

to testify assumes the very matter concerning which we wish to examine him, namely, his qualification to act as a judge in a case in which he has been an attorney.

Mr. Brown—We will not insist upon Judge Zane's testifying.

An informal discussion ensued relative to Judge Zane's connection with the case as an attorney, and he said he had no objection to stating the particulars in the matter and did so. He and John M. Zane were employed by certain school trustees, who made certain representations to the judge, which, however, were hearsay so far as he was concerned. Zane & Zane and R. N. Baskin instituted certain proceedings, which are of record, as attorneys for the school trustees.

A discussion of the nature of the present examination followed, between Judge Zane and Mr. Brown, in which the former gave it as his opinion that a wider scope was being given to it than was intended by the court ordering it.

Mr. Brown—Well, as the judge refuses to be sworn, we can't waste any time with him. In view of his refusal, I would like to ask a few questions of some other witnesses.

A discussion ensued as to whether the business could be finished on Saturday night. It was determined to send for some witnesses forthwith and await their arrival.

After a wait, which was improved by a friendly chat, it was determined to adjourn till 10 a.m. Monday, at the Gas Company's office.

Commissioner Stone—I suppose Mr. Varian will be notified.

Judge Judd—Mr. Varian don't seem to take much stock in the proceedings.

At this the gentlemen present left the room.

Just what Judge Zane's reasons were for refusing to testify are best known to himself; but it can readily be supposed that he did not care to expose himself to a cross-examination by Arthur Brown, Judge Judd and P. L. Williams on a matter concerning which he is said to be very sore, viz, his connection as an attorney with a case he now sits on as a judge.

Monday, Sept. 22, Commissioner Stone's court met in the Gas Company's office. Only two attorneys, Judge Judd and LeGrand Young were present.

John P. Bache, clerk of the Territorial Supreme Court, was sworn and examined by Judge Judd:

I know the handwriting of Chief Justice Zane; I recognize his handwriting in the decree of July 12, ordering this investigation.

Witness identified several documents as belonging to the files in the case, among them being the petition of the school trustees, signed by Zane & Zane, attorneys for petitioners.

F. E. McGurrian was sworn and examined by Judge Judd. He testified to having taken, as court stenographer, certain testimony before Judge Harkness in the examination in this case had before him; the firm of Zane & Zane who took part in those proceedings, was composed of

the present Chief Justice of this Territory, and John M. Zane, his son.

Mr. Moffat, Mr. Dyer's clerk, was sworn and examined by Judge Judd; heard Judge Zane make an argument in this case, on the petition of the school trustees; reported the same stenographically, and have made a typewritten copy of it.

The latter was introduced in evidence.

Judge Judd—Your honor, in making the record regarding the conduct of Judge Zane, we are aware that it is a matter beyond the jurisdiction of this court. But my client directs me to say that he objects now and always has objected to Judge Zane sitting on this case, because he has been an attorney against my client in the case, and has personal feelings against him.

The Court—As no objection is made to this evidence, it will be permitted to go in, but I regard it as immaterial and irrelevant to the purposes of this examination.

A discussion ensued as to the interest the Church had in the proceedings, and Mr. Young expressed the opinion that it had none in particular.

Judge Judd intimated that an application would be made to set aside the order for this investigation, because Judge Zane participated in making it.

He then offered in evidence the articles of incorporation of the following: The association owning the St. George Temple; the Literary and Scientific Association; the Salt Lake Stake of Zion; the First Ward of the Salt Lake Stake of Zion; and the deed of H. S. Eldredge to the Literary and Scientific Association, conveying the Council House property. He offered these, he said, to show how the Temples and tithing properties were owned in various parts of the Territory.

LeGrand Young was placed on the stand and said that the articles of incorporation of a stake and ward offered in evidence were similar to the charters of all the other wards and stakes so far as he knew.

Mr. Dyer was placed on the stand and examined by Judge Judd. He testified—The investigation consequent upon the school trustees' petition, had before Judge Harkness, cost \$1,638.87; the loss in sheep and rents consequent upon the orders of the court, was: 7258 head of sheep, worth \$12,880 at the price they lately sold for; the expense of herding, etc., was \$15,500; total loss, \$28,380; less wool and lambs worth \$8600; net loss, \$19,780.

The witness stated what opportunities had been offered to lease the sheep. One bid was \$4,301, and had they been leased at this figure the difference, or saving, to the fund would have amounted to \$28,771. This loss to the fund the witness attributed mainly to Judge Zane, as he was the principal cause of the orders being made by the court, which resulted so disastrously to the fund.

Judge Judd said he believed his side were through, but he would ask to have the case left open till

the return of P. L. Williams and Arthur Brown, who were the senior counsel for the ex-receiver.

The court to Judge Judd—Do you wish to offer any findings?

Judge Judd—I don't know that, in the absence of the senior counsel, I do. I will say, though, that the file contains the findings of Judge Harkness, and the action of the court thereon. This examination don't seem to have changed the appearance of the case much.

The court here put some questions to Mr. Dyer in regard to vouchers for expenditures, which were answered when an adjournment was taken till 10 a.m. next Wednesday in Col. Stone's office.

It is probable that no more evidence will be offered; but that findings will be, and that an argument will take place.

This case was to have been resumed in the law office of Commissioner Stone at 10 o'clock Sept. 24. After a long wait with only the Commissioner and two reporters present, LeGrand Young, Esq., dropped in. Later F. S. Richards, Esq., appeared, and a little later P. L. Williams, Esq., arrived.

After a discussion of the reasons why no Utah lawyer has ever been appointed to the bench in this Territory, and a general agreement that it was because their partisan prejudices were so pronounced, the Commissioner stepped out to notify Judge Judd that the case was on.

In a few moments that gentleman appeared and remarked that he had forgotten the appointment.

The court announced that District Attorney C. S. Varian had filed a request that the case be left open for him to present findings and argument on his return from the east. It was further explained that Mr. Varian had been summoned to Chicago by the serious illness of his son, aged eighteen, who is prostrated by typhoid fever. By consent the case was continued till further notice, without anything more being done in it.

CITY COUNCIL.

The City Council met Tuesday evening, September 23rd, Mayor Scott presiding.

W. G. Croft and others complained of the condition of the canal on Eight East Street between Third and Fourth South streets, and asked to have it covered. Referred to the committee on Salt Lake and Jordan canal.

J. Lawrence and others complained of the condition of Fifth West Street near North Temple. Referred to the committee on streets.

Henry Dilling asked to have the water ditches extended on Second West Street to Ninth South. Referred to the committee on irrigation.

N. S. Laws called attention to his former petition for damages and asked action thereon. Referred to committee on claims.

The Salt Lake City Railroad Company, in a communication called attention to the fact that