

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA

March 26, 1956

Capt. Wilbur H. Towle
Chief State Police
Augusta, Maine

Dear Sir:

In answer to your recent oral inquiry regarding the ownership of logs and timber carried away by freshets, I am pleased to call your attention to Sections 7 and 8 of Chapter 52 of the Revised Statutes of Maine, which provide as follows, viz.:-

"Logs or other timber carried by freshets, or otherwise lodged, upon lands adjoining any waters, are forfeited to the owner or occupant thereof, after they have so remained for two years, if such lands, during that time were improved; otherwise after six years; provided, that such owner or occupant, within one year after the same were found so lodged, advertises, as nearly as practicable, the number of pieces of timber, the time when lodged, together with the marks thereon, and the place where found, three weeks successively in some newspaper in the county, if any, otherwise in the state paper.

The owner of said timber may enter on said land and remove it at any time before forfeiture, having previously tendered to the owner or occupant thereof, a reasonable compensation for all damages occasioned by the lodging, remaining, or removal of said timber, and the expense of advertising it; but if the timber is removed by the owner, or otherwise, without such tender, the owner of the land may recover, in an action of trespass, the damages aforesaid."

In the case of Berrystal v. Carle, 3 Me. 248, it was held, in effect, that "if the property of one person happens accidentally to lodge on the land of another, or in the waters of which he has control as his private property, the latter, in removing it from his premises, is bound to do it with as little injury as possible".



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The statute above quoted makes certain the right of the owner of logs or timber to reclaim those carried away by freshets and lodged upon land adjoining any waters.

I do not find any definite statutory provision with reference to manufactured lumber or other property carried away by freshets, but in the case of Berrystal v. Carle all property seems to be included as being subject to the claim of the original owner. The general rule is that he who has found a thing that is lost is bound to preserve it, and to take care of it in order to restore it to its owner, and when he does restore it, he cannot detain any part of it nor demand anything for having found it, but he is entitled to recover what expense he has incurred.

It has been held that the proprietor of land on which is thrown the rubbish of a building that has fallen down, or that which a flood has carried away from another's ground, is obliged to suffer him who has had the loss to take away what remains, and to allow him such free access to his land as is necessary for that end. But if he whose lumber or other things have been thrown by these accidents on the estate of another person, be desirous to take them away he will be obliged to make reparation to the owner of the ground for the expense and damage he has sustained in preserving them.

Very truly yours,

SANFORD L. FOGG

Deputy Attorney General

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