

## THE DYER EXAMINATION.

It was generally believed that the matter of investigating the charges against Receiver Dyer and his attorneys was settled until the 4th inst., so far as the courts were concerned, except that there was a possibility that Mr. Critchelow might be succeeded by appointment of the court.

On Feb. 1 there was an effort, to say the least, to have a change in the programme. For a few moments before court opened, Judge Zane and Judge Marshall were noticed in quiet conversation. When court convened, Judge Marshall arose and said that, owing to certain opinions he had expressed some time back, relative to the charges against the receiver, the trustees objected to his appearing, as they did not think he would give them satisfaction. Counsel for the trustees had offered him the evidence, but he had asked that the matter be deferred. Judge Marshall then asked to be released from the appointment made by the court.

Judge Zane—We have tendered all the evidence and information we have, except the address of some witnesses, which we will furnish.

Judge Sandford—Well, place it all in the hands of the clerk of the court.

Judge Zane—The trustees feel that under the circumstances they are somewhat responsible, and also feel that they ought to be permitted to suggest the names of counsel to the court in this matter. The marshal has special counsel, paid for the purpose of guarding his interests, and in order to have an impartial investigation the other side ought to be represented.

Judge Sandford (sharply)—We understood you had retired from the case; you have retired and left your remembrances behind you. Furthermore, the trustees have been adjudged in contempt for their proceedings. Do you think they have any right to be heard in this matter now? You have been on the bench recently.

Judge Zane—I have endeavored to be fair and impartial—

Judge Sandford—Your suggestion comes too late. You are out of the case.

Judge Zane—The investigation should be fair to all parties—

Judge Sandford (severely)—That suggestion is premature, if nothing more. It may mean something more. (Turning to Judge Marshall) As to the suggestions of Judge Marshall, we will consider them. Will you submit them in writing?

Judge Marshall—Yes, sir.

Judge Judd—Do you feel, Mr. Marshall, that you cannot give fair and energetic service in this matter?

Judge Marshall—I feel that the trustees would not be satisfied with—

Judge Judd—We are not dealing with the trustees now; we have had to do with them for a time. The question now is, can you give energetic and impartial service? You are now dealing with the court

alone, not with the trustees or anyone else.

Judge Marshall—I would do my best, conscientiously. But I still would desire to be released under the circumstances.

Judge Zane—I would like—

Judge Sandford (paying no attention to Judge Zane)—Judge Marshall, can you act in this matter on behalf of the court?

Judge Zane—If your honors please—

Judge Sandford (still ignoring Judge Zane's effort to attract the attention of the court)—Judge Marshall, can you give the attention that the court deems necessary to this investigation?

Judge Zane—If the court please—

Judge Sandford—You can do that, Mr. Marshall?

Judge Zane—In justice to myself I will say I advised the trustees not to suggest my name—

Judge Henderson (without heeding Judge Zane)—Judge Marshall, you see the difficulty of finding, among the bar, some one who has not been connected in a remote way with the case.

Judge Zane—The receiver has his counsel, employed in his own behalf, and prejudiced for him. The trustees should be treated fairly and—

Judge Judd—In this whole matter the court and its officers have been subjected to serious charges. The trustees abandoned the prosecution of those charges, and the responsibility is now with the court, which should not, and cannot and will not abandon the investigation.

Judge Zane—I would suggest to the court—

Judge Judd—We have endeavored in our appointing of the counsel not to suffer any to come in who are partisan to anybody. This whole matter has put the court into this position: These trustees have made charges and sought to abandon the investigation. For the dignity of the court we have decided that the investigation must go on, and have selected Mr. Marshall and Mr. Critchelow, who are honest, upright, careful and responsible gentlemen, to act as counsel of the court, and we will not allow the trustees to abandon the case. And in that view we have selected these gentlemen, and so far as anything that has been said or ought to have been said that has weight with anybody in this community, we feel that the gentlemen appointed to this position will act in an honorable and upright manner in this case. Too much feeling has been allowed to creep into the matter on the part of these trustees, and the time has now come, for the dignity of this court and of the people of this Territory, that this whole thing of charges and inuendoes shall not be abandoned, and we have appointed these gentlemen with that view. They will act as the officers of the court, as honest and intelligent men, that this matter may now be treated without feeling. We don't feel that the dignity of the court will allow us to recede from the position that we have taken at least, and I for one shall not consent to it.

Boreman—I for my part think that the two parties [Marshall and Critchelow] should be retired.

Judge Sandford—We do not feel to release Judge Marshall.

Judge Marshall—May I hand in my objections in writing?

Judge Sandford—Oh yes; and we will consider it by tomorrow morning.

Judge Judd—And Judge Zane will hand his testimony to the clerk of the court.

In the afternoon Mr. Critchelow came into court and said he would hand up a written statement of the reasons why he desired not to appear in these proceedings.

Judge Judd—We believe that you both possess the ability and the manhood to carry out this examination, and we are very loth to let you go; but if you will both hand up your written statements we will consider them tonight and decide what shall be done.

Thus ended another scene in the proceedings of this remarkable case.

In the evening Judge Marshall and Mr. Critchelow filed with the judges of the Supreme Court their reasons for desiring to be released from the duty of investigating the charges against Receiver Dyer and his solicitors.

Judge Marshall declined to give his statement for publication, but Mr. Critchelow made no objection. The document filed by him is as follows:

*To the Hon. Supreme Court of the Territory of Utah:*

When, on January 31st, in open court, I was appointed one of the attorneys to conduct an examination in behalf of the court before Examiner Harkness, I at once expressed to the court my unwillingness to assume the duties imposed upon me. Judge Zane, as counsel for the school trustees, suggested certain matters which might render it impossible for me to be appointed, but at the same time expressly stated that he had no objections to me. I did not feel called upon to urge the court to release me, therefore, and not feeling at liberty to decline to act, left the matter with the court.

I now understand that as counsel for the school trustees, Judge Zane objects to my acting. I again, therefore, ask the court to appoint someone else, if in the opinion of the court, the facts hereinafter stated seem sufficient. Inasmuch as Judge Marshall, my colleague, has been permitted to file with the court a statement of his position in the matter, I ask the same privilege, and herewith state the positions which I have at various times taken in regard to the matter.

I was approached by a school trustee and asked to join in a petition in intervention, on the ground that the Gentiles ought to do something in this matter. I refused, and gave as my reason that I didn't consider it a "Gentile" matter; that, as a matter of law, I didn't consider that the school trustees had any right to intervene; and lastly that I knew absolutely nothing of the truth of the rumors or charges against the receiver and his attor-