

first acquires possession to the extent of the boundaries claimed in his title, whether it be valid or not; the possession of the other was held before the Act of 1852, ch. 177, (Code, Art. 75, sec. 52)¹⁸ not to extend beyond his actual enclosures, and, since that act, does not extend beyond what he has exclusively used and occupied;¹⁹ and as to him the law is the same whether the real owner be in possession or not, *Hoye v. Swann*, 5 Md. 237. The case generally referred to on this point is *Brooke v. Neale*, usually termed the Monastery case, and best reported by Tuck, J. in 5 Md. 247. It established the position, that where one comes into possession of Blackacre under colour of title, his actual possession of a part by enclosure is a possession of the whole.²⁰ In this case, the adverse possession is extended beyond actual enclosure so as to carry the title to the entire tract. The principle laid down in many cases **454** is, that the possession of a *wrong-doer is strictly *possessio pedis*; beyond that no length of time will protect him; and he must shew an exclusive adverse possession, see *Cresap's lessee v. Hutson supra*. And it follows, that all such cases are cases of mixed possessions as to lands not so exclusively and adversely occupied by one claiming title in virtue of his possession alone, *Armstrong v. Risteanu*, 5 Md. 526.

State of Virginia for land in Maryland, *Baker v. Swann, supra*; or by parol gift, *Walsh v. McIntyre*, 68 Md. 414; cf. *Jacobs v. Disharoon*, 113 Md. 97; or by a bond of conveyance, though *contra* as to a deed from a purchaser whose only title is a bond of conveyance. *Allen v. Van Bibber*, 89 Md. 434.

Deed to a religious society.—A deed to a religious society, though void under Art. 38 of the Declaration of Rights, yet cannot give less than color of title; and entry under it by the grantee and its continuance in possession for twenty years gives a good title by adverse possession as against all persons not under disabilities, *Gump v. Sibley*, 79 Md. 169; *Zion Church v. Hilken*, 84 Md. 170; *Regents v. Calvary Church*, 104 Md. 635; *Dickerson v. Kirk*, 105 Md. 638.

In like manner when land conveyed to a religious corporation to be used for a designated purpose, is used by the corporation for a different purpose, the title reverts to the grantor or his heirs, but the statute begins to run against them from the time of the diversion and the possession thereafter by the grantee for the statutory period creates a new title by adverse possession. *Phillips v. Insley*, 113 Md. 341; *Rother v. Sharp St. Sta.*, 85 Md. 528; 83 Md. 289.

¹⁸ Code 1911, Art. 75, sec. 79; *Newman v. Young*, 30 Md. 417; *Baker v. Swann*, 32 Md. 355; *Carter v. Woolfork*, 71 Md. 287; *Lurman v. Hubner*, 75 Md. 270; *Safe Dep. Co. v. Marburg*, 110 Md. 414. But actual enclosure, although unnecessary under the act to prove possession, is yet some evidence tending to show the character of the claim. *Storr v. James*, 84 Md. 282.

¹⁹ "When one enters upon land without color of title, his possession cannot be extended by construction, as is done in favor of one who has entered under color of title." *Hackett v. Webster*, 97 Md. 408.

²⁰ *Lurman v. Hubner*, 75 Md. 271; *Allen v. Van Bibber*, 89 Md. 436.