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CHARLES W. PENROSE, EDITOR.

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## CONFISCATION SUITS DISMISSED.

In the Third District Court, October 27th, District Attorney Varian, for himself and the Attorney General, took very important action in reference to property in this city which had been attached and held by order of the court as Church property subject to escheat to the United States.

This property consists of what is known as the Whitney property, on the northwest corner of what is commonly called the Tithing Office block, with a small piece of land on the east of that corner, also the Cannon House on South Temple street. The District Attorney filed a motion to dismiss the suits against these pieces of real estate.

He also included in the motion to dismiss, all of block 87, which is better known as the Temple Block. This was merely a formal withdrawal of claim to that block for it was settled as the property of the Church when the decree of the court was made in 1888.

The District Attorney also filed a motion in the Supreme Court, the text of which will be found in another part of this paper, that the Receiver be instructed to dismiss the suits against the pieces of property in this city and in Ogden which he had claimed as Church property and subject to escheat. These consist of what is called the Council House corner in this city, and the Tabernacle Square, the Tithing Office ground and the Shurtliff place, formerly the property of David M. Stuart.

Although the filing of these papers are simply motions to dismiss, and no action can be taken by the Supreme Court until its session in January next, yet it may be considered as a virtual ending of the suits against the property mentioned, as the District Attorney represents and acts under instruction of the Attorney-General of the United States. It is in effect a final settlement, on the basis of the agreement or "compromise" entered into by the Church Attorneys and counsel for the Government, as to what property the

Church owned at the time of the dissolution of the corporation.

That our readers may understand the present situation we will make some explanations. It will be remembered that when the litigation arose over the Church property through the passage of the confiscation act, there was a dispute as to what property the Church held at the time when that act went into effect. In the summer of 1888 Attorney F. S. Richards went to Washington, and in company with Colonel Broadhead had interviews with Solicitor General Jenks and District Attorney Peters, at which the whole matter was investigated and a stipulation was made as to what property should be understood as actually belonging to the Church at the date mentioned. A decree was rendered by the Court here in October of that year, on the basis of that stipulation, and the property was turned over to the Receiver.

Mr. Richards, knowing what was the understanding in this agreement, always maintained that it was a finality so far as the question of what the Church held was concerned. But efforts were made to attach pieces of property which were not included in that stipulation, on the ground that the Church still owned them in reality, though in form they had been conveyed to their holders. The Council House corner in this city and the real estate in Ogden already mentioned were claimed by the Receiver, and suits were entered for their seizure and forfeiture. Attachments were sued out last winter for the Cannon House and the other pieces of real estate we have described.

Mr. Richards was in Washington when he learned of these attachments, and he at once went to Attorney-General Miller and explained to him the agreement made with the former Solicitor-General. The Attorney-General promised to investigate the matter, and corresponded with Mr. Jenks and Mr. Varian, and expressing a desire to see the latter and Mr. Richards, they went to Washington and with him arrived at a satisfactory understanding, in which it was agreed that the stipulation or "compromise" should be regarded as a finality as to what property the Church owned when the Edmunds-Tucker Act went into effect.

It will be remembered that after Judge Zane left the judicial bench and before his reappointment, proceedings were held before Examiner Harkness in which the Judge and his son appeared as attorneys for certain school trustees. In their final statement filed March 1, 1889, this passage occurs:

"The Receiver and his attorneys pretend that they can pursue this property, but in the light of the final decree in this case their claim is farcical."

Examiner Harkness, in his report to the Supreme Court said:

"The compromise was ratified by the court; the government was soon after notified through its law officers of the compromise and has made no objection, but through its officials has expressed approval of it."

• Mr. Varian in his report to the Attorney General said:

"In this connection, would it not be prudent to determine at once the effect of the decree, and whether the Receiver can proceed to take possession of other property, should any be discovered? If the decree is final in this regard there is no use in keeping a Receiver and his counsel as an annex to the fund. The cases against the realty can be pressed and determined, and the fund can be paid into the registry of the court, there to remain till Congress provides for it."

It was expected that these suits would have been dismissed long before this under the circumstances we have described. But it is better late than never. The matters in litigation are now more clearly defined. No other property than that turned over to the Receiver can be seized. The questions now remaining are, what shall be done with the personal property, and what, if any, of the real estate held by the Receiver is to be escheated and used for the benefit of the District Schools.

The real property claimed by the Government consists of the Tithing Office, Gardo House, Historian's Office, Church Farm and some coal lands in Summit County. Questions are involved in this claim which must be separately determined by the courts. Property held by the Church before July, 1882, is not subject to forfeiture. Buildings held exclusively for the worship of God and parsonages connected therewith are exempt. So is property to the value of \$50,000. These tests will be applied where proper to these pieces of real estate in dispute.

The Utah court confiscated the personal property turned over to the Receiver, for the benefit of the District Schools. The Supreme Court of the United States set this decision aside, and made of the property a trust to be devoted to lawful purposes the nearest alike to those intended by the donors. This question is now pending before the Master in Chancery and may go up to the court of last resort before it will be finally determined. So with the cases in regard to each piece of real estate in dispute.

Our readers, by a careful reading of these explanations, will understand the present status of the Church suits. And they cannot fail to see that the action taken this morning is of great importance. It formally releases any