

by reason of improvements brought about by lawyers, was a distinct advance on the previous practice.

When A. is in possession of land to which B. claims to be entitled, the modern practice is for B. to issue a writ against A.; but it took many centuries for our simple and direct method to be adopted. The course pursued at the time we are speaking of was this:—

B. pretended to make a lease to John Doe, or Henry Goodtitle, or James Righteous—the name was immaterial, there was no such person—then it was pretended that John Doe, etc., went into possession of the land under the lease and that one Richard Roe, or William Badtitle, or Nicholas Badman—again the name was immaterial—put the tenant off. Then John Doe, etc., sued for damages for trespass this Richard Roe, etc., the “Casual Ejector.” He might get judgment against casual ejectors by the dozen without doing himself any good so long as the real occupant A. was not notified or before the court. But the courts evolved a practice, said to be the device of Rolle, C.J., in the time of the Commonwealth, that if the actual tenant on being notified did not apply to the court to be admitted defendant in the room and stead of the Casual Ejector, he was to be held to have no right at all. The practice was to draw a declaration in “John Doe, on the demise of B. v. Richard Roe,” setting out (1) title in B., (2) lease by him to John Doe, (3) entry by John Doe under the lease, and (4) ouster by Richard Roe; serve this on A. with a notice, as from Richard Roe, that he, Richard Roe, has no title at all to the land and shall make no defence, advising A. to appear in court and defend his own title, otherwise he, the Casual Ejector, will suffer judgment to go against him, and A. will be turned out of possession. If A. does not appear in court, judgment will be given against the Casual Ejector and possession will be given to B. If A. desires to defend his title, then he will appear in court by his counsel, and apply to be admitted to defend in the place of the Casual Ejector. He will be permitted to do so only on condition that he will confess lease, entry and ouster, so that the only question to be tried will be the title of B. Thus a string of legal fictions was invented, so that the title of the claimant B. should alone come in question at the trial.