

entitle the plaintiff company to erect or maintain this sheer boom and by means of it to divert the property of a Canadian citizen from Canada into the United States and there to cause it to pass into the custody and control of a foreign corporation. Such was the practical effect of the maintenance of the sheer boom as regards a substantial portion of the logs in question. Thus the plaintiff company illegally acquired possession of a portion of the defendants' property, removed it from Canada and now claims compensation for services in respect thereof. If a person wrongfully takes possession of a chattel property of another and whilst in such possession alters, improves or otherwise deals with it, he is not entitled to payment for such services. (*Hiscox v. Greenwood*, 4 Esp. 174; *Cheeshire Railroad Co. v. Foster*, 51 N. H. 490; *Purves v. Moltz*, 5 Robertson N.Y. 654; *Silsbury v. McCoon*, 6 Hill, N.Y. 425; *Bryant v. Ware*, 30 Me. 295.)

The evidence shews that without the sheer boom some of the defendants' logs would have floated down the river on the north side and others on the south side of the boom, but what proportion in each case is quite uncertain. The direction and velocity of the winds, the quantity of logs in the river at one time, also the proportions of the defendant company's logs and other owners' logs then floating together are all factors which would have affected the course taken by the logs. There is no evidence shewing to what extent these influences affected the direction taken by the defendants' logs in the seasons 1906 and 1907.

The plaintiffs claim at the rate of 35 cents per thousand feet, board measure, of logs of the defendants passing through their works during those years, but even if they are entitled to payment at that or any other rate for such logs as if uninterfered with would have floated inside the plaintiffs' works, it seems to me impossible to determine the proportion not affected by the wrongful action of the plaintiffs in taking possession of a portion of the defendants' logs by means of the sheer boom. To do so it would be necessary to seduct from the mixed mass of logs that passed through the boom of the company's works in the two years in question, the quantity of the defendant company's logs wrongfully taken possession of by means of the sheer boom. To say what that quantity was would be the merest guess-work. There is no reasonable evidence whereby to determine it.