

land I may justify my entry into the said land to take my goods again; for they came there by his own act." "If J. S. have driven the beast of J. N. into the close of J. S., or if it has been driven thereinto by a stranger with the consent of J. S. and J. N. go thereinto to take it away, this action does not lie; because J. S. was himself the first wrongdoer."

Where the goods have been placed upon the land of an innocent third party, the owner cannot follow to take them except on fresh pursuit and (or) where they have been taken feloniously. "I cannot justify breaking open a private stable or entering the grounds of a third person to take my horse except he be feloniously stolen."

Where goods have been obtained rightfully, but their detention subsequently becomes wrongful owing to the determination of the right of retaining them, forcible recaption is illegal, as the recaptor would be guilty of taking the initiative in the use of force.

Where one person has a right to go on to the land of another, to fetch anything that belongs to him, he may employ force if his entry is resisted: "If J. S. who is entitled to corn growing upon the land in the possession of J. N. and go thereupon to cut and take it away, an action of trespass does not lie." "If it is my right, the law will protect me in the enjoyment of it and the person who attempts to hinder or obstruct me is the aggressor and the first in the wrong."

Though recaption might well have found a place among the doctrines of the Court of Chancery, in mitigation of the inflexibility of the common law, yet it does not appear that it was frequently met with in equity cases, though there is, of course, the significant saying of Lord Eldon in *Goodhart v. Lowe*: "If the plaintiff has a right to the goods, he may lay his hands upon them and recover them, if he can; indeed, Mr. Justice Buller used to say by any means short of felony." But it may perhaps be pointed out that Buller, J., was a King's Bench (1778-94) and subsequently a common pleas judge (1794-1800), though he frequently presided for Lord Thurlow in Chancery, and so may