rants, is incorporated in the Code, Art. 57, sec. 9.[30] The Act is construed to extend to the Land Office, Dorothy v. Hilbert, 9 Md. 576; see also Chapman v. Hoskins, 2 Md. Ch. Dec. 485.[31]

In Mitchell v. Mitchell, 1 Md. 44, it was contended that the Act was limited to defendants, and could not be availed of by a plaintiff, that it did not oust the title of the State, but rendered a patent for lands taken up under such warrants ineffectual to disturb the defendant's possession. This question the Court declined to decide, as also the question, whether or not the Act, in the instances enumerated in it, was a grant or confirmation of title to persons holding twenty years before bringing suit. And they held that, as the possession there relied on was from the year 1817 to 1841, and as the Act excepts warrants laid prior to its passage, and there was nothing to shew that a warrant had not issued prior to the passage of the Act to the defendant or some one else, the strict rules as to ejectment, mentioned above, must prevail. In consequence of which decision the Act of 1852, ch. 177, sec. 2,[32] was passed. But still the possession under the Act must be adverse and with claim of title, and to bar a right to lands derived under a patent from the State, such a possession for twenty years must be shewn as would bar the right of entry of a private person holding the paper title, Davis v. Furlow *supra*.[33]

The Act of 1839, ch. 34, enabled possessors of vacant lands to obtain patents without going through the forms of the Land Office. It provided, that any person claiming to be owner in fee of land held by himself, or those under whom he claimed, peaceably, for twenty years, with or without enclosure, might apply to the surveyor of the county, whose duty it should then be to run out the land according to certain well defined natural or artificial metes and bounds, after giving notice thereof, on which survey he should take the depositions of at least two respectable persons as to such possession, &c., and on the return of the certificate, &c., a patent should issue, &c. Before this Act, notwithstanding the Act of 1818, a party in possession of vacant lands for more than twenty years was liable to be disturbed at the suit of any person who might obtain a warrant for those lands, and to lose them, unless he could prove the possession required under the latter Act. The Act of 1839, however, allowed a party so situated to obtain a patent without going through the forms of the Land Office, and at less expense, and prevented any one else from obtaining a patent. He thus united a title with his former possession, good against the State and subsequent grantees, whereas, under the Act of 1818, his title depended on possession alone, and if he failed in proving that, he failed altogether against a party having the grant of the State; see Hoye v. Swan *supra*. But the Act of 1839, ch. 34, was repealed by the Act of 1841, ch. 333. The Code, however, Art. 54, secs. 21-23,[34] (1854, ch. 322,) provides

---

[30] Code 1911, Art. 57, sec. 10.

[31] Armstrong v. Bittinger, 47 Md. 103; Jay v. Michael, 82 Md. 1.

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

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

[34] Code 1911, Art. 54, secs. 30-32, the last section having been amended so as to require the surveyor to make his return within six months instead of one year.