

offence, but no civil remedy is given to the person turned out of possession. With civil remedies the statute has nothing to do. If the person turned out of possession is in fact entitled to the possession or ownership notwithstanding the forcible entry of another, he is able to enforce his rights without the aid of the statute of 1381. What this statute does is merely to forbid anyone entitled to enter on land having recourse to "self-help," and for indulging in this kind of "self-help" a penalty is imposed.

The statute of 1381 appears to contemplate the protection of all persons in peaceable possession of land or houses, but whose right to possession has come to an end, as well as the protection of owners and occupiers generally in the enjoyment of their rights of property. Exactly what interest over and above that of a mere trespasser is required in order to make dispossession by force an offence under the statute seems not to be settled. In some of the old cases it has been held that a tenant at will or a tenant by sufferance do not come within the purview of the statute: see, for instance, *Rex v. Westly and Walker* (1670, 2 Keble, 495); *Rex v. Dornay* (1701, 1 Salk. 260). But in a more modern case it has been laid down that it is "immaterial what estate the prosecutor had in the premises, the question not being one of title": (*Rex v. Williams*, 1829, 4 Man. & Ry. 471). In 3 Bac. Abr. 719 (7th ed., 1832), "Forcible Entry and Detainer" (D), it is said: "A man who breaks open the doors of his own dwelling-house, or of a castle which is his own inheritance but forcibly detained from him by one who claims the bare custody of it, cannot be guilty of a forcible entry or detainer within the statutes," since in either case the possession in law is in the owner.

But the greatest difficulty about the statute of 1381 has been to determine how far the possession, once gained, is a lawful possession in view of the fact that it has been obtained in an unlawful manner. The circumstances in *Newton v. Harlana* (*sup.*), where the landlord entered by force on the expiration of the occupier's tenancy, are typical of the kind of case in which questions of forcible entry usually arise. The plaintiff Newton was tenant for six months of some rooms with his wife and family. The rent was not paid, and was distrained for at the expiration of the six months. Mrs.