporations. The fact that the property has been turned over; that it was in the estate so called; that it was within the limit of the Church organization, would in dicate clearly where it came from. I has simply been turned back to the original donors to be held by them in trust. Now, are your honors going to appoint a receiver to disturb that

roperty without these parties being heard? Are you going to REACH OUT YOUR STRONG ARM for that purpose and try to gather up this property, much of which un-doubtedly has been disposed of in the manner in which the donors intended If your honors please, that is the whole of this case. Is there, then, under the principles of equity, sufficient cause to justify the appointment of a Receiver? Would it be a fair judicial exercise of discretion to do so? Because the Supreme Court of the United States has held that unless it is a fair exercise of discretion on the part of exercise of discretion on the part of the court, it is liable to be reviewed and the act of the lower courts set aside just on that ground. Now, your henors, I am about to onclude my argument in this case There are a great many things I could say in regard to it, but I do not know that I would be able to threw any additional light upon the important points involved. I will leave the case with this court, with the judicial department of the government, and in do-ing so I think I may be pardoned if I quote in substance—not literally of course, for I could not do that—an exalted sentiment which I heard fall from the lips of his konor, the chief justice dence of the claim. That is all. The facts must be made manifest to the court by proper proof, usually in the form of affidavits or documentary evidence, or is some manner of that with reference to the outcry against the people here, and which doubtless many mbers of Congress have listened to, for they are often incited to do things as matters of policy. The learned chief justice remarked that it was the office of the judiciary to consider the law and the facts before them in an unprejudiced manner, and to give to their decisions their consciences and their bestijudgments, or, to use the language of Lord Coke:
"It is given to the judiciary to decide
the very law and not that which hath a
semblance of law." And I may add, your honors, that

THE CONSTITUTIONAL LIBERTY of the private citizen and the vested which the charter. Now, how can the conditional charter into one that is conditional charter into contract. When the court, we shall be contracted in this corporation—an unconditional estate. If that is one what force or effect can be given to the act of 1887, but somewhat separated, actively of Salt Lake. Their titles are held in this corporation—an unconditional estate. If that is one what force or effect can be given to the act of 1887, so the court of the court, we have here a contract when the conditional estate. If that is one what is conditional estate in this corporation—an unconditional estate inthis so, what is a contract work of the court, we have here accounted the court of the court o conditional charter. Now, how can Church corporation and set apart as ment, because it has less to do in

FRAGMENTS. THE Seventeenth District school

will open again on Monday, October THE Sunday school of the Seventeenth Ward, which has been suspend ed because of contagious sickness in that locality, will be resumed to-mor-MRS. Cot. SPRINGER, of Iowa, expresses much pleas "e in her visit to

this city and, though quite a traveler in the Old World, finds much to admire in it. She is engaged in home missionary work. THE sentencing of Thomas F. Harris, on conviction of polygamy, which was set for to-day, has been postponed until next week, as the District Court had not time to hear the afgu-

ments on metion for a new trial to-WE are \*\* Muested to announce that the following religious services will take place fft 88. Mark's Cathedral tomorrow: Communion, 7:30 a. m. Sunday school, 9:45 a.m.; fflorning service with sermon, 11 a. m.; Bible lesson, 6:30 p. m.; evening prayer and sermon, 7:30 p. m.

THE NEW COPPER ACT.

Rudger Clawson Makes Application for its Benefits.

The Territorial Supreme Court held a session this morning, at which an application was made by Rudger Clawson to be credited, with the benefits of the new copper act, for good behavior, instead of the old law, as it is now attempted to do. In other cases, in the district courts, these benefits have been refused to prisoners sentenced before the new act, which provides an William and Annie Crowton; Neille William and Annie Crowton; Neille before the new act, which provides an INCREASED RATIO

of commutation over that given by the construction of the law formerly

The provision in the new law affecting those siready under sentence at the time the law was passed, was held to be invalid in that respect in the District Courts, and the question was brought up snew to-day in the Supreme Court. The applicant was represented by Col. Broadhead, Judge Sutherland and . Mr. Moyle. Judge Sutherland made the opening argument in behalf of the applicant He claimed

that the new law should be applied to Mr. Clawson's case, and that thereunder his term of three and a half under his term of three and a half Margaret, Edward and Susanna Peake; Ellen and Thomas Neil; Sarah 18th of May, and the six menths' term in addition thereto should have expired on Tuesday last, OCTOBER 18, 1887.

