

by 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 compromise, 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 compromise to the Court for its approval, and that such report has not been made.

The petition then proceeds to allege that the 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 or in lieu of said land, must be applied as the land and the proceeds thereof was required to be.

The petition further alleges 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 petitioners are informed and believe, was worth at the time \$250,000; that it was estimated by 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 defendant corporation was made without authority from this Court. And further, 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 of the Court and without public notice, to one W. L. Pickard, a surety upon said receiver's bond, at the rate of 20 cents per head per annum, when the customary price was from 40 to 50 cents per head, and that in such renting of said sheep the fund sustained a loss of about \$5,000.

The petition further alleges, as petitioners 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 and 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.

The petition further alleges that the receiver, after he had entered upon his duties as such, retained one P. L. Williams, who was and is Territorial Commissioner of Schools, and one George 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 employes, 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 appear therein, your petitioners have not examined said report of expenses of the receiver sufficiently to point 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 said account.

The petition further states that the receiver has 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 \$52,865.23; 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 & 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 referee.

The petition then proceeds to allege that under the law George S. Peters, as United States District Attorney, was bound to appear, by virtue of his office, for the United States, in all suits in which the United States was a party; and that he was not entitled to have or receive any sum for any services he may have performed as solicitor for the receiver in this case; and that the claim of the said Wil-

liams as solicitor for said receiver for \$10,000 was much too large.

The petition then proceeds in so many words, to charge as follows: "Your petitioners further represent that the amount—\$25,000—claimed by the said receiver for his individual services, is grossly exorbitant, excessive and unconscionable; that the allowance to the receiver for his services must be only for those rendered by himself, and he cannot be allowed for services for which his agents and employes may be allowed and paid."

The petition further states that the difference between the amount for which the 80,000 sheep above mentioned could have been rented and the amount for which they were rented, is about \$5,000, and that this amount should be deducted from said receiver's compensation, if, in view of his breach of duty, he is deemed entitled to any compensation; and if it be that he so rented said sheep in return for any benefit to himself, or 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.

The petition further states that petitioners are 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 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 \$135,000; and that further, if said receiver be allowed any compensation at this time, it should not in any view exceed \$5,000.

The petition then proceeds to charge, that inasmuch as no one has appeared on behalf of the common schools, that the fund is likely to be greatly diminished by said claims made against it; and that the appearance of some one for the common schools is rendered absolutely necessary to the ends of justice; and the fact that the Commissioner of Common 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 those proceeds have become