

Wills), it is not very surprising to find, overruled all these contentions, and adhered to the fairly well established rule that in matters within the jurisdiction of the Dominion Parliament it has the amplest legislative power, and for the purpose of effectively legislating it may if need be deal with matters that otherwise are within Provincial control, and as to such matters though the Provincial and Dominion legislation may overlap, yet in case of conflict the Dominion legislation must prevail.

REGISTRY ACT (R.S.O. 1897 c. 136) s. 87—STATUTE OF LIMITATIONS (R.S.O. 1897, c. 133) ss. 4, 22—UNREGISTERED CONVEYANCE—SUBSEQUENT MORTGAGE—PRIORITY.

McVity v. Tranouth (1907) A.C. 60 is an appeal from the Supreme Court of Canada, on a point arising on the Registry Act of Ontario. It is not often that we find it proper to find fault with the conclusions reached by the Judicial Committee of the Privy Council, but in this case, with the greatest respect for that tribunal we humbly conceive the conclusion it has reached in this case can hardly be said to be satisfactory. The case arose out of the fraud of an unprofessional conveyancer, and is one of those unhappy ones in which Courts of law are called on to say on which of two innocent persons the loss is to fall. The facts of the case were comparatively simple. In June, 1891, Mrs. Tranouth (then Maxfield) being about to marry, and being owner of the land in question, wished to have it vested in herself and intended husband, so she applied to one Sootheran, who turned out to be a rogue, to do the necessary conveyancing, and he thereupon drew a conveyance to himself, and a reconveyance from himself to Mrs. Tranouth and her husband. He registered the deed to himself, but did not register the reconveyance, but led the grantee to suppose it was registered by indorsing a forged certificate of registration thereon. A few days intervened between the date of the reconveyance and the marriage, and thereafter Mrs. Tranouth and her husband had continuously occupied the premises. In 1895, Sootheran, assuming to be owner, executed a mortgage to the plaintiff McVity, for \$2,000, which was registered August 30, 1895. The action was commenced by the mortgagee in May, 1903. From the report we gather that McVity had actual notice of the possession of the Tranouths before advancing his money, and took his security with the knowledge that a third person was in adverse possession of the mortgaged premises. This was an