that the uses and purposes to which the fund in question had been dedi-cated were in whole or in part opposed to public policy, good morals and contrary to the laws of the United States,

Baid:

And not being lawfully applicable to the purposes for which it was originally dedicated or acquired and to which at the commencement of this was being devoted by the ion and its controlling auit it corporation and its authorities the same ought to authorities to be limited and appointed to such to be numer and appointed to such charitable uses, lawful in their character, as most nearly correspond to those to which it was originally destined.

The court did not mean to say that The court did not mean to say that the assistance of the poor and dis-tressed members of the Church, and aid and comfort to the widows and orphans of its members were opposed orphans policy, good morals and contrary to the laws of the United States. The decree concludes: "Wherefore

decreed that the cause be remanded to the Supreme court of the Territory of Utah, with directions to modify its decree as herein directed, and to take such further proceedings as to law and justice may appertain in conformity opinion of this court."

Mormon Church ve. United States,

140 U. S. 665. This decree must be construed in the light of the opinion of the court ordering and making the decree. The court used the following language in its opinion:

But it is also stated in the findings of fact, and is a matter of public notoriety, that the religious uses intended to ety, toxt the and promoted are the inculcation and spread of the doctrines and usages of the Mormon Chuich, one of the distinguishing features of which is the practice of polygamy -a crime against the laws and abhorrent to the against the land seelings of the civilized world." And after stating that the Church in defiance of law Church in denance of law was persevering in propagating this doctrine, and condemning it in unmistakable language the court conumnistakable question therefore is inned, are promotion of such a rewhether, the promotion of such a nefarious system and practice, so repug-nant to our laws and to the principles of our civilization is to be allowed to continue by sanction of the government itself; and whether the funds accumulated for that purpose shall be restored to the same unlawful uses as hereto-fore, to the detriment of the true intereats of civil society."

In substance the court said that the fund was used to promote and spread the doctrines and usages of the Church, one of the distinguishing features of which was the practice of polygamy, and that to return to the authori-ties of the Church or to Romney and others, intervenors, on behalf of all its unincorporated members as they others, asked to be appropriated and used without limitation, would be in effect to sanction such unlawful use of the fund for the same unlawful purpose the propagation of polygamy.

It understood that this fund was used to propagate and spread the doc-trines and usages of the church and that polygamy was one of those doc-position of the case—rights deter-trines and its practice was one of its mined by the decree could not be

usages; the court did not undertake to distinguish the lawful purposes of the church from the one that was unlawful, it was not asked by the parties, or either of them, to do that.

Referring to the law of March 3rd, 1887, the court said: "The only question we have to consider in this record is as to the constitutional power of congress to pass it. Nor are we now called upon to declare what disposition ought to be made of the property of the Church of Jesus, Christ of day Saints.

This suit is in some respects an auxilliary one, instituted for the purpose of taking possession of and holding for final disposition the property of the defunct corporation in the hands of a receiver and winding up its affairs. To that extent and to that only the decree of the Surpreme Court of the Ter-ritory has gone."

The opinion concludes: "The appliof Romney and others recation presenting the unincorporated mem-bers of the Church of Jesus Church of J bers of Christ of Christ of Latter-day Saints, is fully disposed of by the considerations already adduced. The principal question discussed has been, whether the property of the Church was in such a condition as to authorize the government and the court to take possession of it and hold it until it shall be seen what final disposition of it should be made; and we think it was in such a condition, and that it is properly held in the custody of the receiver.

The rights of the Church members will necessarily be taken into consideration in the final disposition of the There is no ground for granting their present application. The property is in the custody of the law, awaiting the judgment of the court as to its final disposition in view of the illigal uses to which it is subject in the hands of the Church of Latter-day Saints, whether incorporated or unincorporated The conditions for claiming possession of it by members of the sect or community under the act do not at present exist."

The court held that it was not then called upon to declare what disposition ought to be made of the fund; that the principal question considered by it was whether the property of the church was in such a condition as to authorize the court to take possession of it by its receiver and hold it until it should be seen what final disposition should be made of it; that the property was in the custody of the law awaiting final disposition by the court in view of the illegal uses to which it was sub-ject in the hands of the church authorities whether incorporated that unincorporated; or conditions for claiming possession of it by the members of the Mormon sect or community did not then exist; that their rights would necessarily be taken into consideration in the final disposition of the case, and that there was no ground for granting their application as then made and at that time.

In this there is nothing to indicate that the court understood that the rights of the unincorporated members of the Church were barred by its decree. In fact the court expressly said that their rights would necessarily be taken final disinto consideration in the

taken into consideration afterwards. The case was remanded and the Territorial court was directed to refer the questions as to the rights of the Church and its members and all others to the fund to a Master for examination and inquiry as to their rights under the couditions existing at the time of the inquiry and for the suggestion of a scheme or mode by which it could be "Ilmited and appointed to such charltable uses, lawful in their character, as might most nearly correspond to those to which it was originally destined."

We cannot concur in the conclusion of the Master that the Supreme court, in its decree condemned all the uses to which the fund had been dedicated, which the fund had been dedicated, and that it forbids the application of ony part of it to any of them. It appears from the opinion that polygamy was the only object that the court found to be unlawful, and we cannot believe that it intended to condemn all the worthy purposes of the Church because of this unlawful one. Did the virus of this permeate every charitable purpose of the Mormon people? One of the charities to which this fund was appropriated was the assistance and relief of the poor of the Church, another was the erection and repair of houses of The deeree cannot be conworship. atrued to condemu those purposes-to condemn those qualities as victous in the Latter-day Saints that we regard as virtues in other people.

We are of the opinion that the decree of the Supreme court of the United States in this cause does not forbid us from limiting and appointing this fund to any charitable use that is lawful within the scope of the purpose to which it was originally dedicated.

We will now consider the two schemes presented for our considera-tion and adoption. Neither of them is unlawful or opposed to public policy or morality.

The scheme that would devote the fund to the aid and assistance of the poor members of the Church and their tamilies and to the erection and repair of its places of worship would limit it to objects within the scope of the intentions of its donors.

The other would devote and appoint it to a use not intended by its donors and to wnich it was not dedicated.

This brings us to the question, can the court appropriate this fund to a charitable object not intended by its been dedicated?

The court said in its opinion re-manding this case, "It is obvious that any preperty of the corporation which; may be adjudge i to be forfeited and. escheated will be subject to a more absolute control and disposition by the government than that which is not so, forfeited. The non-forfeited property will be subject to such disposition only as may be required by the law of charitable. uses, while the forfeited and eschoated property, being subject to a more ab-solute control of the government, will admit of a greater latitude of discretion in regard to its disposition."

The legal title and all equitable ghts to the real estate forfeited and rights escheated, because held contrary to the law of 1862, vests in the government to be dealt with and disposed of ac-cording to law. While the personsi-