

## THE STRUGGLE FOR SPOILS.

every Arrangement of Receiver  
Dyer's Course in the  
Church Cases.

## U. S. ATTORNEY PETERS ALSO SCORED.

Judge Zane says the Claims for Compensation are "Grossly Exorbitant," Excessive and Unconscionable."

The following is the full text of the petition of Zane & Zane, for the school interests, to be allowed to take a part in the contest now going on for the "Mormon" Church property:

In the Supreme Court of Utah Territory, June Term, 1888.  
The United States of America,  
Plaintiff,

vs.  
The late Corporation the Church of Jesus Christ of Latter-day Saints and others,  
Defendants.  
To the Honorable Supreme Court of the Territory of Utah:

Respectfully represent unto your honors the trustees of schools of the Seventh, Eighth, Ninth and Twelfth school districts of Salt Lake City, in Utah Territory, that under the laws of said Territory trustees of schools of school districts receive and hold all property of such districts, and receive, hold, expend and apply all moneys and proceeds to be applied and expended to the use and benefit of the common schools in providing suitable school-houses and grounds, in the employment of teachers, and for all other common school purposes; and that the district schools of said Territory are its common schools.

That there is now in the possession and custody of Frank H. Dyer, the Receiver appointed by this court in the above cause, real estate obtained and held by the said late Corporation in violation of section 3 of an act of Congress, approved July 1st, 1862, and also in violation of section 1890 of the Revised Statutes of the United States, described as follows:

All the east half of lot six (6), block seventy-five (75), plat A, Salt Lake City survey, Salt Lake County, Utah Territory, and bounded as follows: Commencing at the northeast corner of said lot, running thence south ten (10) rods; thence west ten (10) rods; thence north ten (10) rods, thence east ten (10) rods to the place of beginning; also part of the west half of said lot 6 (6), block seventy-five (75), plat A, Salt Lake City survey, bounded as follows: Commencing at a point ten (10) rods west of the northeast corner of said lot and running thence south ten (10) rods, thence west seven (7) rods, thence north ten (10) rods, thence east seven (7) rods, to the place of beginning; also part of lots three (3) and four (4), in block eighty-eight (88), plat A, Salt Lake City survey, County and Territory aforesaid, and bounded as follows: Commencing at a point four (4) rods north of the southeast corner of said lot four (4), running thence north sixteen (16) rods, thence east twenty (20) rods, thence south twelve and one-half (12½) rods, thence west fourteen (14) rods, thence south three and one-half (3½) rods, thence west six (6) rods to the place of beginning; also all the south half (½) of lots five (5) and six (6), in block eighty-eight (88), as the same are platted in plat A, Salt Lake City survey, County and Territory aforesaid; also all those certain tracts of land situate in said county and Territory known as the "Church Farm," described and bounded as follows: All that portion of lots ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14), block thirty-eight (38), Big Field ten acre plat, Territorial survey, containing sixteen and seventy-two one hundredths (16 72/100) acres, which is included within the limits of the northeast quarter of section 24; also the east half of the northeast quarter; also parts of lots 1 and 3 commencing at a point south 14 rods from the northeast corner of lot 1, section 23, thence west 34-10 rods, thence south 96 rods, thence south 19 deg., east 11 2-10 rods to the west bank of water ditch, south 25 deg. 44 rods, more or less, to the south line of the northeast corner of section 23; thence east 47 rods, more or less, to the southeast corner of lot 3, thence north 146 rods to the place of beginning, containing 73 35/100 acres, more or less; also one half of the street on the north side of all the above described land containing 1 62 1/2-100 acres, more or less; also part of the southwest quarter of section 24, commencing at a point 28 rods west from the southeast corner of said quarter section, thence running north 30 deg. east 56 rods to the east line of said quarter section, thence north 111½ rods to the centre of said section, thence west 160 rods, thence south 160 rods, thence east 132 rods to the place of beginning, containing 150 33-100 acres, more or less. Also lots 6 and 9 in section 23, and lots 1 and 4 in section 26, containing 127 acres, more or less; also part of the southeast quarter of section 23 commencing at the northeast corner of said quarter section, thence running south 100 rods, thence west 100 rods, thence north 104 rods, more or less, to the River Jordan, thence down said river 9 rods, more or less, thence east 2 rods, thence along the east bank of water ditch north 25 deg. east 56 2-10 rods, thence

