

FROM MONDAY'S DAILY, DEC. 10.

## INQUIRY COLLAPSED.

## Conduct of United States Marshal's Office Attacked.

The examination into the charges made against Receiver Dyer and his attorneys in respect to the Church case, was commenced before Judge Harkness today. It was 11 o'clock when the proceedings began. Messrs. Zane & Zane appeared for the complainants; they were assisted by R. N. Baskin. The other side was represented by Messrs. O. W. Powers, J. R. McBride and P. L. Williams.

Judge Harkness stated that the order of the Supreme Court required him to take testimony and report it to the court. He did not understand that he could pass upon the materiality of the testimony.

## STATE NUMBER ONE.

Judge Powers thought the order did not require that immaterial testimony should be listened to.

Judge Harkness said it appeared to him that the court had left it to the honor of the attorneys not to introduce immaterial testimony. He could hear objections to any evidence, and report it to the court, who would pass upon it.

Judge Baskin took issue with Judge Powers, and argued that the Examiner could not rule out testimony.

Judge Powers—Am I to understand that you could introduce the Doctrine and Covenants or the Bible as evidence?

Judge Baskin—It is not to be presumed that we will do such a foolish thing. We will introduce testimony to the point at issue.

There was considerable further discussion of the point raised. Finally Judge McBride suggested that the question of the relevancy or irrelevancy of the testimony be left with the referee.

Judge Harkness said that it was a matter of doubt whether the court could bestow judicial power. He was simply a commissioner taking a deposition. He would rule out testimony clearly inadmissible, but would not assume judicial functions.

Judge Harkness stated that he had appointed F. E. McGurran official reporter.

The question arose as to a bailiff. The Marshal proffered to furnish one. Mr. Baskin objected, and when Judge Powers wanted to know who would pay a new bailiff, it was decided that each party should provide its own.

Judge Zane said the petitioners would file a general replication to the answer of the respondents.

## STILL ANOTHER ATTORNEY.

Frank Hoffman said he desired to appear as counsel for W. L. Pickard, who was out of the Territory.

Judge Harkness stated that he could not admit him. The appearance should be entered before the court.

Judge Harkness (to the attorneys)—Will you all use your influence before the Supreme Court to have the reporter paid?

To this the attorneys assented. Marshal F. H. Dyer was the first witness called by Judge Zane. Mr. Dyer testified—I am the Receiver in the suit of the government against the Church; was a witness before Examiner Sprague as to my compensation: I never claimed \$25,000; thought I was entitled to that amount for my services; that with the claim of the solicitors and the expenses, amounted to something over \$52,000; my account for office expenses, etc., was \$7,835.32; that included taxes and other necessary items; that account has not been passed on by the court; I am at present U. S. Marshal, and receiver in this suit; devote my time to these offices; have very little other business; have some horses; have been away once for 10 days; have attended races; have lost no time from my business but the 10 days.

## SPARRING AGAIN.

Judge Zane—What do you receive from sources outside of the marshal and receiver?

Judge Powers—We object to that. It has nothing to do with this case no more than whether or not the moon is made of green cheese. The order of reference is not in regard to the compensation of the receiver and attorneys.

Judge Zane—That is one of the charges—that the compensation was unreasonable and unconscionable.

Judge Powers—Even then it is not material. The Judge of a district court is paid by the government and also by the Territory; I have a suspicion that the law providing for the latter is unconstitutional. But Mr. Dyer's compensation from outside sources counts no figure in this issue.

Judge Zane said the receiver was making a claim, as were also the attorneys, for sums aggregating more than \$52,000. This was claimed for their business integrity, time, responsibility, etc. The receiver said he had devoted most of his time to the receivership. What we want to show is that he devoted time to other matters for which he received compensation. The Supreme Court will want to know how he has spent his time. One man cannot do everything. We propose to show that he has devoted a large portion of his time to other matters. This testimony should not be excluded. We want to show what was given for this claim. If it was a third of the time, we want to know it. We may want to show that if he charges for business integrity, he should give it. You can't

## GIVE A MULE

and claim pay for a blooded horse. We want to show what he gave for the consideration he asks.

Judge McBride—I anticipated something of this sort. It seems to me this question is not pertinent. This is not an inquiry into the receiver's compensation.

Judge Zane—We have alleged that the compensation is unconscionable. If you don't want the proof you should not have denied the charge.

