

the less. Hence there can be no question that the act of July 1, 1862, already recited, was a valid exercise of congressional power. Whatever may be the effect or true construction of this act, we have no doubt of its validity. As far as it went it was effective. If it did not absolutely repeal the charter of the corporation, it certainly took away all right or power which may have been claimed under it to establish, protect, or foster the practice of polygamy, under whatever disguise it might be carried on; and it also limited the amount of property which might be acquired by the Church of Jesus Christ of Latter-day Saints; not interfering, however, with vested rights in real estate existing at that time. If the act of July 1, 1862, had but a partial effect, Congress had still the power to make the abrogation of its charter absolute and complete. This was done by the act of 1887. By the 17th section of that act it is expressly declared 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 said church, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, so far as it may now have or pretend to have any legal existence, is hereby dissolved." This absolute annulment of the laws which gave the said corporation a legal existence has dissipated all doubt on the subject, and the said corporation has ceased to have any existence as a civil body, whether for the purpose of holding property or of doing any other corporate act. It was not necessary to resort to the condition imposed by the act of 1862, limiting the amount of real estate which any corporation or association for religious or charitable purposes was authorized to acquire or hold; although it is apparent from the findings of the court that this condition was violated by the corporation before the passage of the act of 1887. Congress, for good and sufficient reasons of its own, independent of that limitation, and of any violation of it, had a full and perfect right to repeal its charter and abrogate its corporate existence, which of course depended upon its charter.

The next question is, whether Congress or the court had the power to cause the property of the said corporation to be seized and taken possession, as was done in this case.

When a business corporation, instituted for the purposes of gain, or private interest, is dissolved, the modern doctrine is, that its property, after payment of its debts, equitably belongs to its stockholders. But this doctrine has never been extended to public or charitable corporations. As to these, the ancient and established rule prevails, namely, that when a corporation is dissolved, its personal property, like that of a man dying without heirs, ceases to be the subject of private

ownership, and becomes subject to the disposal of the sovereign authority; while its real estate reverts or escheats to the grantor or donor, unless some other course of devolution has been directed by positive law, though still subject, as we shall hereafter see, to the charitable use. To this rule, the corporation in question was undoubtedly subject. But the grantor of all, or the principal part, of the real estate of the Church of Jesus Christ of Latter-day Saints was really the United States, from whom the property was derived by the church, or its trustees, through the operation of the town site act. Besides, as we have seen, the act of 1862 expressly declared that all real estate acquired or held by any of the corporations or associations therein mentioned (of which the Church of Jesus Christ of Latter-day Saints was one), contrary to the provisions of that act, should be forfeited and escheat to the United States, with a saving of existing vested rights. The act prohibited the acquiring or holding of real estate of greater value than \$50,000 in a Territory, and no legal title had vested in any of the lauds in Salt Lake City at that time, as the town site act was not passed until March 2, 1867. There can be no doubt, therefore, that the real estate of the corporation in question could not, on its dissolution, revert or pass into any other person or persons than the United States.

If it be urged that the real estate did not stand in the name of the corporation, but in the name of a trustee or trustees, and therefore was not subject to the rules relating to corporate property, the subject of the difficulty still remains. It cannot be contended that the prohibition of the act of 1862 could have been so easily evaded as by putting the property of the corporation into the hands of trustees. The equitable or trust estate was vested in the corporation. The trustee held it for no other purpose; and the corporation being dissolved, that purpose was at an end. The trust estate devolved the United States in the same manner as the legal estate would have done had it been in the hands of the corporation. The trustee became trustee for the United States instead of trustee for the corporation. We do not now speak of the religious and charitable uses for which the corporation, through its trustee, held and managed the property. That aspect of the subject is one which places the power of the government and of the court over the property on a distinct ground.

Where a charitable corporation is dissolved, and no private donor, or founder, appears to be entitled to its real estate (its personal property not being subject to such reclamation), the government, or sovereign authority, as the chief and common guardian of the state, either through its judicial tribunals or otherwise, necessarily has the disposition of the funds of such corporation, to be exercised, however, with due regard to the objects and purposes of the charitable uses to which the prop-

erty was originally devoted, so far as they are lawful and not repugnant to public policy. This is the general principle, which will be more fully discussed further on. In this direction it will be pertinent, in the mean time, to examine into the character of the corporation of the Church of Jesus Christ of Latter-day Saints, and the objects which, by its constitution and principles, it promoted and had in view.

It is distinctly stated in the pleadings and findings of fact, that the property of the said corporation was held for religious and charitable uses. But it is also stated in the findings of fact, and is a matter of public notoriety, that the religious and charitable uses intended to be subserved and promoted are the inculcation and spread of the doctrines and usages of the Mormon Church, or Church of Latter-day Saints, one of the distinguishing features of which is the practice of polygamy—a crime against the laws, and abhorrent to the sentiments and feelings of the civilized world. Notwithstanding the stringent laws which have been passed by Congress,—notwithstanding all the efforts made to suppress this barbarous practice—the sect or community composing the Church of Jesus Christ of Latter-day Saints perseveres, in defiance of law, in preaching, upholding, promoting and defending it. It is a matter of public notoriety that its emissaries are engaged in many countries in propagating this nefarious doctrine, and urging its converts to join the community in Utah. The existence of such a propaganda is a blot on our civilization. The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of the civilization which Christianity has produced in the Western world. The question, therefore, is whether the promotion of such a nefarious system and practice, so repugnant to our laws and to the principles of our civilization, is to be allowed to continue by the sanction of the government itself; and whether the funds accumulated for that purpose shall be restored to the same unlawful uses as heretofore, to the detriment of the true interests of civil society.

It is unnecessary here to refer to the past history of the sect, to their defiance of the government authorities, to their attempt to establish an independent community, to their efforts to drive from the Territory all who were not connected with them in communion and sympathy. The tale is one of patience on the part of the American government and people, and of contempt of authority and resistance to law on the part of the Mormons. Whatever persecutions they may have suffered in the early part of their history, in Missouri and Illinois, they have no excuse for their persistent defiance of law under the government of the United States.

One pretence for this obstinate course is, that their belief in the