

FURTHER PLUNDER CONTEMPLATED.

FOLLOWING is the text of the new Edmunds bill, framed for the purpose of helping the Supreme Court of the United States out of a judicial muddle. It is fitting that the bilious and bibulous Senator whose anti-"Mormon" fanaticism has put the court in a hole, should try to do something vigorous towards helping it out. After the enacting clause the bill reads:

"That any and all funds or other property lately belonging to or in the possession of, or claimed by the corporation mentioned in section 17 of the act entitled 'An act to amend an act entitled 'an act to amend section 5352 of the revised statutes of the United States in reference to bigamy and for other purposes,' approved March 22, 1882, at, before or since, the taking effect of said act in respect of which funds and property it shall appear that there is no lawful possession nor lawful private right, shall be devoted to the use and benefit of the public common schools in the Territory of Utah; and the Secretary of the Interior shall take and receive the same and dispose thereof for the use aforesaid in such manner as shall seem to him, with the approval of the President, to be most expedient, and the supreme court of said Territory is hereby invested with power and authority to make all necessary and proper orders and decrees for the purpose hereinbefore mentioned."

It must be evident to every critical reader of the Act of 1887 for the plunder of the "Mormon" Church, that it provided for the confiscation of its real estate only, and that merely for such realty as it had acquired since July 1862 in excess of the value of \$50,000, and not used exclusively for the worship of God or for parsonages or burial grounds.

The seizure of the personal property was an afterthought, originating with the lawyers and the Utah Supreme Court. The superior court, in affirming the decree, found it had gone beyond the law, and so announced that action would be deferred till the October term, in order, if possible, to find some way out of the difficulty.

Now Senator Edmunds comes to the rescue with what we think may be fairly termed judicial legislation. For it is not only designed to solve a judicial problem, but is judicial in its nature and operation.

The only pretext that is or can be offered to legally justify this pillage of personal property is the judicial assertion,

"That there do not exist any natural persons, or any body, association or corporation who are legally entitled

to any portion of said personalty as successors in interest of said Church of Jesus Christ of Latter-day Saints, nor are there any trusts of a definite and legal character upon which the court, sitting as a court of chancery, can administer the personal property hereinbefore set out."

This is the excuse given by the Utah Supreme Court. Now mark the fact that the same court in the same decision in which this pretext appears, judicially announces the fact,

"That since the passage of the Act of Congress of February 19, 1887, the Church of Jesus Christ of Latter-day Saints has existed as a voluntary religious sect of which the said Wilford Woodruff is the acting President, and has had duly designated and appointed by the Probate Court of said Salt Lake County in said Territory, in pursuance of the Act of Congress aforesaid, the following named trustees: W. B. Preston, Robert T. Burton and John R. Winder to take the title to and hold such real estate as shall be allowed such religious sect by law for the erection and use of houses of worship, parsonages and burial grounds."

Here there are both "natural persons" and "trustees" to whom the personal property might have been administered, if the court had the disposition to so order. The "unincorporated sect" was the natural successor to the incorporated sect, after the dissolution of the corporation by legislative act. The members of both were the same. The corporation itself was but the agent of the church, or association or natural persons who owned the personal property. It could not be claimed that they had either acquired or held it illegally, for there is no limit in law to the amount of personal property which a religious association may possess; the restriction is only in regard to the realty.

But the court also held that there were moral grounds for seizing this personal property, namely, that on the dissolving of the corporation,

"There did not exist any trusts or purposes within the objects and purposes for which said personal property was originally acquired, as hereinbefore set out, whether said acquisition was by purchase or donation, to or for which said personalty or any part thereof could be used or to which it could be dedicated that were not in whole or in part opposed to public policy, good morals and contrary to the laws of the United States."

Let us see about this. The act of incorporation, which is cited in full in the decree, sets forth "the objects and purposes for which said property," both real and personal, "was originally acquired." They were to be "used, managed or disposed of for the benefit, improvement, erection of houses for public worship and instruction, and the well being

of said Church," that is the Church of Jesus Christ of Latter-day Saints. It is further set forth in the act of incorporation that "each and every act or practice so established or adopted for law, or custom, shall relate to solemnities, sacraments, ceremonies, consecrations, endowments, tithings, marriages, fellowship or the religious duties of man to his maker, inasmuch as the doctrines, principles, practices or performances support virtue, and increase morality, and are not inconsistent with or repugnant to the Constitution of the United States," etc.

Here are a number of uses to which this property could be put, which no fair construction of language can interpret to signify objects or purposes opposed to "public policy, good morals and the laws of the United States." Only one use therein can be so construed, that is for "marriages." There is no definite reference in the whole act to polygamy or plural marriage. But supposing that is meant by or included in the term "marriages." Strike that word out, eliminate from the act all allusion to "marriages," and are there not a large number of "uses and purposes" named that are perfectly moral, politic and lawful, even in the eyes of the most vigorous opponent of plural marriage, providing he is not "idiotic or insane?"

Furthermore the same decision adjudges and decrees that,

"The Temple Block be and the same is hereby set apart to the voluntary religious worshipers and unincorporated sect and body known as the Church of Jesus Christ of Latter-day Saints, and that the said W. B. Preston, Robert T. Burton and John R. Winder, trustees appointed by the Probate Court of Salt Lake County, as hereinbefore set out, do hold, manage and control said property, so set aside for the benefit of said voluntary religious worshipers and unincorporated sect and body, and for the erection and use by them of houses of worship and for their use and convenience in the lawful exercise of worship according to the tenets of said sect and body."

Here are uses which the court judicially recognizes as legal, and which are the same as set forth in the act defining them as those for which the property, whether it be real or personal, was "originally, acquired." They are not opposed to "public policy, good morals and the laws of the United States," or neither the act of Congress nor the decree of the court would have set apart this realty for the purpose. And why should dedication of real estate to "the use and convenience" of the Latter-day Saints, "according to the tenets of said sect and body,"