

## PROCEED WITH CAUTION.

THE application to the City Council by a company for the control of the waters of the city should be handled with great care. The committee to whom it was referred ought to take time to consider it thoroughly. It is very doubtful if the City Council can legally comply with the request. The waters flowing into the City are not the property of the Council. They are under municipal control, but we do not believe the municipal authorities may surrender that control to any private individual or corporation.

As we at present view the matter, on general principles, it would be bad policy, apart from the question of lawful power, to convey to any person or company these important interests. The right to the use of the streams running into this city is vested in the inhabitants and should be retained by them under municipal management.

If the present incumbents of city offices want to save themselves from a false step and the imputation of fostering another job, let them be exceedingly careful how they proceed in the important movement now attempted for private interest and large emoluments.

## FURTHER CONFISCATION COMMENTS.

IT is gratifying to see that such public journals in the United States as take the pains to examine the confiscation scheme, by which the "Mormon" Church is to be robbed of its property, perceive not only the wrong that is sought to be perpetrated, but the dangerous departure from constitutional principles and restrictions which it involves.

In the present temper of the public mind it would be almost useless to attempt to show that the excuse offered for the proposed infamy is without foundation. And yet it is a fact that the pretext advanced for this intended spoliation is false. The "Mormon" Church exercises no such power and has no such intentions as those alleged. And there is nothing in its doctrine or discipline in any way antagonistic to the United States or to free republican institutions.

But be this as it may, the court of last resort should be above that influence which makes "public policy" the excuse for departures from constitutional lines, and which justifies infractions of the supreme

law because they are in accord with widespread prejudice.

If the Church were really the "contumacious organization" spoken of by the court, and if it had "employed these resources" in the direction alleged, it is likely that "these resources" would not have been on hand as an object of escheat and a prey for plunder. And it is not unreasonable to believe, that if they had been used in ways that might have been suggested, the legislation which seeks to give the Government power to seize something that does not and cannot belong to it, would possibly have never been fully hatched into life.

We take pleasure in reproducing some additional comments, from influential papers, on the decision of the Supreme Court touching this matter. The annexed is from the *St. Louis Republic* of May 21st:

"The Supreme Court, Judge Bradley delivering the opinion, Justices Fuller and Lamar dissenting, sustains Senator Edmunds in his view that the State may take by 'escheat' the property of a dissolved corporation. This doctrine was opposed and in *THE REPUBLIC'S* judgment thoroughly refuted by Senator Vest in the debate on the Edmunds bill, but Judge Bradley adopts and expands it in an opinion that resembles a stake wagon speech in a Salt Lake campaign for district constable more than it does a Supreme Court opinion.

"As property 'escheating' is confiscated by the State when there are no heirs or when its owners have rebelled, Mr. Bradley makes his case on both grounds, and upholds the confiscation of the Mormon Church property, on the claim that the corporation was rebellious, and that it has no heirs. Neither point is made directly. The opinion is full of indirection from beginning to end except in the trumpety bravery of its directness in asserting that Mormonism and Mormons are very wicked.

"How polygamy justifies robbery nowhere appears in the opinion. When escheat, so-called, is confiscation, alienating property from those who have earned it and vesting it in those who have not, whether in private individuals or in the association of the same individuals in a government, there is no real distinction between such escheat and the eminent domain exercised by Mr. Robert Hood, of Sherwood Forest, over the church corporations whose property he 'escheated' on the ground that they were luxurious and immoral. It is asserted that polygyny was a common practice in such religious corporations, and there is no such difference between polygyny and polygamy as to make Mr. Bradley's view of escheat better than Mr. Hood's. The only question in either case was of whether those holding the property alleged to be an 'escheat' had earned it. Certainly the Mormons earned theirs by working it out of the desert through innumerable hardships and with such self-sacrifices as have never been exceeded in the history of the country. And it is just as apparent that the rest of the people constituting in their collective capacity the government of the United

States have not earned it and therefore have no right to it. It was their right to dissolve the Mormon corporation, and it was their duty in doing so to return its property to its heirs—those who contributed it in the first place, the stockholders of the corporation or members of the Church. This is the command of the English common law, which until now has never been so disregarded in the United States. But under this decision the stockholders of a corporation have no property rights in its holding. The government may dissolve the corporation and confiscate its property as 'an escheat' on whatever pretext is most convenient. If this is law and the Constitution, why not 'escheat' the property of the trusts as more dangerous to the "public welfare" than any corporation that confines its operations to the desert and the Salt Lake regions?"

The Newark, N. J. *News* says:

"It is not surprising to find that the Chief Justice of the Supreme Court of the United States and Justices Field and Lamar dissent from the decision of the majority of the court in regard to the absolute power of Congress over the Territories to the extent involved in the seizure, appropriation and distribution of Mormon funds under a peculiar construction of the Edmunds law.

"There can be no doubt that Congress is entitled to sweep to one side the sophistical humbug that Mormon polygamy is a religious institution, and as such exempt from legal penalties such as are provided for bigamy and irregular cohabitation. But an assertion of a right to seize and use funds contributed by a community as being totally forfeited because some of the people connected with the control of the money have been proved to be violators of the common law and of the canons of morality, is a different matter.

"It may not be doubted that the Federal Government has the right to inflict penalties, in the way of imprisonment and fine, on persons violating laws, but the confiscation of property or of funds is violently subversive of all republican tenets. But the Court says: 'Congress had before it a contumacious organization wielding by its resources an immense power in the Territory of Utah, and employing these resources in constantly attempting to oppose, subvert and thwart the legislation of Congress and the will of the Government of the United States. Under such circumstances we have no doubt of the right of Congress to do as it did.'

"The minority of the Supreme Court, headed by Chief Justice Fuller, holds that the authority of Congress over Territorial affairs is not unlimited, but it is subject to constitutional limitations. It may suppress polygamy, irrespective of religious pleas advanced in its defense, but the minority contends that Congress has no power 'to seize and confiscate the property of corporations because they have been guilty of a crime.'

This is an editorial from the Providence, R. I., *Telegram*, of the 23d inst:

"The Springfield *Union* takes it upon itself to say, in commenting upon the Supreme Court decision 'wiping out the Mormon Church organization,' that 'it is clear that if a majority of the justices had been Democrats this result would not have been achieved. Messrs. Fuller, Field and Lamar all join in a dissenting opinion, and there is a rumor in Washington