

Salt Lake City, county, and various portions of this Territory, extending over a considerable portion of the Territory, in the way of examining real estate, examination of titles in four or five different counties; inquiry and pursuit as to the location of herds of stock in various parts of the Territory. Whereas, the fact was that said Receiver made no active pursuit of property over any considerable portion of the Territory; that he did not examine real estate, or titles to real estate, in any case, the said labor being performed by the attorney for the Receiver. That he did not inquire after or pursue herds of stock in any parts of the Territory.

[Refused for the reason that the matters contained in this proposed finding have been passed upon and determined by the decisions and decrees of the superior court, rendered on March 20, 1889. M. N. Stone, Commissioner.]

Second—Said witness was also informed of the institution of some ten or a dozen suits with his attorneys, for the purpose of setting aside sales of real estate and personal property of large value, alleged to be fraudulently transferred, etc, the fact being, that the only labor performed by the Receiver in this regard was the attendance for some five or six days upon an investigation held by the United States Attorney before a commissioner, at which he was present a part of the time; but the only work done by the Receiver was the making of formal demand upon the defendants for property discovered in said examination, but the suits themselves were brought by his attorneys, who performed all the labor.

Third—Said witness was informed that said Receiver had given almost continuous personal attention and employment of his time for a period of eleven months; and, as a result of these efforts, suits and pursuit of property, he had obtained possession of real estate and personal property; in addition to that already delivered, amounting in value to \$550,000, or about that; the fact being, that there was not a continual personal attention and employment of time by the Receiver for a period of eleven months, nor for any considerable portion of that time; nor did he obtain possession of real and personal property to the amount of \$550,000, as a result of his efforts, suits or pursuit of property, but, on the contrary, a large portion of said sum of \$550,000 was obtained as the direct results of the efforts, exclusively of the attorneys for the Receiver, and a large portion of said sum, to wit, that represented by the 30,000 sheep and \$75,000 in cash, was not the result of any active pursuit or labors on the part of the said Receiver, but was the result of a compromise and a voluntary surrender by the defendants of their property for the purpose of obtaining a final decree in this action.

[Refused for the reason that the matters contained in this proposed finding have been passed upon and determined by the decisions and decrees of the Supreme Court rendered on March 20, 1889. M. N. Stone, Commissioner.]

Fourth—Said witness was informed of the necessity of sending agents to different parts of the Territory, and some out of the Territory, at the same time, and directing their efforts and action, for the purpose of receiving possession of some 30,000 head of sheep, amongst other property, the fact being that the agent of the said defendant corporation had agreed in writing to deliver into the possession of the Receiver 30,000 sheep, and that the only effort to be made on the part of the Receiver was to send parties to collect said sheep. That the turning over of said sheep was voluntary on the part of the said defendants, and that there was no labor involved in directing the efforts and action of the agents of said Receiver.

Fifth—The statement made to said witness Grosbeck by the attorney for the Receiver as a statement of the services rendered by the Receiver, found on pages 2 and 3 of said report, is unfair and incomplete, in that it fails to state that all the work by way of recovery of personal and real property was done by the attorneys for the Receiver, and that no efforts were made for a period of six months after the appointment of the Receiver looking toward the recovery of a large amount of personal property believed by the Receiver to be in the hands of agents for the defendant corporation; and that a claim of the United States against various parties, amounting to \$268,000, had been compromised for the sum of \$75,000; and that in general a large amount of property held by the Receiver was obtained by him from the defendant corporation upon a voluntary surrender by it, for the purpose of winding up the litigation and of obtaining a final decree to the Supreme Court of the United States.

[Refused for the reason that the matters set forth in this proposed finding have been determined by the decisions and decrees of the Supreme Court rendered on March 20th, 1889. M. N. Stone, Commissioner.]

Sixth—Upon page 7 of said report, the Receiver, testifying in his own behalf, states unfairly the services rendered by him, by saying: "I continued to search for that property, here and there, using every means within my power, employing my deputy marshals throughout the Territory to get information as to the whereabouts of property, etc., which proved very beneficial to me," the fact being that he did not continue to search for other of the property of the defendant corporation, nor did he use the means within his power, nor did he employ his deputy marshals to get information as to the whereabouts of property, further than to direct them, if they came across property, to notify him of the same; nor did their services prove of any benefit to him.

[Refused for the reason that the matters set forth in this finding have been passed upon and determined by the decisions and decrees of the Supreme Court, rendered on March 20, 1889. M. N. Stone, Commissioner.]

Seventh—On page 17 of said report, the said Receiver testified in his own behalf that he gave almost all his time in the way of directing men and superintending the whole of the receipt and gathering together of said sheep, the fact being that no personal care and attention were necessary beyond sending men into the field for the purpose of gathering sheep into bands, and that it did not occupy almost all, or any considerable portion, of the time of the Receiver.

Also on page 17 of said report, the Receiver testified in his own behalf that he had leased the major part of said sheep to W. L. Pickard, "he agreeing to keep all of the old stock good, returning me as good or a better lot of sheep at the expiration of a year as he received," the fact being, however, that the said W. L. Pickard did not agree to keep all of the old stock good; nor did he agree to return as good or a better lot of sheep at the expiration of a year; nor did he agree to keep the sheep one year, but on the contrary was permitted to keep the sheep so long, to-wit, until July 1, 1889, as they proved profitable to him; the said Pickard having the option to return them on July 1, 1889, immediately after having obtained the wool and lambs for the season.

Eighth—The answer of the said Receiver to the question of his attorney, found on pages 18 and 19 of said report, is an unfair statement of the work done by the Receiver, in that it conveys the impression that the said Receiver had taken active steps and made diligent efforts to find what property composed the said sum of \$268,000, and that active investigation by him had developed facts stated by him in his said answer, the fact, however, being that the only knowledge on the subject obtained by the Receiver was obtained from certain lists and inventories delivered to him by the agents of the defendants.

The answer of the said Receiver, testifying in his own behalf, found on pages 20 and 21 of said report, is unfair, and does not state the whole truth, in that it conveys the impression that work was done by the Receiver in the way of investigating personal property; whereas, the testimony shows that all that was done in the way of investigation was done by the attorneys for the Receiver, and that the Receiver himself did nothing beyond making formal demand upon the heads of the various Stake associations for property under their charge.

[Refused for the reason that the matters contained in this proposed finding have been passed upon and determined by the Supreme Court by its decisions and decrees rendered March 20, 1890. M. N. Stone, Commissioner.]

Ninth—The answer of the Receiver, testifying in his own behalf, on page 22 of said report, to the effect that there had been no cessation of care or attention upon his part to the business of the Receiver from the time of his appointment, is untrue, for the reason that no steps were taken by him from the time of his appointment until May