

COOK, COMMISSIONER OF REVENUES, *v.* WILSON.

4-7527

193 S. W. 2d 818

Opinion delivered April 22, 1946.

TAXATION—SEVERANCE TAXES.—Appellees are not entitled to immunity from payment of severance taxes on timber severed merely because it was cut from land held by the United States as original owner. 16 USCA, § 471.

Appeal from Garland Chancery Court; *Sam W. Garratt*, Chancellor; reversed.

Herrn Northcutt, for appellant.

Murphy & Wood, for appellee.

ED. F. McFADDIN, Justice. This is the same case as *Cook, Commissioner of Revenues, v. Wilson, et al.*, 208 Ark. 459, 187 S. W. 2d 7.

In the former opinion we allowed the state a partial recovery, but we held:

“That the appellees are not liable to the State for severance tax on timber severed by them from lands held by the United States as original owner (U.S.C.A. Title 16, § 471); and to that extent the decree of the chancery court is affirmed.”

The Supreme Court of the United States granted certiorari, and held that the appellees were not entitled to immunity from severance tax merely because the timber severed by them was from lands held by the United States as original owner (U.S.C.A. Title 16, § 471). See *Wilson v. Cook*, 326 U. S. 685, 66 S. Ct. 663, 90 L. Ed. 402.

The mandate of the U. S. Supreme Court has now been filed in this court. By reason of that mandate we now recall so much of our former opinion as is in conflict with the opinion of the United States Supreme Court; and we now reverse in full the decree of the Garland chancery court rendered in this case on June 27, 1944; and we remand this cause to the Garland chancery court, with directions to render judgment in favor of the Commissioner of Revenues of the State of Arkansas, and against the appellees, not only for the \$276.35 and interest as stated in our former opinion, but also for the additional tax, penalty and interest sued for and due, plus all costs of all courts, including the amount certified in the mandate of the United States Supreme Court.