The Judge argued that the court's decisions in former cases that the law could not effect prisoners then to sustody, related only to Territorial prisoners, it could not be extended to United States prisoners, but under the law of Congress of 1875, the computation set in forms at the time commutation act in force at the time the prisoner's sentence expired was the only one applicable. The ac which existed at the time the sentence was pronounced could not be followed, for it had seased to be a law, but the provision that should be made to apply was that which was operative at the time the prisoner was entit-tled to caim the credit of commu-tation for good behavior. District Attorney Peters opposed the application in a brief argument, holding that the present copper act, having gone into effect since the pass-

ing of sentance, could not be made operative on that sentence without interfering with the judiciary.
oCl. Broadhead claimed that the application of the new act

DID NOT IMPAIR an existing legal indgment. The act of Congress was made by its own provi-ion to apply to "ail prisoners who have and said that they should have the benefit of the local commutation laws. The right of reduction of time for good behavior was fixed by Congress, not by the Territorial Legislature, and it was under the action of the former that the applicant made this claim. That law had been in force before the passage of the judgment. The prisoner could not claim a discharge, as a United States prisoner under the old copper law, because it was not in force at the time that he could pre-sent his claim. The only commutation which he could ask under the con

gressional act of 1875 was that allowed by the local statute at the TIME HE WAS ELIGIBLE to apply for it, and no other, because no other was in force. The applicant claimed his rights under existing stat ptes. The proposition was plain that Mr. Clawson was entitled to bis discharge. The District Attorney had read from two authorities in opposition to their claim, but both those authorities had been reviewed and their bad reasoning shown in a subsequent and more careful decision rendered by

the Supreme Court of Ohio. Judge Sutherland here suggested to the Court the fact that the Ohio decis ion, changing those quoted by the district attorney in support of his present position, had been procured through the efforts of Mr. Peters himself. The Court took the matter under advisement, and will render its decision at 4 p. m., to which time recess was taken.
At 4 e'clock this afternoon, the Court refused to grant the applica-

Taken Under Advisement. The arguments on the motion for the appointment of a receiver in the suit against the Church were terminated last evening, Mr. Peters making the closing effort on the part of the gov-

ernment. The matter was submitted,

and the court will render a decision on Saturday, November 5th, at 7:30 p.m. Mr. Richards asked that the demurrer be set for hearing on Monday, November 7. . The counsel for the government opposed this, and made a suggestion

that if no, receiver was appoint d, it be permitted to go over till the first of Mr. Richards insisted on his metion. He wanted no compromise, but to have the demurrer heard and passed upon. The defense did not propose to be silent when the demurrer ca up,

and wanted the government counsel

to be required to meet the issue.

The Court ordered the demurrer set for the date named. Additional Petit Jurors. urors has been issued by the Third Guiver; born December 2, 1884. District Court, returnable on Monday next, at 10 a. m. It calls for twenty talesmen, and the following bave been

summoned by the Marshal for the ser-Thos. R. Ellerbeck,
P. W. Madsen,
James Dwyer,
Alonzo Young,
Daniel S. Spencer,
C. M. Donaidson, Jr.,
L. S. Hills.
E. F. Neslen,
Joshua Midgley,
J. A. Grocsbeck. Wm. H. Rowe, J. R. Winder, Jr., Jos. A Jennings, H. B. Clawson, Jr.

U. S. Commissioners.

a motion was made in the Territorial Supreme Court yesterday afternoon, and will probably be granted, by the District Attorney, requiring all The City Taxes for the year 1857, remaining United States Commissioners in the Territory to keep full records in civil and criminal cases, in the same manner as justices of the peace, under the Territorial statutes, and also to give

LIST OF IMMIGRANTS.

Scandinavian Passengers. Following are the names of the emlgrants leaving Scandinavia September

Sall Lake-C. E. Malmquis; Hilm Lundell; Augusta Anderson; Bene dikta O berg; A. M. Carlson; Ane M., Albin and John Christensen; G. A. Hanson; P., Ane A., Carl, Caroline and Engeborg Swedin; Ane M. Larsen; Ane C. Bransboim; Henregine Andersen: Ane C. Kjor; Peter Sorensen; Magrethe Basmussen; Jens Nicisen; Augusta Toeberg; Mariane Hansen; Magrethe Jensen; J. J. Bowedal; Maren, Ingeborg, Alfred, William and Frederik Andersen; Hanna Christof fersen; H. Eriksen; Otto Johansen; E

Johansen; Ludvig Andersen; Oluf Nielsen. Ordin-Caroline Holm: Christen, Ane M., Josef B., Hans W. and Jens P. Jensen; Emilie, Peter, Christoffer and Ane Hansen; Pernilla and Teodor Carlsen; Affettine Carlson. Brigham-Ane M. and Hyrum Jo hansen; Juliane O. Nielsen; H. P. Dia, Carl, Inger, Johanne and Valborg Jensen; Timine Christensen; Niels C., Emma K. and Jens C. Jensen; Martine

and Caroline Stroumes; Wilhelm

Johansen; Hans Wickstrom; Catherine

and Jons P. Petersen. Logan-N. R Petersen. Smith Reld-E. Madsen. Richmond-Hilda Nilson.

