

the decision of the case on hand. The facts were that defendants recovered judgment for costs; the twenty years from the date of the judgment expired in 1903, but an execution had been kept in force till 1905 when it was suffered to lapse. In 1908, the late Master in Chambers made an ex parte order allowing the defendants to issue an alias writ, and the application with which Middleton, J., had to deal was to set aside that order, as having been improvidently made. The fact that the application was made after the judgment was barred by the Statute of Limitations seems of itself a sufficient ground for refusing the application, as a matter of judicial discretion: see *Doyle v. Kaufman*, 3 Q.B.D. 7, 340, without resorting to such a seemingly unenforceable proposition as that an interlocutory application made in an already existing action is itself "an action" contrary to the view expressed by the first Appellate Division.

*Doel v. Kerr* settles one point as far as a judge in Chambers can settle it, that the issue of a writ of execution does not constitute a new point for the running of the Statute of Limitations. At the end of twenty years from the date of the judgment unless in the meantime there has been payment on account or a written acknowledgment of liability thereunder, it is barred by the Statute, no matter how many writs may have been issued in the meantime, but this fact will not, according to *Poucher v. Wilkins*, prevent a writ which has been continually kept in force, from being renewed, or from being enforced by the Sheriff, even after the lapse of the twenty years. This situation seems somewhat anomalous, inasmuch as in such circumstances although no action can be brought on the judgment it may nevertheless be enforceable by execution.

This is in some measure due to the effect of s. 24 of the Limitations Act (R.S.O. c. 75), which provides that a lien created by an execution continues in force so long as the process remains in the hands of the Sheriff and is kept alive by renewal or otherwise.