

UNITED STATES *v.* ORDWAY AND OTHERS.

Circuit Court, D. Oregon. DEADY, J. This case was argued and submitted with the foregoing one. It is alleged in the complaint that on May 1, 1883, and divers days since, the defendants cut and removed from the public lands of the United States, to-wit, the W ½ of section 13 of township 3 N., of range 9 E. of the Wallamet meridian, situate in Washington Territory, 600 trees, and cut the same into cord-wood, to-wit, 3,000 cords, of the value of \$7,500, and wrongfully converted the same to their own use, to the damage of the plaintiff \$7,500. The defenses are similar to those made in the foregoing case, to-wit: Denials; a license from the Northern Pacific Railway Company; and the cutting was done in good faith. In the second defense it is alleged that the premises are within the limits of the grant to the Northern Pacific on the line of its general route between Portland and Wallula junction, and that, acting under a license from said corporation, they cut and removed from said half section not more than 1,800 cords of wood, of no greater value when standing in the tree than 10 cents a cord.

The demurrer to the defenses of good faith is overruled, and sustained to that of license from the Northern Pacific.