

Col. Broadhead and myself, in Washington, and was one of the conditions on which the Church turned over the properties which it did; I left it to Mr. Young to see that the suits were dismissed; my recollection is that Mr. Peters admitted to me in Mr. Young's presence that it had been agreed that the suits should be dismissed; I cannot say whether or not I ever notified the receiver or his attorney that the Ogden suits were to be dismissed.

Mr. Williams here introduced a letter from the Attorney-General to Mr. Dyer in relation to the employment by the latter of Mr. Peters, in which it is stated there was no impropriety in that arrangement, in matters not antagonistic to the government.

Mr. Varian said he only desired to take testimony upon one more matter, the property owned by the Church not taken by the receiver. He had issued a subpoena for Wilford Woodruff, but he was out of town. He wanted the examination held open until he could get an opportunity to examine Mr. Woodruff and two or three others. The vouchers of the receiver, and matters relating to his compensation, have already been passed upon by the court.

Mr. Varian asked that the examination be continued till Saturday.

Commissioner Stone said he deemed it his duty, under the order of the court, to investigate certain matters relating to Mr. Dyer's accounts, and wanted Angus M. Cannon and Wm. B. Preston to be subpoenaed, to be in attendance at ten o'clock today. He purposed going into some matters that had already been passed upon by the court.

Mr. Varian questioned the propriety of this, and Judge Judd thought it would be illegal to go behind any settlement affirmed at a past term of the Territorial Supreme Court.

The Commissioner said he understood it to be his duty to investigate the whole administration of Mr. Dyer, from beginning to end, even to the going back and beyond matters that had already been investigated and decided. He would want to examine Mr. Dyer first.

Adjourned until 10 a. m. Sept. 3d.

The Dyer examination was resumed September 3d, and F. S. Richards was placed on the stand. He testified: I don't think Col. Broadhead advised the turning over of the Church farm, but his confidence in the ultimate result was so great that he did not think there was much risk in delivering the property; I do not understand that the final decree determines the result of the escheat suits; I understood that the property turned over under the statement of facts was to be deemed all that the Church had, and might or might not be escheated, according to the merits of each case.

A discussion ensued as to the propriety of taking testimony on the legal issues involved in the subsidiary suits, between counsel and the court. The latter decided to

proceed far enough in that direction to ascertain whether or not the receiver was responsible for the compromises and agreements that were entered into.

Arthur Brown insisted that neither this referee nor the court which appointed him, had any right to criticize any agreement entered into by the government, through its solicitor general, Mr. Jenks, and he thought any testimony in that direction improper.

The witness again narrated how Solicitor General Jenks had urged that the Church turn over its property for the purpose of a final decree; how the government attorneys had insisted on having a good deal of property which the Church had sold; how the same was recovered by the Church and turned over for the purposes of a final decree; how abstracts of titles to the Temples and titling properties in the various Stakes had been submitted to Solicitor General Jenks, and also the charters of the corporations owning them, and how he had concluded that the Church had no title to them.

Mr. Dyer was placed on the stand and examined by Mr. Varian respecting the \$11,000 he had used of the fund, and repaid with interest; but nothing of moment was disclosed.

The commissioner then questioned Mr. Dyer, who testified of the efforts he made to find property by sending agents and going in person to various parts of the Territory, searching records, etc.; he planted suit in Ogden to recover the titling property there, claimed by a local corporation, as a test case, intending, if victorious, to institute others in various parts of the Territory; before Mr. Peters and Solicitor-General Jenks agreed to the statement of facts, they both had as full information relative to the titling properties in various parts of the Territory, as any man living possessed; I furnished part of the information; the government attorneys knew that I believed the Church had property not named in the statement of facts, at the time they agreed to it; expected to push the Ogden suits to judgment, and never heard till yesterday of the alleged agreement to have them dismissed; the Church attorneys never applied to me to have them dismissed; the reason why they were not prosecuted was because there was a disposition all around to await the decision of the United States Supreme Court; I retained Mr. Dickson last spring to push them as soon as possible; one reason they were not pushed was because the expense would be a loss in case the decision of the United States Supreme Court should be adverse to the government; the reason I did not bring suits in various parts of the Territory at the time I did in Ogden was because my attorneys advised me not to, and told me that the fund would lose nothing by awaiting a test decision in Ogden, but might lose much by pushing many suits.

The matter of the \$75,000 compromise for personal property was being investigated, when Arthur Brown, who had been out and just

returned, after catching the drift of the commissioner's questions, said:

Your honor, I object to these questions; I object to going into any matters that have heretofore been investigated under the order of and passed upon by the court. The record shows that Chas. S. Zane, Esq., was an attorney in a contest respecting matters now sought to be gone over again here, and the fact that afterwards the same Chas. S. Zane became Chief Justice does not change the fact that he was and virtually is still a party to some of the issues involved. Under no guise can Charles S. Zane, attorney, make a valid order of court involving those issues. The order of the court appointing this commissioner and requiring this examination, is null and void. I object to the proceedings of this court as a whole; it is no court at all.

Commissioner—Your objection is overruled.

The commissioner questioned Mr. Dyer at great length and minuteness regarding the \$75,000 compromise, but failed to elicit anything new.

Judge Judd offered in evidence the opinion of the Territorial Supreme Court in which that compromise was approved.

Mr. Dyer stated that he often talked with members of the Territorial Supreme Court about matters pertaining to his receivership, except Judge Zane; he and I didn't speak; the members of the court were kept fully informed by me as to what I was doing.

Commissioner—The property known as the Council House corner, was excluded from the statement of facts; what has been done about it?

Witness—It was held by some one, I forget who, who deeded it to a scientific association. I believed that the transfer was invalid because without consideration, but nothing was done to test the title; it was deemed doubtful about the receiver succeeding in a suit.

The witness narrated the circumstances under which he employed Mr. Peters, and this matter was inquired into in detail.

The witness testified that Mr. Peters never acted for him, nor under his authority, in any agreement entered into with the Church attorneys; anything done by Mr. Peters in that line was as representative of the government.

Le Grand Young requested and was given permission to make a statement—in regard to the agreement—that the final decree should end the pursuit of property. He could not assert that Mr. Peters ever specifically agreed that all subsidiary suits should be dismissed, but there were conversations and a general understanding to that effect. The circumstances of the case also naturally led to the conclusion that such would be the case.

Recess till 2 p. m.

Wednesday, Sept. 3d, Mr. Dyer was placed on the stand, and closely questioned at great length by Commissioner Stone. He testified:

I turned over the Church property to Mr. Lawrence July 23, 1890; the