

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED JANUARY 25, 1871;

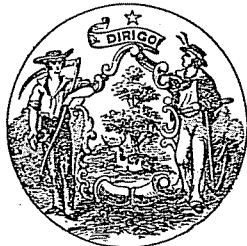
TO WHICH ARE PREFIXED  
THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

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BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
PUBLISHED BY BAILEY & NOYES.

CHAPTER 94.

FORCIBLE ENTRY AND DETAINER. TENANCIES.

- SEC. 1. Forcible entry and detainer, when may be commenced.
- 2. Tenancy at will, or sufferance, how terminated.
- 3. What magistrates have jurisdiction.
- 4. Complaint how made, summons issued and served. If claimant lives out of the county or state, proceedings.
- 5. When defendant fails to show sufficient cause or is defaulted, proceedings.
- 6. When defendant files a brief statement claiming title in himself or another, proceedings.
- 7. Claimant may allege that brief statement is intended for delay, proceedings.
- 8. Either party may appeal, proceedings.
- 9. When judgment is for claimant, he may in all cases have possession.
- 10. Sums due for rent and claims for damages may be recovered by action of assumpsit.

SEC. 1. A process of forcible entry and detainer may be maintained against a disseizor, who has not acquired any claim by possession and improvement; and against a tenant holding under a written lease or contract, or person holding under such tenant, at the expiration or forfeiture of the term, without notice, if commenced within seven days from the expiration or forfeiture of the term; and against a tenant at will, whose tenancy has\* been terminated as provided in the following section.

Forcible entry and detainer, when may be commenced.  
 R. S. c. 94, § 1.  
 18 Me. 244.  
 25 Me. 233, 237.  
 30 Me. 180.  
 35 Me. 214.  
 37 Me. 106.  
 38 Me. 432.  
 46 Me. 270.

SEC. 2. All tenancies at will may be determined by either party, by thirty days' notice in writing for that purpose given to the other party, and not otherwise except by mutual consent, and excepting cases where the tenant is liable to pay rent and no rent is due at the time the notice expires. When terminated, the tenant is liable to the process aforesaid without further notice, and without proof of any relation of landlord and tenant, unless he has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of a third party.

Tenancy at will, how terminated. Applied to buildings on land of a third party.  
 R. S. c. 94, § 2.  
 1862, c. 98.  
 1863, c. 199.  
 13 Me. 209.  
 19 Me. 252.  
 20 Me. 70.  
 21 Me. 114.  
 24 Me. 242.  
 35 Me. 505.  
 36 Me. 133.

SEC. 3. Trial justices and judges of municipal and police courts have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such judges have exclusive jurisdiction of them within their cities or towns, unless interested.

What magistrates have jurisdiction.  
 R. S. c. 94, § 3.  
 4 Me. 434.  
 51 Me. 478.  
 53 Me. 158.

SEC. 4. The process of forcible entry and detainer shall be commenced by inserting the substance of the complaint, as a declaration, in a writ of attachment, to be endorsed and served like other writs; and when the plaintiff lives out of the state, and a recognizance is

Process of forcible entry and detainer, how commenced, endorsed and served.  
 When plaintiff lives out of

CHAP. 94. required of him, any person may recognize in his behalf and shall be personally liable.

the state another may recognize for him.

R. S. c. 94, § 4. 1870, c. 114.

When defendant fails to show cause, or is defaulted, writ of possession to issue and by whom served.

R. S. c. 94, § 5.

Proceedings when he files a brief statement of title.

R. S. c. 94, § 6.

36 Me. 431.

49 Me. 40.

53 Me. 153.

Claimant may allege that brief statement is intended for delay; proceedings.

R. S. c. 94, § 7.

Either party may appeal; proceedings.

R. S. c. 94, § 8.

36 Me. 431.

When judgment is rendered for claimant, he may in all cases have possession.

R. S. c. 94, § 9.

SEC. 5. When the defendant is defaulted, or fails to show sufficient cause, judgment shall be rendered against him for possession of the premises, and a writ of possession issued to remove him, which may be served by a constable.

