

MAINE STATE LEGISLATURE

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September 9, 1933

Mrs. Emma Velt Potter
432 Pleasant Street
Canton, Massachusetts

Dear Madam: Re: Damage, Land in Walpole claimed
to be owned by E. S. Wyman.

In response to your communication I beg to inform you that from the information I have received from the State Highway Commission, it appears that Mr. Wyman represented to the Commission that he was the owner of the land in question and was the only person who appeared at the hearing on damages. Consequently an award was made covering the entire damage and the amount was paid to Mr. Wyman.

In a similar case, reported in Volume 75 of the Maine Reports, Page 436, where damages were awarded in gross when there were two claimants, our Court held that,--

"The person having an interest in the land might recover of the person to whom damages were awarded, his share of the damages in an action for money due and received."

The Court further said that,--

"By mistake only one award was made although there were two persons interested in the land. The duty of the commissioners in awarding the damages were, first, to ascertain the entire damages and then apportion them. It is not unusual in such proceedings for the award to be made in gross and the division to be made afterwards according to the ownerships. Proceedings have been sustained there only the quantum of damages was found and awarded to owners unknown."

In the present case there was no decision that an owner other than Mr. Wyman was not entitled to damages. The damages were assessed in gross and were paid to Mr. Wyman. He is undoubtedly liable to you for your portion of the damages received by him if in fact you were a part owner in the land.

Very truly yours,

Deputy Attorney General

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