as the party's own to the exclusion of other people is necessary. And therefore in Taylerson v. Peters, 7 A. & E. 110, where a tenant remained a few days after his term had ended, and, after the entry of a new tenant, went away leaving a cow and some pigs, but giving no further intimation of a purpose to return or to continue holding any part of the farm, it was held that the landlord could not distrain, though, said the Court, a small thing may serve to show a continuing possession.

It is holden also that the Statute only applies to cases in which the tenancy has been determined by lapse of time, or perhaps by notice to quit (see *infra*), but not to cases where it has been put an end to by the tenant's own wrongful disclaimer, Doe v. Williams, 7 C. & P. 323.

A distress may be made on an off-going crop after the expiration of the six months, during the time that the tenant, by virtue of a custom of the country, has it upon the premises, Bevan v. Delahay, 1 H. Black. 5; Lewis v. Harris, *ibid.* 7, *n.*; and see Griffith v. Puleston, 13 M. & W. 358. Lord Loughborough observed that if, after the determination of a lease, the tenant holds over, he holds upon the terms, and liable to all the conditions and covenants of the lease, and the rights of the landlord continue (see De Young v. Buchanan, 10 G. & J. 149).[13] It is not material whether the interest and connexion between the landlord and tenant be extended by such holding over, or by a custom like that alleged in the case. These cases were confirmed by Boraston v. Green, 16 East, 71, and Knight v. Benett, 3 Bing. 364, where the tenant was restrained from removing the corn by injunction. See Dorsey v. Eagle, 7 G. & J. 321, as to the interest of the tenant under such a custom in Maryland.[14] In such instances the Statute does not apply, the term being treated as continued by the custom.

Generally, by distraining the lessor affirms the lease as still existing up to the time of the distress. But in Ward v. Day, 4 Best & Smith, 337; in error, 5 Best & S. 359, it was doubted whether in a lease for years, &c., where there is a proviso for re-entry on non-payment of rent, and the rent being behind the lessor distrains within six months after the forfeiture had accrued, the distress since this Statute, without more, would be a waiver of the forfeiture.

As a distress cannot be made at common law after the tenancy has been determined by notice to quit, though the rent may have become due before such determination, an avowry for it must be so framed as to bring the case within the Statute, Williams v. Stiven, 9 Q. B. 14. As to a distress for rent becoming subsequently due where the tenant holds over, see Jenner v. Clegg, 1 M. & Rob. 213.

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termination of the old tenancy, possession under the new agreement is not possession under the Statute, and the right of distress is lost. Wilkinson v. Peel, (1895) 1 Q. B. 516.

[13] Cf. Hobbs v. Batory, 86 Md. 70; Hall v. Myers, 43 Md. 450; Emrich v. Union Co., 86 Md. 482.

[14] See notes to 20 Hen. 3, c. 2.