

stated on p. 9, and treated on p. 187 and following pages of the opening argument. "All that the United States were required to do," says the counsel for the Respondents, "was to refrain from violation *by itself or its officers* of the possessory rights of the Company, and to permit the Company to enjoy the judicial remedies for individual trespasses customary in the country." The Claimants' statement is that the United States, "*by its officers and citizens, acting under the authority of its Government and law*," have violated and usurped these rights."

There is, it appears, no controversy between us on the point that the United States are liable for the acts of its officers and for acts done under its laws in violation of the rights of the Company. The only substantial question is whether that Government is liable for the acts of its citizens. I have but a word to say on this question. These acts are of two kinds—either they are acts done by the citizens under authority of the Donation and Settlement or other Laws of the United States, or they are acts of individual trespass not committed under the sanction or color of law. It is for the latter class of acts alone, it appears to me, that any doubt can arise as to the liability of the United States. As a general rule the Government would not be liable. But it is contended and proved that the course pursued by the officers, civil and military, of the United States, acting in many instances under instructions from the Government, and on all occasions, whether so acting or not, denying everywhere and in the most emphatic manner the rights of the Company, and the whole policy and conduct of the Government towards the Company up to the time of its final expulsion, were such that the population of the country were countenanced and encouraged in all forms of trespass and violation of these rights; and the United States having thus been the promoter and encourager of them all, is liable to the Company for the consequent injury suffered by it. There is also another consideration connected with the subject of these aggressions, which is not less conclusive. The citizens of the United States who trespassed and *squatted* upon the lands of the Company have either obtained grants of the Sections occupied by them or they have not. If they hold grants, as is the case with nearly all of them, the responsibility of the United States cannot be questioned, for by these grants it has