as owner of the cargo. The libelant claimed that while said brig was on a voyage from Sagua la Grande to Boston, with a cargo of sugar for the respondent, she was, on March 28, 1883, struck by a gale which carried overboard her jib-boom, part of the mainmast, foretop-mast, with all the spars, blocks, rigging, and sails attached, which, falling along-side the vessel, were held by the running and standing rigging, and began to beat heavily against the bottom and sides of the vessel, threatening to make a hole in the hull, and sink brig and cargo. The master thereupon, to save vessel and cargo, cut away these spars and rigging, and sails attached, and set them adrift, so that they were totally lost. The owners now claim to recover the value of these spars, sails, rigging, etc., so cut adrift, in general average. The respondent denied that cutting adrift such floating and wrecked spars and material was a general average sacrifice; and, if it was such a general average sacrifice, the respondent claimed they should be allowed for in general average only, at their value in their condition and position at the moment they were cut adrift.

F. C. Dodge & Sons, for libelants.

C. T. Russell and *C. T. Russell, Jr.*, for respondent.

NELSON, J. The Standard Sugar Refinery, as owners of the cargo of sugar on board the brig Mary Gibbs, is liable to contribute in general average for the material composing the wreck cut away for the purpose of saving the vessel and cargo; the value of the material, in adjusting the loss, to be estimated as if it had been recovered from the sea and stowed in safety on board the vessel.

Interlocutory decree for libelant.

HAMBLETON *v.* DUHAM and others.

(Circuit Court, D. California. December 8, 1884.)

1. REMOVAL OF CAUSE—CASE ARISING UNDER LAWS OF UNITED STATES—PETITION.
   The petition must set out the facts, and question arising thereon, so that the court can determine the question of jurisdiction, when it is sought to remove a case to a federal court on the ground that it arises under a law of the United States.
2. SAME—CONSTRUCTION OF LAW—ACT 1875, § 2.
   Unless a case arises out of a controversy as to the effect or operation of a provision in a law of the United States, as shown by the facts alleged, it cannot be removed under the second section of the act of 1875.
3. SAME—FACTS STATED ON INFORMATION AND BELIEF.
   Semble, that a statement of jurisdictional facts on information and belief will not be sufficient.

Motion to Remand.

R. Clark, for motion.

J. H. Craddock, *J. Lambert*, and *W. C. Belcher*, *contra*.

SAWYER, J. The jurisdictional facts attempted to be alleged are stated in the form held to be insufficient in *Wolff* v. *Archibald*, 14 FED. REP. 369: "as defendants are informed and believe." The court there held that jurisdictional facts must be positively alleged. On this point the sufficiency of the petition is, at least, doubtful. But, whether that ruling be correct or not, the allegations are insufficient, because they do not state facts showing that any particular disputed question of construction of the statute will arise, or how it will arise, so that the court can determine for itself, from the facts, that the decision will turn upon a disputed construction of the statute. On this point only the conclusion of the petitioner is stated. For all that appears, from the facts stated, the case may be determined entirely upon a disputed question of fact; as, whether the land is, in fact, swamp land or upland or some other question of fact. The petition is insufficient in this particular, under the decision in *Trafton* v. *Nougues*, 4 Sawy. 179; *Dowell* v. *Griswold*, 5 Sawy. 39; *Gold Washing Co.* v. *Keyes*, 96 U. S. 199.

Cause remanded to the state court, with costs.