Montpeller-Ane Andersen; Christine . Andersen. Lehi-Christing J. and Sigrid Bold. Provo-Augusta Nilson; Bogedal daria, Caroline and Chr. Olsen; Peter Christensen. Spanish Fork-Chr. and Maria Sor-enson; Jorgen Christiansen.

Santaquin-Hans Anderson. Nephi-Leontin, Alma, Axel and Oscar Bengtson; Inger Larsen; Wil helmine Ramstrom; Mette K. Niel-sen; Marie K. Petersen; Marie Mik-keisen; Cathr. Sorensen; Dagmar Nielsen; Niels C. Olson. Juab-N. C., Ida, Augusta, and Hedv. Christiansen; C. F. Petersen.

New York-S. C., Tendar J. and Hans BRITISH PASSENGERS.

Salled from Liverpool per S. S. Ne vada, Oct. 8th, 1887. Salt Lake Cuy-Annie Nicholas Barbara McKenzie; Winifred and Thomas Roche; Agnes, Agnes, Mary and Alex. Dunlop; Laura Allen; Mar Sanford; Thomas, Mart A., Anna and William Deakin; Jane Redmond; Alice and Eilen Oldham; Ann Spencer; Jas., Fanny, Wm., J., James, George and Nephi Sheen; Edward Jones; Mary A., Joseph H., Elizabeth and John Nat-tress; Henry, Ellen A. Mary A and Francis Sollis; Jemes W. Lawrence; Eliz. Mountford; Hannan and Alfred Balmforth; Wm. Butteridge; Alfred W. and Mary Cowles; Hernert W. Gates; Harriet Mellows; William

Stubbs.

For Ogden—(The first twelve names are from Holland.) H. A. Denkers;
Dirk Raat; Mrs. F. Jans; G. J., M. L.,
M., G. E., C. J., H., and J. W. F.
Braner; H. L. and E. Van Der Veer;
Thomas Dunn; Agnes and Betsy Wat-Stubbs. son; Agnes Colston; Rachel Terry; Janet, Robert, Jane and James Menzies; Moreni, Emma, Mary A., John H. and Emma Ewer; Elizabeth, Henry Tudor; Mary A., Arthur and Mattnew Chester; Mary and Hannah Thomas; John, Daniel, Rachel, David R. and Jane Davis; Eleazer Williams; Mary

Provo - Hyrum [W., Frances and I rum Railey; Wm. Armstrong; Jonathan Wardle. For Nephi-Elizabeth Hogan and

Logan-Jane Speedie; Sarah Row-ell; Theresa Sargent; Lydia and Emma Burrows; Ann Edgley. Arizona-Samuel Goold. Muford-Mary A. and George Cheel Brigham City—Thomas, And, Henry, Hannah and Mary Payne; Rich-ard, Ellen, Ell, Amy, Ann and Hannah Holton; Jane Scroxton: John S. Hol-

New York-Samuel L. Barnes. SWISS AND GERMAN.

Montpelier - Christian, Arna and Intistian Berger. Payson-Kathride and Ida Hoffman. Salt Lake City-Mary Hostetter; John' Anna and Sophia Blaner. Logan-Rosette Gerber; Christian Kasteler; Mary Gertzinsky.

RELIGIOUS SERVICES. Religious services of the Church of esus Christ of Latter-day Saints wil e held in the Tabernacle to-morrow Sunday) afternoon, commencing at

o'clock. Home missionaries will preach in the country wards on Sunday. In the city wards services are held in he various ward meeting houses at he hours named:

cond	Thir beenth, .0.00
vird 6-30	" Fourteenth6:30 "
urth 6:30	Fifteenth6:30
fth 6	" Sixteenth o
xth6	" Seventeenth.6:30 "
venth6	" Eighteenth "
ghth7	" Nineteenth 6:30 "
	4 Twentieth 6:30 "
Hall	" Twenty-first.6 "
nsn	I wetrey many
eventh6	* /
Meetings conv ards as follows	
Sugar House	6 р.т.
Farmers	
Mill Creek	
East Mill Creek	
Big Cottonwoo	
South Cottonw	ood 9 "
Union	OCCUPATION #

