

stated in the decree that other property could not be followed.

Judge Powers objected to interrogating the witness on this point, as the decree showed for itself what it contained.

Mr. Baskin—Why was it a clause was not inserted, providing that other property could be followed?

Judge Powers—I object to that; the compromise is with the Church and the government, not the receiver.

Mr. Baskin—If the compromise was not final for all the property the decree should have so provided.

Judge Powers—That is for the main case. This is an investigation of charges against the receiver and his attorneys.

Mr. Baskin—Is not this an inquiry into the compensation of the attorneys?

Mr. Williams—No lawyer would call our charges unconscionable. You would swear they are reasonable.

Judge Powers said the compromise and decree must pertain to the government counsel.

Judge Harkness ruled that the question was between the parties to the main case, but the witness could state, if he knew.

Mr. Williams—The decree contains the provision which you ask about, and say why was it left out; the decree carries out the idea that we could pursue other property; that was the understanding; the compromise was all one transaction, and was reported to the court; the compromise was just so much property offered, which we could not get otherwise; the receiver was authorized to take the value of property where he could not get the articles; the whole matter was reported to the court long before the final decree.

Recess was taken till 2:30 p.m., or as soon thereafter as the Supreme Court, which met at 2 p.m., should adjourn.

In the afternoon Mr. Williams again took the witness stand, and his examination was proceeded with. He testified—While I was in Cache Valley I did not find a tract of eighty acres of land, deeded by Arta D. Young to John Taylor, as Trustee-in-Trust; if you know anything of that kind we would like to know it; (taking the deed) I did not strike that deed. [The deed was introduced in evidence. It was given in 1879, by Arta D. Young, conveying 80 42-160 acres near Logan to John Taylor, Trustee-in-Trust of the Church]. Mr. Williams said—We got the schedule of personal property in April, 1888; brought ten suits in the district courts by the receiver; some of these are still pending; some have gone by consent against the government, by the compromise; we got consideration in seven suits; three are still pending, because the Church protested they did not own the property involved; the real property cannot be escheated as there is no provision in law for that; the main case is still pending in this case; if we were to discover property we would not sue the Church, as the corporation is defunct, but would sue the possessor.

Mr. Baskin—But the Church could not be prosecuted.

Mr. Williams—I refer you to the attorney general of the United States.

Mr. Baskin—What is your understanding?

Mr. Williams—No matter what my understanding is. It is not my business, but that of counsel for the main parties.

Mr. Baskin—What about the 80,000 sheep?

Mr. Williams—The books showed 80,158 sheep; we did not have proof enough to collect 158, so we took 80,000 as clear gain.

Judge Powers—I object to this; it has all been gone into before.

Judge Harkness said it had been shown that 80,000 was 5,600 more than the Church had.

Mr. Baskin—You relied on their statement?

Mr. Williams—Yes, sir; but we reserved the right to pursue more if we could find them. As to the \$75,000, the defendants insisted that there was only \$40,000 left; the government wanted \$100,000 and \$75,000 was finally settled on; the defendants made no specific statement of property except 1400 head of cattle, some horses, etc.; they proposed to turn over all of the property remaining, and make the balance in cash; we were to receive the cattle as inventoried, but we found that they were not worth as much as they were inventoried; some of the best were sold, and we refused to take the rest at the figures asked, so we took the cash; our agents saw the cattle and refused to take them; the \$75,000 was fixed by compromise.

#### ALEX. TOPONCE,

testified—I have lived here twenty-nine years, and am acquainted with the sheep business, having been dealing in wool and sheep for six years or more past; I was employed to gather Church sheep by the receiver; we gathered between 12,000 and 14,000 head; the sheep were of an inferior quality, generally; a couple of herds were of medium quality only; the balance were of an inferior grade, worth from \$1.35 to \$1.40; they were principally old ewes and young lambs; there was not one buck in the 14,000; the rental value was little; I offered 15 cents per head for them, and thought that was enough; to take such a herd, one would need to spend at least \$10,000 for an outfit; it would cost no more to prepare an outfit for three years than for one year; the sheep and wool market was depressed in the fall of 1888; I think 15 cents per head was a fair rental value; I believe that is all a man could afford to pay.

To Mr. Critchelow—I turned over one herd to Pickard in October; never saw the Armstrong sheep and do not know what quality they were; we had no means of identifying the Church sheep; we had orders on each party for so many, and each man rounded up his sheep, tied up the number, and said, "These are the Church sheep."

Mr. Critchelow—Then you

thought they were imposing upon you?

Mr. Toponce—No, I expected that when we first went out, and told Dyer so; when the sheep were counted out for us, we could either take them or leave them alone; I did refuse to take some that were singled out and got better.

Mr. Critchelow—Do you mean to say that a man could afford to pay no more than 15 cents a head?

Mr. Toponce—Well, he might if he wanted sheep worse than I do; that's all; Pickard is not going to make as much out of them as you think he is; I do not know of any reason why they should not have been sublet from Dyer as from Pickard.

Judge Powers—Pickard had to give bonds, did he not?

Mr. Toponce—Yes, I would have leased them before Pickard did, but I would not give the bonds that the receiver required.

Judge Powers at this time asked how much longer time the counsel on the other side would require, what witnesses they expected to bring forward, and on what points they would testify.

Judge Marshall replied that they had Messrs. Pickard and Richards.

Mr. Baskin—I strongly desire to examine Mr. Richards. I deem him a most important witness in this case.

Judge Powers—I understand you want to examine Mr. Peters further. He is here.

It being understood that Peters' examination would probably be quite lengthy, it went over until next day.

#### J. H. CHRISTIANSEN

testified—I live at Gunnison, Sanpete County; am a sheep raiser; the sheep turned in for tithing were usually scrubby, gummy and inferior; a lease for three years was much more valuable in proportion than one for one year; I have sold such sheep as I have seen turned out for tithing at 75 cents per head; I would not have them on lease for nothing; I think 25 cents per head for such sheep as are raised in the southern part of the Territory would be a fair rental; I am now leasing sheep at one pound and a half per head and fifteen lambs per hundred; I agreed to keep the old stock good; leases vary from one pound to one and a half pounds of wool and from ten to eighteen lambs; I know of 8000 sheep being leased to Barton & Lowrie for one year at the rate of 25 cents per head cash.

Judge Marshall—What is the habit of the Mormon sheepmen in reference to tithing? Do they turn over their poorest sheep?

Mr. Christiansen—Yes.

Judge Marshall—They do?

Mr. Christiansen (with emphasis)—Yes, sir!

Judge Marshall—That's all.

#### CHARLES DANZIE

testified—Am acquainted with the church sheep, so-called. I have seen about 4000 of them at Chalk Creek; they were a very poor lot of sheep, and I