undoubtedly be wrong. But counsel for the government could rest on the findings of fact in this case and in the decree to overcome any evidence that might be introduced as to the lawfulness of purpose.

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 no longer contemplated under existing conditions, the principle still remained, 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 stood foremost. Counsel did not admit in any way that the purposes for which this particular fund was devoted was settled by the donors at all, or was other than an intention to devote it to general charities. But as the other side had introduced 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 legal authorities were again cited bearing upon the subject of donations and bequests, to be devoted to charitable uses, in which the support of schools prominently figured. The text books, he said, laid down the fact that there was a growing disposition to devote charitable bequests or donations to the furtherance of education and the building 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 18th Chancery division reports (310) relating to the application of funds for the support of the education, etc., of the poor in rural districts.

He contended that if there was one 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 gained by various means—by the allowance of clothing, food, and the like; but the favorite means in courts of equity in gaining that particular end had been education. In that they did not change the charity, but distinguished between it and the means of gaining the end. By choosing that means they chose what was best calculated to secure the best results.

The number of children attending the schools other than those of Mormon parentage, had been shown to be insignificant. It would be impracticable in education to limit it particularly to the children of "Mormon" parents, for several reasons. One was that the donors to this fund were, perhaps, to a large extent, today no longer "Mormons" themselves—at any rate some of them; and therefore it would be most unfair to exclude children from participation in the fund to which their parents had once contributed. Again, there were not sufficient free schools established for the relief of the poor in the various towns and hamlets of the Territory, reaching the class designed to be benefited. It was very evident that the donors to this fund did not restrict their gifts to the benefit of their co-religionists, and it was clearly the opinion of the higher court, to a certain extent, that this money had been taken from the schools.

Judge Marshall concluded his argument at noon, and Attorney Dickson followed in behalf of the defendants this afternoon.

The arguments are expected to occupy two days.

JUDGE ZANE'S DECISION IN THE CITY TAX CASE.

Chief Justice Zane this morning gave his decision in the case of Hiram Johnson vs. the Mayor and City Council of Salt Lake City and J. F. Jack, recorder.

His honor said the petition, as filed, asked the Court for a writ of certiorari to annul the resolution of the City Council, sitting as a board of equalization, which read as follows:

"Resolved, That the assessment roll be corrected and revised by reducing the valuation of all real property and improvements to 80 per centum of the valuation as assessed, except on such real estate and improvements as have before been, or may hereafter be, reduced in value by this board for special reasons, the valuation of which to be reduced to 80 per centum of the corrected valuation thereof; and that it be the sense of this board and the City Council to instruct the proper official to refund to all taxpayers who have heretofore paid their taxes 20 per centum of the taxes paid by them on real property and improvements."

Now the effect of that resolution, if valid, was to reduce the valuation appearing on the assessment roll, prepared by the assessor, twenty per cent.—in other words, to make the valuation eighty per cent. of the valuation made by the assessor appearing in the assessment roll as returned by him. It seemed from the answer of the City Council to the writ of certiorari that time for the return of the assessment roll to the assessor was extended by another return on the 4th of August, 1891, and that the time to sit as a board of equalization, to hear and determine objections made by property holders was fixed from the 21st to the 31st August. The board sat from time to time until there were 919 objections presented by that number of property holders to the assessment of real estate; that finally, on the 16th September, the resolution which he had just before read was adopted. The question now arose—Had the Council, sitting as a board of equalization, the power to adopt that resolution and reduce the assessment of real estate 20 per cent? The return of the assessment roll of the City Council by the assessor gave that tribunal authority, as was conceded by both parties, to hear and determine any specific objection made to the assessment; but counsel for the plaintiffs insisted that it did not give the City Council jurisdiction and authority to make a general reduction in the valuation as made by the assessor, and that as to all of the property holders, except the ones who made special objections, the action of the council was without jurisdiction and authority. So the question presented was—Had the council, sitting as a board of equalization, authority to make a general reduction upon all property to the assessment of which objection had been interposed by the owners—the proper parties—as well as to that in which no such objections had been raised. The section relied upon was 868, Vol. 1, of the compiled laws of Utah, 1888:

"The City Council shall have power by ordinance to regulate the form of assessment rolls, and prescribe the duties and define the powers of assessors and collectors. The annual assessment rolls shall be returned by the assessor on or before the first Tuesday of July in each year; but the time may be extended or additions made thereto by order of the City Council. On the return thereof the City Council shall fix a day for hearing objections thereto, and any person feeling aggrieved by the assessment of his property may appear at the time specified and make his objections, which shall be heard and determined upon by the City Council; and they shall have power to alter, add to, take from, and otherwise correct and revise said assessment roll."

The first provision was that, "On the return thereof the City Council shall fix a day for hearing objections," etc. Of course, the meaning of that was that the City Council should hear the objections and such evidence as a person might offer, and as might be proper for the Council to consider, and upon that determine the validity of the objection—whether it was well taken or not. Then followed these words: "And they shall have power to alter, add, take from and otherwise correct and revise the said assessment roll." The question was whether this power to alter, etc., must be confined to the objections. Whether the alteration must be confined to the valuations objected to. The language and power given were quite broad—"And they shall have power to alter the assessment roll." Of course the reduction of 20 per cent. of the assessment would be an alteration of that roll; "or add to" seemed to be general and applied to the whole assessment roll. The Council in this case had not added to. But the question was—If the Council were satisfied that the whole assessment on real estate was too low, say 10 or 20 per cent., could they have added to it or taken from it? It would hardly be expected that a man would object to his assessment because it was too low. People hardly ever objected to benefits or reductions in their taxes, at least he had never heard of such a thing.

The City Council, as the legislative tribunal of the city, was here invested with judicial function to some extent of passing upon objections and hearing reasons for and against. It had wide discretion in many things, being entrusted largely with the control of the city, so far as the legislature of the Territory had seen fit to entrust the affairs of the people living in the locality and within the limits of the local authority.

Reference had been made to another section (1787) of the Compiled Laws of Utah, which was expressly made applicable to existing cities, and applied here.

"Said board of equalization is hereby authorized to administer oaths in the discharge of official duties, and it may