

*In re M'Gugan v. M'Gugan*, 21 O.R. 289, Armour, C.J., says "the term personal action is a term signifying, as used in this statute (R.S.O., c. 47, s. 19), a common law action."

It will be borne in mind that in the Consolidating Act (2 Geo. IV., c. 2) nothing is said about *personal* actions, the only use of that word being when it speaks of "matters of tort to personal chattels." The same may be said of 8 Vict., cap. 13, and 13 & 14 Vict., cap. 52, in neither of which is there any mention of "personal" actions. That word is first found in 19 & 20 Vict., cap. 90, where jurisdiction is given in "all personal actions" up to £50.

It must be noticed, however, that in the interval between 13 & 14 Vict. and 19 & 20 Vict. the Act conferring equitable jurisdiction (16 Vict., cap. 119) was passed. Now, if previous to this last Act the words "personal action" had been used in any County Court Act, it might well be argued that such words did not give any equitable jurisdiction, in view of 16 Vict., passed specially to give such jurisdiction.

After the passing of this Act we find for the first time (19 & 20 Vict., c. 90) jurisdiction given to these courts in "personal actions," and not simply in "debt, covenant, and contract," as theretofore. If, then, any wider jurisdiction was conferred by the use of the words "personal actions," instead of those previously used, it will be obvious that the subsequent repeal of the Equity Jurisdiction Act did not thereby take away such extended jurisdiction, if any.

We have dwelt at some length on this point, because it seems rather difficult to get an authoritative decision as to what sort of actions are included in the term "personal." Take, for instance, the late case of *Whidlen v. Jackson* (18 A. R. 439), where the oldest and most experienced member of the court, the Chief Justice, held a contrary view to the other judges. To this case we shall refer later on.

We have many cases where it is decided whether a certain kind of action is a "personal" action or not, but we have none laying down all that is intended by such a term. It would, no doubt, be almost impossible to do this in a general way with any reasonable accuracy, and judges, wisely perhaps, reserve their opinions till called upon to give them in each particular case as it arises.