

any such matter, for that *B.* may afterwards have his Action for the burning of his house, or spoiling of his goods, and shall thereby recover damages, to the value thereof, &c.

Also when *B.* shall come to make his Entry as aforesaid, if *A.* shall say to him, that he will not open the door. This is no Forcible Detainer. Cromp. 70

where no
Fact, no
Force.

So it is if *A.* be in possession of an house, or hath a Lease thereof at the will of *B.* and after *B.* entred into the house, and commandeth *A.* to go out, and leave him in the possession; and *A.* will not go out, this is no Force; for refusing or denying only to go out, is no Force, unless there be withal some forcible Act or threatening Speeches: *Ubi factum nullum, ibi fortia nulla.* Where there is no Fact, there is no Force. Cromp. 73
Co. 4. 43.

A. mortgageth his house to *B.* upon condition, That if *A.* shall pay to *B.* such a day 40 *l.* then the said Mortgage and Feoffment to be void, and by agreement of them both, *A.* the Mortgager continueth the Possession, until the day of Redemption, at which day *A.* payeth not the 40 *l.* and after *B.* cometh to re-enter, and *A.* keepeth the Possession by force. This is a Detainer by Force in *A.* This was Mr. *Richard Godfrey's* opinion between *Willows* and *Turger.*

The Disseisor maketh a Gift in Tail to *B.* who keepeth the Land with Force, at the time when the Disseisee maketh his Claim, which Claim is made within the view so near as he dareth, for fear of death, battery, or other bodily hurt, if *B.* after such Claim shall continue the Possession with Force, he may be thereof indicted, &c. for this amounteth to a new Entry, and a Detainer with Force by *B.* Cromp. 69
Lit. 429.

And note, that wheresoever mine Entry is lawful, if the Possession be detained, or holden from me by Force, I may pray the aid of the Justices of Peace to remove such Force as it seemeth. Lamb. 147
Cromp. 70
P. R. 53.

If a Man hath a Rent or Common of Pasture out of another Mans Land, and coming to distrain for his Rent, or to use his Common, he is so forcibly resisted by the Tenant of the Land, that he cannot, or dareth not, either distrain for his Rent, or take the benefit of his Common; This is a Holding with Force in the Tenant, and punishable by these Statutes.

So it is, if the Tenant of the Land shall forestal the way with Force and Arms, or shall threaten him (that hath the Rent or Common) so that he dareth not to come to distrain for his Rent, or to take his Common. Crom. 199

So it is, if a Man shall distrain for his Rent, and the Tenant of the Land shall make Rescous with Force and Arms. Ibid.

And in these Cases of a Rent, or Common, the Justice of Peace upon complaint to him made, may remove such Force, and upon view of such Force may record it, and may therefore imprison and fine such offenders, but cannot award Restitution, *sc.* Cannot restore the party to his Rent or Common, which are to be taken, and used in another Mans Land, for Restitution is not to be made, but only of House or Land, as you may see hereafter. Br. Imp. 70.

§. 6. One person alone may commit or make a Forcible Entry, or Detainer, if so be he do it with offensive Weapons, not usually born, or do use turbulent Behaviour, violence or threats, &c. to the affray or terror of others; or do refuse to suffer the Justice of Peace to enter. Lamb. 174
Co. L. 257

An Infant of the age of eighteen years, by his own act may commit a Forcible Entry or Detainer; and so he may, though he be under eighteen, if so be that he be of the age of discretion, (*sc.* of the age of fourteen years.) See *Perk. f. 10. b.* And it seemeth the Justices may fine him therefore. But yet it shall be good discretion in the Justice of Peace to forbear the Imprisonment of such Infants. See *Br. Imp. 43, 45, 75, 101.* & *hic post. tit. Imprisonment.* Cromp. 69

who may be
guilty of
it.

For