it in the sense that when a judgment is obtained it can be taken under execution.

The judgment to enforce this liability was not a personal judgment, but a proprietory judgment. The form was settled in Scott v. Morley, 20 Q.B.D. 132, and the plaintiff was not entitled to a general judgment quod recuperet, per Osler, J.A., in McMichael v. Wilkie, 18 A.R. 472.

All this was changed in England in 1893, and here in 1897, but this case must be dealt with upon the law as it was in 1890-1892.

The Division Court therefore had no jurisdiction to make a personal judgment such as that pronounced, and to that extent there must be prohibition.

But the Division Court had jurisdiction to entertain the action and to pronounce a proper judgment, and as the defendant consented to judgment, and as on her cross-examination it appears that at the time of the contract and of the suit she had separate property, the Division Court may well amend the judgment. We have no such power.

I would have given the defendant her costs of these proceedings were it not for the most improper charges she has seen fit to make in her affidavit. It could make no possible difference to the result of this motion that in an entirely different matter the plaintiff had been convicted and punished. This statement is impertinent and scandalous, and had a motion been made against it I should have had no hesitation in ordering the affidavit to be removed from the files, and in directing the solicitor who filed it to pay the costs.

The appeal should be allowed and an order made prohibiting all further proceedings upon the personal judgment entered against the defendant Jane Perry, but this order is not to prevent the amendment of the judgment so as to make it a judgment in the proper form against the said defendant as a married woman, and without prejudice to any answer she may have to such motion.

No costs.

MULOCK, C.J.:—I agree.

TEETZEL, J.:—I agree.