

PARED RUST'S BILLS DOWN

Report of Special Master Bodine on Ex-Receiver's Claims and Allowances.

MANY EXPENDITURES WITHOUT AUTHORITY

Railroad Fare Charged Up When Passes Were Used, Hotel Bills and Disbursements for Personal Obligations—Too Much Asked for Salary.

The claims and allowances of E. Hyde Rust, ex-receiver of the American Water Works company, which were referred to a special master commissioner by order of Judge Dundy, have been carefully considered, and the report on the same was filed in federal court yesterday afternoon.

This adds another chapter to the somewhat celebrated case of the Denver City Water Works company and other complainants against the American Water Works company of New Jersey and other defendants.

Mr. Rust was primarily appointed receiver by the New Jersey court of chancery, as the company was originally incorporated in New Jersey, but the property of the corporation named was in Nebraska. At the time of Rust's appointment the Omaha plant was in possession of local receivers appointed on a previous suit. Judge Callwell ousted the local receivers and installed Rust.

The Denver plant was also in possession of a local receiver and Rust never got possession there, thus confining his duties largely to the operation of the Omaha system.

The stockholders of the company were divided in two factions, one was the younger wing and they proved a great thorn in the side of Rust. In July, 1893, Judge Dundy removed Rust and appointed Alonzo B. Hunt, who served as receiver until October 13, 1893, when Messrs. Ellis L. Bierbrower and A. B. Hunt, the present receivers, were appointed on a foreclosure suit. Around this situation a labyrinth of confusing litigation was twined, with a conflict of jurisdiction, until a bewildering stack of bills made the case long and promptly on the federal docket. The clash over the accounts of ex-receiver Rust was precipitated by the allowances of the New Jersey court, who allowed him compensation for a period when he was not in possession of the Omaha plant, and when Judge Dundy allowed compensation to local receivers, who were in possession of the plant during the period named.

The master's findings are the result of an examination of the reports, vouchers, books and accounts of ex-receiver Rust.

The receipts during the administration of E. Hyde Rust, receiver, from October 18, 1892, to July 15, 1893, were: Cash, \$258,830.26; receipts of acceptances, etc., \$32,703; total receipts, \$291,533.16.

Disbursements: Cash, \$243,122.54; acceptances charged, \$32,703.90; total disbursements, \$275,826.44; balance on hand July 15, 1893, \$15,706.72. Of this amount \$13,216.84 was turned over to Mr. Rust's successor, A. B. Hunt.

The master finds the office records complete, with the exception of the bank book of "E. Hyde Rust," which was not in the book used during Rust's administration. These have been missing from the office at Omaha since July 9, 1893, and it is a question as to whether or not they are the personal property of Rust.

UNWARRANTED TRANSFERS MADE.

The master finds that Mr. Rust, while acting as receiver, took \$7,000 from the company at Omaha and transferred the same to New Jersey, where they were deposited in the Hudson National bank of New Jersey. This money was removed beyond the jurisdiction of Judge Dundy without authority of any judge of the United States circuit court, which had jurisdiction over the property of the company in Nebraska, and investigation revealed the fact that there was no emergency or immediate necessity to remove the funds in the manner described. The money was sent to New Jersey in three installments in February, 1893. The first draft was for \$3,000, on February 13. The second was for \$2,000 on the following day. The third was for \$2,000 on February 15, all remitted and charged to special account by Rust.

The master reports that the withdrawal of this large sum of money left \$979 on hand as cash to the credit of Receiver Rust in the United States circuit court at Omaha, and that this sum was inadequate to pay the current expenses of the water works company at Omaha. Investigation disclosed the fact that Rust did not deposit on or use any of the \$7,000 on deposit in Jersey City for some time after.

This money at Jersey City was largely appropriated by Rust for his personal alleged payment for compensation and expenses as receiver. Rust left salary vouchers to the extent of \$4,500, and a voucher for L. M. Garrison in the amount of \$109.22, in lieu of \$4,609.22 of the \$7,000. The master mentioned. He claimed that the New Jersey court gave him authority to do this.

The balance of the \$7,000, amounting to \$2,390.78, the master properly accounted for to the federal court, and that this sum, said to be on deposit in Jersey City, has never been returned to the successor of Mr. Rust. The master claims the federal court, but still remains beyond the jurisdiction of the United States circuit court for the district of Nebraska.

The master finds that the New Jersey court fixed the compensation of Rust as receiver, but that this action was never ratified or approved by Judge Dundy, or any other judge of the United States circuit court, and that, furthermore, there is no record in the circuit court aforesaid where Rust was ever authorized to thus appropriate \$4,500 of this sum to his personal use for compensation. Notwithstanding the fact that it is a matter of record in this court that Rust was instructed to surrender all moneys, etc., of the water works company to his successor, Alonzo B. Hunt, the master finds \$2,390.78, a portion of the \$7,000 removed in February, 1893, which has not been returned. The master submits the vouchers, bank records and accounts of the company to substantiate his findings, and recommends that the said \$2,390.78 be rejected and disallowed as a credit to said Rust and that the amount same be recovered and returned to the funds of the American Water Works company of New Jersey, charging the same against Rust in the meantime.

