law of charities as applied in such cases. The case was now referred to a Master to suggest and report a scheme limiting and appointing the personalty to such charitable uses, lawful in their character, as might most nearly correspond to those purposes to which it was originally destined.

In view of the magnitude of interest involved here, so far as his clients were concerned he could truly say that he approached the discussion of this question with much misgiving and trepidation. This he believed was the first time in the history of this country where either the Federal or any of the States governments had undertaken to dissolve a religious or charitable corporation, and, having dissolved it, had attempted through its officers or otherwise to wrest from the members of a late corporation, that property which was the fruit of their own industry and lawfully acquired by the late corporation, and apply it to the use and benefit of others who had nothing to do with the contributions, and for whose benefit the fund was never designed. It might be said that this was the first time in the history of this nation that any such thing had been attempted. He believed it had never been attempted in England since the dissolution of the monasteries, when the property of the Roman church was seized.

He would now state broadly —and he would state confidently, because he believed he was right — that there could not be found in the law books of this country or of England, any case in which a court, exercising merely its judicial power, had ever sought to do what this court was now asked to do by the officers representing the government. He did not believe there could be found a case from the earliest reports that we had of the administration of charities in England through the courts of chancery of that country, or a case wherein the courts of this country, in any State of the Union, any such thing had been attempted. Council insisted that it was beyond the power of any court to do it, even though it had the inclination. Cases in England had arisen in an early day where some such thing as was now contemplated was done by the Lord Chancellor, not, however, by the power inherent in the chancery courts but by virtue of his power under the sign manual of the Crown, exercised by the Lord Chancellor.

The questions now presented were somewhat novel in this country; they were interesting; they were sure of great importance. They were not to be determined by prejudice or favor.

They were not to be controlled in the consideration of these questions by considerations of finance or expediency, but determined by the law, by well-established precedents, if there were any, by the eternal principles of right and justice. This court was called upon to report to the Supreme Court of the Territory a scheme limiting and appropriating this fund to such lawful purposes as should most nearly correspond with those to which it was originally destined by those whose industry created it. It would be conceded, he took it, that the Master in Chancery, in devising a scheme, and the court in passing upon the same, were to be guided and controlled by the principle or doctrine of *cy pres*, as applied to charities, and as exercised by a court of equity judicially—by virtue of the power inherent in Courts of Chancery as distinguished from extra-judicial power or prerogative sometimes exercised by the Chancellor of England under the sign manual. So far as the courts of equity in this country, at least, were concerned, it had been proved that none of them possessed the power which was possessed by the Lord Chancellor of England when acting under the sign manual.

When the Supreme Court of the United States required the Territorial Supreme Court to refer this matter to a Master, it must be clear that the understanding and intention of the court was that the Master, being but a branch of the court, should be bound by the limits which marked the jurisdiction and power of a court of equity. It was never supposed that the court, or the Master appointed by it, would have any such authority as was exercised in England by the Lord Chancellor under the sign manual.

Having pointed out the history of the fund in question, which he said was the offspring of innumerable petty contributions and donations made to the late corporation of the Church of Jesus Christ of Latter-day Saints by its members from time to time, extending over many years, and pointed out the real design of the donors to its application—religious and charitable uses—counsel remarked it was said by Mr. Marshall, counsel for the government, in the course of his argument this morning, that the fund was not in any way limited—that it was devoted to religion and charity generally. It occurred to him (Mr. Dickson) that this was a singular statement, in view of the evidence in this case. His meaning no doubt was that those who had contributed to this fund designed and intended that it should be used under the direction of the First Presidency of the Church in the religious and charitable work of that Church. Through all these years it had been applied not to religious purposes generally, but to those of the "Mormon" faith. It had been applied—so far as it had been used—to the relief of the poor—not to the poor generally, but to the "Mormon" poor, except a small sum devoted to a little band of Indians for a few years, in teaching them agriculture and some of the smaller mechanical arts. It seemed to him that it would be unfair and disingenious to say there was any doubt here but that this fund was intended to be applied to the relief of the poor of that faith, and for the religious purposes of that sect. Counsel cited the case of the attorney general of England vs. Clapham, and replied to the position taken by counsel for the government, that the decree of the Supreme court of the Territory in this case had conclusively settled the question adversely to the defendants—that this fund could not be vested in trustees for the benefit of the members of the Church of Jesus Christ of Latter-day Saints in any way, either for the relief of the poor nor for any lawful religious work, even though the court might see its way clear by which to limit it to such uses as would be strictly lawful in their nature—not opposed to public policy but eminently praiseworthy. But Mr. Dickson held that the court had the power to apply this property to any charitable use lawful in its character, although that use might be one and the same to which it was originally appropriated; and there was nothing in the decree which denied it. He was not, on the part of the defendants, demanding that that fund be set apart unconditionally and generally in trust for this Church association; they were asking the court simply to lay its hand upon the fund and keep control of it—to appoint trustees, requiring them to report at least annually as to their trust, and as much oftener as called upon; so that the court might all the time have supervision of the trustees, correct abuses —if any existed —and remove the trustees first chosen, should they prove unfaithful at any time. They were asking that this fund be applied simply to certain specific purposes pointed out, each of which was recognized as lawful on all sides — purposes within the scope of the donors at the time they contributed. Counsel quoted a large number of cases in support of his argument, mainly in reply to counsel for the government. He referred to an English case, that of the Bishop of Hereford vs. Adams. In that instance the fund was found to be considerably more than was necessary for the relief of the parishes named in the will in the way directed by the testator, after supplying the needy with food, fuel, clothing, medical attendance, etc., and the surplus was applied to the education—of whom? The poor mentioned in the will. The other side here did not propose to do that—so far as the poor of the "Mormon" faith were concerned. They asked that the money be taken out of the hands of the poor altogether and devoted to the education of the children of the rich as well as the needy. The case of the Campden Charities (reported in the English law books) and other authorities were cited.

All the government desired, all it had ever asked, was that its laws should be obeyed and respected. The "Mormon" people now came forward—counsel cared not whether they rested on revelation or anything else—one man after another, and swore that the practice of polygamy had been stopped, that the intention of President Woodruff's manifesto to the Church was to that end, not only to stop it temporarily—a suspension merely—but to stop it absolutely. That was all the government asked. It did not ask them to go farther—not to go down upon their knees and say they were sorry for what they had done in the past and confess that they had been hypocrites and impostors. The government did not require them to say, "We will bow down and admit, (as to the sanction of the practice of polygamy) We never did believe this was a revelation from the Almighty." The Mormon people, said counsel, might be misguided and mistaken and think they received revelations from God; we might question and doubt this; but it mattered not so far as the government was concerned if the conclusion should be reached by the Master in Chancery that the Mormons had stopped the practice of polygamy. It mattered not