court of this Territory, as affirmed by the Supreme Court of the United States.

"What is the status of this people now (remarked Mr. Varian) on the question of polygamy? It is conceded—it is an adjudged fact—it is the judgment of the people of the time, that this tenet of the faith has been a part of its creed for very many years. It has been a dominating one. So attached and wedded to it have been this people that for many years they have been defying the government of the United States. Why? Because they thought it was the commandment of God. If it had been simply commanded to them by the laws of their own making, or by statute, given by any human being, who can doubt but that long ago they would have bowed in submissive reverence to the law, and thus saved all the misery, shame and humiliation which have been entailed upon the Territory and this people? It is because of that very fact that they had maintained themselves so long, and for a time successfully, against the public sentiment not only of the United States, but of the civilized world. Nothing could have sustained them and kept them together—except the belief that they were acting in accordance with the Divine will." According to the testimony of the witnesses on the defendant's side, though the practice of polygamy had ceased, the principle was undying. Counsel referred particularly to the evidence of President Woodruff, which he said very clearly showed that he issued his manifesto simply on account of the pressure of the law upon the people, causing his heart sometimes almost to bleed. "They are not obeying the law of the land at all" (shouted Mr. Varian, his voice reaching an almost angry tone), "but the counsel of the head of the Church. The law of the land, with all its mighty power, and all the terrible pressure it was enabled to bring, with its iron heel upon this people, crushing them to powder, was unable to bring about what this man did in an hour in the assembled Conference of this people. They were willing to go to prison; I doubt not some of them were willing to go to the gallows, to the tomb of the martyr, before they would have yielded one single iota."

The speaker, becoming calmer, next dealt with the existing school accommodations in the Territory, making particular allusion to the reports to Congress of Mr. Parley L. Williams, ex-commissioner of schools, and Judge Boreman. The schools of the Territory had for years been essentially denominational, and it would take time to free them from that influence. If the children of the Territory, Mormon or otherwise, were to be educated in accordance with the now generally conceived notions concerning the higher education of the citizen, his duties to the State and the community, those schools must be built up in some way, either by taxation or private support. He only alluded to this as showing the bearing upon the necessities of a deserving charity.

Among his objections to the defendant's scheme were, first, because to adopt it would be to practically turn the fund back into the hands of those from whom it had been taken; and, secondly, because it would be unwise and inexpedient to do so. There was no such charity as that contemplated by the other side in any State of the Union, and the adoption of such a plan, he urged, would not tend to make men and women self-reliant, but just the contrary.

Mr. Varian finished his address just before the court adjourned for the noon recess, and Hon. F. S. Richards followed on the side of the defendants this afternoon.

At 5:30 yesterday afternoon, after an inquiry extending over four days, the arguments in what is now known as the "Church case" were concluded, the final argument being made by Attorney LeGrand Young on behalf of the defendants.

When the court re-assembled at 2 p. m., the

Hon. F. S. Richards took up the argument on the side of the Church. Counsel said he should endeavor to confine himself to the points which he believed to be material in the determination of of this important matter. It seemed to him that the first question to be determined, and the one upon which the whole matter hinged, was whether or not the master in chancery had the power to grant the scheme proposed by the defendants; in other words, whether the objection was well taken by the government, that the members of the Church of Jesus Christ of Latter-day Saints were by the decree precluded from having this fund set apart for any of the charitable uses to which it was devoted prior to the dissolution of the Church corporation. This had been quite fully discussed already, and therefore instead of giving his own views, counsel preferred to quote from those of the United States Supreme Court on this subject; because it conclusively appeared from the opinion of that court that it did not intend to preclude the Church members from asking to have the fund devoted to the purposes for which it had been contributed. Counsel read extracts from the decision of the Supreme Court of the United States in this regard, in one of which the court said that "the rights of the Church members will necessarily be taken into consideration in the final disposition of the case," and asked, was it possible for the Court to have expressed in any plainer language the fact that sometime, somewhere, before this property was finally distributed the members of the Church should be heard and their rights and claims considered? If those members ever were to have a hearing, it must be here and now. Counsel for the government would hardly say they would ever have another opportunity of coming forward and showing any right or claim that they might have to the disposition of this property. Yet this court said the right of the Church members would be taken into consideration in the final disposition of the case. Coming to the question raised by counsel on the other side that it was not within the province of this court to devise a scheme to devote this property to the identical charitable uses to which it was contributed—that in order to carry out the direction of the Supreme Court of the United States and that of the Territorial Supreme Court appointing the Master in Chancery, the Master must, in applying the doctrine of *cy pres*, find some other and different use from that to which this property was intended by the donors to be devoted. The charitable uses and purposes for which the property had been contributed were nowhere defined. There was nothing in the findings of the court to tell how much of this property was to be devoted to religious purposes and how much to charitable uses, nor what those uses should be. It simply appeared in a general way that it was contributed for religious and charitable purposes. Having read from the findings of the court and the decree in proof of his assertion, Mr. Richards argued that there was no evidence before the court when its decree was rendered in 1888, upon which it could determine whether or not there were any charitable uses other than the general uses of the Church. It was conceded all the way through that this doctrine of *cy pres* amounted to this: that the property should be devoted, as nearly as possible, to the purposes for which it had been intended by the donors. That was the rule, and it had been judicially declared, over and over again, that there was no power in a court to change the purposes if the intention of the donors could be legally carried into effect.

It appeared all the way through the opinion and decree in this case that the whole objection of the Supreme Court of the United States—the ground upon which it based its decision sustaining that of the lower court—was because of the existence of the doctrine and practice of polygamy in the Church. It was that doctrine and practice which was unlawful. It was admitted in one breath by counsel for the government that the power of Congress did not include opinion or belief; and yet in the next breath it was contended by the same counsel that the property of the Church should be taken from it and applied to the public schools because of the religious belief of members of the Church. Counsel for the defendants did not claim, as was suggested by the other side, that Congress would not have had the power to dispose of this property. He conceded that Congress would have the power, as intimated by the very decree of the Supreme Court under which this reference had been made. He did not deny anything the Supreme Court had decided in this case, on the contrary, he relied on that decision to sustain the defendants' claim, but he did say that in the absence of the action of Congress this court had not the right to take this property and devote it to other uses than those to which it was intended by the donors to be donated. This was not property forfeited to the United States. It was a trust fund and the duty of the court was to keep watch over it and appoint trustees to manage the fund, under the direction of the courts, according to the designs of the donors. But the government now sought to divert this fund to another and different purpose from that intended by the donors—this cannot legally be done, while there are legal purposes within their intention to which it can be applied.

In this and every community in this country there were people unable to