

## CHAPTER 90

## TIMBER LANDS

**90.01 DEFINITIONS.**

State control of the use of its natural resources. 11 MLR 129, 233.

**90.07 TRESPASS ON STATE LANDS.**

In an action under the provisions of L. 1895, c. 163, s. 7, to recover treble damages for wilful trespass to pine timber of the state, following *State v Buckman*, 95 M 272, 104 NW 240, the time limit for bringing action is three, not two, years. *State v Bonness*, 99 M 392, 109 NW 703.

A complete settlement of a claim for timber cut on state land was made, proper entry made on the books of the state auditor and the amount agreed upon paid to the state treasurer. An action for an additional accounting brought 11 years later was such laches on the part of the state as to estop it from questioning the original settlement. The fact that the person who made the settlement exceeded his authority does not avoid the estoppel. *State v Gardiner*, 181 M 513, 233 NW 16.

Vendee in possession of land under a contract of purchase and as such the equitable owner, the vendor holding the legal title simply as security for the unpaid portion of the purchase price, is entitled to recover all damages to the land resulting from trespass thereon. *Lawrenz v Langford*, 206 M 315, 288 NW 727.

Timber standing on or cut upon state land is the property of the state. While standing it is a part of the realty, and upon severance it is personal property and still belongs to the state. All remedies are open to the owner which the law affords in cases of wrongful removal or conversion of personal property. *Schulenberg v Harriman*, 88 US 44.

**90.13 SALES OF STATE TIMBER.**

See, notes under section 90.07.

A permit to cut timber on state land, void for irregularity, may be attacked collaterally, although it recites on its face facts showing that the law was complied with in the issuance of the writ. *State v Shevlin-Carpenter*, 62 M 99, 64 NW 81.

**90.18 STUMPAGE; SALES, NOTICES.**

The provision for a valid surety bond required of a purchaser at a timber sale is not fulfilled by a letter of credit and guaranty from a bank. OAG Dec. 2, 1944 (27h).

**90.20 SALE OF TIMBER; MANNER, PAYMENTS; RE-SALES.**

Where timber in question was cut and removed after its permit had expired, the state is not estopped, in a civil action, to recover double the amount of the value of the timber taken, by reason of the fact that the land commissioner gave appellant to understand that a further extension of the permit would be granted; and by reason of the fact that appellant proceeded in good faith, and the state received payment therefor, with interest, and retained the same. *State v Shevlin-Carpenter*, 102 M 470, 113 NW 634, 114 NW 738; 30 SC 663, 218 US 57.

Abandonment of property; salvaging of sunken logs. 6 MLR 149.

### 90.21 PERMITS TO CUT AND REMOVE TIMBER.

The permit holder because of weather and labor difficulties failed to take out all the timber prior to the expiration of his permit on Dec. 31, 1944. Permission cannot be granted him to remove the balance. OAG Sept. 10, 1945 (27-E).

### 90.22 SURETY BONDS BY TIMBER PURCHASERS.

In issuance of a permit to a purchaser of state timber, the state takes a bond from the purchaser to secure the price. If the permit is assigned, it takes another bond from the assignee for the same purpose and keeps the original bond in force. The state is not required to exhaust its remedy on the second bond before resorting to the first. *State v Aetna Casualty*, 140 M 70, 167 NW 294; *Aetna Casualty v Equitable Surety*, 145 M 326, 177 NW 137.

In an action on a surety bond, conditioned that the purchaser "shall faithfully comply with all the terms and conditions of the timber permit," etc., the statute of limitations does not run against the state and in favor of the surety. *State v Iowa Bonding Co.*, 180 M 160, 230 NW 484.

The right of a surety to compete in the distribution of bankrupt principal's assets with creditors secured by bond, where liability on bond has been discharged. 30 MLR 543.