

Case No. 15,341. UNITED STATES V. THE HELENA.¹
[24 Hunt Her. Mag. 71.]

District Court, D. Michigan.

Oct. 21, 1850.

JURISDICTION OF DISTRICT COURTS—CUTTING TIMBER RESERVED FOR
NAVAL PURPOSES—LIBEL OF FORFEITURE AGAINST
VESSEL—CONSTRUCTION OF STATUTE.

- [1. The district court has exclusive jurisdiction, by virtue of the 9th section of the judiciary act of 1789, of a libel of forfeiture against a vessel seized for carrying away timber reserved for naval purposes, and which has been cut from public lands in violation of the act of March 2, 1831.]
- [2. All kinds of timber cut upon public lands held by the United States for the purpose of supplying timber to the navy are included in the prohibition of the statute, and, in a libel of forfeiture against a vessel for carrying the same away, it is not necessary to allege of what kinds the timber was.]

This was a libel filed against the vessel in this case, under the 2d section of the act of 2d of March, 1831 [4 Stat 472], and which charges that the master, owner, or consignee had taken on board, and transported from Muskegon, in the state of Michigan, to Chicago, in the state of Illinois, a large quantity of timber cut on lands belonging to the United States, which timber had been transported “with the knowledge of the owner, master, or consignee, that the same had been cut on the United States lands.” The claimant of the vessel interposed an answer to the libel in the nature of a plea to the jurisdiction, and which answer avers that the court had no jurisdiction under the act aforesaid, because the second section of said act was limited to the transportation by vessels of timber cut on lands reserved or purchased for naval purposes, or live oak and red cedar timber which is reserved for purposes of the navy, and that as there was no pretence that the timber carried was cut from lands purchased or reserved for naval purposes, nor was live oak or red cedar, that the case was not within the statute.

George C. Bates, Dist Atty.

Robert D. Wilson and Henry T. Backus, for respondents.

On the opening of the court his honor, WILKIN, District Judge, delivered his opinion sustaining the libel, and overruling the plea to the jurisdiction. His honor decided the following points:

1. That under the 9th section of the judiciary act of 1789 (1 Stat. 77), the district court has exclusive jurisdiction of cases of this kind, as they are brought for seizures made pursuant to the 9th section, and to recover penalties and forfeitures that have accrued to the United States.

2. That the 2d section of the act of 2d March, 1831 (4 Stat. 472), embraces all and every kind of timber specified in the first section, the enacting clause of the statute, and that vessels engaged in carrying lumber, cut on United States lands, with a knowledge of

UNITED STATES v. The HELENA.¹

the fact on the part of the owner, master, or consignee, are liable to seizure and condemnation, pursuant to said 2d section. That the decision of the supreme court in the case of *U. S. v. Briggs*, 9 How. [50 U. S.] 351, had settled the question that all kinds of timber cut on lands belonging to the United States were embraced in the enacting clause of the act, and that the word "aforesaid" in the second section embraced all the various kinds of timber specified in the first section.

As this is the first decision ever made upon the statute, and a large number of seizures have been made for violation of the second section, and the prosecutions have been awaiting a decision, it has been looked for with much anxiety, as well by the vessel

YesWeScan: The FEDERAL CASES

owners as the government. The law is now settled, and it is very important that all should hear in mind:

1. That persons trespassing on the public lands are liable to indictment, and, if found guilty, to punishment by a fine equal to three times the value of the timber cut, and also to imprisonment for a year for each offense.

2. That all vessels that are engaged in carrying lumber so cut on the lands of the United States, with a knowledge of the fact on the part of the owner, master, or consignee, are liable to forfeiture for each offense, and the captain of such vessel to a fine of one thousand dollars for each cargo.

{From this decree an appeal was taken to the circuit court, where the decision of this court was reversed, and the libel dismissed. Case No. 15,842.}

¹ {Reversed in Case No. 15,342.}