the eye of the Court, but let it be devoted to the purpose for which it was contributed. Such a thing as the court was now asked to do by the government had never been done in any free country; and this court did not possess the power to perpetrate such an act of injustice and oppression. The proposition of the Master to devote the property to the use of the public schools is not only wholly devoid of every element of justice and equity, but was opposed to the decision of the Supreme court of the United States, and repugnant to the very genius of our government. It asked the court to arbitrarily take property which had been donated by its members, and divert it from the lawful charity to which it was dedicated to another, with different beneficiaries who never contributed one cent towards the fund.

Attorney W. H. Dickson followed. He showed how the fund had been created by members of the Church and stated fully the intention of the donors. He argued that the court had no power to grant the application of the government in this matter, and said that no court of justice either in this country or in England had ever undertaken to execute such power—to do such an outrageous thing as the government asked this court to do with the Church's property now. It would be a lasting disgrace and shame to this or any other free country to undertake by its legislature or courts to perpetrate such a wrong as this would be, Counsel then proceeded at length, to discuss and question the power of the court to accede to what the government sought to obtain, and quoted largely from English and other legal authorities in support of his contention.

Mr. Dickson began his argument just before noon, and was speaking when the court adjourned at 12:30 till 2 p.m.

When the Supreme Court re-assembled at 2:20 this afternoon Attorney W. H. Dickson continued his address for the petitioners, and further read various legal authorities bearing upon the distribution of charities, and showing how closely courts of law had adhered in the past to the intention of the founders of a charity. "Perry on Trusts" was also quoted from. Would anybody, counsel asked, in the light of the evidence in this case and the circumstances surrounding it, contend for a moment that it was the intention of any of the contributors to this Church fund that such fund should be devoted to the use of the common schools of this Territory? If that must be answered in the negative, then it followed that to apply the fund in the way the government now asked would be to apply it to a use in manifest opposition to the donors' intention. To say that that was carrying out the doctrine of *cy pres* was simply a contradiction in terms and involved absurdity.

This fund would never have been created by the members of the "Mormon" faith if they had supposed for one moment that it was to be wrested from the charitable and religious work of the Church and handed over to the common schools of the Territory. The personal property of the late corporation of the Church of Jesus Christ of Latter-day Saints, not having been acquired in violation of any law, was not by the death of that corporation forfeited to the government. It went to the government because there was nobody else to claim it, but impressed with trusts, and so far as these were praiseworthy the court must see that the funds were devoted to commendable purposes within the wish of the donors thereto.

When Attorney W. H. Dickson had closed his address on behalf of the petitioners in the Church case, before the Supreme court, yesterday afternoon,

Judge Judd proceeded with his argument on behalf of the Brigham Young Academy. The court having ruled, however, at the commencement of the day's hearing, that only parties to the main suit could now be heard as objectors, the remarks of counsel were confined to that line of argument. He maintained that the act of Congress neither confiscated the property of the Church nor undertook to make any disposition of it, and that the decree of the United States Supreme Court exactly defined the power and scope of this court in the premises and settled three things: 1. The money in question was a trust fund; 2. The purposes to which it was devoted were in part unlawful; and 3. The property has devolved to the United States. The right to hold and enjoy property existed before all constitutions, and the only limitation to this is that such use shall be lawful. The question that concerned that high tribunal was whether it had any authority to proceed in the matter at all, and not whether the property could be disposed of by arbitrary action. The duty of administering upon this property has fallen upon the courts, and they must devote it to such purposes as most nearly correspond with those originally designed, to be ascertained and defined. It is a matter of history that Senator Edmunds introduced a bill in Congress to dispose of this fund to the common schools of the Territory (amended by Senator Butler so as to limit to those of the Church), for the very purpose of settling the doubt as to the power of the courts and to relieve them. As to the doctrine of *cy pres*, it is that of a simple intention. Counsel quoted from Story as follows:

"The court will not decree the execution of the trust of a charity in a manner different from that intended, except in so far that it is seen that the intention cannot be literally executed. In that case another mode will be adopted, consistent with the general intention; so as to execute it, although not in mode, yet in substance. If the mode should become by subsequent circumstances impossible, the general object is not to be defeated if it can in any way be obtained." Coming as near as may be to the intention of the donors of this fund, where and from what source can an intention be applied to the common schools of the Territory. It may be asked if such an intention can be found it must be deduced not from anything given in proof before the master, but from general assumption. Why make such an assumption? What is there in the case to authorize it? The Supreme Court of the United States could have done this if it had thought it a proper thing to do. Congress refused to do this when the question was brought directly up upon a bill for that purpose. In his opinion, to devote this fund as the government asked would not only not be nearest to the intention of the donors but farthest from it. In fact, he did not understand counsel for the government to have the hardihood to even suggest such a thing as invoking the rule of intention in its behalf.

Judge Sutherland closed the argument on the same side. He observed that an act of Congress was passed in 1887 disincorporating the Church. This act did not deal with the personal property, which was left to the courts. The property came from a great many. It could not be returned to donors or distributed to beneficiaries. It was to be disposed of according to law. When a corporation dissolved, its personal property went to some administrator. In this case the property was left without an owner and must be disposed of according to "the law of charitable uses." Because some of the former uses had been unlawful, this was referred to a master to examine and report some scheme for its disposition nearest to the use as originally designed. The master took the decree of the Supreme court and came to the conclusion that all the uses to which this property was applied rested under the condemnation of this decree and could not go back to any of those uses. Aaron's rod was powerful, remarked Judd Sutherland, but when it turned to a serpent he fled from it. I'll not spend any time in defending the United States Supreme court from the aspersion cast upon it by the master. He has fled from the decree, and since it is based on a misconception of the Supreme court decision this report should be disapproved. The decree assumes there are objects to which the fund can be applied and all the reference desired to do was to find a scheme, not to find an object, but to administer the trust judicially. This court has judicially ascertained the uses severed from all that was unlawful, and they are more nearly to that to which the fund was originally destined. Devoting to common schools is to ignore almost entirely the orginal intent. The sect which has formerly used the fund fixed the limit to the doctrine of cy pres, I assume on account of the fundamental error of the master, his decree must be set aside. The only question now is, will this court approve the scheme of the master, and if not, we are no further along than when the reference was made. If another is made, then I will ask to present the claims of one branch of that constituency.

The judges of the Territorial Supreme Court took their seats at 10:15 this morning, and after delivering several opinions (which are given elsewhere in these columns) the Church case was again taken up.

Attorney W. H. Dickson called attention to the fact that Judge Sutherland yesterday referred to himself as "counsel for defendants." He (Mr. Dickson) now desired it to go on record that such was not the case, and that the Judge in no way represented the defendants. It was a mistake altogether. (Laughter, in which District Attorney Varian joined.)

District Attorney Varian began his