

# MAINE STATE LEGISLATURE

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## CHAPTER 739

## WASTE AND TRESPASS TO REAL ESTATE

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## SUBCHAPTER I

## WASTE

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**§ 7501. Remedy if tenant commits waste**

If a tenant in dower, by curtesy, 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 against him. An heir may recover in the same action for waste done in his own time and in the time of his ancestor.

R.S.1954, c. 124, § 1; 1959, c. 317, § 269.

**§ 7502. Damages**

Any issue of fact shall be tried by a jury, with or without a view of the premises, as the court orders. The jury that inquires of the waste shall assess the damages.

R.S.1954, c. 124, § 2; 1959, c. 317, § 270.

**§ 7503. Action by remainderman or reversioner**

The remainderman or reversioner for life or for years only or in fee simple or fee tail, after an intervening estate for life, may maintain such action and recover the damages which he has suffered by the waste.

R.S.1954, c. 124, § 3; 1959, c. 317, § 271

**§ 7504. Death of tenant**

Such action may be originally commenced against the executors or administrators of the tenant, or if commenced against him, it may be prosecuted against them after his death.

R.S.1954, c. 124, § 4; 1959, c. 317, § 272.

**§ 7505. No waste by part owner without notice**

If any joint tenant or tenant in common of undivided lands cuts down, destroys or carries away trees, timber, wood or underwood, standing or lying on such lands, or digs up or carries away ore, stone or other valuable thing found thereon, or commits strip or waste, without first giving 30 days' notice in writing under his hand to all other persons or to their agents or attorneys, and to mortgagors and mortgagees if any there are interested therein, of his intention to enter upon and improve the land; which notice to such persons interested as are unknown, or whose residence is unknown or who are out of the State may be published in the state paper 3 times, the first publication to be 40 days before such entry; or if he does any such acts pending a process for partition of the premises, he shall forfeit 3 times the amount of damages. Any one or more of the cotenants, without naming the others, may sue for and recover their proportion of such damages.

R.S.1954, c. 124, § 5.

**§ 7506. Single damages only**

If the jury finds that the defendant in such action has good reason to believe himself the owner of the land in severalty, or that he and those under whom he claims had been in exclusive possession thereof, claiming it as their own, for 3 years next before the acts complained of were committed, only single damages shall be recovered.

R.S.1954, c. 124, § 6; 1961, c. 317, § 437.

**§ 7507. Injunctions**

If a defendant in an action to recover possession of real estate or a person whose real estate is attached in a civil action commits any act of waste thereon, or threatens or makes preparations to do so, the Superior Court may issue an injunction to stay such waste; but notice shall first be given to the adverse party

to appear and answer, unless the applicant files a bond with sufficient sureties to respond to all damages and costs. The court may enforce obedience by such process as may be employed in other cases and dissolve it when deemed proper.

R.S.1954, c. 124, § 7; 1959, c. 317, § 273; 1963, c. 414, § 139.

## SUBCHAPTER II

### TRESPASS

Sec.

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#### § 7551. Treble damages for waste pending action

If, during the pendency of an action for the recovery of land, the tenant commits strip or waste by cutting, felling or destroying wood, timber, trees or poles standing thereon, he shall pay to the aggrieved party treble damages, to be recovered in a civil action.

R.S.1954, c. 124, § 8; 1961, c. 317, § 438.

#### § 7552. Injury to lands or property

Whoever cuts down, destroys, injures or carries away any ornamental or fruit tree, timber, wood, underwood, stones, gravel, ore, goods or property of any kind from land not his own, without license of the owner, or injures or throws down any fences, bars or gates, or leaves such gates open, or breaks glass in any building is liable in damages to the owner in a civil action. If said acts are committed willfully or knowingly, the defendant is liable to the owner in double damages.

R.S.1954, c. 124, § 9; 1961, c. 317, § 439.

