

Whether "actual possession" means something more than "possession" standing alone, is, however, by no means so free from doubt. Does it mean possession de facto—that is to say, physical possession as distinguished from possession in law; or does it mean possession de jure—that is to say, mere constructive legal possession, as that of one who has an estate in present and not in reversion, remainder, or expectancy? According to the statement in *Vaizey on Settlements* (p. 1349), it is in order to avoid tenants in tail in remainder being treated as persons entitled to the possession of estates, so as to entitle them to personality, that it has grown customary to prefix the word "actual" to "possession" in settlements of real estate. In some of the decided cases it has evidently been considered that "actual possession" has a somewhat more extended meaning than "possession" by itself. Thus, in *New Trinidad Lake Asphalt Company v. Attorney-General for Trinidad*, 91 L.T. Rep. 208; (1904) A.C. 415, the meaning of "actual possession" was attributed by the Privy Council to the word "possession" in contradistinction to control or right to control. So, also in *Leslie v. Earl of Rothes*, 71 L.T. Rep. 134; (1894) 2 Ch. 499, the suggestion that "possession" was used in contradistinction to reversion was rejected, and it was construed as "actual possession." And both words appearing in s. 26 of the Representation of the People Act, 1832, they were decided in *Murray v. Thorniley*, 2 C.B. 217, to mean possession in fact in contradistinction to possession in law. That decision was followed in *Hayden v. Twerton*, 4 C.B. 1, and likewise in *Webster v. Overseers of Ashton-under-Lyne*; *Orme's Case*, 27 L.T. Rep. 652; L. Rep. 8 C.P. 281.

There was a full discussion of the effect of prefixing the word "actual" in the arguments in the case of *Lord Scarsdale v. Curzon*, 1 J. & H. 40, at p. 66. It was there held by Vice-Chancellor Page-Wood that the expression "actual freehold" must be construed as a technical term equivalent to and signifying "freehold in possession": (See Co. Litt., Harg., 15a, 266b, note.) Accordingly, it was decided that the person entitled to the "actual freehold" of an estate was the person in possession or in the receipt of the rents and profits. That decision was con-