The master furthermore finds where sums of money to the extent of \$235.30 have been taken from the funds of the company at Omaha and deposited in the cash drawer on various dates in lieu of money, and that these sums were carried as cash on hand, when really the cash was not there. The master does not regard memorandum slips as currency, and inasmuch as the sums were not accounted for he rejects and disallows the entire amount thus abstracted and deducts it from Mr. Rust's allowances.

MONEY FOR PERSONAL OBLIGATIONS.

The report contains references to the fact that Rust used the funds of the company officially to pay personal obligations at various times in Omaha, issuing official checks as receiver on the United States National bank and paying private bills with the same, until these "loans" attained larger financial dimensions, when he reimbursed the company and advanced the amount advanced. No vouchers were issued in such cases, although vouchers were generally issued whenever bank checks were officially tendered to the payee. The items above mentioned were carried as cash on hand, and the company, pending eventual reimbursement.

The report also covers reference to the result of the examination of the books of the company, including the discovery of an alteration of an original entry on the voucher register, showing where figures of \$562.91 had been changed to \$112.91. The first amount was originally paid on a voucher for services rendered, but the recipient returned \$750 of the amount to the receiver, and the amount was changed by erasure and substitution of the figures \$112.91, to give proper credit for the same.

The master finds that Rust traveled extensively during his brief administration as receiver. Money to the extent of \$2,000, as was thus expended by him for traveling expenses and hotel bills. The master has as-

certain in an official way that Rust traveled largely on railway passes, and that instead of crediting these personal gratulities and seizing an opportunity to economize to the benefit of the water works company, Rust charged full fare against the water works funds in each instance. The master holds that the moral influence of such a procedure is bad, and that from an economical point of view this action of the receiver is open to challenge.

The master furthermore finds a recurrence of trips taken by Rust between Omaha and Denver, which were exclusively in the interest of the Denver plant, and of no benefit, either directly or indirectly, to the Omaha system. The right of Rust to do this is challenged, on the ground that he was never receiver of the Denver water works system, and that Dennis Sullivan of Denver remained in undisturbed possession of the Denver system during the entire time while Rust served at Omaha. The master finds that Rust never presented an application to have himself substituted as receiver at Denver in place of said Sullivan, and that Rust's intervention at Denver was an unofficial infringement upon the plans of the local receiver.

THESE EXPENSES DISALLOWED.

These visits of Rust to Denver were frequent, and all were charged against the Omaha plant.

The master stands up for Omaha interests by rejecting and disallowing all the expenses incurred on these Denver trips. He gives as a reason therefor that the Omaha and Denver water works plants are "distinctly remote" in distance, under different management, separate in accounts, and neither contributing in any financial manner to the income or said to be not a just or reasonable charge upon the defendant to thus divert the payment of expenses incurred by Mr. Rust caused by his personal presence in Denver to the Omaha plant. This, however, was exclusively in behalf of the Denver system, of which Dennis Sullivan was the recognized receiver and only representative empowered to act as an officer of the court of jurisdiction within and for the district of Colorado.

Of the total amount of \$2,006.49 spent by Rust on a recurrence of trips while receiver, the master rejects and disallows \$1,164.44. A large portion of this sum includes the Denver trips above mentioned.

The master furthermore finds, and charges the same to be true, that Rust, in voucher number 675, which was for the sum of \$1,008.29, included charges for board at Omaha for a portion of the period up to August 10, 1892, and January 5, 1893.

The item of expense is included in his hotel bills at the rate of \$5 per day. Rust made a guest at the Millard and Omaha club frequently during that period. The allowance is rejected by the master, together with hotel expenses incurred by trips to Denver, which were not in the interest of the Omaha plant. The voucher for \$1,008.29 is chopped by the representative of the federal court to \$247.50, which sum is regarded by the master as the only portion of the voucher which is a just and reasonable charge on the defendant, the American Water Works company of New Jersey. The original vouchers for traveling expenses between August 10 and January 5, 1893, which of the trips were thrown out as premature and unjust charges.

SALARY ALLOWANCES CHOPPED.