SEC. 6. When the defendant pleads not guilty and files a brief statement of title in himself or in another person, under whom he claims the premises, he shall, except as hereafter provided, recognize in a reasonable sum to the claimant, with sufficient sureties, conditioned to pay all intervening damages and costs, and a reasonable rent for the premises; and the claimant shall in like manner recognize to the defendant, conditioned to enter the suit at the next term of the supreme judicial court, and pay all costs adjudged against him. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default.

SEC. 7. But the claimant may make a written allegation, that the brief statement of the defendant is frivolous and intended for delay, and the magistrate may then examine the case so far as to ascertain the truth respecting it, and if satisfied of the truth of such allegation, he may proceed to try the cause upon the plea of not guilty, and if determined in favor of the claimant, may issue a writ of possession for removal of the defendant; but this shall not prevent an appeal as provided in the following section.

SEC. 8. Either party may appeal from a judgment to the supreme judicial court next to be held in the same county. When the claimant appeals, he shall recognize in manner aforesaid to the defendant, except as hereafter provided, conditioned to enter the suit and pay all costs adjudged against him. When the defendant appeals, he shall recognize in like manner to the claimant, conditioned to enter the suit and pay all intervening costs and such reasonable rent of the premises, as the magistrate shall adjudge, if the judgment is not reversed.

SEC. 9. When judgment is rendered for the claimant, a writ of possession shall issue in all cases, if the claimant recognizes to the defendant in manner before provided, conditioned to pay all such damages and costs as may be awarded against him, if final judgment is rendered for the defendant; and on trial if the jury find for the defendant, they shall find the damages sustained by him; and in case of nonsuit his damages shall be assessed by the court; and the claimant may give evidence of any claim for rent of the premises, to be set off against damages claimed by the defendant. If the defendant prevails, the court may or not, as justice requires, issue a writ to restore to him possession of the premises.

SEC. 10. Sums due for rent on leases under seal or otherwise, and claims for damages to premises rented, may be recovered in an action of assumpsit, on account annexed to the writ, specifying the items and amount claimed.

CHAP. 95.  
Sums due for rent and damages how recovered.  
R. S. c. 94, § 10.

## CHAPTER 95.

### WASTE AND TRESPASS ON REAL ESTATE.

- SEC. 1. Remedy if tenant for life or years commits waste; the heir may sue for waste committed in his ancestor's time, as well as in his own time.
2. Proceedings in court; jury in all cases to assess damages, with or without a view of the premises; action of the case may be brought instead of waste.
3. Reversioner and remainder man may sue for damages.
4. The action will lie against the executor or administrator.
5. Part owners not to commit waste without giving thirty days' notice; treble damages to be awarded in such case; how recovered and appropriated.
6. Defendant not to pay treble damages in certain cases.
7. Injunction to prevent waste pending a process for the recovery of lands, and on lands attached.
8. Treble damages may be recovered for waste on lands pending a suit therefor.
9. Trespass on lands of another without his consent.
10. Trespasses on public buildings or property of county, town, parish or school district.
11. Trespasses by taking grass, fruit, or other vegetables from improved lands.
12. Penalty for waste on lands of a person deceased insolvent.
13. Liability of executor or administrator for committing waste.
14. One or more tenants in common may join or sever in actions for damages. Notice to the other co-tenants to be given, who may become plaintiffs.
15. Judgment to be rendered for the whole damage, and execution to issue for the proportion which the plaintiffs have sustained. Scire facias on such judgment by the other co-tenants for their shares.
16. If one or more joint tenant takes the whole rent, the co-tenants may recover their share, after demand.

SEC. 1. If any tenant in dower, by courtesy, for life, or for years, commits or suffers any waste on the premises, the person having the next immediate estate of inheritance, may recover the place wasted and the damages done to the premises, in an action of waste against him; and an heir may recover in the same action for waste done in his own time and the time of his ancestor.

SEC. 2. Any issue of fact shall be tried by a jury, with or without a view of the premises, as the court orders; and the jury that inquires of the waste shall assess the damages. An action on the case in nature of waste, may be substituted for the action of waste.

Remedy if tenant for life or years commits waste, &c.  
R. S. c. 95, § 1.  
12 Me. 434.  
19 Me. 288.  
37 Me. 363.  
51 Me. 434.  
Issue of fact tried by jury who assess damages; actions of the case instead of waste.  
R. S. c. 95, § 2.  
52 Me. 141.