

## THE COMPENSATION.

There was considerable change in the usual order of proceedings in the Church case, at the session of the Territorial Supreme Court Feb. 12. Chief Justice Sandford and Associate Justices Boreman and Henderson were on the bench. United States Attorney Hobson, of Colorado, who is special assistant to Attorney-General Garland, in the suit of the government against the Church, for the property of the latter, was present, and as that suit was to be called up, it was understood that Mr. Hobson would express himself in the line indicated on a former occasion. This he did, and it was conceded by those present that his speech, though not very extended, was an able effort.

The ball was opened by the court calling the case of the United States vs. The late Corporation of the Church of Jesus Christ of Latter-day Saints.

Mr. Williams—If the court please, last October a motion was made for this court to fix the compensation of the receiver and his attorneys; it was referred to Judge Sprague; and the testimony was taken and the report returned. I move the court that it now proceed to fix the compensation of the receiver and his counsel, and order that they be paid. There are some objections by the government, and I also have a few considerations to present.

Judge Boreman—I understand the court was to wait for the report by Judge Harkness on the charges against the receiver.

Mr. Williams—The matter may be taken under advisement until that that report, and then determined.

## MR. HOBSON

said in substance: Under the order of the court to take testimony, I understand there is no need in chancery practice of filing exceptions. One rule in chancery courts is to refer the matter of compensation to an examiner, whose finding is final; another course is to have the examiner report the testimony to the court; in this case this was done. This leaves it as though the testimony was taken in open court. That is the condition here, and we have a right to make a showing without filing exceptions. I have, however, to save a point, filed exceptions, which I will read:

*In the Supreme Court of the Territory of Utah:*

The United States of America vs. The Late Corporation of the Church of Jesus Christ of Latter-day Saints, et al.

And now comes the United States of America, by counsel, and files the following exceptions to the report of E. T. Sprague, Special Commissioner of the above entitled court, filed in said cause on the — day of —, 1888, said report having been made under and in pursuance of an order of this court entered the 6th day of October, 1888, and the same having been concerning the compensation to be paid Frank H. Dyer, Receiver, and counsel, and concerning other matters set out in said report:

1. The said United States excepts to that portion of the report of said commissioner which recommends that an allowance be made to Frank H. Dyer, receiver, of the sum of \$25,000 for the following reasons to wit:

That said sum recommended by the commissioner is excessive and unreasonable.

That under the law governing the allowance of compensation in cases such as this, said receiver should at the present time be allowed a reasonable compensation by the year or by the month since he was appointed, the same being proportionate to the duties performed by him and the responsibilities under which he has been placed.

That any compensation which the receiver should receive at this time, and whilst this cause is pending in the Supreme Court of the United States is undetermined, should be out of the income and receipts which have accrued from the funds in the hands of the receiver during the time that he has been in office, and should in no wise be taken from the body of the fund.

That the compensation allowed to the receiver as assumed by the commissioner, is upon the basis of per cent, whereas from the nature of the services performed, and from the fact that in managing and handling said property said receiver has practically been under very little responsibility, his compensation should be estimated, not on the basis of per cent, but upon the basis of a fair salary to be paid him.

And lastly for the reason that whilst said receiver charges for his services in regard to the gathering in of the estate and fund in his hands, it appears from his accounts rendered that the real labor connected with the matter has been performed either by his attorneys or by subordinates, whose salaries and expenses have been paid out of the funds in his hands.

2 Said United States further excepts to said report and to that portion thereof which recommends an allowance of \$10,000 to P. L. Williams, Esq., attorney for the receiver, and \$10,000 to George S. Peters, Esq., attorney for the receiver; for the reasons alleged against the allowance to the receiver which may be applicable to this charge and for the additional reason that the services of said attorneys are not yet completed and said allowance appearing to be made in full settlement of their services already rendered and which are to be hereafter rendered. Such cannot be done under the law as laid down by the Supreme Court of the United States and the subordinate federal courts of this country. That while the said attorneys should be allowed a fair and reasonable compensation for their services, yet at the present time and in the condition in which this cause is they should only be allowed a reasonable sum on account to be paid out of the proceeds of the fund in the hands of the receiver.

8. The United States further excepts to said report and to that portion thereof which purports to pass

upon and approve the accounts of Frank H. Dyer, receiver, settled by him, and recommending that the same be approved by this court for the reason that whilst it was proper that the said receiver should make statements and settlements of his accounts, that the same should not be approved and passed upon at the present time, or until this case is finally disposed of, when his entire accounts should be taken up and passed upon together.

4. The United States further excepts to said report and to that portion thereof which approved of the accounts of the receiver filed as a portion of said report and recommends that the same be allowed him, this exception extending to the following items of said account to which objections are set out as follows:

Item 5	Caleb W. West, clerk,	25
" 9	" "	50
" 27	" "	50
" 33	" "	50
" 38	" "	50
" 47	" "	50
" 58	" "	50
" 67	" "	50
" 77	" "	50
" 88	" "	50
" 99	" "	50

for the reason that said items appear to be charges for clerk's hire, whereas said receiver has another clerk and book-keeper at a salary of \$100 a month, and in view of the nature of the duties and services of said receiver, said charges for an additional clerk were unreasonable and unnecessary.

Item 3,	S. J. Sudbury,	\$25.00
" 7,	A. G. Dyer,	42.00
" 8,	W. McCurdy,	25.00
" 10,	E. Rippetoe,	47.50

for the reason that said charges appear to have been wages paid to watchmen over real estate, and whereas the same were not necessary and the amount paid out is unreasonable.

Item 63	F. E. Barker,	\$325.36
" 71	P. L. Williams,	183.75
" 85	F. E. McGurrian,	426.15

for the reasons that said charges appear to be for services of stenographer and typewriter, and in view of the fact that said receiver had a regular clerk and bookkeeper, the same was unreasonable and unnecessary, and for the further reason that the amount charged for stenographer's fees is unreasonable.

Mr. Hobson—I desire to say that I have no confidence whatever in the charges against the receiver and his attorneys. From a knowledge of the facts upon which the charges are based, I am satisfied, and I think the court will be, that the receiver and his attorneys have in all things acted properly. I say, for the benefit of the public, that Mr. Peters' action was approved by the Attorney-General, and I concurred with him in that approval. If there is any blame it should be laid to the Attorney-General and to me. I desire to say that I think such charges as have been made in regard to this should not be taken into consideration in determining the compensation of Messrs. Peters and Williams.