

State Board of Stock Commissioners, Investigation of by Committee. Investigation Committee Appointed by the Twelfth Legislature, When Discharged. Property Recovered, Disposition of and by Whom.

The committee appointed by the Twelfth Legislative Assembly to investigate the affairs of the state board of stock commissioners by H. J. R. No. 8, submitted its final report to the Governor on February 6, 1913, and was thereby, ipso facto, discharged. It is now without further authority.

The property recovered and now held in trust by W. C. Rae, state treasurer, as trustee for certain creditors, may be by him, upon direction of the state board of stock commissioners, duly expressed by resolution, converted into cash, and the proceeds applied according to the terms of the trust.

May 29th, 1913.

Hon. D. W. Raymond,
Secretary Board of Stock Commissioners,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication under recent date submitting for my opinion the following questions:

“What authority at this time has the committee appointed by the Twelfth Legislative Assembly and known as the Investigating Committee of the Board of Stock Commissioners?”

“If discharged, when and how?”

“Who has authority to act in the disposition of moneys recovered from S. W. Langhorne, Jr?”

“Could the property recovered (house and lot in Helena), which now stands in the name of the state treasurer, as trustee, be disposed of by other than legislative action?”

In reply to the first question submitted by you I call your attention to House Joint Resolution No. 8, which appears in the Session Laws of the Twelfth Session at page 550 and 551, whereby the committee to which you refer was authorized and empowered to carry on an investigation of the affairs of the state board of stock commissioners, to subpoena witnesses and compel attendance before them, and was directed “upon completion of its work to make its report and recommendation to the governor.” The files of the governor disclose that this committee on the 11th day of October, 1912, made

a partial report to the governor, as to the results of its investigation of the matter above referred to, and also that on February 6th, 1913, the said committee submitted to the governor of the state "its final report." It appears, therefore, that the committee has performed the work which it was directed to perform and that having done so, it is ipso facto discharged and is now without further authority.

I am advised that S. W. Langhorne, Jr., to whom your letter refers, was found to have embezzled funds which should have been in the custody of the board of stock commissioners. I am further advised that for the purpose of making restitution of the embezzled funds to the extent of his ability, Mr. Langhorne and his wife paid over to the board of stock commissioners the sum of twenty-eight hundred dollars in cash and deeded to Mr. E. E. Esselstyn, as trustee for certain creditors, a house and lot located in the City of Helena. The deed to Mr. Esselstyn states that the property is conveyed to him as "trustee for certain creditors." The deed does not show upon its face what disposition is to be made of the house, or what creditors are to be benefited thereby. I am, however, advised that the conveyance was made to Mr. Esselstyn for the purpose of enabling him to convert the same into cash and turn the proceeds over to the board of stock commissioners. You are undoubtedly more familiar with the facts than I am, but assuming this to be the fact, it is my opinion that Mr. Esselstyn might at any time have carried out the provisions of his trust, and converted the property into cash, and turned the proceeds over to the board of stock commissioners. Mr. Esselstyn then going out of office, conveyed the same property to W. C. Rae in trust for the same purpose as stated in the original deed. It is my opinion that Mr. Rae may proceed in like manner as Mr. Esselstyn might have proceeded, and carry out the purpose of this trust. No legislative authority is, in my opinion, necessary to enable Mr. Rae so to do. He may act upon the direction of the board of stock commissioners, duly expressed by resolution to that effect at a regular or special meeting of the board of stock commissioners.

Very truly yours,

D. M. KELLY,
Attorney General.