North Jordan ..... Sandy..... Riverton..... Bluffdale...... South Jordan..... Draper..... m. Brighton ..... easant Green..... Services in foreign languages are

conducted as follows: Scandinavian, Socia Hall, 10 a. m. German, City Hall, 10 a. m. The foregoing list appears as cor-

ected by the Stake ('lerk. W. B. Slosson, Esq , vice president of the Brown Medical and Manufacturing Company, Leavenworth, Ka.,

called at this office to-day. MARRIAGES.

PARDOE-ANDERSON-In Logan, Oct. 19th 18:7, William Pardoe and Catherine V. An derson, both of this city.

DEATHS. WHITTAKER-October 19th, 1887, of diph-

theria and croup, Saráh Charlotte Whittaker, daughter of Henry and Sarah H. Whittaker, of the Seventeenth Ward, this city; born March 10, 1882. GUIVER-In this city, October 23, 1887,

An additional open venire for petit Frank Engene, son of George and Amanda The funeral will take place at 2 p. m. to morrow. Friends invited.

> BROWN'S COUGH BALSAM and Tar Troches are invaluable in every family for Coughs, Colds and Sore Throat. BROWN'S ARNICA SALVE

is every box warranted for Cuts, Buras, Bruises, Old Sores, Piles and Sore Eves: No cure no pay. All Wholesale Druggists sell Brown's Medicines.
Z. C. M. I. Drug Store, General
Agents. They endorse Brown's Sarsaparilla.

DELINOUENT CITY TAXES!

31st day of October,

will become delinquent. Unless they are paid on or b fore the above date, I shall be obliged to collect (with costs) as provided by law.

M. W. TAYLOR,

OFFER A LARGE AND COMPLETE STOCK OF

FALL AND WINTER GOODS

Novelties : Staples!

DRESS GOODS SILKS, SATINS, PLUSHES AND VELVETS.

LADIES' CLOTHS, in Plain, Tricot & Plaid. TRIMMINGS, in all the Desirable Novelties. BUTTONS, in Jet, Steel, Pearl, and Steel, and Metal, NEWEST DESIGNS.

- COMPLETE ASSORTMENT OF -

#### CLOAKS, SHAWLS AND JERSEYS, FOR LADIES', MISSES' AND CHILDREN.

Newest Fabrics and Latest Styles! Ladies', Misses' and Infants' Underwear,

IN WOOLEN, SILK AND MUSLIN. KNIT GOODS IN GREAT VARIETY.

GLOVES, HANDKERCHIEFS and LACES, IN NEWEST GOODS and COMPLETE STOCK.

Carry a Very Desirable Line of SUITINGS, OVERCOATINGS & TAILORS' TRIMMINGS.

CLOTH DEPARTMENT

Boots, Shoes and Rubber Goods, A FULL AND COMPLETE LINE.

CARPETS, SMYRNA RUGS & DOOR MATS, LINOLEUMS AND OIL CLOTHS, LACE, CHENILLE & MADRAS CURTAINS,

Window Shades, Wall Paper & Upholstery Trimmings. The Most Complete Line West of Chicago,

Wholesale Dep't

STAPLE DRY GOODS AND NOTIONS. In all the Seasonable and Desirable Lines.

H. S. ELDREDGE, Supt.

# R.K.THOMAS.

Eagle Emporium!

DRY GOODS,

CARPETS, BOOTS AND SHOES, CLOTHING.

An Extensive Fall Stock Just Received!

Apecial Attention is invited to the

## CLOAK DEPARTMENTS!

500 WALKING JACKETS,

65c. on the Dollar!

## R.K.THOMAS.

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TO THE FRIENDS OF HOME ENTERPRISE:

We would say that we MAKE BOOTS and SHOES. equal in Style and Finish, and MUCH MORE DURABLE than any Imported Goods brought into the Market, and we guarantee all Seams, and that the Price is as Low as any goods that are Solidly Made of First Class Material.

SOLOMON BROS. & GOLD.

No. 70 MAIN STREET

### CONFERENCE.

WE ARE NOW GETTING IN OUR Fall Stock of Furniture

UPHOLSTERY. All First Class Goods and will be sold AT LOWEST POSSIBLE PRICES
Call and examine our Stock and PRICES before buying elsewhere.

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