

441. Criminal trespass.—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,
or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,
is said to commit "criminal trespass".

SYNOPSIS

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1. Criminal trespass—Scope. Trespass is an unlawful interference with one's person, property or right. It is an unauthorized intrusion or invasion of private premises or land of another. A trespass may be committed by the continued presence on the land or a structure, chattel, or other thing which the actor or his predecessor in legal interest has placed on the land: (a) with the consent of the person then in possession of the land, if the actor fails to remove it after the consent has been effectively terminated, or (b) pursuant to a privilege conferred on the actor irrespective of the possessor's consent, if the actor fails to remove it after the privilege has been terminated, by the accomplishment of its purpose or otherwise. [Restatement, Second, Torts, 160]

A criminal trespass is entering or remaining upon or in any land, structure, vehicle, aircraft or watercraft by one who knows he is not authorized or privileged to do so; and

- (a) He enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to him by the owner thereof or other authorized person; or
- (b) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are fenced or otherwise enclosed. [Restatement, Second, Torts, 160 (See also Criminal)]

The authors of the Code say:

"We have given the name of trespass to every usurpation, however slight, or dominion over property. We do not propose to make trespass, as such, an offence, except when it is committed in order to the commission of some offence injurious to some person interested in the property on which the trespass is committed, or for the purpose of causing annoyance to such a person. Even then we propose to visit it with a light punishment, unless it be attended with aggravating circumstances."

"These aggravating circumstances are of two sorts, Criminal trespass may be aggravated by the way in which it is committed. It may also be aggravated by the end for which it is committed". [Note N p. 168]

Section 441 defines criminal trespass to be an entry into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

Section 441 and the succeeding sections in this chapter are designed to protect possession as distinguished from title, in the sense that the question in whom the title to the land or property vests is foreign to the consideration of an offence under the section. In a case