

validity. Such reports were made from time to time, one of which included, and recommended for confirmation, this claim of "the pueblo of Taos, in the county of Taos," not the pueblo Indians of Taos, but the pueblo of Taos; and by an act of Congress of Dec. 22, 1858, 11 Stat. 374, the title was confirmed, and the commissioner of the land-office ordered to "issue the necessary instructions for the survey of all of said claims, as recommended for confirmation by the said surveyor-general, and cause a patent to issue therefor, as in ordinary cases to private individuals: *Provided*, that this confirmation shall only be construed as a relinquishment of all title and claim of the United States to any of said lands, and shall not affect any adverse valid rights, should such exist."

It is unnecessary to waste words to prove that this was a recognition of the title previously held by these people, and a disclaimer by the government of any right of present or future interference, except such as would be exercised in the case of a person holding a competent and perfect title in his individual right.

If the defendant is on the lands of the pueblo, without the consent of the inhabitants, he may be ejected, or punished civilly by a suit for trespass, according to the laws regulating such matters in the Territory. If he is there with their consent or license, we know of no injury which the United States suffers by his presence, nor any statute which he violates in that regard.

Judgment affirmed.

NOTE. — In *United States v. Santistevan*, a suit for a similar offence, and brought here by writ of error to the same court, the same judgment was entered as in the preceding case.

ERSKINE v. MILWAUKEE AND ST. PAUL RAILWAY COMPANY.

MILWAUKEE AND ST. PAUL RAILWAY COMPANY v. ERSKINE.

A penalty of \$1,000 is the only liability incurred by a railroad company for failing to comply with the provisions of sect. 121 of the internal revenue act of June 30, 1864 (13 Stat. 284), as amended by the act of July 13, 1866 (14 id. 138).

ERROR to the Circuit Court of the United States for the Eastern District of Wisconsin.

This was an action brought by the Milwaukee and St. Paul Railway Company against Erskine, collector of internal revenue for the First Collection District of the State of Wisconsin, to recover \$17,296.12 paid by the company under protest in the year 1870, and by him claimed to be due from it for taxes under the laws of the United States.

There was a judgment in favor of the company for \$3655.07 and costs. Each party excepted to the rulings of the court below, and sued out a writ of error. The exceptions of the company were abandoned here. The only question submitted was, whether the company was liable for any sum beyond the penalty of \$1,000 for its default in paying the tax of five per cent upon the amount paid to the holders of the coupons, which represented the interest on its bonds, and upon the dividends payable to its stockholders.

The court below held that the company was not so liable.

Mr. John W. Cary for the company.

Mr. Assistant Attorney-General Smith, contra.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

No error has been assigned by the railroad company upon this record, for the reason that the rulings to which the company took exceptions are all sustained by our decisions in *Barnes v. Railroad Companies*, 17 Wall. 294, and *Stockdale v. Insurance Companies*, 20 id. 323.

We think that the Circuit Court was right in holding that the only penalty to which the company was liable for default under sect. 122 of the internal revenue act of June 30, 1864, 13 Stat. 284, as amended July 13, 1866, 14 id. 138, was that of \$1,000 specially provided for in that section. The penalty of five per cent and interest at the rate of one per cent per month, apply only to cases of default in the payment of duties upon incomes imposed by sect. 119 as amended. 13 id. 283; 14 id. 480.

Judgment affirmed, the costs incident to each writ to be paid by the party suing it out.