

X.

That after the appointment the Receiver made no effort to find or take into his possession the said property, aggregating \$268,982, excepting as follows: That he notified his deputy marshals throughout the Territory that if, in the prosecution of their ordinary duties, they discovered any portion thereof, to notify him; that he talked with the defendants and made formal demands for the said property; that he talked with various parties in Salt Lake City, inquiring of them information concerning said property; that on May 11, 1888, he, for the first time, sent an agent out to look for this property, who was absent four days and went to three counties; that in June, 1888, he sent the same agent to San Juan and Emery counties who was then absent a few days but made no adequate search; that it is probable a large part of said property or its value could have been found and recovered if said Receiver had made due search within a reasonable time after his appointment, and that his delay to search for the same was unreasonable; that during all this time the Receiver was actively engaged in performing the duties of United States Marshal for this Territory, but fails to show what proportion of his time such duties exacted.

[Refused for the reason that the matters set forth in this proposed finding have been determined by the Supreme Court by its decision and decree rendered March 20, 1889. M. N. Stone, Commissioner.]

XI.

That on or about the month of September, 1888, there came into the hands of the Receiver 30,000 sheep, delivered to him by agents of the late corporation of the Church of Jesus Christ of Latter-day Saints; that said sheep were scattered through various parts of the Territory and in various hands. Of said sheep he leased to one W. L. Pickard, of Salt Lake City, a surety on the bond of said Receiver, 25,550 sheep, for the sum of 20 cents per head; the said Pickard not being in any manner bound at all events to make good to the Receiver the original number delivered to him. That said lease was made without sufficient notice to the public, who might wish to lease the same. That the terms on which the same were leased were less favorable than those which, by ordinary diligence and caution, might have been obtained. That the ordinary and customary rental for sheep such as those leased by the Receiver and under similar circumstances was, at the time the same were leased, 40 cents per head, the lessee agreeing, at all events, to return the original number leased. That in so leasing the said sheep to the said Pickard, upon the terms aforesaid, the Receiver acted negligently and without ordinary business foresight and prudence.

[Refused for the reason above set forth. M. N. Stone, Commissioner.]

XII.

That the Receiver had reason to believe, and did believe, that there were various parcels of real property

situated in different parts of the Territory, used, held and controlled by the late corporation on or prior to the 2nd day of March, 1887, the title to which was held, and is still held, by various parties upon secret trusts for the benefit of said corporation; and that he had reason to believe, and did believe, that bringing appropriate actions, the possession of the same could be recovered by him; but that he negligently and wilfully omitted to investigate said parcels of property, or to take any steps to recover the possession of the same. That there is reason to believe that property of value so existed in various parts of the Territory.

[Allowed, excepting the following part of this finding: "But that he negligently and wilfully omitted to investigate said parcels of property, or to take any steps to recover the possession of the same." M. N. Stone, Commissioner.]

XIII.

That on or about the 9th day of July, 1888, the defendants in this suit began negotiations for a full surrender, as claimed by them, of all their property, that a final Decree might be taken to the Supreme Court of the United States; and that these negotiations were carried on with the full knowledge of the Receiver and his solicitors, who were informed that said defendants were pretending to deliver up all their property, but that, although believing, or having reason to believe, that there was other property, as aforesaid, existing throughout the Territory, the title to which had not been attacked, and the possession of which had not been attempted to be recovered by the Receiver and his solicitors, the said Receiver and his solicitors allowed the attorneys for the United States to agree to a statement of facts as to property of the corporation, which statements of facts did not include any of these omitted parcels, but which in effect declared that the property therein contained was all the property which had belonged to the late corporation. That on said agreed statement of facts a final decree was entered, which is conclusive as to all the issues made between the United States and the late corporation; and that the United States is now precluded from asserting title to said omitted portions or tracts, and the Receiver is hereby precluded from attempting to obtain possession of any of said tracts of land. That said result was caused wholly by the negligence and want of due diligence on the part of the Receiver and his said solicitors.

[Refused. M. N. Stone, Commissioner.]

XIV.

That the Receiver knew, or should have known, that the Endowment House in Salt Lake City was for years used by the Mormon Church, among other things as a place for the solemnization of plural marriages or polygamous marriages, in violation of the laws of the United States; that the temples, when completed, were also used for such purposes; that neither the Endowment House nor the temples, were used

exclusively for the worship of God, nor for congregational or public worship at all. That it was his duty to bring these facts to the attention of the attorneys for the government, and particularly to the District Attorney, who was also the Receiver's attorney, so they could act intelligently in the matter of the exempted property. That he neglected and failed to give any such information, claiming that it was none of his business. That he negligently suffered the statement that all of the block of land known as "Temple Block" in Salt Lake City was used exclusively for the worship of God, to be embodied in the agreed statement of facts upon which the final decree was based, and negligently suffered all of said property to be set apart to the defendant church as exempted from the operations of the act of Congress. That the value of the whole of said block exceeded \$500,000; that the uncompleted Temple stands upon the east half of said block; that the Endowment House stood at the time on the north-west corner of said block; that the Tabernacle and Assembly Hall stand on the west half of said block, and south of where the Endowment House stood; that both the Endowment House and Temple, together with the land on which they stand, including the entire east half of said block, could and should have been segregated from the remainder of the block, and reported to the court with true information concerning it, for the purpose of ascertaining whether it should be treated as property of the corporation, subject either to escheat under section 15 or to be disposed of under section 17 of the act of March, 1887. That there would still have remained sufficient land in Temple block for the convenient use and occupation of the only buildings thereon used exclusively for the worship of God, to wit, the Tabernacle and Assembly Hall. That the value of the land so lost to the Government or the fund is not definitely ascertained, but that it is a very great sum. A diagram, Exhibit "B," is referred to as a part of this finding.

[Refused. M. N. Stone, Commissioner.]

XVI.

That no steps were taken by the Receiver to ascertain the title and condition of the Temple properties at Manti and St. George, nor did he endeavor to discover any property of the Church in a large number of the Stakes in the several counties of the Territory. That it was for a long time prior to his appointment, and at the time thereof, a matter of common knowledge and notoriety that the Church had its agents and officers in each of the counties of the Territory, and was in possession of, occupying and using, real property, and dealing in personal property, through its said officers and agents, and ordinary prudence and fidelity demanded the investigation by the Receiver of the business affairs of the Church in each county.

[Refused. M. N. Stone, Commissioner.]