**§ 7553. Municipal lands and property**

Where trespasses are committed on buildings, enclosures, monuments or milestones belonging to a county, town or parish, the treasurer of such corporation may sue for the damages in its name. If the property injured belongs to a school district, the treasurer of the town may sue in the name of such district.

R.S.1954, c. 124, § 10.

**§ 7554. Negligent interference, removal or destruction of monuments**

Whoever negligently disturbs, removes or destroys any lawfully established transit point, reference point, stake, plug, hub, guard-stake, bench mark, pipe, iron, concrete post, stone post or other monument of any railroad, highway, public utility or other engineering location or survey or any such monument marking the bounds of public or private property shall be liable to the person injured in a civil action for the amount of damage done, which shall be measured by the cost of replacing such monument, including necessary engineering services.

1963, c. 220, § 1.

**§ 7555. Improved or ornamental lands**

Whoever enters on any grass land, dooryard, ornamental grounds, orchard or garden and cuts down, defaces, destroys or takes therefrom, without permission of the owner, any grass, hay, fruit, vegetable or ornamental tree or shrub is liable in a civil action to the party injured in treble damages.

R.S.1954, c. 124, § 11; 1961, c. 317, § 440.

**§ 7556. Salt water islands**

Whoever, after notice by the owner, occupant or lessee in any of the ways provided in section 7557, trespasses upon any island within salt waters, for the purpose of shooting or hunting thereon, is liable to such owner, occupant or lessee in exemplary damages to an amount not less than \$20 nor more than \$50, in addition to all actual damage sustained by said owner, occupant or lessee, and shall forfeit to said owner, occupant or lessee \$5 for each bird of any kind shot, caught, taken or killed on such island, all to be recovered in a civil action. The possession of guns, decoys or other implements of shooting or hunting shall be

presumptive evidence that the purpose of the trespass was shooting or hunting.

R.S.1954, c. 124, § 12; 1961, c. 317, § 441.

### § 7557. Notices; injury to signboards

Notices referred to in section 7556 shall be given by erecting and maintaining signboards at least one foot square in at least 2 conspicuous places on the premises, one of them near one of the usual landing places on said island, reading as follows: "All persons are forbidden to shoot or hunt on this island", with the name of the owner, occupant or lessee; or such notice may be given verbally or in writing by the owner, occupant or lessee of the island to any person and shall be binding on the person so notified, whether the signboards herein named are erected and maintained or not. Whoever tears down or in any way defaces or injures any such signboard forfeits \$100, to be recovered by the owner, occupant or lessee of such island in a civil action.

R.S.1954, c. 124, § 13; 1961, c. 317, § 442.

### § 7558. Damages and penalties

Actions to recover any of the sums or penalties named in sections 7556 and 7557 may be brought in the Superior Court or the District Court.

R.S.1954, c. 124, § 14; 1963, c. 402, § 198.

### § 7559. Imprisonment for nonpayment

On nonpayment of any of the penalties aforesaid, the defendant shall be punished by imprisonment for not less than 5 days, and at the rate of one day for each dollar of the amount of the judgment, if it is over \$5.

R.S.1954, c. 124, § 15.

### § 7560. Lands of deceased insolvent

If an heir or devisee of a person deceased, after the estate of the decedent is represented insolvent and before sale of the real estate for payment of debts or before all the debts are paid, removes or injures any building or any trees, except such trees as are needed for fuel or repairs, or commits any strip or waste on such estate, he shall forfeit treble the amount of damages, to be recovered by the executor or administrator in a civil action.

R.S.1954, c. 124, § 16; 1961, c. 317, § 443.

**§ 7561. Liability of executors or administrators**

If such executor or administrator, being heir or devisee, commits such trespass or waste, on proof thereof before the judge of probate, he shall be liable to the same extent as the heirs or devisees. In both cases, the damages, when recovered by the executor or administrator or adjudged against him by the judge of probate, shall be accounted for in the administration account.

R.S.1954, c. 124, § 17.