

neys, and that the matters to be set up in the petition, if untrue, were libelous, and might get the trustees into trouble. I also expressed the opinion that the design of the proceeding was political. At various times I have declared my belief that the compensation asked by the receiver and his attorney Peters was excessive.

I have also stated, many times, my belief in the good faith of all parties in the matter of the compromise proceedings, and have stated as frequently that I know nothing whatever as to the transactions of the receiver with regard to sheep and cattle; but have always said that if certain matters related to me by personal friends, of their own knowledge, were true, the receiver was grossly culpable in the matter. As to my employment by the receiver, it occurred immediately after his appointment, in October, 1887, and he stated at the time that it was for Mr. Peters, United States Attorney. My work was embodied in a written report which I presume is in the possession of the United States Attorney, and my bill, \$25, was paid November 30, 1887, since which time I have not had any business with the receiver's office.

The facts and opinions above set forth I have never attempted to conceal, and in conversations with the trustees and their friends, I have been outspoken, especially since the matter of the contempt arose, and for the reason that, as a personal friend of at least three of them, I was solicitous that they should not be placed in a wrong position.

Yours respectfully,
E. B. CRITCHELOW.

At about 11 a. m. Feb. 2 the court took a brief recess from the hearing of the arguments in the sulphur suit, and called up the investigation matter.

Judge Judd said: In reference to a matter that has been pending before the court, I will say that we have considered with all the care of which we are capable the matter of the appointment of attorneys to represent the court in the investigation of the charges against the receiver, and will now dispose of these matters once for all. We are satisfied that there is nothing in the statements made by the attorneys which in any way disqualifies them from acting, and we authorize them to proceed as directed. Judge Harkness has handed to the court a statement in which he says that the names of some 50 witnesses have been handed to him by the petitioners; some of these witnesses reside in this city, others in remote parts of the Territory and others out of the Territory. He also states that he has no money to pay them and is therefore unable to proceed. Since this investigation is in the interests of the fund, we have concluded that we have the right to use a portion of the fund to conduct this investigation. The clerk will therefore enter an order directing the receiver to place at the

disposal of Mr. Harkness the sum of \$500.

Judge Boreman—I want it distinctly understood that in saying these gentlemen should be retired, I did so solely upon the statements made by them in court, not because they lack ability or for any personal reasons. I have not seen the statements filed with the court by them.

Following is the

APPLICATION

made by Judge Harkness, upon which the \$500 was appropriated from the funds in the hands of the receiver.

In the Supreme Court of the Territory of Utah.

To the said Court:

The undersigned, who, by an order of this court, dated January 23rd, 1889, was appointed to take and report to the court the evidence in respect to the matters named in said order, and by a further order dated the 31st of January, was directed to proceed in the manner and at the times therein specified, respectfully represents: That subpoenas for fifty witnesses on the part of the petitioners have been delivered to me by the clerk of the court. Some of these witnesses reside in parts of the Territory far distant from Salt Lake County, and the residence of a few is given in other Territories. The delay in definitely appointing attorneys to represent the petitioners has prevented me from consulting with them as to the means or manner of service of said subpoenas, and the time fixed for the opening of the hearing is close at hand. I would also suggest, for the consideration of the court, the question whether attendance of witnesses can be enforced without a prepayment or tender of witness fees, and also call attention to the fact that, so far as I know, no means are provided for payment of officers or persons employed to serve the subpoenas.

Very respectfully,
ROBERT HARKNESS,
Examiner or Commissioner.

The third effort to get an examination into the charges made by certain school trustees against Receiver Dyer and his attorneys, Messrs. Williams and Peters, succeeded on Feb. 4 in securing a good start. The change in the rooms formerly used as judges' chambers in the Wasatch building rendered it necessary for the investigation to be conducted in another part of the building. A room in the third story was provided, but it was much too small for the purpose, so that when the proceedings were commenced the place was uncomfortably crowded. There were a few chairs, but not half as many as were necessary, so quite a number had to stand about the room.

Judge Harkness was promptly on hand, as were also the attorneys for the respective parties, Judge Marshall and Mr. Critchelow appearing for the court, as prosecutors, and Judge Powers for Receiver Dyer and Attorneys Peters and Williams.

Judge Marshall suggested that the trustees had asked to be represented by counsel.

Examiner Harkness stated that he could not appoint additional attorneys for the court.

Judge Powers said he had no objection to others appearing for the trustees.

Frank B. Stevens and C. O. Whittemore appeared for the trustees, by consent.

The following witnesses were called: J. L. Rawlins, Ben. Sheeks, Judge Zane, S. B. Westerfield, T. A. Wickersham, J. T. Lynch and F. M. Bishop. All others were excused till next day at 10 a. m.

Judge Marshall opened the case by introducing as evidence the complaint in the case of Receiver Dyer vs. H. S. Eldredge et al.; this was the basis of the suit for what is known as the "Old Constitution Building" grounds, and property adjacent thereto, which had been sold April 22, 1878, to Mr. Eldredge, for \$40,000, and has since been sold to other parties.

Judge Powers offered, as cross-examination, the answer to the complaint.

Judge Marshall objected.

Objection sustained; exception taken by Judge Powers.

The findings of the decree and judgment of the court in this suit was also offered as cross-examination. Same objection, and same ruling.

Mr. Critchelow offered, as another admission of Receiver Dyer, the complaint in the suit against Zion's Savings Bank & Trust Company, for a portion of what is generally known as the Wells corner, north of Z. C. M. I.

Judge Powers offered the answer in the case and the judgment of the court.

Objected to; objection sustained.

The complaint in the suit of the receiver against A. M. Cannon, for what was designated as the "Church stables" property, was introduced. The answer, etc., was excluded under a similar ruling to those made in the other cases, the examiner stating that these documents could be used in the main case of the defense:

The complaint against Francis Armstrong and Abram H. Cannon, for part of the Wells corner, was entered as evidence. The answer and judgment were ruled out, as before.

T. A. WICKERSHAM

was the first witness. He testified—In July, 1888, I resided in Salt Lake, am a real estate agent; at that date I would regard the "Church stables" property worth about \$2,500 per rod, for ten rods deep; about \$2000 would be a fair value for the rest, or \$14,500 in all; at the same date the "Constitution building" property, fronting East Temple Street, would be worth \$500 per foot; on South Temple Street, 5 x 5 rods would be about \$200 per foot; the aggregate value would be \$140,250; the Wells corner I would value, the corner piece at \$500 per foot, the next at \$400 per foot, ten rods back; the 39 feet fronting on South Temple, I