

UNITED STATES *v.* LEATHERBERRY.*District Court, S. D. Mississippi.* May 26, 1886.

PUBLIC LANDS—PROTECTION OF
 TIMBER—BOXING TREES FOR
 TURPENTINE—SECTION 2461, REV. ST.,
 CONSTRUED.

It is a violation of section 2461, Rev. St., to box and chip trees, growing on the public domain, for turpentine purposes.

Motion to Exclude Evidence.

J. B. Harris, U. S. Atty., for the United States.

Luke Lea, for defendant.

HILL, J. It is admitted in this case that the trees were not severed or felled, and that the only cutting was what is known as boxing and chipping the trees, in order to extract the gum or sap, for turpentine or resin. The counsel for the defendant moves the court to exclude the evidence of the plaintiff, as it does not make out an offense against the law. I am, however, of the opinion that the motion must be overruled. The object and purpose of the statute (section 2461) is to protect the public timber. This purpose would, in a great measure, be defeated should the view of defendant's counsel prevail. The language of the statute is, "*cut*, or procure to be *cut*, or aid or assist or be employed in cutting," etc., "with intent to export, dispose of, use, or employ the same in any manner whatsoever other than for the use of the navy of the United States." Certainly cutting the timber in order to extract its gum and sap for one's private use is cutting it with intent to use and employ it in a manner other than for the navy of the United States.

Motion overruled.

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