east 127 rods to the place of beginning, containing 134 2-100 acres more or less; also part of the northeast quarter of section 26, containing 127 acres more or less; also part of the northwest quarter of section 24, commencing 14 rods south from the northeast corner of said quarter section, running thence west 160 rods, thence south 146 rods, thence east 160 rods, thence north 146 rods to the place of beginning, containing 146 acres more or less, also one half of the street on the north side of said quarter section, containing 2 acres; also part of the northwest quarter of section 25, commencing at the southwest corner of said quarter section, thence running north 160 rods, thence east 132 rods, thence south 30 deg. west 92 rods, thence south 69 6-10 rods, thence west 50 rods, thence south 12 3-10 rods, thence west 30 rods to the place of beginning, containing 93 38-100 acres more or less; also the northeast quarter of section 26, containing 160 acres; all of the above described lands are situated in township 1 south of range 1 west, United States survey of Utah, excepting however therefrom the following described tract of land conveyed to the Denver and Rio Grande Western Railway Company, by deed dated February 7th, 1882: beginning in the centre of the D. & R. G. W. R. track 12 rods south and 30 rods east from the northwest corner of the northwest quarter of section 24, township 1 south of range 1 west, Salt Lake meridian, thence east 50 feet, thence south parallel with and 50 feet distant from the centre of said R. R. track 4381 6-10 feet to a 2 degree curve, thence southerly on the east side along said 2 degree curve and 50 feet from the centre of said R. R. track, 731 feet, thence south 14 1/2 deg. east 2535 1/2 feet, thence west 100 feet, thence north 14 1/2 deg. west 2035 1/2 feet, thence northerly along said 2 degree curve on west side thereof, and 50 feet distant from the centre of said railroad track 731 feet, thence north 4381 6-10 feet, thence east 50 feet to the place of beginning, containing 17 56-100 acres of land lying within the limits of the west half of section 24 and west half of northwest quarter of section 25, township and range aforesaid; also the undivided half of the following described tracts of land: the south half of the southeast quarter, the southeast quarter of the southwest quarter, and lot 4, section 18, and the north half of the northeast quarter in section 19; all of said land is in township 3, north of range 6 east, in Summit County, Utah Territory.

And Section 13 of an Act of Congress in force March 3, 1887, provides that the Attorney-General of the United States shall institute and prosecute proceedings to forfeit and escheat to the United States, property acquired and held in violation of said section 3; said section 13 also declares that all such property as forfeited and escheated shall be disposed of by the Secretary of the Interior, and the proceeds thereof applied to the use and benefit of the common schools of Utah Territory.

Your petitioners further allege that a portion of said real estate soon after the said Receiver came into possession thereof was and is now rented by said Receiver to the agents of the Church of Jesus Christ of Latter-day Saints; that rents to a large sum are now in his hands as Receiver, and other rents will be collected by him, all of which in equity and good conscience should be applied to the use and benefit of said common schools; that a portion of this land, without authority from this court, has been and is now rented to agents of said Church, to be used as a tithing yard; and the renting for such purpose is, your petitioners protest, contrary to the true intent and spirit of the laws of Congress, and in so doing the said Receiver violated his duty as such Receiver; but the rents that have been and shall be collected, if retained, your petitioners claim, should be regarded as proceeds of the land, and should be appropriated to the same purpose—the use and benefit of the common schools of this Territory.

Your petitioners represent further unto your honors that the late corporation, the Church of Jesus Christ of Latter-day Saints, after the 1st day of July, 1862, obtained and held in violation of said section 3, and not for purposes of the worship of God, or for parsonages or burial grounds, other real estate to-wit: Parts of lots 2 and 7, block 88, plat A, Salt Lake City survey, and bounded as follows: Beginning at the southwest corner of said lot 2 and running thence north 25 rods, thence east 9 rods, thence south 12½ rods, thence west 4 rods, thence south 12½ rods, thence west 5 rods to the place of beginning. Also all of lot 8, block 76, plat A, Salt Lake City survey; also all that portion of lot 5, in block 76, plat A, Salt Lake City survey, commencing at the northwest corner of said lot 5, and running thence south 105 feet and 1½ inches, thence east 324 feet, thence north 165 feet 1½ inches, thence west 324 feet to the place of beginning; all of said lands being situated in Salt Lake County, Utah Territory.

