Before the Act of 1852, ch. 177, sec. 2,[21] as has been observed, an actual substantial enclosure by a possessor was required to defeat the title of the real owner. In Casey v. Inloes, 1 Gill, 496, a single line of fence was held an occupation only of what the fence covered. So in Armstrong v. Risteau just cited, a fence on three sides of an oblong piece of land was held no enclosure. That Act provided that actual enclosure should not be necessary to prove possession, but that acts of exclusive user and ownership, other than enclosure, might be given in evidence to prove possession, and it contained a proviso in favour of lands granted any where in the State for military services, to endure for a certain period. In Warner v. Hardy, 6 Md. 525, the Court thought that the right to rely on possession was not affected by the inquiry whether it was by enclosure or not, but in this case the question of the constitutionality of the Act, so far as its retroactive effect was concerned, was not adverted to. In Thistle v. Frostburg Co. 10 Md. 129,[22] however, the Court observed that the legislature could not, by a retroactive law, say that the possession of a *tort feasor* without enclosure divests the real owner of his title, for, the law having been different, the owner had taken no steps to protect himself; but the legislature might alter the rules of evidence and the remedy, and might make an equitable claim to land enforceable in ejectment; which would thus support acts of ownership, and clear the possessor of the character of a *tort feasor*, or give him colour of title; in other words, that the law might have a retroactive effect where the party claimed under a colourable or equitable title. But the Court went on to say, that they were not disposed to give the Act a liberal construction—that a party could not say that "he had taken possession" simply, for possession was a question of law to be determined by the Court, and the acts of the party which amounted to taking possession must be stated with clearness and precision [23]—that the possession must cover the full period of twenty years, and be adverse, exclusive and unbroken, and that the acts of user and ownership relied on must consist with the character of the title of one asserting title against all the world, and not merely consist of acts which might be done by any and all persons with impunity.[24] Thus cutting a stick of timber in a rough and

[21] Code 1911, Art. 75, sec. 79.

[22] Newman v. Young, 30 Md. 417.

[23] Baker v. Swann, 32 Md. 355. Cf. Hackett v. Webster, 97 Md. 404. Nor can a witness say that he never heard of anyone else except the plaintiff being in possession. Jacobs v. Disharoon, 113 Md. 100.

[24] **Acts necessary to prove possession.**—A survey, unaccompanied by other acts of user and ownership, is not sufficient. Beatty v. Mason, 30 Md. 409. But cf. Merryman v. Cumberland Co., 98 Md. 228. The digging and sale of sand from time to time are only successive acts of trespass. Parker v. Wallis, 60 Md. 15. So are repeated acts of cutting timber. Peters v. Tilghman, 111 Md. 240; cf. Hackett v. Webster, 97 Md. 404. The mere payment of taxes is not itself sufficient to establish adverse possession, but when the party paying them has the right of possession, it is a declaration that he is claiming the exercise of his right and it is a claim of ownership quite as distinct as corporal entry on a vacant lot. Carter v.