

231 U. S.

Statement of the Case.

owner. He not only had a duly recorded public document in his favor, but he had begun a suit similar to the present one and this course of action was inconsistent with the possession by anyone else.

“The appellant complains that the court erred in not permitting him to show that the conveyance made from Torres Zayas to Alvarado was fictitious or simulated and that the real party in interest was always Torres Zayas. We cannot see that the court committed an error in refusing to admit such testimony; at most Alvarado would have to be considered as the agent or representative of Torres Zayas and the maxim *qui facit per alium facit per se* may be held to apply. The registry system in Porto Rico exists to apprise purchasers and others who are the true owners of property, and if a man after treating with the apparent owner, may still have his title impugned by a secret agreement existing between such record owner and the alleged true owner there would be no security in the acquisition of property.”

Affirmed.

NORTHERN PACIFIC RAILWAY COMPANY v.
HOUSTON.

ERROR TO THE SUPREME COURT OF THE STATE OF
MINNESOTA.

No. 57. Submitted November 11, 1913.—Decided December 1, 1913.

Decided on the authority of *Northern Pacific Railway Company v. Wass*, 219 U. S. 426.

109 Minnesota, 273, reversed.

THE facts are stated in the opinion.

Mr. Charles W. Bunn for plaintiff in error.

There was no appearance or brief filed for defendant in error.

Memorandum opinion by MR. CHIEF JUSTICE WHITE, by direction of the court.

In *Northern Pacific Ry. Co. v. Wass*, 104 Minnesota, 411, it was decided that lands claimed under an indemnity grant, and described in lists of indemnity selections filed in the appropriate United States Land Office and which were rightfully pending for action by the proper officer were nevertheless subject to entry by others to the destruction of the right to select and to the frustration of the governmental power to approve the selections and award the land under the granting law. The judgment below which is now under review, was expressly rested by the court on the ruling in the *Wass Case*. *Houston v. Northern Pacific Ry.*, 109 Minnesota, 273. The identity between the controversies here presented and the one which was passed on in the *Wass Case* is additionally shown by the fact that it is stated in the printed argument on behalf of the railroad company, the plaintiff in error, there being no argument on behalf of the defendant in error, that the land involved in this case was covered by selections made at the same time the selections which were involved in the *Wass Case* were made, and were embraced in the identical lists which were the subject of contest in that case. But since this case was decided by the court below, its ruling in the *Wass Case* was reviewed by this court and it was reversed, thereby destroying the only foundation upon which the judgment in this case could possibly rest. *Northern Pacific Railway Company v. Wass*, 219 U. S. 426. It follows for the reasons stated in the *Wass Case*, and upon the authority of that case, the judgment below must be

231 U. S.

Argument for the United States.

reversed and the case be remanded to the court below for further proceedings not inconsistent with the opinion in the *Wass Case* and the action which we now take in applying the decision in that case.

Reversed.

UNITED STATES *v.* DAVIS.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF MISSOURI.

No. 395. Argued October 17, 1913.—Decided December 1, 1913.

On a direct appeal from an order quashing an indictment this court assumes the correctness of the meaning affixed to the indictment by the court below and determines only whether the statute was correctly construed.

Section 29 of the Penal Code is practically a reproduction of § 5421, Rev. Stat., which in turn represents § 1 of the act of March 3, 1823, c. 38, 3 Stat. 771, and this court follows the construction already given by this court to the last named statute to the effect that it embraces fraudulent documents as well as those that are forged or counterfeited. *United States v. Staats*, 8 How. 41.

The enumeration of certain classes of forged and false documents in § 5421, Rev. Stat., does not exclude other fraudulent documents which might be used to perpetrate the wrong which it is the purpose of the statute to prevent.

THE facts, which involve the construction of §§ 28 and 29 of the Penal Code (§§ 5421 and 5479, Rev. Stat.), are stated in the opinion.

Mr. Assistant Attorney General Knaebel for the United States:

The false writings intended by the third clause of § 5421,