In addition to the \$4,500 mentioned elsewhere, the master finds that Rust took \$1,900 more from the funds of the company and charged it to receivership expense for compensation, at the rate of \$500 per month, making a total of \$5,000 applied as compensation by Rust during his administration. After searching the federal court records in vain for Rust's authority to do this the master rejects and disallows the salary vouchers of \$1,900, and recommends that the sum of \$4,500 be paid the receiver as a just, liberal and reasonable compensation for all services rendered while Rust was receiver. The New Jersey courts allowed Rust the further sum of \$1,564.57 for salary, at the rate of \$500 per month, from July to October, 1893, but Special Master Bodine rejects and disallows this, for the reason that he finds that Rust was suspended as receiver by Judge Dundy on July 15, 1893, and that during the period between July 15, 1893, and October 13, 1893, Alonzo B. Hunt was receiver of the Omaha plant, or any of the property of the American Water Works company of New Jersey. On the contrary, the master finds that Alonzo B. Hunt was receiver of Omaha during that period, and that said A. B. Hunt was allowed \$250 per month for his services as such. The master advances the theory that if it were to be found that Rust should allow Rust a pension, when he was relieved from duty, which, in itself, would be twice the amount paid to Mr. Hunt, who was in active service, he should claim the balance of compensation, not previously paid, paid for by Rust in his petition, filed April 13, 1894, is knocked out by the master's report in the amount of \$400.

Rust for the time he was receiver at Omaha is based upon the records in the case. The amounts paid to local receivers prior to Rust's administration are fully considered and the work done by Rust carefully reviewed.

The master finds that Rust was absent a great portion of the time on business of no benefit to the Omaha system, and that practically Rust's duties were along the lines previously performed by Mr. Ellis L. Bierbrower, one of the local receivers.

BASES OF ALLOWANCES.

The amount allowed to Rust by the master's report is an increase over the provisions paid to the local receivers of the Omaha Water Works company reported as balance for services after Rust showed a slight increase in business, and the fact that Rust had to file two bonds and attended to much complex litigation was a factor to be considered by the master. The latter, however, found nothing to justify a compensation of \$500 per month to Rust, in view of the fact that Rust was not in possession of the Omaha plant, but was merely allowed to retain A. B. Hunt, one of the former local receivers, as superintendent of the plant, and that he was not authorized to perform the combined duties of the former local receiver, the master did not believe that Rust was entitled to draw a salary amounting to what was paid to the former local receiver, and inasmuch as Rust did not have possession of the Denver plant his duties really were simply confined, or should have been devoted, to the maintenance and operation of the plant at Omaha, according to the report of the master commissioner.

The total deductions on compensation made by the master are \$1,564.57 of the claim previously paid, and \$1,647.87 of the claim previously paid, and which was the same removed, and which was the same evidently preferred to Mr. Rust by the New Jersey court, and which was paid and the time spent in winding up his reports, etc., in court.

The report recommends that the petition of Rust in April, 1894, for an increase and confirmation of accounts as receiver be allowed by the court of chancery of New Jersey, and that he be permitted to receive the sum of \$1,235.71, for reasons "specifically set forth elsewhere in this report."

After reviewing the case at length and giving full reasons for allowances and disallowances, the master fixes the amount of discharge at \$255,596.74. The report calls for the payment of outstanding claims against the company held by Charles Offutt, Collins & Weisbrother and others, but refers these claims to the court with recommendation that the claimants be paid whatever the honorable court deems just and reasonable compensation.

The case will not, in all probability, be fully settled for several weeks, as arguments on the report will probably be heard before Judge Dundy pending final decision.

Arizona and New Mexico will complete the list of new states—unless we bring in Alaska. Even in Alaska Dr. Price's Baking Powder is famous.

YEAR AT THE PACKING HOUSES

Bright Enough at its Beginning but Closed with Uncertainty.

FEAR THAT RECOVERY WILL BE SLOW

Drouth, Strikes and Fires Were Powerful Enemies to the Industry—Facts Shown by Receipts and Prices—Era of Record Breaking.

The year 1894 was one full of events of the greatest import to the Omaha live stock market. Starting out with prospects of the brightest, it closed with a general feeling of distrust and uncertainty never before experienced to such an extent here.

The drouth throughout the entire territory tributary to this point drove in thousands of cattle, hogs and sheep along in June, July and August. In fact the market was over-run during these months with stock from the drouth-stricken country. For this reason receipts for the past year show very favorably as compared with any previous year.

A large part of the stock marketed during the past six months, however, was immature, and this is the most discouraging feature of the trade, as it practically assures short supplies for some time, and there are those who say it will take fully two years to recover from the indiscriminate marketing of stock that has been going on for the past six months. It does not take the ordinary range hog or cow, however, raised under a big crop of hogs under favorable conditions, but with cattle it is different, and the hope of the trader at present centers in the western range cattle, these, however, cannot be expected to put in an appearance much before next July.

RECEIPTS AND SHIPMENTS.

