

doer go, provided he obtained the return of his lost goods. It may be argued in favour of the use of force that if it be allowed in the case of land, where the risk of destruction or permanent loss of the property is very small, then it should be justified all the more in the case of chattels, where a summary remedy is often the only way of saving the goods from being destroyed or lost for good and all.

Where possession has actually been disturbed by the wrongdoer, but recapture takes place immediately, thus forming, as it were, part of the same transaction, the right to use force has generally been recognised; perhaps because it was hard to differentiate between the force necessary to capture the thief and that required to regain the lost property; perhaps because the prompt settlement of the matter was not likely to lead to abuse or the punishment of the wrong person.

In *R. v. Mitton*, excise officers, armed with a search warrant, came to the house of the defendant for the purpose of searching it. The defendant asked to see the officers' authority, and on the warrant being handed to him, refused to return it. The officers thereupon used force in their endeavour to possess themselves of the warrant, and in the struggle the defendant, taking up a pewter pot, struck one of the officers over the head with it. In summing up, Lord Tenterden, C.J., said: "It is conceded on all hands that the defendant had no right to keep the warrant; and that being so, the officer had a right to take it from him, and even to coerce his person to obtain possession of it, provided that in so doing they used no more violence than was necessary.

When, however, some time has elapsed between the taking by the thief and the recapture by the owner, i.e., when the taking and recapture have become two entirely separate events, the question naturally arises: is there a time limitation to the right of forcible recaption? but the present writer has been unable to find any decisions which exactly meet the case. Sir F. Pollock states that:

"It would seem that a true owner who peaceably retakes his