

to the accounts of said Receiver arising from the conduct of the said Receiver, this Commissioner finds that an inquiry was had before Robert Harkness, Esq., upon which he submitted a report, filed the 20th day of February, 1889, and upon that report a decree has been entered by this court, confirming and adopting the same.

[Allowed by me, M. N. Stone, Commissioner.]

This commissioner finds that all the charges of conduct or misconduct, investigations into the value of his services, investigations into his alleged failure to collect other funds, investigations into the compromises made by him with persons representing the defendants, are concluded by that report, and the order of this court thereon, confirming the same.

That this Court has heretofore rendered a decree, determining all the aforesaid matters, and all the matters contained in the aforesaid report of Robert Harkness.

[Refused. The conclusiveness of the report and decree are matters for the Supreme Court to determine. M. N. Stone, Commissioner.]

Third—That this Commissioner has carefully examined all the proofs taken before Examiner Harkness, which were again submitted as evidence before this Commissioner and also a large amount of other testimony upon the same questions has been taken upon the said issues contained in the investigation before the said Robert Harkness. And this Commissioner finds that the said report of the said Robert Harkness was true and correct, and this Commissioner adopts as his findings the aforesaid findings of Robert Harkness, to the extent of the matters therein passed, the said additional proof not changing but confirming the truth of the said report.

[Refused because found in substance in my report. M. N. Stone, Commissioner.]

Fourth—That since the date of the filing of the said report and confirmation of the said order, the only charge of misconduct against the Receiver, that has been presented or called to the attention of this Commissioner, has been that upon one occasion he used \$11,000 of the fund aforesaid; and this Commissioner finds that he did upon one occasion use that amount of property, which fact was disclosed by the Receiver himself in his testimony, and that he accredited the fund with interest thereon, at legal rate, for the time used by him, and returned the amount and interest to the fund; and this Commissioner finds that the fund in the hands of the Receiver has not suffered any loss or damage thereby, but has been increased and benefited by the amount of said interest. That he had received, before using this money, an order from this court, directing him to loan the same, upon certain security, as he was liable himself for all moneys in his hands and loaning out to himself was entirely within the order of this court.

[Refused except as found by me

in my report. M. N. Stone, Commissioner.]

Fifth—The Commissioner further finds, as a matter of fact, that upon one occasion he advanced to his attorney, Parley L. Williams, for his services, the sum of \$1500, although no allowance has yet been made covering the said sum so advanced. That the said attorney is pecuniarily responsible and should the sum allowed to him be less than the said \$1500, the Commissioner finds that the Receiver would be liable upon his bond for the return of such difference between the amount allowed and the amount advanced.

[Refused except as found by me in my report. M. N. Stone, Commissioner.]

ARTHUR BROWN,
P. L. WILLIAMS,
SUTHERLAND & JUDD,
Receiver's Attys.

Requests for Findings by U. S. District Attorney.

In the Supreme Court of the Territory of Utah. United States of America, plaintiff, vs. the late Corporation of the Church of Jesus Christ of Latter-day Saints et al., defendants.

The United States, by its District Attorney, respectfully requests the Examiner to make the following findings of fact:

I.

The Receiver, after his appointment, retained and employed P. L. Williams, Esq., as his attorney; the said Williams was competent and capable of discharging all of the duties devolving upon him as the Receiver's attorney, and no necessity existed for the employment of an additional attorney; that the Receiver personally solicited the district attorney of the United States to take employment as his counsel, and sought and obtained permission of the Attorney General of the United States to employ the said district attorney, and thereupon did employ him; and the said district attorney acted as one of the attorneys for the said Receiver from

—188—until July, 1889. That said employment was improper, because it tended to deprive the United States, complainant therein, of the services of said district attorney, in the matter of the claims of the Receiver against the trust funds. That, in fact, upon the hearing before Examiner Sprague, in the matter of the compensation of the Receiver and his counsel, including said district attorney, the said district attorney refused to act for the government, or in any way to appear in its behalf; and in the subsequent investigation by Examiner Harkness of certain charges against the Receiver, the district attorney did not appear; nor was the United States represented.

[Refused because the matters contained in this proposed finding have been determined by the decision of the Supreme Court rendered March 2, 1889. M. N. Stone, Commissioner.]

II.

That the said Receiver has heretofore asked of the court compensation for his services as such, and

has openly and notoriously claimed that the same were worth the sum of \$25,000; and that, in pursuance of an order of court, made October 6, 1888, he procured testimony to be taken to substantiate his said claim, and for the purpose of enabling the said court to fix the same at the sum of \$25,000. That the said Receiver, prior to the said hearing, induced the defendants to agree to make no objection to his claim, and that the agreement of the said defendants was evidenced in writing, signed by counsel for said defendants, and was delivered to said Receiver on or about October 31, 1888. And also endeavored to induce the Attorney-General to agree on some compensation without reference to the evidence or the court, and sought to influence the Attorney-General by *ex parte* statements and opinions theretofore sought by said Receiver, and to this end, without waiting for the conclusion of this examination, posted to Washington with two or three letters of opinion and the partial evidence of Groesbeck. That on said hearing the Receiver testified as to his services, and in many cases magnified the same, and stated them unfairly, which tended to deceive and mislead the Examiner and the Court, to whom such testimony was to be submitted. That other witnesses were called who were asked to estimate the reasonable value of his services, as stated by the Receiver and his counsel, and who thereupon estimated the same upon the theory that the evidence of said Receiver was fair and not exaggerated. That by this means the Examiner was induced and influenced to report, and did report, to the court, a finding that from the testimony adduced it was clearly shown that there should be allowed and paid to said Receiver for his services the sum of \$25,000, and that the same was the reasonable value of his services. That on said hearing no testimony was offered except on behalf of the said Receiver. That the defendant withdrew its attorneys and plaintiff was not represented. That this state of things was brought about by the Receiver himself, whose conduct indicates that his intentions and desire was to have his own decision as to the value of his services confirmed without controversy. That in thus dealing with the court and the trust fund the Receiver was guilty of a lack of fidelity to his trust and appreciation of his duty.

[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 2, 1889. M. N. Stone, Commissioner.]

III.

That the instances in which the said Receiver unfairly stated the facts connected with the services of the said Receiver are as follows, reference being made to the report of the examiner, E. T. Sprague, filed by him in this court on the 28th day of November, 1888:

First—On page 2. Witness Groesbeck was informed of an active pursuit of other property throughout