That on March 23rd, 1888, April 4th, 1888, and May 14th, 1888, the said Receiver instituted actions in the Third Judicial District Court of Utah Territory against various defendants, and in the complaints in said suits among other things alleged that said last above described tracts of land were obtained and held by said late corporation in violation of said section 3 of the act of July 1st, 1862, and not for purposes of the worship of God, or parsonages or burial

grounds, and that the claims of the various defendants in said suits were invalid, and prayed that the deeds of said various defendants be held to be colorable and the cloud upon the title created by said deeds be removed, and that the possession of the said lands be adjudged to the said Receiver for the uses and purposes mentioned in the said section 13 of the act of March 3rd, 1887.

That afterwards, on or about the 9th day of July, 1888, the said Receiver and the defendants to the suits above named compromised said suits, and in lieu of said tracts of land described in said complaint, except a portion of lot 8, in block 76, that said Receiver took the sum of \$84,666 15, or a note therefor, to stand in the place thereof and to be treated and applied as the land should have been treated and applied; that the solicitors of said corporation were the attorneys of said defendants, except one, in said compromises, and thereby admitted that the land had been obtained by the late corporation and was then held by the defendants for the late corporation in violation of said acts of Congress, and that the plaintiff was entitled to recover if said acts were valid, and in effect admitted that the money received should be substituted for said lands, and should be applied for the benefit of said common schools; that the order of this court authorizing the said Receiver to compromise said suits was made by the court, as your petitioners are informed and believe, solely upon the recommendations and representations of the Receiver and his solicitors, who stated to the court that the estimates in the petition for authority to compromise were the actual and reasonable values of said tracts under the circumstances, and that said compromises were fair and reasonable; your petitioners charge, however, that said tracts of land were worth \$225,000 and that \$84,666 15 was a grossly inadequate valuation of said property; that no evidence was heard by the court in regard to said compromises, and your petitioners believe that the court was misled by the said representations and recommendations of the Receiver and his solicitors; that the said order of the court required the Receiver to report said compromises to the court for its approval and that such report has not been made.

Your petitioners further represent that said compromises should be set aside; but if they are allowed to stand, then the money or notes or other evidences of indebtedness, or the proceeds thereof, taken for and in lieu of said land, may be applied as the land and the proceeds thereof were required to be applied by said section 13, to the use and benefit of the common schools of this Territory; that the right of the common schools to the land attached to and followed the money or other property into which the land was converted, until it is applied to the use and benefit of the common schools; that it was not in the power of the Receiver and the late corporation, by compromise or otherwise, to deprive the common schools of the use and benefit of the proceeds of lands obtained or held in violation of the said Act of July 1st, 1862; that the United States, under the law, have no interest in said land or in its proceeds, and the officers of the government must keep their hands off, except to aid in its application as provided by law, to the use and benefit of the said common schools.

Your petitioners further represent that the said Receiver now has in his possession the sum of \$75,000, received in compromise for cattle and other property; that said property, as your petitioners are informed and believe, was worth at the time, \$230,000; that it was estimated by the parties to this suit, in a stipulation of facts made October 19th, 1887, to be worth the sum of \$268,982.39; and that this transaction between the Receiver and the defendant corporation was made without authority from this court.

That since the appointment of said Receiver he has obtained possession of 30,000 sheep, the property of the defendant corporation; and after receiving the same he rented them without any authority from this court and without public notice; to one W. L. Pickard, a surety upon said Receiver's bond, at the rate of twenty cents per head per annum, when the customary price was from forty to fifty cents per head, and that in such renting of said sheep, the fund sustained a loss of about \$5,000.

Your petitioners further represent that they are informed and believe that there is property to a large amount, of which said Receiver has not taken possession, that was owned by said defendant corporation and was in the possession of its agents, or of others for said corporation, after said Receiver qualified; and that he could have taken or obtained possession of said property by the use of reasonable diligence as Receiver, and that his failure to do so was from want of attention to his duties as Receiver or from wilful negligence, or through combination with agents of the late corporation.

