

tain officers of the court, and is not gone into on the motion of either the plaintiff or defendant. Neither of them have taken any active part in it whatever. The question of the payment of expenses connected with the investigation comes up. The court orders that they be paid out of the property in dispute.

The question arises as to the legality of such an appropriation. Is this or is it not confiscation of property held in sacred trust for the constructive owner and the claimant? Does this fund belong to the court, or is it merely held by it in the interim pending final settlement under the law? If it does not belong to the court, what right has it to dispose of the property as if it were the *bona fide* owner?

These interrogatories lead to another question of some importance to the parties in interest—If Zanolie can step in for political or other purposes and, under the plea of intervention, be the means of starting a side-show to the regular circus, does not the precedent open the way for others to do the same; and if the gate money of the principal show is to bear the expense of running the booth containing the fat man, the slender giant and the talking fish, why cannot the whole proceeds be consumed in the same way?

Of course this may assume a different aspect when the constructive owner of the property is not the late corporation known as the Blue Belt Mining Company, but the recent corporation of the Church of Jesus Christ of Latter-day Saints, yet we fail to see the distinction. The court will have to excuse us for not being able to logically or reasonably concede its right to appropriate property held in trust by it for the parties in chief for the purpose of investigating the conduct of its officers.

#### THE ZANE & ZANE RAKE.

A DISINTERESTED perusal of all the testimony given before Examiner Harkness in relation to the conduct of the Receiver and his attorneys in the Church case makes clear the fact that the compromise was the very best step that could have been taken. It was advantageous to both sides from every aspect. Its only object was to reach the Supreme Court of the United States, so that final adjudication might be arrived at at the earliest possible date. Neither side of this litigation could lose anything by the suit taking that direct course.

If any other line had been adopted and continued, affairs connected with it would have been in a perpetual boil and bubble. Perplexities and heart-burnings and difficulties would have arisen that by this measure have been suspended, if not entirely prevented.

Seeing that the object was most desirable, and certainly worthy, why should it not be understood that until at least a finality is attained by means of the decision of the highest tribunal of the nation there should be, so to speak, a suspension of hostilities? All persons willing to accord to the defendants—who are liable under this law to be deprived of their property—the slightest degree of amenity could not but agree that such an understanding should exist and be lived up to. Why should there be such a disposition in certain quarters to rake up this matter and pursue with vindictiveness those against whom the law is directed? Why should there be any desire to take from those who are thus pursued every stick and stone that can be dug up and clutched before even it is determined whether this can be legally done? This point is worthy of special consideration in view of a decision being expected from the court of last resort within a few weeks from date.

It is a curious anomaly that the individual who formerly occupied the position of Chief Justice of the Supreme Court of this Territory and has been chiefly instrumental in producing this raking up of affairs connected with these cases, has, since his deposition from that office, made a declaration to the effect that he had serious doubts about the constitutionality of the law under which the suits involved have been brought. He made a statement before the Court of which he was formerly a member, speaking of the Edmunds-Tucker law, that the subject of it was on the border of that on which legislators considered they had no right to legislate. The reason adduced by him for this view was that it took "a large amount of property from a Church."

One would suppose that a person who has such an opinion would naturally expect—although he himself decided that the law was constitutional—that the Supreme Court of the United States would not act as he has done, judging from his admission, contrary to its own opinion. It is supposable that he anticipates that the decision of the Supreme Court, if it should consider the law

of doubtful constitutionality, will be conformable with that understanding, and the doubt, according to civilized jurisprudence, be given in favor of those who are pursued, and not of the pursuer.

Thus far the huge rake that has been introduced by the ex-Chief Justice has gathered nothing but a small quantity of dry stubble. The straws have been headless, and therefore he has garnered no wheat. The theory in relation to corruption in the matter of the sheep transaction has been exploded by competent evidence, the witnesses who testified being familiar with the subject; and it is a singular fact in connection with this sheep affair that the Receiver obtained 5,800 more animals than the defendant possessed! This is certainly not tremendously against the Receiver from the standpoint of those who are now pursuing him for not being sufficiently exacting. It is unquestionably against him from the standpoint of the other side, because of his having insisted on their placing in his hands "a large amount of property taken from a Church" which the Church did not at the time possess, and had to purchase the animals for the purpose of placing them in his possession.

The disposition that has been shown in certain quarters to seize every box of matches and every paper of pins supposed to belong to the Church would constitute those persons who have manifested it first-class evictors of Irish tenants. The outrage being perpetrated here is worse in one of its features than the doings that are creating a revolution in the Emerald Isle. In the latter country the people are being driven from property belonging to the evictors; in this Territory the property of the people is being seized. The idea of some persons regarding this free government is that it is not a system which elevates and protects the weak, but which should be used to crush them and grind them to powder.

Such characters are the enemies of mankind; they have patriotism on their lips while their hearts are filled with envy and covetousness. They are the enemies of the institutions of this country. The present phase of this property controversy is most shameful and disgraceful.

Let the Supreme Court of the United States decide the issue; let that court say whether a people—no matter what may be their religion or their politics—are to be the victims