

The meaning of the word "possession" in this connection will be clear from the following interpretations by the courts, etc. Fish are not in the possession of the fisherman who is fishing with a seine net until the net is entirely closed; and a man who, before this was the case, rowed his boat into the net and captured some of the fish, was held not to have committed larceny. Game is not acquired until either caught or killed. In the whale fishery local custom is allowed to settle the matter. In the case of buried treasure, the person on whose land it exists does not obtain possession until it is actually dug up.

The exercise of the right of recaption by force has necessitated (more especially in early times) numerous restrictions to prevent the public peace from being broken. As it is frequently difficult to say where defence of property ends and recaption begins, the writer intends to give briefly the law on the subject of the defence of property.

The use of a certain amount of force in the defence of persons, lands, and goods has ever been justifiable, partly, no doubt, to ensure peaceful possession, partly to avoid breaches of the peace, partly to secure the apprehension of the criminal. At common law a person has the right to protect himself, and this protection has gradually been extended to his wife and child, to his servant, to his master, and to any other person. The more generally received opinion seems to have been that the amount of force used was limited only by the necessity of the case, though Coke maintains that a killing could not be justified *se defendendo*.

Similarly with regard to the protection of land and goods the common law has recognised the necessity of permitting the use of force, with the following distinction:

"There is a force in law as in every trespass *quare clausum fregit* as if one enters into my ground; in that case the owner must request him to depart before he can lay hands on him to turn him out; for every *impositio manuum* is an assault and battery which cannot be justified upon the account of breaking the close in law without a request. The other is an