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Counsel for defendants, having called all their witnesses, here rested, and testimony was next taken on behalf of the other side.

Mr. J. F. Millspaugh, city superintendent of public schools, was the first witness who took the stand on the government side of the case. He was questioned by Mr. Dickson as to the condition of the school buildings in the Territory and the general requirements thereof. The need of school buildings and furniture all over the Territory was, he said, very urgent. The school buildings in this city especially were sadly inadequate to the demands made upon them, though accommodation had been found for all applicants. The enrollment last year was 3203, while there were then suitable accommodations for about 1300 only.

Free schools were first established in the entire city a year ago last July. The attendance had since very greatly increased, nearly double that of the year preceding the inauguration of the new school system. The lack of proper accommodation had been detrimental to the health of the pupils as well as to the school work.

To Mr. Dickson—He spoke exclusively of the free common schools in this city. Apart from these schools, almost every Christian denomination in the city had a certain school connected with the church. The residents of this city this year voted $200,000 of bonds for public school purposes.

Dr. John R. Park, president of the University of Deseret, with which he became associated in March, 1890, said he had in 1884-5 visited the different schools in the Territory as territorial superintendent of education. This was during his three years of office. One prominent fault was the absence of buildings for church schools, as in case of the settlements school was held in the meeting houses belonging to the Mormon Church. The residents in these settlements were almost exclusively members of that Church. School apparatus and libraries were wanting in many places at that time. From his experience he gathered that the special needs, in addition to what he had already noted, were good schoolhouses and good furniture. Libraries had since been established in some places, but some had fallen through from various causes. The most of schoolhouses was most urgent there.

Mr. Rawlins asked the witness what proportion of the school population of the Territory outside Salt Lake and Ogden were of Mormon parentage; but the question was objected to by Mr. Dickson, on the ground that the witness was not competent to answer, and it was not pressed.

To Mr. Dickson—He had not benefitted himself with the condition of the schools in the Territory since the time named.

Prof. W. M. Stewart, former superintendent of schools, gave the result of his experience among the schools in this and other counties during his ten years of educational work, and said the great deficiency he observed lay in the want of proper school buildings, which were primitive and in some instances altogether unsuited to the purposes for which they were used. This was due largely to the lack of manhanning the people in the respective country districts. The sanitary arrangements of the school houses in many places were most important. Last year there were only about twelve suitable school houses in Salt Lake County.

Mr. Parley L. Williams, ex-commissioner of schools, was next called and was shown an official report made by him to Congress, in his capacity of commissioner of schools, for the years 1887 and 1888, commencing in April of the former year.

Mr. Dickson, however, after perusing the document, objected to it on the ground that it contained a strong anti-"Mormon" flavor, or speech, which was improper as coming from a government officer.

Mr. Varian replied that the report was a Senate document and he denied that, therefore, it contained anything but what was allowable and proper.

After some desultory conversation on the matter the Master ruled that the report was admissible.

The witness was then interrogated by Mr. Rawlins and stated that his visits, while acting as school commissioner, to the respective districts, convinced him that there existed a great lack of accommodation in the schools.

It having been stated that the government might possibly want to call as about witness on Wednesday morning,

Mr. Varian remarked that the government, as he said in the beginning of this inquiry, had no interest in this proposed application of funds except in so that it was properly made; that was to say, it had not the same interest that these same claimants had, for instance, or that any society or private claimant representing any particular charity would have. If the application of these moneys to charitable uses was properly made, the government had nothing further to say. Hence it seemed to him eminently proper that those who had schemes to submit should be permitted to present them and all the evidence bearing thereon that they wished. Then when the schemes were all in, if the government chose to suggest a scheme for itself, not approving of those already presented, it should be allowed to do so for the consideration of the Master in Chancery. He thought, too, that counsel for the government should have the right to make the closing argument, if they wished, to view the whole matter. They did not ask to open the argument. They were willing to adjourn, and the gentleman representing the other side of the question might talk as long as their own judgment and the discretion given by the Master allowed.

Mr. Richards—Have you made any formal presentation of a scheme?

Mr. Varian—Only what is on the pleadings; to-day I presented a scheme, or suggestion, yesterday. I have not written anything; but if it is deemed advisable we can take time to reduce it to writing.

Mr. Dickson—It seems to me that the order of argument should follow the order of evidence. As the defendants had opened the case, they should also have the privilege of closing. Counsel remarked that no one in this investigation had so deep and vital an interest in the matter as the defendants.

Mr. Varian, dissenting from the observations of Attorney Dickson, still argued that he also should have the opportunity of making the final argument. That would afford them an opportunity of pointing out any objectionable or objectionable features which might appear in other schemes.

After some further talk, the Master in Chancery said he thought that the arguments should be made for the same order as that in which the evidence had been taken, but he preferred to reserve his decision on that matter until the morning.

It was agreed a few minutes to five o'clock when the court adjourned.

THE MORMON CHURCH.

When the court commenced, Mr. Varian called as a witness Mr. Frank H. Dyer, former receiver in the Church escheat proceedings.

