Thus, when it is said that a debt is a 'chose in action,' the phrase conveys the idea, not only of the thing itself, *i.e.*, the debt, but also of the right of action, or of recovery, possessed by the person to whom the debt is due."

We think it doubtful whether any of these definitions can be considered correct or satisfactory. Much of the difficulty in arriving at a proper idea of the true legal signification of the term is due, no doubt, to the fact that the expression "chose in action," is an attempt to express an abstract idea, something in *posse* and not in *esse*, by an expression applicable only to that which is essentially concrete. "A thing in action:" the word "thing," in its ordinary signification, implies something of a tangible and corporeal nature; whereas what is intended to be expressed by the words "chose in action" is something of an intangible and incorporeal character.

One of the commonest illustrations of a "chose in action" is a promissory note. But the piece of paper on which the note is written, together with the characters with which it is written, do not constitute the "chose in action;" the "chose in action" is that intangible and impalpable thing which the paper and writing are merely the evidence of the existence of, viz.: the promise to pay, and the money to be received in fulfilment of the promise; hence it was that at common law a promissory note was not the subject of larceny; hence too, if a note is lost or destroyed the "chose in action" of which it was the evidence, is not gone, and it may be recovered by action notwithstanding the loss or destruction of the paper.

The use of the word "thing" as applied to such rights, is, to say the least, confusing, and we may agree with the late John Austin: "that if it were expelled from the language of the law much confusion would be avoided."

Difficulty is also created by the manner in which some text-writers place a "chose in action," in opposition to a thing in possession. For instance, "property in action" is described as being "where a man has not the enjoyment (actual or constructive) of the thing in question, but merely a right to recover it by suit or action at law, whence the thing so recoverable is called a thing or "chose in action." Stephen's Coms., vol. 2.

Now, suppose A wrongfully take B's horse, according to this definition the horse so long as it wrongfully remained in A's possession would be a "chose in action" of B. But the writer who uses this expression, himself declares a little further on that "a 'chose in action' is a thing rather in *potentia* than *in esse*," and there is no doubt we think that the latter is the true idea of a "chose in action," and one which would therefore prevent the application of the term to any specific thing *in esse*.

Abbott's definition, as we have seen, comprehends under the head of "choses in action" all rights to personal property not in possession which may be enforced by action. This appears obviously too broad, and would include the right to recover personal property by proceedings *in rem*. That there is an obvious distinction between chattels out of the possession of the owner, and "choses in action," may be well illustrated by a reference to the law which formerly governed the right of husbands in the personal property of their wives. As regards her chattels he was entitled to them whether reduced into possession or not during the coverture, but as regards her "choses in action" he was not entitled to them unless reduced into possession during the coverture, and yet, according to Abbott's definition, the wife's chattels not in the possession of the husband would be "choses in action." Personal property recoverable by proceed-