stocks, and bonds belonging to said defendant corporation as trustee in trust for said defendant, by and with the consent and approval of defendant, donated, transferred, and conveyed all of said personal property, moneys, stocks, and bonds held by him belonging to said defendant corporation, after setting apart and reserving certain moneys and stocks then held by him, sufficient in amount and necessary for the then existing indebtedness of said defendant corporation, to certain ecclesiastical corporations created and existing under and by virtue of the laws of the Territory of Utah, to be devoted by said ecclesiastical corporations solely and only to charitable and religious uses and purposes."

And the interveners, Romney and others, who claim to represent the hundred thousand and more individuals of the Mormon Church, in their petition say:

"That the said Church of Jesus Christ of Latter-day Saints is and for many years last past has been a voluntary religious society or association, organized and existing in the Territory of Utah for religious and charitable purposes.

"That said petitioners and others, for whose benefit they file this petition, are members of said church, residing in said Territory; that said church became possessed of all the above-described property, in accordance with its established rules and customs, by the voluntary contributions, donations, and dedications of its said members, to be held, managed, and applied to the use and benefit of said church and for the maintenance of its religion and charities by trustees appointed by said members semi-annually at the general conference or meeting of said members."

The foregoing considerations place it beyond doubt that the general law of charities, as understood and administered in our Anglo-American system of laws, was and is applicable to the case now under consideration.

Then looking at the case as the finding of facts presents it, we have before us—Congress had before it—a contumacious organization, wielding by its resources an immense power in the Territory of Utah, and employing those resources and that power in constantly attempting to oppose, thwart, and subvert the legislation of Congress and the will of the government of the United States. Under these circumstances we have no doubt of the power of Congress to do as it did.

It is not our province to pass judgment upon the necessity or expediency of the act of February 19, 1887, under which this proceeding was taken. The only question we have to consider in this regard 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 Latter-day Saints. This suit is, in some respects, an ancillary 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 Circuit Court has gone. In the proceedings which have been instituted in the District Court of the Territory, it will be determined whether the real estate of the corporation which has been seized (excepting the portions exempted by the act) has, or has not, escheated or become forfeited to the United States. If it should be decided in the affirmative, then, pursuant to the terms of the act, the property so forfeited and escheated will be disposed of by the Secretary of the Interior, and the proceeds applied to the use and benefit of common schools in the Territory.

It is obvious that any property of the corporation which may be adjudged 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; whilst the forfeited and escheated property, being subject to a more absolute control of the government, will admit of a greater latitude of discretion in regard to its disposition. As we have seen, however, Congress has signified its will in this regard, having declared that the proceeds shall be applied to the use and benefit of common schools in the Territory. Whether that will be a proper destination for the non-forfeited property will be a matter for future consideration in view of all the circumstances of the case.

As to the constitutional question, we see nothing in the act which, in our judgment, transcends the power of Congress over the subject. We have already considered the question of its power to repeal the charter of the corporation. It certainly also had power to direct proceedings to be instituted for the forfeiture and escheat of the real estate of the corporation; and, if a judgment should be rendered in favor of the government in these proceedings, the power to dispose of the proceeds of the lands thus forfeited and escheated, for the use and benefit of common schools in the Territory, is beyond dispute. It would probably have power to make such a disposition of the proceeds if the question were merely one of charitable uses, and not forfeiture. Schools and education were regarded by the Congress of the Confederation as the most natural and obvious appliances for the promotion of religion and morality. In the ordinance of 1787, passed for the government of the Territory Northwest of the Ohio, it is declared, art. 3: "Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged." Mr. Dane, who is reputed to have drafted the said ordinance, speaking of some of the statutory provisions of the English law regarding charities as inapplicable to America, says: "But in construing these laws, rules have been laid down which are valuable in every State; as that the erection of schools and the relief of the poor are always right, and the law will deny the application of private property only as to uses the nation deems superstitious." (4 Dane's Abridg. 239.)

The only remaining constitutional question arises upon that part of the 17th section of the act, under which the present proceedings were instituted. We do not well see how the constitutionality of this provision can be seriously disputed, if it be conceded or established that the corporation ceased to exist, and that its property thereupon ceased to have a lawful owner, and reverted to the care and protection of the government as *parens patriæ*. This point has already been fully discussed. We have no doubt that the state of things referred to existed, and that the right of the government to take possession of the property followed thereupon.

The application of Romney and others, representing the unincorporated members of the Church of Jesus 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 case. 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 illegal 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 the members of the sect or community under the act do not at present exist.

The attempt made, after the passage of the act on February 19th, 1887, and whilst it was in the President's hands for his approval or rejection, to transfer the property from the trustees then holding it to other persons, and for the benefit of different associations, was so evidently intended as an evasion of the law, that the court below justly regarded it as void and without force or effect.

We have carefully examined the decree, and do not find anything in it that calls for a reversal. It may perhaps require modification in some matters of detail, and for that purpose only the case is reserved for further consideration.

True copy.
Test:
JAMES H. MCKENNEY,
Clerk of the Supreme Court U. S.

ANOTHER UTAH BILL.

WASHINGTON, June 10.—Senator Edmunds today introduced a bill in the Senate providing that all funds or other property lately belonging to, or in the possession of, or claimed by the Corporation of the Church of Jesus Christ of Latter-day Saints shall be devoted to the benefit of public common schools in Utah, the money to be disposed of by the Secretary of the Interior in such manner as shall seem to him most expedient. The Supreme Court of Utah is to be invested with authority to make all necessary and