

**COMPILATION OF PUBLIC  
TIMBER LAWS AND  
REGULATIONS AND DECISIONS  
THERUNDER, JANUARY 21, 1897**

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**VARIOUS**

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# U.S. - Dept. of the interior - General land office.

COMPILATION

OF

PUBLIC TIMBER LAWS

AND

REGULATIONS AND DECISIONS THEREUNDER.

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DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., January 21, 1897.*

The following compilation of existing laws relative to timber on the public lands, with the rules and regulations thereunder, and decisions, opinions, and rulings in relation thereto, is issued for the information of those concerned.

S. W. LAMOREUX,  
*Commissioner.*

## SYNOPSIS OF LAWS RELATING TO TIMBER ON PUBLIC LANDS.

- Section 2461, U. S. R. S., provides a fine of not less than triple the value of the timber and imprisonment not exceeding twelve months in instances in which timber is cut or removed from public lands reserved or purchased for the use of the Navy or from any other public lands for use other than for the Navy of the United States. (See sec. 4751, U. S. R. S.) See also the following: Act of March 1, 1817, 3 Stat., 347 (secs. 2458 and 2459, U. S. R. S.); and act of February 23, 1822, 3 Stat., 651 (sec. 2460, U. S. R. S.).
- Section 2462, U. S. R. S., provides for the forfeiture to the United States of any vessel having on board, with knowledge of the master, owner, or consignee, timber taken from Naval Reserve or other public lands with intent to transport the same to any port or place within the United States or for export to any foreign country, and further provides that the captain or master of such vessel shall pay to the United States a sum not exceeding \$1,000. (See sec. 4751, U. S. R. S.)
- Section 2463, U. S. R. S., provides that collectors of customs in Alabama, Mississippi, Louisiana and Florida, before allowing clearance to any vessel having on board live-oak timber, must ascertain that the same was cut from private lands, or if from public lands, by consent of the Navy Department; and also provides that timely prosecution be instituted against parties guilty of depredations on live oak in those States. (See secs. 4205 and 4751, U. S. R. S.)
- Section 4205, U. S. R. S., reads as follows: "Collectors of the collection districts within the States of Florida, Alabama, Mississippi, and Louisiana, before allowing a clearance to any vessel laden in whole or in part with live-oak timber, shall ascertain satisfactorily that such timber was cut from private lands, or if from public lands, by consent of the Department of the Navy." (See sec. 2463.)
- Section 4751, U. S. R. S., provides that all penalties and forfeitures under sections 2461, 2462 and 2463 shall be recovered, etc., under the direction of the Secretary of the Navy—one-half to be paid to the informers or captors and the other half to the Secretary of the Navy; and also authorizes the Secretary to mitigate any fine, penalty or forfeiture so incurred.
- Section 5388, U. S. R. S., provides a fine of not more than \$500 and imprisonment not more than twelve months in every instance in which timber is unlawfully cut or injured on lands reserved or purchased for military or other purposes. (See secs. 2460 and 2463, U. S. R. S. See also act of June 4, 1888; 25 Stat., 166, amending this section.)
- Act of March 3, 1875 (18 Stat., 481), section 1 provides a fine of not exceeding \$500 or imprisonment not exceeding twelve months in instances in which ornamental or other trees on surveyed public lands which have been reserved have been cut or injured. Section 2 provides a fine not exceeding \$200 or imprisonment not exceeding six months for the breaking open or destroying of any gate, fence, hedge, or wall inclosing any lands reserved or purchased by the United States. Section 3 provides a penalty of not exceeding \$500 or imprisonment not exceeding twelve months for the breaking in of any inclosure around lands reserved or purchased by the United States, and permitting cattle, horses and hogs to enter therein when they may or can destroy the grass, trees, or other property of the United States.

Act of March 3, 1875 (18 Stat., 482), grants the right of way through the public lands of the United States to any railroad company which has filed with the Secretary of the Interior due proof of its organization, etc., and also the right to take from lands adjacent to the line of the road timber necessary for the construction of the road.

The several land grants to railroads also authorize them to cut timber from public lands for construction purposes. This authority, however, is confined strictly to timber for construction purposes in every grant except that to the Denver and Rio Grande Railroad, which authorizes said road to take timber for repairs also on the part of the line constructed thereunder.

Act of September 29, 1890 (26 Stat., 496) forfeited the grants to all uncompleted railroads to the extent of the grants for the unconstructed portions of such roads.

Act of April 30, 1878 (20 Stat., 46), section 2, provides that if any timber cut on the public lands shall be exported from the Territories of the United States it shall be liable to seizure by United States authority wherever found.

Act of June 3, 1878 (20 Stat., 88), authorizes citizens and bona fide residents of Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho and Montana and all other mineral districts, to use for building, agricultural, mining or other domestic purposes, timber on public lands therein, said lands being mineral and not subject to entry under existing laws of the United States except for mineral entry.