Judge McBride said there was much that was immaterial, in both the answer and petition. Mr. Dyer had made no specific claim. He had simply estimated his services as worth \$35,000. Now they want to say he was doing something else. They have no right to show what else he did; they can find out what he did as receiver, and nothing else. It makes no difference what he gets outside. If I were Mr. Dyer I should decline to answer that question. He is not obliged to answer it. He is only obliged to answer proper questions. They want to find out whether he is "a blooded horse or a mule." Such a course is entirely outside of that which is proper. Mr. Williams suggests to me that the question of compensation was not referred here, but the question of conduct on the part of the receiver and his attorneys. The petition of Judge Zane was not granted by the court when they claimed a standing in court. Only the charges made were referred for investigation. The counsel for petitioners are not interested in the suit, and that is the mistake they are acting under.

Judge Powers read the decision of the court excluding the petitioners from the case. This examination, he contended, was simply to examine into the charges of fraud, CORRUPTION AND MISCONDUCT.

Judge Baskin suggested that at this rate the record would be made up of speeches of counsel in the case. He argued that all of the charges in the petition should be investigated. He said that it was proposed to show that the whole time of the receiver was not devoted to that business.

Judge Harkness—I may as well make this point a typical one of many that will come. The pleadings throw the doors pretty wide open. The question is as to what Mr. Dyer received for other services, not what time he devoted to other services. If I were sitting as a court I would sustain the objection. The real question is the time devoted to business, not the compensation for that time; the court may think, however, that they would like to know the answer to this question, and on that ground I shall allow it.

Judge Powers told Marshal Dyer not to answer the question.

Judge Zane—Can the examiner compel an answer?

Judge Harkness—I think not.

Mr. Dyer—By instruction of my attorneys, I

## DECLINE TO ANSWER.

Judge Zane—Didn't you state that you made \$15,000 this year out of the marshalship?

Judge Powers—You need not answer.

Mr. Dyer—I decline to answer.

Judge Baskin—We will not pass over this contempt.

Judge Powers—Well, then, I am the contempt.

Judge Zane (to witness)—Didn't you also receive other sums?

Judge Powers—Don't answer.

Mr. Dyer—I decline to answer.

Judge Zane—Didn't you, on purchases for the government, for the penitentiary, receive a commission?

Judge Powers—We object.

Judge Zane insisted on the question.

Judge Powers said he would be the last man to place himself in contempt. The accounts of the marshal's office were open to the proper parties. There is a peculiar spectacle here of seeking to drag in a series of questions to reflect on the marshal. They drop their old charges, and try to bring in a general attack on the marshal's office. Such a course is unlawful-like, and is an endeavor to

## SCRAPE UP SCANDAL

to use against the respondent. I submit I am not in contempt, but that the action of the petitioners is a contempt.

J. M. Zane—We do not abandon any of our charges. We propose to show that the receiver has not the integrity he claims. It is no scandal. We intend to prosecute our charges.

Judge Harkness—I hardly think the question proper. It is an attack upon character.

Judge Zane—We propose to show what he got.

Judge Harkness—I cannot instruct the witness to answer.

Judge McBride said the witness was charged with improper conduct by this question, and would answer the question, because he was a public officer.

Judge Zane—If he makes a statement we want him to answer truthfully. We don't want the marshal and his attorneys to conduct this examination.

Judge Powers—We are going to, part of it.

Judge Zane—They have courted the fullest investigation. The receiver is making a charge of \$25,000. What is he giving for it? His integrity, time, capacity and the responsibility. We want to show how much has been given to this, and to the office of marshal and other business, and what he received for it. He declined to say that he had admitted that

## HE GOT \$15,000

for his year's service as marshal. We

have a right to test him, and show all of these matters.

Judge Powers—Did you ever permit, when on the bench, a party to cross-examine their own witness?

Judge Zane—This is a cross-examination on the inquiry as to compensation. We want to prosecute it. We may make him our witness.

Judge Harkness—Do you ask whether he received improper commissions?

Judge Zane—No, sir.

Judge Harkness—I think this question attacks the witness' character.

Judge Powers—This is not a cross-examination of the case before Judge Sprague.

Judge Harkness—The question is, have I authority to rule on this matter. I will take the liberty of ruling it out.

Judge Zane—What compensation did you receive from Remington & Johnson, on a contract to deliver goods to the penitentiary?

Mr. Dyer—I would refuse to answer because of my attorneys' advice. But there is an explanation due the public.

Judge McBride—We are not dealing with the public now.

Judge Powers—I want to put on record that these charges and insinuations ARE ABSOLUTELY FALSE.

Judge Zane—We don't want your statement. When you are a witness you can testify. Let the witness answer.

