100 — 4 Nicholas Dorsey from Capt. John Dorsey 20 Jan.y 1736.
100 — 4 John Dorsey from Nich.s Benjamin Dorsey 20 Jan.y 1737.

In Testimony that the aforegoing is a true copy from Anne Arundel & Baltimore County part Rolls No. 1 folio 162 remaining in the Master Chancery Office Chancery hereto at my hand and seal affixed my official seal this 5th day of May 1818.

John Brewer Reg.r C.C.A.A.W.S.

And further affirmed & testified to the jury that Elizabeth Dorsey the widow of John Dorsey the Patentee of Dorsey's Search the testator and mother of the said Elz. Dorsey departed this life in the year nineteen hundred and ninety seven.

The Defendant by his Counsel prayed the Court to direct the jury that upon the whole Evidence no grant to him as stated in the aforesaid Bills of Exceptions if they believe the same, they ought to find that John Dorsey the Patentee of Dorsey's Search the Original and in his life time convey to the said Samuel Dyer all that part of Dorsey's Search the Original on the West side of Patuxent River which is inclosed within and commonly called and known and the lines of Dyer's Inheritance so that the said John Dorsey was actually owner of all that part of the said tract called Dorsey's Search by the said Dyer and that upon the said Evidence the Defendant is entitled to their Verdict.

The Court have no doubt about the law and the right of the Court to instruct the jury to presume Grants and Surveys in cases where there is a proper and legal foundation laid for the presumption of the jury and the Courts have frequently so ruled but that law is not applicable to this case.

This is a case of conflicting Grants and interfering locations and the question between the parties appears to rest on the true location of the tracts Dorsey's Search and Dyer's Inheritance and the Court have already decided that question and according to the Opinion of the Court the land in controversy is included within the limits of Dorsey's Search.

It is a principle of law that he who has title to a tract of land and is in possession of part is in possession of the whole. A person holding land cannot occupy and use any part of his land nor can he hold any part under force





It is a principle of law that if two persons are in possession of the same land, the one by title and the other by wrong. It is his possession who has the right.

These principles are not only established by the decisions of the Courts and acquiesced in, but are founded in justice and general convenience, for no right and peace would among men if possession.

When Dyer entered on the land in dispute and made improvements he entered on it as Dyer's Inheritance claiming it as such, there is no Evidence that he claimed it by deed from or any Contract with John Dorsey the Patentee nor is there any Evidence that those claiming under Dyer claimed it otherwise than as part of Dyer's Inheritance, but that they possessed it as such, supported that possession Maintained it and resisted all attempts by those claiming under Dorsey to recover the possession. Dorsey the Patentee of Dorsey's Search and those claiming under him having the right to that tract and being in possession offered that possession prevailed the whole land and was co extensive with its limits.

The Court are of Opinion that the Evidence in this case will not warrant the Court to direct the jury to presume a deed from John Dorsey the Patentee of Dorsey's Search to Samuel Dyer the Patentee of Dyer's Inheritance, and refuse to give the direction prayed.

The Court are also of Opinion that the entry and possession of Samuel Dyer on the part of Dorsey's Search in dispute was tortious and if the jury find from the Evidence that he and those claiming under him were in the actual uninterrupted and exclusive possession by metes and bounds of the land in dispute for twenty years that in such case the Plaintiff will be barred of his recovery by the Act of Limitations and if not in possession of the whole land in dispute to the extent of such possession.

To which opinions and refusal the Defendant by his Counsel prays leave to except and that the Court would sign and seal this his bill of Exceptions according to the form of the Statute in such case made and provided and which is accordingly done this Eighth day of January