Act of June 3, 1878 (20 Stat., 89), section 1, provides for the sale of unreserved, unoffered surveyed public timber lands in California, Oregon, Nevada and Washington, in quantities not exceeding 160 acres, to any one person or association of persons, at \$2.50 per acre. Section 4 prohibits the cutting, removing or destroying of any timber on public lands in the States named with intent to export or dispose of the same, under penalty to the trespasser and the owner or consignee of any vessel or railroad on which the timber is transported, of a fine of not less than \$100 nor more than \$1,000; and provides "that nothing herein contained shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements." Section 5 provides that any person who is prosecuted in the States named for trespass under section 2461, U. S. R. S., if not for export from the United States, may be relieved from prosecution by paying a sum equal to \$2.50 per acre for the land on which the timber was cut.

This act is made applicable to all the public-land States by act of August 4, 1892 (27 Stat., 348).

Act of June 15, 1880 (21 Stat., 237), provides that where timber was unlawfully cut from public timber lands prior to March 1, 1879, and the lands have subsequently been entered and the Government price paid therefor in full, no criminal proceedings for trespass shall be further maintained; and no civil suit shall be maintained for timber taken in clearing the land for cultivation, or working a mining claim, or for agricultural or domestic purposes, or for maintaining the improvements of a settler, etc., or for timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for same, or for any alleged conspiracy in relation thereto.

Act of June 4, 1888 (25 Stat., 166), provides as follows: "That section fifty-three hundred and eighty-eight of the Revised Statutes of the United States be amended so as to read as follows: 'Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys or procures to be wantonly destroyed, any timber standing upon the land of the United States which, in pursuance of law, may be reserved or purchased for military or other purposes, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under authority of the United States, shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court.'"



Act of February 16, 1889 (26 Stat., 673), provides that the President may authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, remove and dispose of the dead or down timber thereon, for the sole benefit of the Indians.

It is further provided that whenever there is cause to believe that the timber has been killed or otherwise injured for the purpose of securing its sale under this act, such authority shall not be granted.

Act of March 3, 1891 (26 Stat., 1093), entitled "An act to amend section eight of an act approved March third, eighteen hundred and ninety-one," etc., provides that "in the States of Colorado, Montana, Idaho, North Dakota, and South Dakota, Wyoming, and the District of Alaska, and the gold and silver regions of Nevada and the Territory of Utah in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes under rules and regulations made and prescribed by the Secretary of the Interior and has not been transported out of the same, but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain, provided that the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this act, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations, but this act shall not operate to repeal the act of June third, eighteen hundred and seventy-eight, providing for the cutting of timber on mineral lands."

(See below act of February 13, 1893 (27 Stat., 444), extending this act to New Mexico and Arizona.)

Section 24 of the act of March 3, 1891 (26 Stat., 1095), provides for the establishment of forest reservations in any State or Territory having public lands bearing forests.

Act of August 4, 1892 (27 Stat., 348), extends the provisions of the act of June 3, 1878 (20 Stat., 89), to all the public-land States.

Act of February 13, 1893 (27 Stat., 444), extends the provisions of the act of March 3, 1891 (26 Stat., 1093), to include the Territories of New Mexico and Arizona.

Act of January 19, 1895 (28 Stat., 634), provides for the utilization of burned timber on certain unperfected homestead entries in Wisconsin, Minnesota and Michigan.

Section 2 of the act of February 20, 1896 (29 Stat., 11), to open certain forest reservations in the State of Colorado for the location of mining claims, authorizes the owners of such claims to fell and remove therefrom for actual mining purposes in connection with the particular claim from which the timber is felled or removed, but prohibits the felling or removing of timber from any other portions of said reservations by private parties for any purpose whatever.

Act of February 24, 1897 (29 Stat., 594), entitled "An act to prevent forest fires on the public domain," provides, "that any person who shall wilfully or maliciously set on fire, or cause to be set on fire, any timber, underbrush, or grass upon the public domain, or shall carelessly or negligently leave or suffer fire to burn unattended near any timber or other inflammable material, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any district court of the United States having jurisdiction of the same, shall be fined in a sum not more than five thousand dollars or be imprisoned for a term of not more than two years, or both.

"Sec. 2. That any person who shall build a camp fire, or other fire, in or near any forest, timber, or other inflammable material upon the public domain, shall, before breaking camp or leaving said fire, totally extinguish the same. Any person failing to do so shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any district court of the United States having jurisdiction of

the same, shall be fined in a sum not more than one thousand dollars, or be imprisoned for a term of not more than one year, or both.

"Sec. 3. That in all cases arising under this act the fines collected shall be paid into the public-school fund of the county in which the lands where the offense was committed are situate."

Act of February 26, 1897 (29 Stat., 599), entitled "An act concerning certain homestead lands in Florida," provides "that all persons actually occupying homesteads in good faith in any of the following named counties in said State of Florida, to wit, Alachua, Lafayette, Levy, Suwannee, Bradford, Baker, and Columbia, at the time of the storm on or about September twenty-ninth, eighteen hundred and ninety-six, are hereby granted the right to sell or otherwise dispose of the fallen timber on their homestead entries felled by said storm, and to devote the proceeds of such sale or barter to the improvement of their homesteads or support of themselves or their families."

