

and the rule of strict construction does not apply to them. That does not, of course, mean that the Court should assist an imperfect title set up under the Statute, or overlook fraud or dishonesty where they are elements in the statutory title attempted to be made out. Nothing of the kind, however, appears in this case, for I find it impossible to doubt upon the whole circumstances appearing in evidence, that what the plaintiff now desires to do is to recall, for a reason not avowed, an apparently not unreasonable bounty intended by him for the benefit of his son, now dead. This does not, of course, prevent him from standing upon his legal rights, if any, but on the other hand the statutory title, if any, acquired by the defendant is not the proper subject of prejudice because it was so acquired, but should stand upon the same footing as any other title recognised by the law.

In so far as "land" is concerned (interpreted in sec. 2(c)) the whole estate is *prima facie* affected by an opposing possession, exceptions however, being made in favour of future estates, disabilities, mortgagees, concealed fraud, etc. But none of the exceptions can, as I read them, be made to reasonably include such a case as this, where the plaintiff's estate had been absolutely extinguished. How would it be if the plaintiff had obtained the discharge before the expiry of the ten years need not now be determined. That was the situation in *Henderson v. Henderson*, 23 A.R. 577, in which the question was considered by Maclellan, J.A., who arrived at the conclusion that the registration of the certificate of discharge gave a new starting point or right of entry. Burton, J.A., agreed, but the other members of the Court, Hagarty, C.J., and Osler, J.A., declined to express an opinion upon the point which, in the view they took of the facts, was not necessary.

In the following year a somewhat similar point was considered in the English Court of Appeal, in *Thornton v. France*, [1897] 2 Q.B. 143, in which the authority of *Doe d. Baddeley v. Massey*, 17 Q.B. 373, the case upon which Maclellan, J.A., mainly relied, was somewhat shaken, and was certainly not followed, but distinguished. In the *Baddeley v. Massey* case it is said, page 382, that the construction there maintained was necessary for the protection of mortgagees. And if the fact is as stated by Chitty, L.J., at page 157 of *Thornton v. France*, that the mortgagee in *Baddeley v. Massey* joined in the conveyance with the mortgagor, for the purpose of recovering the money due on the mortgage, and of conveying the legal estate to the purchaser, the conclusion that the purchaser was, under the