

CUTTING TIMBER ON PUBLIC LANDS.

C. & S. CIRCUIT COURT-DISTRICT OF OREGON.

FRIDAY, NOV. 23, 1883.

United States vs. Charles Williams, William Williams, B. J. Pengra - No. 932. Action for damages for cutting timber on the public land.

United States vs. Charles Williams, B. J. Pengra - No. 933. Same.

Under these several parts, to cut and remove timber therefrom for the purpose for which they were thus conveyed, but not otherwise. And the timber so cut might be disposed of either as firewood, U. S. vs. Nelson, 5 Saw. 68.

lead simply as a danger engaged in getting out logs for the Springfield saw mill. But admitting that the defendant was actually on the northwest quarter for the purpose of clearing it into homestead, then he did not intend to cut timber from it until it was disposed of as such, or otherwise, only as fast and for as he put the land in cultivation. It is not possible to lay down any absolute rule as to how near the cultivation should be to the clearing, how close the pole shall follow the use, but it is clear that whoever cuts timber on the public lands and removes it therefrom or disposes of it must be prepared to show that he is a lawful settler, and that the timber was cut for the purpose of clearing and cultivating the land and not otherwise.

But this is a privilege, and the temptation to do so is very strong. Therefore it ought not to be allowed, except upon clear proof that the clearing or cultivation has kept pace, here by person or field by field, with the cutting and removal. Otherwise the public lands will soon be pillaged of their valuable timber by the contractors and employees of the government, and the consequent damage to the public lands will be incalculable. It is admitted that the timber is taken out by the contractor, and that the contractor is authorized to do so by the government, and that the contractor is not liable for the damage done by him.

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