acres in trust for the use and benefit of the citizens of the town of Eureka.

This filing was rejected for the reason that the application did not describe the land by legal subdivisions and for the further reason that while the tracts applied for were alleged to be non-mineral in character, certain mineral locations were excluded, "thus leading to the conclusion that the land is mineral and not the subject to townsite entry." No appeal was taken from this rejection.

On January 23rd, 1891, the said Probate Judge Foote filed an application to purchase the tracts first above mentioned, containing 359 60 acres. Attached to this application is the affidavit of Judge Foote, corroborated by Dugold McMurphy and Milton E. Price, setting forth that the application was made for the use and benefit of the citizens of Eureka; also a statement as to the number of inhabitants and the improvements in the town, and further alleging that while certain mineral entries had been made of ground included in the townsite application, and mineral applications for other ground within the townsite were pending in this office, yet all the ground applied for by the townsite people was essentially non-mineral and had been used for townsite purposes long prior to the mineral locations.

Prior to this application there had been filed the corroborated affidavit of John McChrystal, alleging generally that all the lands embraced in Judge Foote's filing were mineral.

Going back some time we find by the records of this office an application for mineral patent for the Consolidated, North Extension, Zulu Valley and Ridge claims (ground within the disputed territory) had been filed on November 25, 1890, and later on pending the preliminary proceedings the following applications were filed:

Last Chance mining claim June 12, 1891.

Wolfe Tone mining claim, July 25,1891.

Home Rule mining claim, December 15, 1891.

On January 26, 1891, and afterwards miscellaneous papers purporting to be protests and adverse claims were filed by many of the lot owners in Eureka against these mineral applications. These were all rejected as such on the ground that (alleging no adverse mineral right) they could not be considered as adverse claims within the meaning of the mineral law. From this action an appeal was taken as to one case which was decided by letter of February 8, 1891, sustaining this office.

On February 8, 1891, this office gave notice that the proof in support of the townsite application would be considered on June 1, 1891, and also ordered for the same day a hearing to determine,

First—As to the mineral or non-mineral character of the land.

Second—As to the prior occupancy and use as between the parties represented by the townsite application and those claiming under the mineral law.

On June 1, 1891, the case was called and continued to August 12, 1891.

On the last named date the case being again called the townsite applicant, Judge Foote, presented his proof in the form of an affidavit setting forth the number of inhabitants, the character of the improvements, etc. In this affidavit it is expressly conceded that the ground contained within the claim of the North Extension, Zulu Valley and Ridge Consolidated and the Last Chance is mineral in character and is excluded from the townsite application.

On the same date other protests against the townsite application being filed by numerous mineral claimants, a continuance was taken to September 15, 1891. During that time this office notified the General Land Office of the pending action and requested a stay of proceedings as to mineral entries Nos. 1621 and 1651.

The question then having come up of the jurisdiction of this office to order a hearing all proceedings were stayed until the receipt of the honorable commissioner's letter "N" of September 25, 1891. By this letter it was ordered that the hearing proceed, and the attention of this office was called to the decision in the Woodruff townsite case, letter "G," September 12, wherein it was held that the application to enter townsites should be made by the district and not by the probate judge, and that the scope of the inquiry concerning the case at bar should be confined to the following points:

First—Whether the land embraced in the townsite application or any portion thereof were known to be valuable for mineral at the date of said application, January 23,1891,and if any are thus found to be valuable clearly designate the same.

Second—Whether the lands or any portion thereof were ascertained to be valuable for mineral subsequent to said townsite application, and prior to their use and occupation for residence or business purposes, and if any are so found, the same should be identified and stated.

After due notice had been given to all parties concerning the above rulings by the department, the date of hearing was again fixed for December 30, 1891.

On that date the townsite applicants filed an amended application made by John W. Blackburn, judge of the First Judicial District of Utah, within which district the ground in dispute is situated.

Attached to the amended application is an affidavit made by Judge Blackburn affirming and approving all that had been previously done in the matter by Judge Foote, and especially excluding the North Extension, Zulu Valley and Ridge Consolidated.

