

be evicted by the true owner, or by any person, not being the true owner, who was in possession of the land. But this latter person may himself have originally been a mere trespasser. This raises the question, at what point of time does the original taking possession by a stranger to the title cease to be regarded as a mere trespass, and evolve into the "possession" that is so respected by the law? The answer appears to be, when he has remained for some time in peaceable possession of the land, exercising with respect to it the ordinary rights of an occupier.

In *Doe d. Hughes v. Dyeball* (1829), Moody and Malkin's Rep. 346, the plaintiff in ejectment proved a lease to himself and a year's possession, and rested his case there. The defendant, who had forcibly taken possession, objected that no title was proved in the demising parties to the lease. Lord Tenterten, C.J., said: "That does not signify; there is ample proof; the plaintiff is in possession, and you come and turn him out: you must shew your title."

The failure on the part of the plaintiff to prove that his lessors title obviously made the lease worthless as evidence of the plaintiff's title, and the plaintiff succeeded on the other evidence adduced by him, viz., that he had had a year's possession. Thus the case shews that possession in the plaintiff and nothing more is sufficient to enable him to maintain ejectment against a stranger.

In *Asher v. Whitlock* (1863), L.R. 1 Q.B. 5, Cockburn, C.J., referring to the above mentioned case, said: "In *Doe v. Dyeball* one year's possession by the plaintiff was held good against a person who came and turned him out, and there are other authorities to the same effect," thus putting that case upon possession alone.

Perhaps the most emphatic way in which the law shews its respect for possession is by its rule that "the fact of possession is *prima facie* evidence of seisin in fee." *Per* Mellor, J., in *Asher v. Whitlock*, 6; see also Newell on Ejectment (1892), 433.

"The wrongful seisin acquired by a disseisor gave him a real, though wrongful, estate, a 'tortious fee simple' valid as