

entered for him. A rule nisi was afterwards obtained to enter a verdict for the defendant on the ground that the plaintiff was estopped from shewing that the defendant had no title, and for the defendant to amend his pleadings, the plaintiff being at liberty if it should be necessary, on the argument of the rule to move that the verdict should be entered for her on the second count of the declaration. Cockburn, C.J., said: "I think this rule must be made absolute. I am of opinion that in this case the plaintiff was estopped from denying the title of the defendant under whom she had got possession of the premises as her landlord, upon the common-law principle that a person who gets possession of land from another is, by taking possession from him, estopped from denying his right to give possession. It has been attempted to make a distinction between an action of ejectment and one of trespass, and what was said by Pollock, C.B., in *Watson v. Lane*, is relied upon. Now, if ejectment had been brought against the tenant, he would have been estopped from denying his landlord's title, and so it is in trespass also. But, on the other hand, it is true that the tenant may show that the landlord's title has expired, and he may do that, among other ways, by shewing an eviction, either actual or in point of law, and *The Mayor, etc., of Poole v. Whitt* is instanced as a case of constructive eviction. It is not necessary to decide that question here, because there was not even a constructive eviction. Here there was only a payment of rent on a threat. The case cited was one neither of ejectment or trespass, but was founded upon a covenant to deliver up fixtures at the end of a term, and what was said by the Chief Baron in *Watson v. Lane* had reference to the form of action. Here there can be no difference in principle between trespass and ejectment. There was nothing which could amount to a constructive eviction, even if we were of opinion—of which I am not as at present advised—that there could be for this purpose such a thing as a constructive eviction." Williams, J., said: "It has been fully established by a long series of cases that a tenant shall not be permitted as against the landlord who let him into possession, to dispute that landlord's title so long as the possession continues, but he may shew that it has expired. The case of *Doe v. Barton*, 11 Ad. & El. 307, was decided as an instance of that doctrine, but it may be doubted whether it really was so. As regards the eviction the rule is that if a party having title paramount enters and then restores posses-