

11th, 1888, looking to the collection of the personal property of the late corporation, excepting the attendance by him upon examinations and the making of formal demands upon agents of the corporations and receiving such property as was voluntarily turned over to him.

Fifth—The answer of said Receiver, upon page 23, to the effect that \$557,000 worth of property had been obtained through his efforts, is unfair and untrue, for the reasons heretofore stated.

Eleventh—The testimony of the said Receiver, in his own behalf, as to his services, is unfair, as the basis of compensation is this: That it appears from the report of said examiner, that the said testimony was written out and was read to the other witnesses on behalf of the Receiver, and was used by them as a full and true statement of his services as Receiver, and as a means of estimating their value; but it nowhere appears that the attention of said witnesses was called to the fact that the attorneys of the Receiver had done by far the greater part of the work claimed by the Receiver as his own.

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

#### IV.

That the amount of compensation, \$25,000, stated and claimed by the Receiver to be a reasonable compensation for his services, was unreasonable, excessive, exorbitant and unconscionable, and the evidence showed that the Receiver did not court a fair and impartial consideration of it.

#### V.

That the said Receiver in making said claim and suggesting the said amount as a reasonable compensation for his services, and in bringing to the attention of the court testimony to substantiate said claim, acted in bad faith toward the court, in this, that the testimony procured by him was not full and fair testimony taken upon a full and fair statement of his acts as Receiver, but that, on the contrary, it suppressed many facts which, if made known to the witnesses, would have influenced their judgment and would probably have decreased the amount of their estimates as to the value of his services; and that the statements made by the Receiver to the said witnesses were made with a full knowledge of all the facts in the case; and this, that by his own contrivance, he procured the testimony to be taken and the examiners' decision given, without any contest of the parties.

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

#### VI.

That a portion of the real estate acquired in this case, to-wit, the Tithing Office and grounds, were by the said Receiver rented to and are now in the possession of John R.

Winder, William B. Preston and Robert T. Burton, and that the same are being used for the purposes of a Tithing Office in connection with the Salt Lake Stake of the Church of Jesus Christ of Latter-day Saints. That at the time the said Receiver leased the said premises, as aforesaid, the Receiver had reason to believe, and did believe, that the premises would be so used by said lessees.

[No. vi. allowed. M. N. Stone, Commissioner.]

#### VII.

That prior to the 9th day of July, 1888, the Receiver had brought certain suits in the District Court of the Third Judicial District of Utah, against certain defendants therein named, the objects of said actions being to recover possession of certain pieces of real property, and to have the same declared to be of the property of the said late corporation, etc.; and also to obtain possession of certain personal property, also the property of the said late corporation. That said suits were begun on March 23, April 4 and May 14, 1888, and are the same suits referred to in the petition of the school trustees in this action.

That afterwards, on the 9th day of July, 1888, the Receiver and the defendants to the suits above mentioned compromised said suits, and in lieu of the tracts of land therein sued for, except a small piece five rods square in the northeast corner of lot 8, block 76, plat A, the said Receiver took the sum of \$84,666.15. That the order of this court authorizing the said Receiver to compromise said suits was made by the court solely upon the recommendations and representations of the Receiver, as set forth in his written petition, filed in this court on said July 9, 1888, and upon the recommendations and representations of the solicitors of the said Receiver, made by them orally in open court, to-wit, by Messrs. P. L. Williams, George S. Peters and Thomas Marshall, at the time of presenting said petition. That the recommendations and representations being in substance as follows, to-wit: that the said compromise was fair and reasonable under the circumstances, and that the sums to be received for the property were the proceeds of sales thereof made by the late corporation to various parties.

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

That such representations, so made as before said, were not made with any desire or intent on the part of the said Receiver or his solicitors to mislead the court, but were made in good faith, but negligently; but that, nevertheless, the statements made by them orally, together with the statements of the petition, that the property was the property of the late corporation, and that the right of the Receiver to recover, was clear, did actually mislead the court, and the court had reason to believe, and did believe from the statements there made, that said

sum of \$84,666.15 was approximately the value of said property. That so believing, the court, without further investigation, approved said compromise, and ordered the same to be reported to the court for its confirmation.

[Refused as above set forth. M. N. Stone, Commissioner.]

#### VIII.

That the sum received for said real property, to-wit, \$84,666.15, is less than one half of the real value of said property as it existed on said 9th day of July, 1888.

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

#### IX.

That upon entering upon the duties of his office, November 10, 1887, the Receiver found that on or about the 28th day of February, 1887, the late corporation had in its possession certain personal property, inventoried at \$268,982, and that the same had been, on or about the date last mentioned, transferred to the various Stake associations, so-called, corporations throughout the Territory, some twenty in number; that the Receiver had reason to believe, and did believe, these so-called Stake associations to be illegally incorporated, and had reason to believe, and did believe, that they could not take title, nor hold possession of, the property so transferred, or pretended to be transferred, to them, on the 28th day of February, 1887.

That in the month of April, 1888, the Receiver came into the possession of certain documents, which showed the fact to be that of said sum of \$268,982, about \$98,000 was represented by live stock of various kinds and description in various counties in the Territory. That part of said sum was in cash, to-wit, the sum of \$—; that a part of said sum, to-wit, \$—, was of perishable material, such as butter, eggs, meat, cheese, etc.; that the balance, to-wit, \$—, consisted of hay, grain, lumber, merchandise, office furniture, etc.

That the Receiver negligently, and from want of due care, failed to take into his possession any of said property, or to take any steps to obtain possession of the same from November 10th, 1887, when he qualified as such Receiver, until May 11th, 1888; that thereafter he took no adequate steps to obtain said property or any part thereof; but, on July 9th, 1888, compromised his claim and the claim of the United States to the same for the sum of \$75,000. That on the 9th day of July, 1888, and subsequent to said 28th day of February, 1887, much of said property had been wrongfully consumed, which fact was known to said Receiver, and he negligently failed to take any steps to recover the value thereof from the parties so wrongfully consuming the same nor to ascertain whether said persons or corporations were able to respond in damages.

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