

party voted against him, causing him to run largely behind on the ticket. But for the accident of his treasurership of the city he would have remained in the obscurity to which his natural insignificance entitles him. In the eternal fitness of things he must gravitate toward and reach that point at no distant day.

FURTHER PARTICULARS ABOUT THE CHURCH CASES.

It is no news that, almost as soon as the decision of the Supreme Court was rendered, affirming the judgment of the Utah Courts in the Church property case, a petition was filed for a rehearing. But the reasons offered and the strong points presented by counsel for the Church were not given to the public in the press dispatches announcing the application. Through the courtesy of Hon. F. S. Richards we have seen a copy of the petition and are now able to furnish our readers with a brief synopsis of the text.

Messrs. McDonald and Fay, of counsel for the Church, labored under great disadvantage in not having at their disposal a printed copy of the opinion of the court. It was only through the kindness of Justice Bradley, who delivered it, that they were able to get at the main points of the decision. He lent them his official document, with the stipulation that it should be returned within five hours. In that short time they examined it, and their application was promptly filed with the court. They submitted, in substance, as causes for the petition for a rehearing:

First. If it should be finally determined that Congress possessed the power to disincorporate the Church, the decree of the court below is unauthorized by the Act under which it professes to have been entered.

The act provides that on the dissolution the Attorney-General shall take proper proceedings to wind up the affairs of the corporation, conformably to law. But it does not authorize the Utah Supreme Court to take cognizance of any suit arising out of the provisions of the law relating to the acquisition and holding of real estate by religious corporations. But notwithstanding this, and the fact that the findings of the court showed that proceedings were pending in the district courts, the Supreme Court of Utah adjudged and decreed that all of the real estate set out in those findings had been acquired by the Church

subsequently to July 1, 1862, and that none of said real estate, except the Temple Block, had ever been used or was necessary for purposes of religious worship, etc., thus adjudging and decreeing the very questions involved in the suits pending in the district courts of the Territory.

Second. It is nowhere provided in the law that the personal property of the Church shall be forfeited and escheated to the United States. Yet the Utah court decreed that the personal property temporarily held by the Receiver had been escheated by operation of law.

That Congress did not intend to interfere with any other Church property than realty acquired in violation of law, is evident from the provision in regard to the Perpetual Emigration Fund, the property of which, after its dissolution, was to be applied to the support of common schools in the Territory.

The ground of this forfeiture, stated by the court below, was that there did not exist any natural person, body, association or corporation legally entitled to any portion of said personality after the dissolution of the Church corporation.

This is contradicted by the court's own findings of fact, and also by that part of the decree which sets apart the Temple Block to "the voluntary religious worshipers and unincorporated sect and body known as the Church of Jesus Christ of Latter-day Saints," and confirms it to the trustees of said Church for the benefit of said voluntary religious worshipers. Thus recognizing the right of succession of the Church in the real estate held by the corporation for its use for purposes of public worship, but denying to the same Church any portion of its personal property, on the assumption that it has no right to such property as successor in interest.

Thus the Church may hold and enjoy real property, on which to erect houses of worship and teach therein the tenets of their Church, but cannot hold personal property, donated by its members, to be dispensed in accordance with the same doctrines and tenets taught in such houses of worship.

The decree thus goes far beyond the scope of the act of Congress and is a confiscation of property on account of religious belief. The decree which vests the title of this property in the United States would authorize the seizure of any property subsequently acquired by the Church.

Third. The opinion admits that this personal property has not been forfeited by act of Congress, and treats that property as awaiting the final disposition of the court, and yet declares it "to be the property of the United States" subject only to the costs and expenses of the suit.

The decree recognizes that the corporation was but the trustee of the Church of Jesus Christ of Latter-day Saints, but fails to recognize the principle that the dissolution of that corporation necessarily and legally reinvested the Church with the property held by that trustee.

The opinion affirming the decree seems to be at variance with the decree itself. The learned Justice says:

"The rights of the Church members will necessarily be taken into consideration in the final disposition of the case. * * * The property is in the custody of the law awaiting the judgment of the court as to its final disposition."

Yet the decree has already vested it absolutely in the United States, which become the absolute owner of the personal property, and of realty about which suits are still pending in the Third District Court of Utah. The learned Justice speaks thus of these suits:

"In the proceedings which have been instituted in the District Court of the Territory, it will be determined whether the property of the corporation which has been seized, has or has not escheated or become forfeited to the United States."

Whereas the decree adjudged that the legal title to all of the real estate had been acquired since the passage of the act of July 1, 1862, and that it was in excess of the value of fifty thousand dollars. The petitioners therefore insist that the unqualified affirmance of the decree will operate to foreclose all questions relating to the disposition of the property, and prevent Church members from ever deriving any benefit whatever therefrom.

Our readers are aware that the court refused a rehearing of the whole case but postponed the matter until the October term, when it is probable that some modification of the decree will be made.

As we understand it, the Court still maintain that the Act dissolving the Church corporation is valid, but will re-open the question as to the disposition of the property both real and personal. Until then, it will remain undisturbed.

Hear both sides and all will be clear; hear but one and you will still be in the dark.