

intended to be used, or for which the same will be used in the future if left under the control of said Church, are against public policy, contrary to good morals or opposed to the letter or spirit of the Constitution or laws of the United States.

And these defendants, on behalf of themselves and all other members of said Church, or body of religious worshippers, beg leave to suggest to this honorable court and to the said Master, that it would be manifestly inequitable and contrary to the dictates of plain and simple justice, to wrest the moneys and other personal property mentioned in the said decree from the hands of those who earned and contributed the same to said Church as aforesaid, and to divert it from the lawful and beneficial, charitable and religious uses and purposes for which it was originally contributed, and to which it has been heretofore applied, to permit or require it to be applied to the benefit or advantage of those for whom it was never designed and for whose benefit or advantage it never would have been contributed or donated, especially when the way is plain and direct by which it can be applied to legal, legitimate and praiseworthy uses, and which uses will be in consonance with the manifest design and purpose of those who contributed the fund, and whose labor, industry and frugality created the same.

Wherefore said defendants, on behalf of themselves and their co-religionists, respectfully suggest that all the moneys and personal property mentioned in said decree, be vested in the First Presidency of the Church, or body of religious worshippers, and their successors in office, in trust to invest the same and to apply the proceeds and income thereof to the relief and assistance of poor and distressed members of said Church or body of religious worshippers, according to their best judgment and discretion, and to the building, maintenance or repair of convenient and necessary places of worship for the members of said Church. That the proportion of the income of said fund or property which shall be so applied by said trustees to each of said purposes shall be fixed and determined by the said Master in his report herein; with directions to said trustees annually, to file an account of their management of said trust, with the clerk of said court.

That the members of the First Presidency of the said Church: or body of religious worshippers: at the present time are: Wilford Woodruff, president; and George Q. Cannon and Joseph F. Smith, counselors.

F. S. RICHARDS,
LE GRANDE YOUNG,
DICKSON & STONE,
Attorneys for defendants.

A recess was taken until two o'clock.

The proceedings in the Church case were resumed Monday afternoon, before Examiner Judge Looftocrow, the same counsel appearing as in the morning.

In the outset Attorney Varian interposed, as an objection to the application of this property as proposed by the defendants, that the matter had been concluded by the decree of the Supreme Court.

PRESIDENT GEORGE Q. CANNON was the first witness called. He stated, in answer to Mr. Richards, that he had resided in this Territory since 1847, and is one of the First Presidency of the Church of Jesus Christ of Latter-day Saints. He knew the defendants in this action; they were all members of the Church in good standing. Wilford Woodruff had been President of the Church since April 7, 1889. Since the dissolution of the corporation the Church had existed as a voluntary religious association. He remembered the seizure of the Church property by the Receiver in this matter in the year 1887.

Q.—State how the money and personal property now in the Receiver's hands, and involved in this examination, were acquired by the Church of Jesus Christ of Latter-day Saints.

A.—It was by the voluntary contributions of the members of the Church for religious and charitable purposes.

Q.—State whether or not the property now in the hands of the receiver is the identical property so contributed.

A.—Some portion of it is; other portions are the results of the disposition or proceeds of that property. All the property involved in this litigation is the direct contribution of the identical property, or the proceeds rather, and none of it was contributed by any persons but members of the Church, as I understand it.

Q.—What has been the custom of the members of the Church in regard to making contributions?

A.—From the organization of the Church it has been the custom of our people to contribute small amounts very frequently to religious and charitable purposes. This money was controlled and disbursed under the direction of the First Presidency.

Questioned as to what was the rule prior to and since 1887 in respect to an accounting for the disposition of the money thus expended, the witness id that a full and complete statement thereof during President Taylor's administration from 1877 to 1885 was submitted to the General Conference and always unanimously accepted by the people.

Q.—To what purposes were these donations applied?

A.—Religious and charitable purposes. A portion of the proceeds was expended on Temples and meeting houses, and for the poor and such charitable objects as might arise.

Q.—What poor people were aided?

A.—The indigent members of the Church. We also assisted poor Indians.

Q.—State what you know about the intention of the donors of this money and property, as to what disposition should be made of it.

A.—They were donated for religious and charitable purposes, and their disposition was always left to the First Presidency. I personally know that to be the feeling of a great many of the contributors.

Q.—What amount of means was spent annually by the Church prior to March 3rd, 1887, in relieving the poor and distressed members of the Church and their families?

A.—I have a recollection one year of \$112,000 odd being expended for various charitable purposes. Another year, I remember, it was \$74,000 odd. I would

think, myself, there would be anywhere from \$75,000 to \$100,000 expended annually. This was devoted to the relief of the indigent among Church members. I might include in that poor Indians, whom we have assisted when destitute, to a great extent.

Q.—What portion of it would go to the Indians?

A.—There might have been from \$5000 to \$10,000, but not exceeding the latter amount.

Q.—What amount will be required hereafter annually for the relief of the poor?

A.—I would say not less than \$75,000. Perhaps it might reach \$100,000, if anything like the demands that are made upon us were answered.

Q.—What amount was expended annually prior to 1887 for the erection of meeting houses and places of worship, not including temples?

A.—I should think it would not be less than \$50,000 per annum. Since 1887 our finances have been so reduced that we have not been able to supply the demands made upon us.

Q.—What amount would be required, in your opinion, in the future to be expended for the maintenance of religious worship, apart from temples?

A.—It would take \$50,000 certainly to comply with all the requests made of us. We have, since the seizure of this property, been compelled to lay aside numerous applications for help in the direction of meeting houses; and they stand now on the file ready to be taken up.

Q.—How many meeting houses and places of worship are there belonging to the Church, exclusive of temples?

A.—Not very far short of 200.

Q.—Should this \$50,000 per annum be required for necessary places of worship for members?

A.—I would think so.

Mr. Richards—That is all. We may recall Mr. Cannon on another branch later on. The cross-examination of the witness by Mr. Rawlins and Mr. Varian was very protracted.

In reply to the former gentleman Mr. Cannon said that of the property at present in the hands of the Receiver a portion consisted of 8,000 shares of gas stock paid in settlement of a claim of the Church against the estate of President Brigham Young, the dividends up to the time of the seizure amounting to \$6,000 and it went into the general fund.

Questioned as to the Church's requirement of telegraph stock, he said that in the early days of the Church there was a necessity for the establishment of rapid communication between the different settlements in consequence of Indian troubles; the telegraph line was built by the people, out of funds contributed by them; but speaking in general terms that undertaking never paid expenses. It was afterwards put to the purposes of an ordinary telegraph line.

Q.—As to the promissory notes in the hands of the Receiver, considerable of it, I understand, was derived from real estate?

A.—Yes, the Theatre was sold by President John Taylor, and notes were given therefor drawing, I think, 6 per cent. interest. They were turned over to the Receiver.

Q.—Was there any income derived from the Theatre?