The following table gives the receipts and shipments of stock at this point for the past two years:

Month	Receipts 1894	Hogs	Sheep	Shipments 1894	Hogs	Sheep
January	44,688	114,280	24,882	37,140	114,280	24,882
February	59,916	120,234	25,141	52,557	114,280	24,882
March	88,667	148,914	33,313	88,667	148,914	33,313
April	69,173	142,267	18,905	69,173	142,267	18,905
May	52,204	119,219	17,752	52,204	119,219	17,752
June	55,721	127,629	16,779	55,721	127,629	16,779
July	59,721	122,602	15,205	59,721	122,602	15,205
August	59,721	122,602	15,205	59,721	122,602	15,205
September	59,721	122,602	15,205	59,721	122,602	15,205
October	59,721	122,602	15,205	59,721	122,602	15,205
November	59,721	122,602	15,205	59,721	122,602	15,205
December	59,721	122,602	15,205	59,721	122,602	15,205
Total	621,539	1,322,677	242,945	621,539	1,322,677	242,945

sheep slaughtered at each house were as follows:

Place	Cattle	Hogs	Sheep
Swift and Company	2,201,809	423,453	87,779
Swain Co.	2,201,809	423,453	87,779
G. H. Hammond Co.	1,152,322	412,785	23,100
Omaha Packing Co.	1,152,322	412,785	23,100

The cattle market for 1894 started out brightly enough but was banished by good cattle and the prospect of a bumper crop of hogs. When the corn crop was lost a few of a nature similar to that which was sold last year, and during September cattle sold high. The top notch was on the 25th, when \$9 was paid. As the supply of cattle, both raggers and natives, exceeded expectations there was a general softening of values and cattle now are selling a good deal as they were a year ago at this time.

Hog prices dropped nearly a dollar during the past year and the close is very little higher, the extreme low price of the year, which was on a January day. At that time the best price paid was only \$4.25. The high point of the year was September 10, when the top paid was \$6.75, and the average was \$5.52.

Packers claim to have found it a most unprofitable year in their line. The hard trade during the summer months, which light and at the same time almost paralyzed the speculative trader. During a large part of the year they were compelled to pack hogs at a loss, their only chance being to make it back on their jobbing trade. This, too, however, was unsatisfactory. Another feature of the business was that the receipts consisted largely of brood sows and pigs for the past four months. Last month average weight would not exceed 195 pounds, while a year ago at this time the average weights of the hogs was 252 pounds. There is not much to be said of the sheep trade, but the market was generally light and the hard time to the sheep has had a hard time of it. Thousands of poor, thin muttons that went to the market during the summer months, when good muttons and lambs brought fair figures, for the most part it was a money losing business, and the market for mutton is full of busted sheep men and the market shows not the slightest indication of improving any during the next twelve months.

LOCAL BRIEVES.

The county and city officers will all close today.

The members of the Women's club will keep open house today in the club rooms over the Boston store. The members and invited guests will receive from 3 to 6 o'clock p. m.

The carriers will make but one delivery of mail today. That will be in the morning, after which the government employes will be given the balance of the day to enjoy themselves.

Chief Seavey and Mayor Bemis have received invitations from the Municipal Council of Grand Island to attend a meeting of the mayors of first and second class Nebraska cities to be held at the Windsor Hotel in Lincoln on Thursday afternoon.

Fire Inspector Joseph Laux has completed his report for the month of December. It shows that he has inspected 210 buildings, given thirty-five notices to property owners, and has caused the arrest of thirty-two persons for violations of the city ordinances respecting fire limits.

Mrs. Evans of Kansas avenue, Topeka, has written to Chief Seavey asking him to locate her brother-in-law, G. A. Keck, who is a barber and who was last heard from in this city. The writer states that Keck's wife and baby are very sick and are not expected to live; also that a goodly sum of money is waiting the man his home.

The Paid Firemen's Benefit Association held a meeting in the chief's office yesterday and appointed a committee, consisting of Messrs. Weinberg, Beard and Cavanaugh, to draft resolutions in respect to the memory of Ed Kilgus, the truck driver, who was killed on Saturday night while driving to a fire. The funeral was held at 11 o'clock on Sunday at the depot in the afternoon, and the remains were forwarded to his former home in Indiana for interment.

A. B. Clarke will sell on Wednesday at Union stock yards two car loads first-class Missouri driving and draft horses. Don't fail to see them.

Begin tomorrow morning at the Omaha Commercial college, on Boston street, 1611 and Douglas. New classes in all departments. Robinson Bros. will be in their over 100,000 copies of work of new students. Begin tomorrow if possible.

WINTER TERM OF COLLEGE.

Wishes you a Happy New Year, and invites everybody to call at their office, 1416 Farnam St., Paxton hotel block.

DEED.

The funeral of Mr. J. J. James will take place at 2 o'clock on Tuesday afternoon, January 1, at 2:30 o'clock. All friends invited to attend.

CHEMICAL ANALYSIS

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