Mr. Varian said—I want to call your attention to the matter of compromise made with the Church authorities, with a view to ascertaining precisely the several amounts in money that were received by certain parties. Perhaps that report will show it handing to the witness one of his official reports for inspection.

To Mr. Richards—This is the petition I made to the Supreme Court asking for authority to compromise.

To Mr. Varian—The $1,000 bond of above were turned over to me as receiver. They were all issued in different parties—the greater number to Mr. Edward A. Ivy who investigated in the compromise of $75,000 tax, they did not amount to anything. The only notes that were turned over to him, and certainly paid, were those for the Treasury, so far as he remembered, gas stock, the street railroads, telegraph stock, and money on account of the property, etc., which had been sold. Asked as to what was the present value of the gas stock, Mr. Dyer said: My judgment is that it is worth $125, at least, per share.

Mr. Varian—What about the present value of the Deseret telegraph stock?

Witness—Well, at one time I thought that it had some value, but the more I looked into it the more convinced was I of its worthlessness. I would not now give $1 for the whole line of telegraph in the Territory; well, I would not take it as a gift. (Laughter.)

Mr. Richards said he desired to offer the statement of facts in the Church case, filed October 5th, 1890. He wished it agreed that this statement was the only one before the Territorial Supreme Court on which counsel on the other side based their motion and findings in this case.

Mr. Rawlins—We take that as being the implication, and we expect. The only purpose for which it can be offered is to impeach the decree.

Mr. Varian—And we stand right upon our objection.

Mr. Richards—There is nothing to offer if you do not agree. We asked you simply to admit the fact.

Mr. Varian—And that if we objected you would prove it.

Le Grand Young, one of the attorneys for the defendants in the case when tried before the Territorial Supreme Court, was then called and identified a signed statement of facts handed to him.

Mr. Richards—Was any other evidence either oral or in the form of documents, introduced on the trial of that case?

Mr. Rawlins objected, but the Master held that the answer might be given, subject to future ruling, if necessary by the higher court.

Witness answered Mr. Richards' question in the negative, and was further interrogated on the point of been, which resulted in a general desultory conversation between counsel lasting some minutes.

The closing the testimony, and the arguments began. They were opened by Judge John A. Marshall on the part of the government, who stated that the case came before the Master in pursuance of the decree of the Supreme Court of the United States. It was remanded by that body to the Territorial Supreme Court and sent here for investigation. He first called attention to the evidence adduced as relating to the petitions of donations, and remarked upon the testimony of President Cannon, who had said in substance, that the donations to the Church were in the hands of the trustee-in-trust for dependation—that there was no Bishopric in his power in that respect, and that he could dispose them as he pleased. Counsel quoted from Mitchison on Charities in support of his argument on this head, and contended that so far as those purposes set up in the pleaded scheme were concerned, they were prohibited by the Supreme Court of the United States in this case, and this exception fixed, as had been already shown, was not to be applied to the religious purpose at all. He referred to the many phases through which the Church case had passed, and proceeded to criticise the scheme submitted by the defendants.

Assuming from the evidence it would be contended that the money was originally donated to call an about witness on Wednesday morning, and more unlawful in their character, then this decree would undoubtedly be wrong. But cannot let the government could rely on the findings of fact in this case and to the decree to overcome any evidence that might be introduced as to the lawful character of purposes.

Counsel turned to the testimony given by the witnesses for the defendants on the subject of plural marriage, and laid stress on the fact of the admissions made that though such marriages were sometimes contemplated under a long continuance of the struggle, still contained, as "the truth never changes." As a matter of principle, he said, polygamy was held to be right, and the members of the "Mormon" Church were simply content to bow to the law.

Boyle on charities was quoted, and English authorities were also cited bearing on the question of a distribution of funds for charitable and other purposes among which the providing of education for the children of the poor ought to be preferred. Counsel did not admit in any way that the purposes for which this particular fund was created was settled by the donors at all, or was other than an intention to devote it to general charities. But in the other side had produced evidence to show that the fund was devoted to the direct relief of the poor, he wished to discuss the matter upon that standpoint. Numerous authorities were quoted on other bearing upon the subject of donations and bequests, to be devoted to charitable uses, in which the subject of education prominently figured. The deal made, he said, bore upon the fact that there was a growing disposition to devote charitable bequests or donations to the furtherance of education and the providing of suitable school houses, this being considered the best means of relieving the poor, and thus placing in the hands of children that which would help them most materially in their after life, and perhaps save them from becoming paupers in their old age. Counsel read from the 19th Chancery division reports (311) relating to the application of funds for the support of the evangelical, etc., of the poor in rural districts.

He contended that if there was ever thing more clearly established than another, it was that the education of the poor was within the original intention for their relief. That object might be achieved by various means—by the allowance of clothing, food, and the like, but the favorite means of equity in gaining that particular end had been education. In that they had stated the charity, but further endeavored to aid the means of gaining the end, showing that means they chose what was best calculated to secure the best results.

The children of children attending therefrom other than those of Mormon parentage, had been shown to be thoughtful. It would be impossible now in school so to treat it particularly to the children of "Mormon" parents, for several reasons. One was that the demand for this fund were pressing