

meantime Congress should otherwise order) by reference to a master for due examination, inquiry and report thereon, subject to the approval of the court; and to be established, administered and carried out in such manner and according to such scheme as may be suggested and reported by said Master and approved by the court. It is further ordered and decreed that until the ascertainment and determination of such uses and the adoption of such scheme, and until direction be taken for the ultimate funding or investment of the said personal property for the purposes aforesaid, the Receiver appointed in this cause do continue in the custody and charge thereof, with all accumulations, subject to the further order of the court, and (conjointly with the rents and income of the real estate) to the payment of the costs and expenses of this proceeding and of the receivership aforesaid. The reference herein provided for to be made by a separate order.]

Whereupon it is considered, adjudged, and decreed that the cause be remanded to the Supreme Court of the Territory of Utah, with directions to modify its decree as herein directed, and to take such further proceedings to law and justice as may appertain in conformity with the opinion of this court, delivered on this appeal at the last term of court.

[May 25, 1891.]

Mr. Dickson said that if Box Elder, Cache or Rich Counties could appear here now and be heard, every county in the Territory, and every private corporation in the Territory, could do so.

Mr. Heywood—We do not come in that way.

The Master said he had not supposed that the only parties who might be heard before the Master were those in the case. He had supposed that the order of reference meant that the Master should investigate this question and also investigate the merit of any claim which might be presented. The suggestion was now made that the orderly way in which to secure a hearing for any scheme was to have the proponents of it obtain leave from the Court to present their claim to the Master—perhaps by way of an order allowing them to intervene. He had supposed that such application had been made to the court on behalf of the parties here now, and for whom Mr. Heywood acted as spokesman to present their scheme before the Master. He did not suppose that any party presenting a scheme here, and one which proved unsuccessful would obtain any lien upon the funds, or the right to recover any of their costs, for witnesses, etc., out of that fund.

Mr. Dickson—Ten thousand people might come here in that way.

Mr. Varian—That might be obviated by making a rule that those who did not appear here on the first or second day of the hearing would not be heard.

The Master remarked that of course the officers holding this examination were not doing so from an entirely patriotic motive, and perhaps expected to be paid for their services according to their extent. If Mr. Heywood or any other gentleman prepared a scheme and brought witnesses here in support thereof, and that plan was not adopted, it did not occur to him that he would

be entitled to a taxation of their witnesses' or attorneys' fees against this fund.

Mr. Heywood—There is not a man among us who would accept a cent in any way, no matter how the case goes.

The Master said his idea was to let this testimony go in, subject to objection.

Mr. Dickson—We take an exception.

Mr. Heywood said he realized that he stood in a delicate position, not having contributed a dollar towards the fund in any way; but the northern part of Utah had contributed a large amount thereto. All they asked was that the court send back this money to northern Utah, there to be distributed among such calls and charities as might be determined right. They did not want a cent for attorneys, witnesses, or any such purpose. The fund should go back, as near as might be, to the uses for which it was originally contributed, but he did not think that the court would send it back for the purpose of building temples and the like, but would virtually leave the fund for charities. Their scheme was that the Supreme Court appoint a board of charities, on which the Church of Jesus Christ of Latter-day Saints should be represented, to deal with the fund. The money contributed by the five counties in which he and others were interested they wanted returned there. He took it that the building of temples would not be permitted.

Mr. Richards—We object to the introduction of any evidence on that matter. I understand you to admit, Mr. Heywood, that no person who has joined in this application, or suggestion, or scheme, or whatever it is, is a member of the Church of Jesus Christ of Latter-day Saints?

Mr. Heywood smiled, shook his head and replied—I am quite safe in saying "No."

Mr. Richards further asked whether those persons had contributed anything to this fund?

Mr. Heywood—Really, I don't understand how you get the authority to cross-examine me. Certainly, no man can say I have come before this court in a false light.

Mr. Richards disclaimed any such suggestion, and said he simply wanted to make the record.

Mr. Heywood—If this was done for the purpose of humiliating me, all right.

Mr. Richards assured Mr. Heywood that he had no such intention. He simply wanted to show that none of the parties presenting this suggestion were members of the Church or had ever contributed anything to the fund, and that Mr. Heywood and his associates did not represent any persons who had ever contributed anything to it.

Mr. Heywood said he was there to represent no one connected with the Church of Jesus Christ of Latter-day Saints.

Attorney Dickson read the following:

In the Supreme Court of the Territory of Utah.

United States of America, plaintiff,
vs. The late Corporation of the Church of Jesus Christ of Latter-day Saints, John Taylor, late Trustee-in-Trust, Wilford Woodruff, Lorenzo Snow,

Erastus Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant, and John W. Taylor, late Assistant Trustees-in-Trust of said corporation, William B. Preston, Robert T. Burton, John R. Wiuder, Francis Armstrong, Jesse W. Fox, Jr., and Theodore McKean, defendants.

To the Honorable, the Supreme Court of Utah, and to the Honorable C. F. Loofbourov, master in chancery, appointed by said court, in the above entitled action to devise and report to said court a scheme for the disposition or application of the moneys and other personal property mentioned and referred to in the decree entered by said court in said action, on the 8th day of October, 1888.

The above named defendants, Wilford Woodruff, Lorenzo Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant, John W. Taylor, William B. Preston, Robert T. Burton, John R. Wiuder, Francis Armstrong, Jesse W. Fox and Theodore McKean, on behalf of themselves, and all other members of the religious association hereinafter mentioned and referred to, come now and respectfully represent and show to the said court, and to the said Master of Chancery:

That each and all of them are now and for many years have been members of the Church or body of religious worshippers commonly known as the Church of Jesus Christ of Latter-day Saints. That said Church was incorporated at the time and in the manner set forth in the answer of the late corporation, defendant, and was annulled and dissolved as in said decree set forth.

That ever since such dissolution, of said corporation hitherto, all the members of said Church or body of religious worshippers, have existed as a voluntary religious association.

That the above named defendant, Wilford Woodruff, is and ever since the seventh day of April, 1889, has been the duly chosen President or head of said religious association; and during all said period, has been and now is recognized as such by all members of said Church or association.

That the defendants above named, Lorenzo Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant and John W. Taylor, are and for a long time past have been members of the body of ecclesiastical officials in said Church known as the Twelve Apostles.

That ever since the incorporation of such Church as stated in the pleadings in the above entitled action, and for a long time prior thereto, the members of said Church were accustomed to make and from time to time did make, voluntary contributions and donations to said Church, which donations consisted of money and personal property. And that it was the intention of the said members of said Church so donating said money and personal property, that the same should be devoted solely and exclusively by said Church to religious and charitable uses and purposes; and the said donations and each and all of