

upon the theory that they were continuing the examination before Judge Sprague, as to compensation, instead of investigating the charges of corruption, fraud and unprofessional conduct. When the receiver refused to answer questions outside of the scope of the investigation they threw the whole thing up, not even attempting to introduce evidence on any other point.

Judge Powers submitted fifteen affidavits to show that the renting of the church sheep to Mr. Pickard at the church sheep to Mr. Pickard at twenty cents per head was a reasonable figure, the accusation being that the price should have been double that amount.

Judge Zane—We have a right to produce counter affidavits to show that our allegations are true.

Judge Powers read from the affidavit of Mr. Pickard that the sheep were worth only \$1.40 per head, and were worth but 20 cents per head on one year's lease; on a three years' lease good sheep would be worth 40 cents.

Judge Powers—I also have an affidavit from William Harker, "the first born white male child in this Territory."

Judge Sandford—Judge Zane will not be required to combat that statement, will he?

Judge Powers—Well, no. Mr. Harker says it is notorious that men always pay their poorest sheep in for tithing, and that these sheep were worth not to exceed \$1.40 per head. Mr. Toponce thought 15 cents per head was enough.

Judge Sandford—This testimony is not pertinent to the matter before us. It does not belong here.

Judge Powers then proceeded on his motion to make corrections in the order of the court as drawn; so that it would follow the opinion of the court. He also asked that the contempt proceedings be dismissed, and that those who had made the accusations against the receiver and his counsel should have no more standing in this court. They were using the investigation for purposes that were not within the order of court. They had come up like a threatening thunder-cloud, which when it bursts contains nothing but wind. That is all there is in these charges.

Judge Zane closed. He thought that the witness should be required to answer questions relative to his compensation as receiver. The motion to change the order of the court, so as to limit the investigation, was objectionable, as he wanted to inquire into the matter of compensation. The receiver evidently leans toward his own interests on the question of pecuniary recompense for his labors. He employed, as United States marshal, his deputy marshals (paid by the government) to find this Church property. Judge Zane said: I had attorneys look up the county records as to the property compromised for \$85,000, when it was worth \$25,000.

Judge Powers—Produce your proof.

Judge Zane—We'll do it if we get a chance.

Judge Sandford—What hinders you?

Judge Zane—The receiver refused to answer, and we wished to proceed in order. This property was owned by the Church, and money was accepted in lieu of it, the figure being \$140,000 less than its value. At the examination before Judge Sprague Mr. Dyer said he had fixed his mind as to the amount he should receive, and thought it should be not less than \$25,000; he had notified the defendants that that was his claim, and they said they would not have opposed it. Mr. Peters would not act, so Mr. Dyer said, and thus left the government without a representative. As to the compromise, the court approved it on the representation of counsel, and were not apprized of the real value of the property.

THOS. MARSHALL

said—I don't know whether the gentleman intends to impugn my integrity or not, but I will say that the testimony that the government had to act upon regarding the property known as the Wells' corner was very slight, and they had really no testimony to proceed upon. They could not have set aside the sale by the Church. The case for the government was very doubtful, and when they offered \$45,000 for a doubtful claim, I advised the receiver to take it. I think any counsel worthy of a standing at the bar would have done the same. The amount tendered was the proceeds of the sale of the property, and I thought, and do now think, the compromise is a good one.

JUDGE ZANE

stated that he did not intend the slightest reflection upon Mr. Marshall. He then continued his speech, and in regard to the sheep said that Mr. Pickard leased them for 20 cents per head, and, without even taking possession of them, turned them over to another party for 36 cents per head. The receiver also accepted \$75,000 for property worth \$268,000. There was other property that he never took possession of at all. Not having prosecuted his labors properly, the receiver is not entitled to the amount claimed. He did not exercise business capacity or sagacity in this case, and we dispute his claim. He ought to be compelled to answer those questions that he refused to reply to.

At this point court took a recess till 2:30 p.m., when Judge Zane concluded his argument, and the matter was taken under advisement.

In the closing part of his remarks, Judge Zane grew rather warm, and declared that the reason they have stopped in the examination was because they were prevented from proceeding in regular order. They would prove their allegations if they had the chance to prove them according to law. The investigation should not be turned from its original intention. The question of the receiver's compensation should be inquired into, and it would be an extraordinary proceeding on the part of this court to exclude further testimony. Is this court afraid of the light? It surely ought not to be.

The receiver had made a claim for \$25,000; and they wanted more light on the subject. They wanted to know why Mr. Dyer had been hobnobbing with men underground. They wanted to know how he made arrangements with the leaders of the "Mormon" Church, some of whom were in his custody as United States marshal.

He said the law is on the border of that on which legislators have no right to legislate. It is taking a large amount of property from a Church. I held the law, with my brethren on the bench, to be constitutional. I don't propose to see any fraud in connection with it. I don't want any disgrace attaching to my name. [At this portion of his speech Judge Zane shouted at the top of his voice, and struck the table such heavy blows that it fairly danced. The noise thus created drowned the speaker's voice in some of his more vehement utterances.] I have an interest in this case. I want this property honestly dealt with. The whole transaction should be free from reproach, from suspicion; and it is not now. I ask that this investigation go on, and go on fairly, on all the issues in the petition. Let everything be exposed to the sunlight, and let truth prevail. We don't want the truth smothered—strangled—in this case.

Judge Henderson—You say that an improper compromise was made, and the fund lost money. You say the wrong was by the receiver or his agents. If this is true, wouldn't it be right to refuse any compensation whatever?

Judge Zane—I think it would be right.

Judge Henderson—Then, why need we investigate how much time was spent; if the work was not done honestly?

Judge Zane—We want to show that the work was not honestly done. You must have evidence before you can show that.

Judge Boreman—The question of compensation will be thoroughly investigated by the court.

Judge Sandford—The court did not intend to refer the compensation to Judge Harkness; that had been referred to Judge Sprague. Judge Harkness was to hear your charges of fraud, corruption and unprofessional conduct. That and nothing more.

Judge Zane—Do you decline to hear further testimony?

Judge Sandford—Oh no; we have not passed on that. Charges were made against officers of this court, and they were ordered investigated.

Judge Zane—The object of the charges was to affect the compensation, and save the fund; nothing more. We did not make them with the intention of having the receiver removed, or even of having him censured by the court, but only to reduce his compensation.

Judge Powers (to Judge Zane)—Did you draw the order of the court?

Judge Zane—I never saw it, I never wrote it. I will say that Judge Sprague got \$100 more out of the fund than he was entitled to under the law. His leaning was not to us, but to the other side.