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ACTUAL POSSESSION.

That the popular definition of words and the legal meaning attributed thereto are frequently at variance cannot be gainsaid. And "possession" affords a specially notable instance of this peculiarity. To any person unhampered by consideration of the multifarious reported decisions which deal with that word, and who has not mastered their intricacies, the meaning it imports is a physical holding, and nothing less. It conveys, indeed, to the mind of such a one the notion contemplated when he employs the familiarly current phrase, "Possession is nine points of the law." But to the lawyer acquainted with those decisions, "possession" has a technical meaning of a particular nature. As was remarked by Mr. Justice Stirling (as he then was) in the case of *Re Egan; Mills v. Penton*, 80 L.T. Rep. 153; (1899) 1 Ch. 688, although lawyers may know the difference between an interest which is in possession and one which is in reversion, laymen do not use the word with reference to that distinction. His Lordship referred to the definition in Johnson's and other dictionaries—that is to say, the state of owning, or having in one's hands or power, property; adding that the fine distinction between "possession" and "ownership" is not one which would be present to the mind of an ordinary layman.

The definition, on the other hand, contained in the ancient law lexicon known as *Termes de la Ley* runs thus: "'Possession' is said two waies, either actuall possession, or possession in Law. 'Actuall Possession' is when a man entreth in deed into lands or tenements to him descended, or otherwise. 'Possession in Law' is when lands or tenements are descended to a man, and hee hath not as yet really, actually, and in deed entred into them: And it is called Possession in Law because that in the eye and consideration of the law, he is deemed to be in possession, forasmuch as he is tenaunt to every man's action that will sue concerning the same lands or tenements." But, as Mr. Stroud points out in his inimitable *Judicial Dictionary* (2nd edit., p. 1513), after quoting the foregoing definition, generally where an estate or interest in realty is spoken of as being "in possession," that does not, primarily, mean the actual occupation of the pro-