

"Mormon" settlers in the San Juan country, on which it was proposed to locate the Indians, favored the removal. This is not true, as can easily be understood on the face of the subject. What they wish is a settlement of the question, one way or the other. They would prefer to retain their houses, but in case they should be required to vacate, they desire to secure compensation for their improvements. The dispatch made a mistake in stating that the Indians in question were Uncompagres. They are the Utes of the Southern Ute Reservation.

THE SUPREME COURT DECISION.

THE full text of the Opinion of the Supreme Court of the United States in the suit to confiscate the property of the Church of Jesus Christ of Latter-day Saints will be found in another part of this paper, with the exception of the statement of the case, which it is unnecessary to reproduce, because all the particulars have been previously published.

The disquisition as to the powers of Congress over the Territories is a summary of opinions previously enunciated by the court, and an affirmation of the doctrine that in these acquired parcels of the public domain the authority of the national Government is absolute, "subject only to such restrictions as are expressed in the Constitution or are necessarily implied in its terms." This is an important limitation to which we call the attention of those advocates of imperialism who contend that Congress is not bound by the Constitution in its supreme sway over the Territories.

The general power of Congress to annul an act of a Territorial Legislature, when submitted for its consideration, has not in this case been questioned. The contention on the part of Church counsel was, that the act of incorporation of the Church was in the nature of a contract between the Legislature and, by the tacit consent of Congress, between the Government and the corporation; and that the obligations of that contract could not be constitutionally impaired. This important point the court appears not to have considered.

But the corporation being dissolved by congressional legislative act, the question of succession to or legal possession of its property becomes the great question. The court explains at great length the doctrine of the administration and application of charitable estates.

And reliance is chiefly placed by the court upon the English law and procedure. In the cases cited in American practice there is no parallel to the present issue. Indeed, when the whole argument of the court upon charitable uses and the powers of courts and the sovereign in relation to them is simmered down, it will be found to have no direct application to the case under adjudication, because it is essentially different to all the precedents cited in a very important particular.

If it be conceded that where property of a charitable corporation has been the result of "ten thousand petty contributions extending through a long period of time," the government or the court of chancery may, in the dissolution of the corporation, assume control of the fund because it could not be returned to the donors, it must, so the court admits, be devoted to "the lawful objects of charity most nearly corresponding to those to which it was originally destined."

Now then. The charities referred to throughout the argument are those charities which were originally intended for the benefit of the general public, or certain classes thereof, irrespective of any particular denomination. In this case the charitable uses of the property were for the purposes of the Church of Jesus Christ of Latter-day Saints. The donations given were not for any other purpose. The lower court so found and the higher court sustained the finding. The corporation is declared to have been "a religious and charitable corporation for the purpose of promulgating, spreading and upholding the principles, practices, teachings and tenets of said Church, and for the purpose of dispensing charity *subject and according to said principles, practices, teachings and tenets.*"

The proposition, then, to devote the property of the dissolved corporation to the general public use of common schools, would be foreign to "the objects of charity for which it was originally destined." They were, so the court finds, for the purpose of "dispensing charity, subject and according to the principles, practices and teachings of the Church." To devote them to secular schools for the benefit of people outside of and hostile to the Church and its tenets, and who never donated a cent to the fund, would not only be unjust but contrary to the principle which, the court says, must govern both the judicial and sovereign power in the

distribution of such accumulated properties.

Supposing that one of the uses to which such funds has in the past been applied was the upholding or promulgation or practice of polygamy. It does not appear, nor is it so stated, that this was the exclusive purpose of these funds. Polygamy is only alleged to be one of the tenets for the promulgation of which the funds were used or intended to be used. That practice being declared unlawful, there are scores of other uses within the Church to which the property may be put which would have no relation to polygamy, its practice or promulgation.

And granting all that is alleged concerning the present attitude of the ministers of the Church on that question, and further that the property may be legally devoted to the cause of education, would it not be contrary to the doctrine of charities advocated by the court, to devote that property to the general public use, which was "destined" for the benefit of the particular denomination for which and in which it was originally bestowed?

According to the principles laid down by the court, and the position it has taken on this question, even if this property, donated by the Latter-day Saints for religious as well as charitable uses, may be legally used for scholastic purposes, then the children of the Latter-day Saints should alone receive the benefit of that diversion, subject to the tenets and teachings of their Church to the exclusion of everything favoring polygamy.

The decision of the lower court is fully sustained as to its general features and findings of law. Its statement of facts is, of course, accepted without question. In addition to these the court of last resort makes assertions concerning matters outside of the record. At the same time it omits some things contained in the record, which if considered might have important bearings upon the equities of the case.

The remarks of the court about the "Mormon" propaganda are extraneous and incorrect. It is not true that the "emissaries" of the Church are "engaged in many countries in propagating polygamy." And this does not appear in the record of the case. The court has judicially accepted common rumor, which, as is frequently the case, is very unreliable. It is also untrue that the Latter-day Saints