Your petitioners represent further that said Receiver, after he entered upon his duties as such, employed one P. L. Williams, who was and is Territorial Commissioner of Schools, and one Geo. S. Peters, who was and is the attorney for the United States in this Territory, as his attorneys and solicitors; that the said Receiver was at the time of his appointment, and is now, United States Marshal for said Territory; that as Receiver he presented a claim for allowance to him for clerk hire, compensation to solicitors,

agents, and employees, for office rent, stationery, and other expenses amounting to the sum of \$7,865.53; that not having yet been made parties to this proceeding or granted leave to appeal herein, your petitioners have not examined the said report of expenses of the Receiver sufficiently to point out objections thereto; that such an examination would involve a scrutiny of vouchers and probably an examination of witnesses; but that if permitted by the court to do so, your petitioners, as they are informed and believe, can point out well-founded objections to the said account.

That the said Receiver also presented a claim for allowance to himself for his individual services as Receiver of \$25,000; and in addition each of his solicitors presented a claim for \$10,000, said claims aggregating \$2,865.23; that said claims for allowances were referred to the examiner in this case to take testimony as to the amount to be allowed; that the United States Attorney for Utah and the Territorial Commissioner of Schools both appeared for the Receiver in the taking of such testimony, and no one appeared for the United States or for the said common schools; that on such examination the defendant corporation at first appeared by its solicitors, Messrs. Sheeks and Rawlins, and by them the first witnesses produced by the Receiver were cross-examined; but afterwards, as petitioners are informed and believe, they were instructed by the defendants not to cross examine and not to contest the claims of the Receiver or of his solicitors, and thereupon they ceased to make any further contest and the examination became and was wholly an *ex parte* examination by the Receiver and his solicitors before said Receiver.

Your petitioners state that section 1875 of the Revised Statutes of the United States provides: "that a person learned in the law shall be appointed in each Territory as Attorney for the United States, and he is required to act in all cases as the attorney of the United States, and that it was the duty of the said Peters to so act in this case; that it was his duty to appear for the United States in the main case and in all contentions about said funds and property in the hands of the Receiver; that this duty the Receiver prescribed by section 1873 of the Revised Statutes of the United States imposed, and said attorney had no legal right to appear against the United States, or to claim a fee of \$10,000 or any other sum against the funds in the hands of the Receiver; that the sum of \$10,000 claimed by said Solicitor Williams, if it be intended to include services hereafter to be rendered said Receiver, as well as services heretofore rendered, may be reasonable, and if allowed, it is all the solicitor's fees that should be allowed against said fund; but petitioners deny that any allowance for future services to any person whatever should be made at this time.

Your petitioners further represent that the amount of compensation—\$25,000—claimed by the said Receiver for his individual services, is grossly exorbitant, excessive and unconscionable; that the allowances to the Receiver for his services must be only for those rendered by himself and he can not be allowed for services for which his agents and employees may be allowed and paid; that his rights and compensation and his conduct as Receiver of this court must be treated by equitable principles, and as Receiver he must have been industrious, economical, diligent and strictly conscientious; that the services which the said Receiver claims to have rendered were largely performed by the agents and employees of said Receiver, that, furthermore, the difference between the amount for which 30,000 sheep above mentioned could have been rented and the amount for which they were rented is about \$5,000, as your petitioners are informed and believe, and that this amount should be deducted from said Receiver's compensation (if in view of his breaches of duty he is deemed entitled to any compensation), and if it be that he so rented said sheep in return for a benefit to himself or in the hope thereof, then he ought not to receive any compensation, and said contract of renting should be disapproved and the Receiver held for all loss to the fund in consequence of such wrongful renting.

And your petitioners are further informed and believe that the sum of \$75,000 above mentioned, received from the said defendant in compromise for certain property above mentioned, was a grossly inadequate consideration, and the Receiver should be held to account to the fund for the difference between \$75,000 and a fair consideration for said property; and such difference your petitioners believe is not less than \$175,000; or that said transaction should be disapproved by the court, and the Receiver held to a strict accountability for all loss in consequence of his wrongful action; and further, that the said Receiver should be held accountable for the loss to the fund and to the common schools caused by the compromise upon the real estate above mentioned; and this loss your petitioners charge, on information and belief, is not less than \$185,000; and that, finally, if said Receiver be allowed any compensation at this time, it should not in any view exceed \$5,000.