Judge Harkness (to reporter)—You need not take that down. It appears that the witness refuses to answer by instruction of his counsel.

Judge Powers—We would gladly meet these charges on another occasion, that justice may be done.

Judge Harkness—I will prop up the heavens, Judge. [Laughter.]

Judge Zane—What compensation did you receive from the butchers?

Judge Powers—As receiver?

Judge Zane—As United States Marshal.

No answer.

Judge Zane—Haven't you, by convict labor, raised 500 bushels of potatoes on the government land at the penitentiary?

Judge Powers—Oh, that potato business was not Mr. Dyer, it was Ireland. The Herald published the fact that Marshal Ireland had furnished Judge Zane with potatoes from the penitentiary farm.

Judge Zane—There is no such charge.

Judge Powers—Oh yes, there was.

Judge Zane—Did you not raise, BY CONVICT LABOR,

on government ground, 500 bushels of potatoes, and when the price was 30 and 35 cents, did you not charge the government 60 or 62 cents per bushel for potatoes raised on the penitentiary ground?

Judge Powers—We object to that.

Mr. Dyer—I refuse to answer.

A recess was then taken till this afternoon.

This afternoon the examination was proceeded with. Mr. Dyer testified that from Nov., 1887, to Nov., 1888, most of his time was occupied as receiver; before the first date his time was taken up with his duties as marshal; he now had four deputies at Ogden, four at Salt Lake, four at Provo, four at Beaver, one in Sevier County, and one in Park City. There were others who were not under regular pay; I give general supervision to all of their work; have done so since my appointment as receiver; my duties as marshal do not take all of my time; I do not know what proportion it takes; I seldom serve papers.

Judge McBride suggested that the business of marshal was not under investigation; but it was alleged

MISCONDUCT AS RECEIVER.

Judge Powers—The court is here to investigate charges of corruption.

Here followed a sharp discussion on this point, between Judges McBride and Powers on one side, and Judges Zane and Baskin on the other.

Judge Zane—How much of your time was devoted to the receiver's office?

Mr. Dyer—It is very hard to determine, as both were attended to at the same time.

Witness further testified—I have been to Washington three times since my appointment as receiver; in December, 1887, two or three weeks, in July, 1888, about three weeks, and November, 1888, two weeks; have been to California once; was also there in September, 1887, before I was receiver; the last time, September, 1888, I was there ten days; was on a vacation; I devoted less time to the office of marshal than to that of receiver; had more men as Marshal than as Receiver.

Judge Zane—It didn't take much of your time to look after the Temple Block, did it?

Mr. Dyer—No, sir.

Judge Zane—Did you superintend the Tithing Office?

Mr. Dyer—No, sir.

Judge Zane—Were you SUPERINTENDING THE CHURCH history at the Historian's Office?

Mr. Dyer—I'll leave that to you later on.

Judge Zane—Did the Wells' property take your time—that was compromised?

Mr. Dyer—It took considerable time before then.

Judge McBride—We object to this.

Judge Zane—Oh, well, if you don't want the charges investigated, why did you ask for investigation?

Judge Baskin—In their answer they defy investigation, and now want to make it a farce by refusing to answer anything but just what they please.

Judge Harkness thought the question of compensation of the receiver was open to full investigation, and that line should be followed.

Judge Baskin—If the gentleman can afford to stop here, we can.

Judge Powers—Then we can stop.

Judge Baskin—We make charges of corruption, and will prove it if permitted.

Judge Powers—If the compensation issue is raised, the Church and the government should be represented here. Come down to the charges of corruption, and we will meet you.

Judge Baskin—We're ready to rest right here.

Judge Powers—Then stop, if you have no more to say.

Mr. Zane—We have more to say, and more to prove. We haven't fairly commenced, when you use every effort to

## BLOCK EXAMINATION.

Judge Zane then proceeded to an extended argument to show that they had a right to go into the whole matter, and bring out all of the facts.

At the close of Judge Zane's speech, there was considerable more jangling. Finally the attorneys for Mr. Dyer instructed him to refuse to answer any questions regarding the marshalship, or anything except as touching the alleged misconduct as receiver. On this point he was ready to answer.

This virtually blocked the course which Judge Zane was endeavoring to follow, and the result was that the examination was brought to an abrupt termination, Judges Zane and Baskin denouncing the whole proceedings as

## A FARCE.

on the ground that the opposing attorneys were the judges of the competency of the questions.

Judge Harkness ruled that he would submit the matter to the court, which meets in January.

