

Statute of Westminster, the Second.

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14. Whereas, for waste done in the inheritance of any person, by guardians, tenants in dower, tenants by the courtesy of England, or otherwise for term of life or years, a writ of prohibition of waste hath been used to be granted, by which writs many were deceived, thinking that such as had done the waste should not need to answer but only for waste done after the prohibition to them directed: Our Lord the King, to remove from henceforth this error, hath ordained that, of all manner of waste done to the damage of any person, there shall from henceforth be no writ of prohibition awarded, but a writ of summons, so that he of whom complaint is shall answer for waste done at any time; and if he come not after the summons he shall be attached, and after the attachment he shall be distrained; and if he come not after the distress the Sheriff shall be commanded that in proper person he shall take with him twelve, &c., and shall go to the place wasted, and shall inquire of the waste done, and shall return an inquest, and after the inquest returned they shall pass unto judgment, like as it is contained in the Statute of Gloucester.

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22. Whereas two or more do hold wood, turf-land, or fishing, or other such thing in common, wherein none knoweth his several, and some of them do waste against the minds of the other, an

The process in an action of waste.

Waste between joint tenants and tenants in common.

action may lie by a writ of waste; and, when it is come unto judgment, the defendant shall choose either to take his part in a place certain, by the Sheriff, and by the view, oath, and assignment of his neighbours sworn and tried for the same intent, or else he shall grant to take nothing from henceforth in the same wood, turf-land, and such other, but as his partners will take. And if he do choose to take his part in a place certain, the part wasted shall be assigned for his part, as it was before he committed the waste. And there is such a writ in this case, that is say, “Cum A and B tenent boscum pro indiviso, B fecit vastum, &c.”

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