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DECISION IN THE CHURCH CASES.

The adjourned session of the June term of the Territorial Supreme court was held this morning in the Supreme court room, Dooly building. Chief Justice Zane presided, and there were with him on the bench Associate Justices Blackburn and Miner. The members of the bar gathered in strong force. Judge Anderson occupied a seat among his legal brethren, those present including Attorneys F. S. Richards, W. H. Dickson, Judge Henderson, Judge Juhl, Judge Sutherland, Judge Loofbourov, Arthur land, E. W. Tatlock, C. S. Varian, Brown, E. W. Tatlock, C. S. Varian, Jno. J. M. Zane, Ogden Hiles, Judge Bennett, Judge J. A. Marshall, Barlow Ferguson, E. B. Critchlow, W. C. Reilly, J. A. Williams, S. P. Armstrong.

The minutes of the last session of court were read by Clerk Bache and signed, after which Chief Justice Zane delivered the following anxiously awaited opinion in

THE CHURCH CASES:

The late corporation of the Church of Jesus Christ of Latter-day Saints and others, defendants, vs. the United States of America, plaintiff.

We are now called upon to designate the objects to which the personal property in the hands of the receiver shall be devoted, and to decide upon the mode of its application.

The questions presented for our decision require an examination of the Master's report, and the interpretation of congressional enactments designed to suppress polygamy, as well as an application of the doctrine of equity applicable to the rights of property dedicated to charitable uses.

This suit is maintained under Sec. 17 of an act in force March 3rd, 1887, and is as follows:

"That the acts of the Legislative Assembly of the Territory of Utah, incorporating, continuing, or providing for the corporation known as the Church of Jesus Christ of Latter-day Saints, and the ordinance of the so-called general assembly of the State of Deseret incorporating the Church of Jesus Christ of Latter-day Saints, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, in so far as it may have or pretend to have, any legal existence, is hereby dissolved. That it shall be the duty of

the attorney general of the United States to cause such proceeding to be taken in the Supreme court of the Territory of Utah as shall be proper to execute the foregoing provisions of this section and to wind up the affairs of said corporation conformably to law; and in such proceedings the court shall have power, and it shall be its duty, to make such decree or decrees as shall be proper to effectuate the transfer of the title to real property now held and used by said corporation for places of worship, and parsonages connected therewith, and burial grounds, and of the description mentioned in the proviso to section thirteen of this act and in section twenty-six of this act, to the respective trustees mentioned in section twenty-six of this act; and for the purposes of this section said court shall have all the powers of a court of equity." Section thirteen referred to in the section quoted made it "the duty of the attorney general of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of section three of the act of Congress approved July 1st, 1862, entitled "An act to punish and prevent the practice of polygamy in the territories." This section also declared that such property so forfeited and escheated should be disposed of by the secretary of the interior and the proceeds thereof applied to the benefit of the common schools in the Territory in which such property might be, and provided that no building, or the grounds appurtenant thereto, held and occupied exclusively in which to worship God, or parsonages connected therewith or burial grounds should be forfeited. And section 3 above mentioned declared that it should not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any territory of a greater value than \$50,000, and that all real estate acquired or held by any such corporation or association contrary to the provisions of the act should be forfeited and escheated to the United States.

Section 26, also referred to in section 17, is as follows:

"That all religious societies, sects and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a Territory, only on the nomination of the authorities of

such society, sect or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect or congregation."

These acts provide that all real estate held by any church for religious or charitable purposes not used for houses of worship, parsonage or burial grounds, acquired contrary to the act of 1862, shall be forfeited and escheated to the United States.

And they annul the charter of the Church of Jesus Christ of Latter-day Saints and provide for winding up its affairs and for the transfer of its real property not forfeited and escheated, to trustees appointed by the probate court on the nomination of the authorities of such church.

In these enactments Congress recognized the religion of the Latter-day Saints as lawful and their church though disincorporated as having the right through trustees selected by its authorities to own houses in which to worship God and for their ministers to live in. In the second section of the act of 1862 it is declared that it shall be so construed as not to affect or interfere with "the right to worship God according to the dictates of conscience."

Upon a hearing of this case on the bill, answer, evidence and stipulation of the parties, this court held the various sections above mentioned, and the acts referred to, valid and appointed a receiver to take possession of all real and personal property of the defunct corporation and to hold the same to be disposed of according to law, and upon a further and subsequent hearing the court made a further decree by which it set apart to the disincorporated body of religious worshippers, block eighty-seven in plat "A," Salt Lake City, known as the "Temple Block" and held the remainder of real estate acquired in violation of the 3rd section of the act of 1862 subject to forfeiture and escheat to the United States. That the personal property of the Church, by reason of the dissolution of its corporation because of the failure or illegality of the trust to which it had been dedicated at its acquisition and in consequence of its use by the corporation by operation of law became forfeited and escheated to the United States. From