
peal to Congress. Certainly evasion of the laws or the defiance of them should not have been resorted to.

It is not to be supposed that the company looking backwards, by the results achieved rather than when they were only hoped for, by conditions in the past, was without prophesy.

It was seen that one company failed under the burdens which it assumed. The other company took it up and struggled for it. It is not to be supposed that the latter, indeed, have finally succeeded by a disregard of the provisos. It might, however, have been so. It is not to be supposed that we are not required to decide between the suppositions. We can only enforce the provisions of the law.

For the same reason we cannot at the instance of the Government give a grant of sanction to the company which has failed. We nor give to cross-complainants and intervenors the right of the granting acts did not confer upon them.

Further Violations Prohibited.

Rejecting, then, the contention of the Government and the status of the cross-complainants and intervenors regarding the settlers clauses as enforceable covenants

the decree of the District Court, of course, and clearly an injunction against further violations of the covenants. There certainly should be no repetition of them. What they were the record exhibits.

We need not comment on them or point out how opposed they were to the covenants.

a. how antagonistic to the policy and purpose

The Government expressed in the cover-
nant that it was not to be construed as a
purchase of 160 acres (the maximum
with a sale of 1000, 2000, 20,000 and
50,000 acres) but as a purchase of 160 acres
emphatically; nor the contrast of a one of the
land that is to be used for the use of
immediate or speculative enterprises.

In view of such disregard of the cover-
nant and of the illegal encroachment in
view of the Government's interest in the
land, the Government has decided to take
that restriction upon the future conduct of
the railroad company and its various
branches and improve the land. The Gov-
ernment has asked for more.

It is to be noted that between the
sold and unsold lands and between the re-
spective rights and interest, vested, contin-
gent, and future, the Government has as-
serted that all have become forfeited
to the Government. The Government's in-
terest in them are included in this suit.

And the reason is given that the purchases
of the land by the railroad company and its
branches and only a few of them are known and
the Government has decided to take the
uncertainty in time to make them parties
to the suit. Besides, that such purchases
and the Government's interest in them are
greatly varying circumstances and that the
Government has decided to take the land
chambers representative of all, and to make
the parties who postpone and might
make the Government's interest in them
therefore, this suit was brought. It is al-
so to be noted that the Government has
as to the unsold lands and that subsequent
to the purchase of the land, the Govern-
ment has decided to take the land, rights
and remedies as to them being
in effect reserved.

Decree Is Without Prejudice.

The Government has decided to take the

without prejudice to any other suits, rights or remedies which may be lawfully maintained by law, or under the joint resolution of April 30, 1908, or under the act of Congress approved July 1, 1908.

However, an injunction simply against the taking of timber from the land is not another way simply mandatory of the requirements, will not afford the measure of relief which is an adequate remedy to the government.

The government alleged in its bill that more than 1000 persons had made application to purchase from the railroad company, and the defendants averred that such an application was not made. The government desired to obtain title on account of the timber and the land, and the defendants averred that the application only and not in good faith as actual settlers. And it was averred that the government was not entitled to the land solely of value because of the timber thereon and the land was not a valuable thing in itself. Further, that the lands capable of actual settlement and the establishment of a homestead.

approximately 300,000 acres, consisting of small and widely-separated tracts, all of which were being sold with the protest claiming to be such during construction prior to completion, respectively, of 160 acres or less to a single purchaser, at prices not exceeding \$2.50 per acre.

A deal of testimony was introduced, consisting not only of that of witnesses, but of maps, which tended to establish the asserted character of the lands. And there was evidence to determine the relative probative force of the opposing testimonies. It is, however, clear, enough from the foregoing to show that the lands which may be fit for cultivation have a greater value, on account of the fact that they are not available for our present purpose we may

accept its assertion of defendants, and we have seen that the act was not intended to act to the reserved lands and, by the act of August 20, 1912, suppose it has withdrawn the lands from the public domain. The act of August 20, 1912, under any of the public land laws of the United States which may be referred to the United States by the act of this suit.

Action of Congress Awaited.

This, then, being the situation resulting from conduct of the railroad company, and in view of the prolonged disregard of the covenants by the railroad company, the land is now in the hands of the railroad company, and we think, therefore, that the railroad company should not only be ordered to return the lands to the public domain, but enjoined from any disposition of them whatever or of the timber thereon, or removal of any of the timber thereon until Congress shall have a reasonable opportunity to act, or their disposition of the lands, or their disposal of the timber thereon.

If Congress does not make such provision, the defendants may apply to the District Court within a reasonable time, not less than

six months, from the entry of the decree herein, for a modification of so much of the injunction herein contained as enjoins the disposition of the lands and timber upon which Congress shall act, and the court in its modification may modify the decree accordingly.

Decree reversed and cause remanded to the District Court for further proceedings in accordance with this opinion.

MAN AT THROTTLE CRAZY

Ill Engineer Finally Run Over After Operating Locomotive Months.

DENVER, June 26.—Startling developments followed the death recently of George M. Lewis, 40, former Denver, Colo., railroad engineer, who was at the

down and killed while the police were searching for him, when it was learned that the dead engineer had been suffering from mental disorder for the last six months and during that time had been regularly running a train.

Despite his affliction, which was diagnosed as paresis, Lewis had appeared for work and made his usual runs out of Alamosa. His work as an engineer was as efficient as ever, but he developed eccentricities in other

About two weeks ago Lewis was discharged and he was brought here for treatment. While his wife was taking him back to their home in Alamosa, Lewis broke away in the station, made his way out on the tracks and a switch engine killed him.

Fall Kils Aged Wingville Woman
BAKER, Or., June 26.—(Special.)—As the result of a fall in the home of her daughter, Mrs. Mary Ann Foster, John Wingville is dead at the Speelman home in Wingville. Mrs. Foster was 85 years old and the shock caused by the fall of her daughter, Mrs. Foster, who died in this vicinity 35 years ago, was one of the best-known women of Baker County. She is survived by many relatives.

Tenno Man Badly Hurt.
CENTRALIA, Wash., June 26.—(Special.)—With freightfall injuries sustained at The Dalles, a man named Tenno broke at the new quarry of the Hercules Sandstone Company, north of Tenno. Ed Betts, an employee of the stone company, and a son-in-law of Cannon, Tenno postmaster, is confined in a local hospital. Both of Betts' legs were broken and he was badly crushed. It is expected that he will die. He is about 40 years old.