## MARRIAGES.

JONES-EDGEWORTH.—In the Logan Temple, Nov. 28, 1888, Alfred R. Jones, son of Robert Jones, to Elizabeth Edgeworth daughter of Joseph Edgeworth. Both of Honefer, Summit County.

## OBITUARY.

LEISHMAN. John Leishman, son, or as he was familiarly called, Father Leishman, departed this life at Wellsville, Cache County, Utah, on Wednesday, November 21st, 1888, at 9.40 a. m., after six days illness.

Father Leishman was the eldest child of John Leishman and Jean Campbell; was born at Shiel Hill, Stirlingshire, Scotland, on the 17th of September, 1807, and was therefore 81 years 2 months and 4 days old. When about 7 years of age his parents moved to Kentfrenshire, eventually taking up their residence at Johnstone, at which place he attained his manhood, and there married Jean Allan in the year 1823. His occupation was that of a cotton spinner, and being a natural mechanic he oftentimes employed himself in that line of business.

From his early childhood he was inclined to be religious and was a devout and firm believer in the Holy Scriptures and in the divine mission of the Savior. His parents being Methodists, he was consequently somewhat partial to that denomination, although never attaching himself to that body, nor to any other until after his marriage, when he became a member of what is termed the Relief Church of Scotland, which does not differ materially from the Presbyterian Church only in the matter of the selection of their ministers.

For about eight years he continued with the Relief Church, but becoming dissatisfied with its doctrines, began an examination of the doctrines of the other churches hoping to find something more in accord with his views and in harmony with the teachings of the Savior and his apostles, as recorded in the holy scriptures. But after a vain search, he hopelessly abandoned all the churches, being fully satisfied that none of them possessed the Gospel and religion of the Lord Jesus Christ. He became solemnly impressed with the awful condition of Christendom, as being devoid of the true Gospel, and was consequently in a forlorn frame of mind regarding his future welfare.

When in this condition, in the latter part of March, 1840, Elders Samuel Mulliner and Alexander Wright visited Johnstone, and availing himself of the opportunity, he went to hear them preach, in company with some others. They arrived at the door of the place of meeting just at the instant Elder Mulliner began his opening prayer, to which he listened most attentively, and before the prayer was ended, and although not in the presence of the Elders, his mind was at once satisfied that they were sent of God. After hearing their preach he was filled with joy and rejoicing that he had found a religion he had long sought for.

After the services he took the Elders home with him and provided for their wants in food and lodging, feeling assured how as entertaining the servants of God. On the 2d of April, 1840, he was baptized into the Church by Elder Alexander Wright, being the twelfth person baptized in Scotland. He at once became an earnest worker in the cause, and although meeting great opposition in the community and among his family connections, he continued undaunted in the vindication of the divine mission of the Prophet Joseph, and remained so until the last. In the year 1852 he and family, consisting of wife, five sons and four daughters, and one daughter in law, emigrated to Utah in the first company of the Perpetual Emigrating Fund, arriving in Salt Lake City on the 3rd of September of that year. He and family settled on Little Cottonwood, Salt Lake County, and remained there two years, when they moved to Cedar Valley in the fall of 1851. While there they passed through great privations on account of drought, grasshoppers and Indian difficulties, through all of which he exhibited the same firm and unswerving fidelity to the cause of truth as in the old world.

After five years of perplexity and poverty in Cedar Valley, he and family removed to Cache Valley in the year 1856, and settled in

Wellsville, at which place he remained until his demise.

While in the old world he held prominent positions in the trades unions to which he belonged, and after his connection with the Church, held a prominent place in it, being President of the Johnstone branch for some time, and was instrumental in bringing many into the Church. After his arrival into the Valley he was ever ready to perform whatever part was assigned him in the wards in which he lived. He was ordained a High Priest at Cedar Fort, by Bishop Allen Weeks, in November, 1857.

For about fifteen years past he has devoted much of his time to reading and study, becoming well informed upon all leading topics of the times, but was particularly enamored with the study of all our Church works, ever finding solace and delight in conversing upon and bearing testimony to the grand doctrines and philosophy of the Gospel; often expressing his gratitude for the prospects and blessings it held out to the living and the dead. During several years past he has often stated his willingness to go whenever the Master should call him, as death had no terrors for him. He hoped to die as he had lived, "with love for all and malice towards none;" although unable to speak but little before his death, his mind retained its vigor almost to the last. His life terminated peacefully, peacefully and gloriously. He gave up the ghost surrounded by his sons and daughters, grand and great-grand-children, who were emulative in their attentions and acts of loving kindness towards him, and more especially in his last hours of illness.

