

ing; that they have tried to the best of their ability to do their duty, and consciously have made no attempt to trifle with the court; that they believe the statements made by them to the court to be true; that they did not think nor believe, nor had they the slightest conception, that those statements were scurrilous, disrespectful, insolent, or contemptuous in any particular; that nothing was further from their minds than the making of any insinuation or charge against the court, or of stating anything that would be considered contemptuous by the court.

Wherefore your respondents, having shown cause why they should not be punished as for contempt, pray that they may go hence dismissed; and your respondents further desire to represent to the court that the information, which they have collected at great trouble and cost, is of a nature that should come under the notice of the court, and that information and the names of their witnesses they will be glad to submit to the court.

RUDOLPH ALFF.
J. F. MILLSPAUGH.
T. C. BAILEY.
L. U. COLEBATH.

THE DECISION.

Upon the opening of court Jan. 31, Judge Judd read the opinion of the court relative to the contempt proceedings against the trustees. It is as follows:

In the Supreme Court of the Territory of Utah.

United States of America vs. the late Corporation of the Church of Jesus Christ of Latter-day Saints, and others.

Upon January 30th, the parties heretofore adjudged by this court to be in contempt, came into court by their attorneys, and presented an answer to the charge against them, in which they used the following language: "Your respondents further desire to represent to the court that the information which they have collected at great trouble and cost, is of a nature that should come under the notice of the court, and that information and the names of their witnesses they will be glad to submit to the court."

When the petition was first presented by these persons to the court, making such serious charges against Receiver Dyer and Attorneys Peters and Williams, the court then had, and at all times since, has determined that no stone should be unturned in making a most thorough and searching investigation of said charges. The offer by the petitioners, made now in their last response, to furnish to the court evidence and information whereby said charges can be proved, is accepted.

If these charges which have been made shall be sustained so far as the question of compensation to Dyer and his solicitors is concerned, it will be one of easy solution, for if they have been guilty of the conduct charged, then this court will not allow them any compensation for any sum, so that these petitioners can easily reach the question of compensation concerning which they seem

so anxious by furnishing this court with the proof which they say is in their possession and that they collected at great trouble and cost. If they have acted in this matter in good faith, and if they are now acting in good faith, and if they have acted upon information which is of the value that they seem to attach to it, and the charges are sustained, then the question of compensation will be settled without a hearing upon the report of Commissioner Sprague, to whom the question of compensation was referred. It is now required of them that they furnish to the attorneys to be appointed by this court any and all information which they may have, of every kind and character, concerning the charges which they have made in their petition against Dyer and his solicitors and that they likewise and in like manner furnish the names of their witnesses, together with a written statement of what particular charge he will testify about, so that the attorneys to be appointed by this court may be able to proceed intelligently with the investigation.

So far as the disposition of the case which is now pending before this court against these petitioners for contempt is concerned, the decision will be postponed until an investigation is made of the charges heretofore mentioned. We are of the opinion that we can best dispose of that in the light of what may or may not occur in respect to that investigation.

Following is the

ORDER OF COURT:

In the Supreme Court of the Territory of Utah.

United States of America vs. the late Corporation of the Church of Jesus Christ of Latter-day Saints, and others.

Be it remembered that upon this day this cause came on to be heard before the court upon the offer of Rudolph Alff, J. F. Millsbaugh and T. C. Bailey, to furnish to the court the information and the proof in their possession concerning the charges heretofore made by them in the original petition, which they brought into this court at a former day.

Whereon, the court is of the opinion, and doth order, adjudge and decree that John A. Marshall and E. B. Critchelow, attorneys of this court, be and they are hereby appointed for and in behalf of the court, to appear before Commissioner Harkness, and investigate by all the means, information and proof in their power, the matters and things heretofore referred to the said Harkness, as special commissioner, under the order of this court of the 23d day of January, 1889, entered in this court in this cause.

It is likewise decreed that Rudolph Alff, J. F. Millsbaugh and T. C. Bailey, at once and without delay, furnish to said attorneys any and all information, evidence, and witnesses which they may have, tending to substantiate said charges, and that they will state in writing the particular charge or charges concerning which each witness will tes-

tify to, so that said attorneys may proceed with intelligence and dispatch; and until the coming in of the report of Commissioner Harkness, the question of contempt against said parties is postponed.

The said Commissioner Harkness will report the proof which may be taken before him in full, together with his conclusions and findings thereon, with the right of all parties to file exceptions to such conclusions as they may desire.

Said investigation will begin on the 4th day of February, 1889, and continue, as the parties and Commissioner may desire, for four days, if necessary, at the end of which time the said Dyer and his solicitors shall have the right to furnish in like manner any and all proof which they may desire to sustain their answers to said petition and charges, and they shall have four days, if necessary, in which to take their proof. And said parties shall each have three days to introduce rebutting testimony, if in the opinion of the Commissioner it is necessary.

The examiner may, in his discretion, extend the time by the decree to either party, if in his opinion the same is necessary. And he will make his report with all convenient speed.

Judge Judd—We will say to the counsel appointed that it is as friends of the court, and they will spare neither pains, means nor labor, that it may not be objected to by anybody in this matter, and that the examination into these charges may be thorough and complete. We will use our endeavors to see that counsel are properly compensated.

Judge Zane said that Mr. Critchelow had an item in the receiver's account.

Mr. Critchelow—I received \$25 for searching certain titles connected with the Gardo House, Temple Block and Tithing Office. I am not seeking this appointment—

Judge Judd—We know that.

Judge Zane—An application was made to Mr. Critchelow to go into this suit for the trustees, and he declined. He is also a trustee.

Judge Judd—We were not aware of that. We will try and find another member of the bar who has not been concerned in this matter. If we cannot, the order will stand as it is.

This disposed of the matter for the time being, and the court room was soon emptied by all except the judges, clerk, bailiffs and a few attorneys.

For verily the voice of the Lord is unto all men, and there is none to escape, and there is no eye that shall not see, neither ear that shall not hear, neither heart that shall not be penetrated.

But, behold, I say unto you, that you must study it out in your mind; then you must ask me if it be right, and if it is right I will cause that your bosom shall burn within you; therefore, you shall feel that it is right.

Doo. and Cov.