#### RECAPITULATION.

##### ACTS FOR THE PROTECTION AND PRESERVATION OF PUBLIC TIMBER.

Section 2460, U. S. R. S. Authorizing use of Army and Navy to prevent timber deprivations in Florida.

Section 2461, U. S. R. S. Prohibiting the cutting of timber from any public lands for any purpose whatever, except for the use of the Navy of the United States.

Section 2462, U. S. R. S. Providing penalties for transporting or exporting any timber cut from any public lands not reserved or purchased for furnishing timber for the Navy.

Sections 2463 and 4205, U. S. R. S. Providing that collectors of customs in Alabama, Florida, Louisiana and Mississippi must see to it that no live-oak timber is transported or exported out of said States.

Section 4751, U. S. R. S. Providing relative to recovery and disposition of penalties and forfeitures under sections 2461, 2462 and 2463.

Section 5388, U. S. R. S. Prohibiting the cutting or destroying of timber on reserved lands (Amended by act of June 4, 1888; 25 Stat., 166.)

Act of March 3, 1875 (18 Stat., 481). Prohibiting the cutting, destroying or injuring of any trees on reserved lands.

Act of April 30, 1878, section 2 (20 Stat., 46). Providing that if any timber cut on the public lands shall be exported from the Territories of the United States, it shall be liable to seizure by United States authority wherever found.

Act of June 3, 1878, section 4 (20 Stat., 89). Prohibiting the cutting of timber in California, Oregon, Nevada or Washington, for export, disposal or transportation.

This act is made applicable to all the public-land States by the act of August 4, 1892 (27 Stat., 348).

Act of June 4, 1888 (25 Stat., 166). Prohibiting the cutting of timber on lands reserved for military or other purposes, or on Indian reservations, etc.

Act of March 3, 1891 (26 Stat., 1095). Authorizing the President of the United States to make forest reservations.

Act of August 4, 1892 (27 Stat., 348). Extending the provisions of the act of June 3, 1878 (20 Stat., 89), to all the public-land States.

Act of February 20, 1896 (29 Stat., 11). Opening certain forest reservations in the State of Colorado for the location of mining claims.

Act of February 24, 1897 (29 Stat., 594). To prevent forest fires on the public domain.

##### ACTS AUTHORIZING THE USE OF PUBLIC TIMBER.

Act of March 3, 1875 (18 Stat., 482). Authorizing right-of-way railroads to procure timber from public lands for construction purposes.

The several acts making land grants to railroad companies.

Act of June 3, 1878 (20 Stat., 88). Authorizing the cutting of timber from public mineral lands in Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho and Montana for domestic purposes.

Act of June 3, 1878 (20 Stat., 89). Authorizing the sale of public timber lands in California, Oregon, Nevada and Washington, and the cutting of timber by miners and agriculturists for use on their claims, and the taking of timber for the use of the United States.

This act, by the act of August 4, 1892 (27 Stat., 348), is extended to all the public-land States.

Act of February 16, 1889 (25 Stat., 673). Authorizing Indians on reservations to cut, remove and dispose of dead and down timber.

Act of March 3, 1891 (26 Stat., 1093). Authorizing the cutting of timber in Colorado, Montana, Idaho, North Dakota, South Dakota, Wyoming, Alaska, Nevada and Utah for all domestic purposes.

The act of February 13, 1893 (27 Stat., 444), extends the operation of this act to New Mexico and Arizona.

Act of August 4, 1892 (27 Stat., 348). Extending the provisions of the act of June 3, 1878 (20 Stat., 89), to all the public-land States.

Act of February 13, 1893 (27 Stat., 444). Extending the provisions of the act of March 3, 1891 (26 Stat., 1093), to include the Territories of New Mexico and Arizona.

Act of January 19, 1895 (28 Stat., 634). Providing for the utilization of burned timber on certain unperfected homestead entries in Wisconsin, Minnesota and Michigan.

Act of February 20, 1896 (29 Stat., 11). Opening certain forest reservations in the State of Colorado for the location of mining claims.

Act of February 26, 1897 (29 Stat., 599). Providing for the utilization of certain felled timber on unperfected homestead entries in certain counties in Florida.

In addition to the above specific legislation in respect to timber on public lands the inceptive rights acquired by a homestead claimant are held to extend to the use of so much timber as it may be necessary to fell or remove in clearing the land for cultivation, or for buildings, fences, or other improvements on the land. See *United States v. Levi W. Nelson* (5 Sawyer, 68), cited on page 83; also, *Shiver v. United States* (159 U. S., 491), cited on page 89.

#### SUMMARY.

The foregoing synopsis shows that section 2461, U. S. R. S. (act of March 2, 1831; 4 Stat., 472), constitutes the original policy respecting public timber and the extent to which certain of the subsequent acts operate as modifications of same.