In the meantime other mineral claimants having joined the prior protestants, the case was proceeded with and heard on the lines laid down in the instructions of the honorable commissioner.

The four above noted claims known as the McChrystal interest having been excluded from the application, the attorneys representing that interest withdrew from any active participation in the case; the other mineral claimants and protestants being represented by Bird & Lowe, and the townsite applicants by Judge J. G. Sutherland and O. F. Davis.

Decision of the Register and Receiver.

The taking of the testimony in this case commenced on December 30, 1891, and with the exception of a few short adjournments lasted from day to day until March 23, 1892. During this time nearly eight hundred pages of testimony was taken and numerous exhibits offered showing how closely the ground was gone over. Practically the hearing was confined in scope to the two propositions laid down in the letter "N" of the Honorable commissioner, and during our term of office no case has been heard involving greater interest and none has had a more careful consideration.

As to the first proposition, as to whether the land embraced in the townsite or any portion of it were known to be valuable for mineral at the date of said application, January 23, 1891, we must hold that the preponderance of the evidence is clearly in the negative. The clear inference to be drawn from all decisions that we have been able to find bearing on the subject is certainly to the effect that in an issue between a mineral and agricultural claimant the matter to be determined is whether, as a present fact, the ground is more valuable for mineral or townsite purposes, and the measure of the value cannot be determined by the amount and value of the mineral actually produced. In support of this proposition several decisions in like cases are quoted.

Whatever might be the prospective value of the protesting claims in this case, it is nowhere shown in the evidence that they at the time of the townsite application, possessed any mineral value or actual producing mines.

The second proposition is similar to the first, except that the time in which the actual discovery of valuable mineral may have taken place is extended to a period subsequent to the application and prior to the hearing. On this proposition we must hold the same as on the first, that no such showing was made, and that the (almost unanimously conceded) fact that no ore of any marketable value had been produced being true, it must follow that the ground, as a present fact so far as shown by the evidence, is more valuable for agricultural than for mineral purposes, and that no valuable mineral discoveries were made prior to its occupancy for residence and business purposes.

Our decision is that the protests offered by the mineral claimants should be dismissed, and the proof offered by the townsite applicants should be accepted and entry allowed.

FRANK D. HOBBS, Registrar.
HOYT SHERMAN, JR., Receiver.

MORGAN STAKE CONFERENCE.

The quarterly conference of Morgan Stake was held at the Stake House, Morgan City, on the 15th and 16th inst. Present on the stand on the first day: Apostle F. D. Richards, George Reynolds, the Presidency of the Stake and members of the High Council, John Seaman, of Ogden, and Ezra T. Clark, of Farmington.

Counselor S. Francis reported as to the condition of the wards and various institutions as being in a very prosperous condition. The Saints are doing their duty except in the matter of supporting the Academy school.

Elder Reynolds gave a most interesting discourse on Sunday school work, the benefits of Church schools and the order of the Priesthood.

Apostle Richards occupied most of the afternoon with an excellent discourse on the subjects of repentance, the mission and life of our Savior, charity and forgiveness.

The general and local authorities were presented and unanimously sustained.

A list of Stake and Sunday school missionaries were presented and approved.

The meetings of Monday, as well as those of Sunday, were well attended. The speakers were Ezra T. Clark, Jesse Haven, John Seaman and Apostle Richards. The subjects spoken of were econonomy, industry, obedience, forgiveness, preparation for the various duties of life, and other important subjects.

Conference adjourned for three months. A. FRANCIS, Clerk.

VICTORIA BERUBE, a six-year-old child, who had been suffering more or less for two years, died in Fall River, Saturday evening. It was seen in the afternoon that she was near death, but the physicians in attendance could not account for a black substance that she vomited. Suddenly she made a strange sound and spat a partially formed bird out of her mouth. Then she died. The physicians advance the theory that the child had eaten a parboiled half-hatched egg.