

be this as it may, it is not within the legitimate province of a court of equity to assist a wrongdoer, like the appellee, in retaining the possession of property which it has acquired in open violation of an act of congress, when the party against whom relief is sought is an officer of the United States, who is acting under the direction and control of the secretary of the interior. For these reasons, the decree of the circuit court will be reversed, and the case will be remanded to that court, with directions to vacate the decree, and to dismiss the complainant's bill, at the complainant's costs.

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WILSON et al. v. NORTHWESTERN MUT. LIFE INS. CO.

(Circuit Court of Appeals, Eighth Circuit. December 3, 1894.)

No. 465.

TIME—PUBLICATION OF NOTICE.

The publication of a notice of sale once a week for only 27 days before the day of sale is not a "previous publication" of such a notice "once a week for at least four weeks prior to such sale," as required by section 3, Act Cong. March 3, 1893 (27 Stat. 751, c. 225).

Appeal from Circuit Court of the United States for the District of Kansas.

This was a suit by the Northwestern Mutual Life Insurance Company against Levi Wilson and Maria Wilson for the foreclosure of a mortgage. From an order confirming a master's sale the defendants appeal.

Robert W. Patrick, for appellants.

Charles E. Dyer, A. B. Jetmore, and A. P. Jetmore, for appellee.

Before CALDWELL, SANBORN, and THAYER, Circuit Judges.

SANBORN, Circuit Judge. This is an appeal from an order confirming a master's sale, and overruling exceptions to his report thereof in a suit to foreclose a mortgage. It is assigned as error that the court below confirmed this sale over objection made and exception taken by the appellants on the ground that no notice of the sale had been published for at least four weeks before it took place. The third section of "An act to regulate the manner in which property shall be sold under orders and decrees of any United States courts," approved March 3, 1893 (27 Stat. 751, c. 225; 2 Supp. Rev. St. p. 135), provides:

"That hereafter no sale of any real estate under any order, judgment, or decree of any United States court shall be had without previous publication of notices of such proposed sale being ordered and had once a week for at least four weeks prior to such sale in at least one newspaper printed, regularly issued and having a general circulation in the county and state where the real estate proposed to be sold is situated, if such there be."

The first publication of the notice of sale in this case was made Friday, November 10, 1893; the second, Friday, November 17, 1893; the third, Friday, November 24, 1893; the fourth, Friday, December 1, 1893; and the sale was made Thursday, December 7, 1893.

In this act of congress the preposition "for" in the clause "for at least four weeks," as is often the case when it is used with relation to periods of time, clearly means "during" or "during the continuance of." 2 Cent. Dict. p. 2314, par. 15, under "For"; Whitaker v. Beach, 12 Kan. 492, 493. Conceding that the day of the first publication of the notice may be counted as a part of the four-weeks publication, it is not difficult to demonstrate that this notice had not been published four weeks when the sale was made. A week is seven days. The first publication of this notice was November 10th; its publication for one week, or seven days, could not have been, and was not, complete until 12 o'clock p. m., or midnight, November 16th; its publication for two weeks was not complete until midnight, November 23d; its publication for three weeks was not complete until midnight, November 30th; and its publication for four weeks was not complete until 12 o'clock p. m., or midnight, of December 7, 1893, but the sale was made at 2 o'clock in the afternoon of that day. It is plain that the notice had not then been published "for at least four weeks," and, as the act of congress positively prohibits such a sale unless "at least four weeks'" publication has been made and is complete before the sale, this sale cannot be sustained.

Our conclusion is that the publication of a notice of sale once a week for only 27 days before the day of sale is not a "previous publication" of such a notice "once a week for at least four weeks prior to such sale," as required by section 3, c. 225, p. 751, 27 Stat. (page 135, 2 Supp. Rev. St.). Early v. Doe, 16 How. 610, 616; Pratt v. Tinkcom, 21 Minn. 142, 146; Worley v. Naylor, 6 Minn. 192, 200 (6 Gil. 123, 126); Bacon v. Kennedy, 56 Mich. 329, 22 N. W. 824; Meredith v. Chancey, 59 Ind. 466; Boyd v. McFarlin, 58 Ga. 208.

The order confirming the sale must be reversed, and the cause remanded for further proceedings not inconsistent with this opinion; and it is so ordered.

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ST. LOUIS DRAYAGE CO. v. LOUISVILLE & N. R. R.

(Circuit Court, E. D. Missouri, E. D. December 17, 1894.)

No. 3,786.

INTERSTATE COMMERCE—CONNECTING CARRIERS—EXCLUSIVE PRIVILEGES.

Neither public policy nor any legislation forbids a railroad company engaged in interstate commerce to make an exclusive contract with a carrier, whose route connects with and extends beyond that of such railroad company, for through billing and rating over the connecting lines, and by which such carrier is given the exclusive right to receive from the railroad company and forward freight destined to points beyond the line of such railroad.

This was an action by the St. Louis Drayage Company against the Louisville & Nashville Railroad to recover damages for unjust discrimination. The case was heard by the court without a jury.

This is an action for damages for unjust discrimination and undue preferences in contravention of public policy. The case was submitted to the court without the intervention of a jury, with the understanding that the court would first determine the questions of law arising in the case, and, if