

of an execution was held not to come within the term "action" in s. 49 of the Statute of Limitations (R.S.O. c. 75). From this case it follows that although the time for bringing an action on a judgment may have expired, yet if a writ of execution has been kept duly renewed it will continue enforceable notwithstanding the expiry of the period of limitation for bringing an action on the judgment.

In *Doel v. Kerr*, 8 O.W.N. 244, Middleton, J., on appeal from the Master in Chambers held, that where twenty years have elapsed from the recovery of a judgment, an application for leave to issue an alias writ is an "action" and is therefore barred by the Statute. In view of the remarks of the learned Chief Justice of Ontario in *Poucher v. Wilkins*, *supra*, as to what is meant by "action" we think Middleton, J., was hardly justified in putting his judgment on that ground. An interlocutory application in an already existing action can hardly, on any true principle of interpretation, be said to be "an action," otherwise every action would be a series of actions within an action, like "wheels within a wheel." Such an interpretation of the word "action" does not seem to be justified by s. 2 of the *Judicature Act*, although *I. le 3 (b)* may be thought to give some colour to it. By the *Rule*, garnishee and interpleader proceedings are brought within the term "action," but these proceedings are between different persons to those as to whom the action in which they arise, was between, and they do in a sense have the effect of being actions within actions, but they raise new issues between different parties. But to extend the term "action" to an interlocutory application between the original parties to an action seems to be carrying the definition beyond any legitimate limits. Where a plaintiff makes an interlocutory application for an injunction, or a commission to take evidence abroad, or to examine a defendant, or for any of the other hundred and one objects which may necessitate an interlocutory application in the progress of a cause, to say that each of these applications is an "action" seems almost to border on the absurd. We do not think any such ruling was necessary for