Your petitioners further represent that they are informed and believe that the said Receiver now claims through his solicitors that the common schools of this Territory have no beneficial interest in the money and notes received

by him for the compromise upon the land acquired by the late corporation and held in violation of the third section of the Act of Congress of July 1st, 1862, or in the rents collected from the real estate now in possession of the Receiver; your petitioners insist that this claim of the Receiver and of his solicitors is unjust and inequitable; that neither the United States nor any of its officers, nor the Receiver had the power to deprive the common schools of their right to have such land converted into money or other proceeds, or of the rents thereof, and to have the same applied to their use and benefit; and that this attempt to defeat their rights shows the necessity of their being heard and of their being allowed to protect and defend their interests; that inasmuch as the equitable rule with respect to parties is that a party has an interest in the subject matter of the suit either in possession or in expectancy, which is likely either to be defeated or to be diminished by the plaintiff's claims (the Receiver and his solicitors being in this proceeding, the claimants), in such cases such party has an interest in resisting such claims, and is a proper party; and inasmuch as the common schools of this Territory are interested in the funds and property in the hands of the Receiver, to the value of the real estate and the rents and profits thereof, and of the proceeds of the real estate converted into money by the Receiver, in the compromise, and that no one is appearing in behalf of the common schools and resisting such claims, and that the fund is likely to be greatly diminished by said claims, the appearance of some one for the common schools is rendered absolutely necessary, to the ends of justice; and the facts that the Commissioner of Schools of this Territory is employed by said Receiver, against the interests of said schools, and that the United States Attorney for this Territory is also employed against the common schools, and that the Receiver himself is an officer of the United States, and that they are claiming that by a compromise, the said schools have already been deprived of a large portion of the proceeds of said lands, and that these proceeds have become the property of the United States, furnish additional reasons for permitting the trustees of district schools to appear in this proceeding.

Wherefore, your petitioners pray that they may be made parties to such proceedings, or that they may be allowed to appear by their solicitor or otherwise in order to defend and protect the interests of the common schools that they represent, and preserve so much of the funds as may belong to said schools; and that such other trustees of district schools as may wish to come in, may also be made parties or allowed to appear, and that your petitioners may be allowed to produce evidence, to prove and substantiate the facts stated in this petition, and that petitioners may have such other and further relief as to equity belongs and as to this Honorable Court may appear to be equitable.

And your petitioners will ever pray,

T. C. BAILEY,  
Chairman Board Trustees 7th School District.  
RUDOLPH ALFF,  
Chairman Board of Trustees, 8th School District.  
J. F. MILLAPPAUGH,  
Sec'y Board of Trustees, 12th Dist.  
ZANE & ZANE,  
Solicitors for Petitioners.

## OF INTEREST TO WOMEN.

A workingwomen's society in Detroit, formed ten years ago to take care of girls unemployed, and get them work, has so thrived that it recently dedicated a fine building for its purposes.

A memorial to the late Mrs. Cralk is to be erected in Tewkesbury abbey. Mr. H. B. Armistead, the English artist, is to do the work of designing the memorial, which will probably be in the form of a medallion.

And still another American girl is to marry a foreigner and a title. This time the lucky nobleman is Baron von Schroeder of the Prussian imperial guards, and his prospective bride a lovely young woman of Boston, named Pritchard.

China crape, as its name would indicate, was originally manufactured in China, where the process was kept a secret, and for a long time baffled all attempts at imitation. M. Dugas was at last successful in discovering it and introducing the manufacture into France.

When Amelia E. Barr is writing a story she endeavors to live the life she describes, and as far as possible to put herself in rapport with her subject. One of her daughters says: "When mamma was writing 'The Bow of Orange Ribbon,' we had Dutch dishes served at all our meals, sung Dutch songs, dressed Dutch, and quoted Dutch proverbs; and when she was writing a Scotch story, oatmeal porridge, bannocks and barley cakes were always to be found on the table, and we lived as in duty bound to the kilt, Scotch songs and sayings."

This method is delightfully unique, and no doubt effective. But it arouses the harrowing fear that some day Mrs. Barr may become a devotee of the Hargard school of fiction, and, while writing a realistic novel of life in the cannibal islands, fall into a habit of diet totally inconsistent with American notions of propriety.