From him have sprung seven sons and four daughters, ninety-eight grand-children, forty-nine great-grand-children, in all one hundred and fifty-eight, of which number one hundred and twenty-five are still living to honor and perpetuate his name.

His funeral services took at Wellsville on Friday, Nov. 23, 1888, at 2 p. m., under the direction of Counsellor Evan Owens, Elder David Murray offered the opening prayer. Patriarch O. N. Liljenquist of Hyrum, and Elders Alexander Duncan, Joseph Woodward, Sr., Charles Spencer, Sr., Joshua Salisbury, Charles Bailey and Thomas Leishman were the speakers, who expressed words of satisfaction and admiration respecting the life and character of the deceased, with admonitions to his numerous descendants that were present, to emulate his example and follow in his footsteps; after which Elder Robt. Baxter offered the closing prayer.

When the services terminated, the large congregation viewed the body, and the cortege moved solemnly and impressively to the graveyard, where the mortal remains of Father Leishman were laid away to await the resurrection of the just, which he had implicit faith and assurance to have a part in. Elder Isaac Green offered the dedicatory prayer at the grave.

While his numerous posterity mourn the loss of a wise and good parent and judicious counselor, they feel to bow to the inevitable and irreparable loss that has befallen them; and are consoled with the fact that the departed filled up his days, so long spared, in righteousness, and that his works will follow him.—[COM.]

## DEATHS.

ADAMS.—In the Nineteenth Ward, this city, November 30th, 1888, Amelia Mead Mullett Adams, of old age, being 78 years and 6 months old. She was born in England May 21st, 1810.

MILES.—Benjamin Adrian Miles, son of Albert and Margaret M. Miles, born in Trumbull Co., Ohio, Dec. 3rd, 1835, died Dec. 5th, 1888. He leaves a wife, a large family of children and a host of friends to mourn his loss. He died as he had lived, in full faith of the Gospel.—[COM.]

DAYNES.—In Big Cottonwood Ward, Salt Lake County, Utah, December 9th, of typhoid fever, Irene, daughter of Joseph J. and Mary J. Sharp Daynes; aged 11 years, 7 months and 14 days.

PRICE.—At the residence of his son Edmund, in West Jordan Ward, on the 5th of December, 1888, Thomas Price, in the 71st year of his age. Deceased was a native of Ebbwvale, Monmouthshire, South Wales. *Millennial Star*, please copy.

MUIR.—At her residence in Mendon, Oncho County, Utah, November 27, 1888, Mary M. wife of Walter Muir. Deceased was born in Bankhead, Multingowshire, Scotland, May 9, 1815. She was the mother of 12 children, and had 62 grandchildren and 12 great-grandchildren.

SHAW.—Elder Joseph Shaw died at his residence in the Nineteenth Ward, Tuesday, December 5th, of pneumonia, after an illness of only 3 days. He was born Nov. 24th, 1846, in Barry, Lancashire, England, and was baptized when eight years of age. He came to Utah in 1859, crossing the plains with his mother and sister in Capt. Rowley's handcart company. He has been an honest, faithful employee of the Street Car Company from its first construction till the time of his death. He died as he has lived, a faithful Latter-day Saint. The time and place of the funeral will be published hereafter.—[COM.]

MATTHEWS.—At his residence in Washington City, Washington County, Utah, November 27th, 1888, of old age and general debility, William Matthews.

Deceased was born January 28th, 1808, in Pendleton District, S. C.; was baptized in 1841, and gathered to the mountains in 1847. He assisted Charles C. Rich, and Amasa Lyman in establishing a colony of the Saints in San Bernardino; was also pioneer to southern Utah in company with Parley P. Pratt, and rendered efficient service, associated with the above circumstances.

A striking incident occurred in Nauvoo in which Brother Matthews was a prominent actor. The life of the Prophet Joseph Smith was threatened by a would-be assassin with a loaded revolver in hand, when Brother Matthews sprang forward and pinioned his arms until he was disarmed. Brother Matthews was a firm defender and staunch supporter of the great latter-day work. He has left a numerous posterity to represent him on the earth.—[COM.]

DAVIS.—At Rockland, Onida County, Idaho, November 23d, 1888, Sarah E., wife of Nelson F. Davis and daughter of Isaac and Elizabeth Thorn.

Deceased was born at Three Mile Creek, Box Elder County, Utah, July 12th, 1851. She leaves a husband and three small children, and a faithful Latter-day Saint.—[COM.]