

Mr. Caswell. I have not. It may be found in the last volume of the reports; volume 136.

Mr. Oates. Is not my friend aware of the fact that the Edmunds-Tucker bill did not apply to this fund, but applied only to real estate?

Mr. Caswell. The court holds, as I understand, that the donation was for an illegal purpose, being for the extension of the Mormon Church and its doctrines, and that the disposition of the personal property lies with the courts or with Congress. The franchise is repealed, the corporation is at an end, and the court holds that the personal property in question was donated for illegal purposes and is now subject to the disposal of Congress. I concede a court of chancery might do this in the absence of legislation. It is the province of courts of chancery, when donations have been made for an illegal purpose and the trust cannot be executed, to dispose of the property by assigning it to some legitimate object, and so far as possible to a worthy object.

Now, it is believed that the most proper disposition of this money would be to place it in the school fund, which may be regarded as a charitable purpose. As the money cannot be devoted to the original purpose of the donors, it would appear that its most equitable disposition is to place it in the common school fund of the Territory for the purpose of educating the children of the Territory. In this way the Mormon children may receive a partial benefit.

I have thought that if a plan could be devised for devoting this fund to the care and support of the women and children belonging to the Mormon Church who have been made widows and orphans, as it were, by the Edmunds-Tucker law, that might be a very worthy purpose. But I see no way in which the fund could be so managed without subjecting it to great risk of being lost and squandered. Nor do I know of any plan by which the money could be disposed of for the special and exclusive benefit of persons belonging to that particular church or indulging in that particular belief. It seemed to the committee, or a majority of the committee, that the best possible disposition of this fund would be to place it where the proceeds of the real estate have been placed—in the school fund of the Territory. This certainly is a worthy object, and while such disposition would not carry out strictly the wishes of the donors, as this money was gathered all over the world for the purpose of aiding the Mormon Church—an illegal purpose—and it could not be carried out. The money in this way would be devoted to the common interest of the children of the Territory.

The Senate has passed this bill placing the property in the school fund where the other funds belong, and I see no reason why the fund arising from the personal property should be disposed of in any way differently from that derived from the real estate, and the committee

thought it best to let it take the same course with the proceeds of the real estate, and combine the two funds in one for school purposes.

Now, I do not know what opposition there can be to this proposition, unless it be claimed that the courts of the Territory might make some disposition of it that would confine it to the use and benefit of the Mormon Church alone, or to the members of the Church.

As I have already stated, it seemed to the committee almost impossible to adopt any plan by which that could be done without a recognition of the Mormon Church itself. No one has any desire to misappropriate this money. No one would desire to see it diverted, or wishes to divert it, from a legitimate purpose or charitable purpose. But the fact that it was given promiscuously by people all over the world and placed in the treasury of the Mormon Church for an illegal purpose, it seems to me, makes it strictly proper that Congress should gather up all of these funds and place them in the treasury of the Territory for the purpose of educating the children of that Territory.

Mr. Oates. Let me ask the gentleman this question: If the fund was given for two or three different purposes, and they were all illegal but one, would it not under the law have to go to the one purpose which was legal?

Mr. Caswell. If it was given for several and different purposes, one of which was legal and the others illegal, I know of no rule either of law or equity which would place it all for the benefit of the legal purpose.

But, Mr. Speaker, in this case I do not believe that we need to speculate on that point, for I do not know of any one purpose for which this money was contributed which could be regarded as legal. I think the only object for the gathering together of the fund was for the promotion of the Mormon religion. All agree that that was an illegal purpose, as its principal feature was the doctrine of polygamy. Now, as no one will contend here for a single moment that the objects of these donations were legitimate or could possibly be construed as having a legitimate purpose, I ask, should not Congress take possession and control of this fund? What better source can we point out for its management than to place it in the educational fund for the Territory?

I am not positive as to the bearing of the decision of the court upon the question raised by the gentleman from Georgia [Mr. Oates]. I hope he will examine the decision, and I will myself investigate the point whether the law was applicable to the personal property or not. I understand the decision embraces and confiscates the personal property, and holds that the personal property of the Church may be disposed of by Congress.

Now, Mr. Speaker, on tomorrow, if the gentleman desires, I will yield him time.

Mr. Culberson, of Texas. I desire time tomorrow.

Mr. Caswell. It will then be the understanding that tomorrow I will yield some portion of the time to the gentleman from Texas. How much will the gentleman want?

Mr. Culberson, of Texas. I should like to have thirty minutes.

Mr. Oates. I also want some time.

Mr. Caswell. I should be very glad to dispose of this question within the morning hour if possible.

Mr. Culberson, of Texas. Then yield to me say twenty minutes.

Mr. Caswell. I will do that; I will yield to my friend from Texas twenty minutes and ten to my friend from Alabama.

Mr. Oates. Make it fifteen.

Mr. Caswell. Very well, let that be the understanding.

CITY COUNCIL.

The City Council met in regular session December 16th. All the members were present except Councilman Hall, Mayor Scott in the chair.

After the reading of the minutes and the disposition of preliminary matters the meeting was conducted in the usual manner.

PETITIONS.

Petition of the Cold Storage and Mountain Ice Company represented that they had recently erected at a great expense a cold storage building on the corner of Third South and Fifth West streets, and asked permission to construct a railway track from said building to the Rio Grande Western depot. Committee on streets.

Petition of George Klinke, asking that a grade be established on First East and Ninth South streets. Engineer instructed to establish the grade.

Petition of Fred Trimmer protesting against the city using gravel taken from the City Creek Caution. Committee on public grounds.

Petition of Rock Springs Coal Company to lay a switch from the Union Pacific Railway Company's track on Third West Street between Fifth and Sixth South streets. Committee on streets.

Petition of Lorenzo D. Young and others asking for electric lights at the intersection of Ninth South and Eleventh East and Tenth South and Eleventh East streets. Committee on improvements.

Petition of Lorenzo D. Young and twenty others, asking for the extension of water mains on Eleventh East Street south as far as Tenth South Street. Committee on waterworks.

Petition of the Security Abstract Company, represented that there was an error in the deeds of lots 1, 2 and 4 in block 58, plat D, and asked that the necessary corrections be made.

Petition of John N. Pike asking that he be remunerated in the sum of \$45 for rearranging certain records city water records. Committee on waterworks.

REPORTS.

Report of the city engineer stating that Pratt & Breakons map con-