creates the jurisdiction must be observed. We give the clause:—

Sec. 1. The several County Courts in Upper Canada shall have jurisdiction and hold plea in actions of ejectment for the recovery of corporeal hereditaments (where the yearly value of the premises, or the rent payable in respect thereof, does not exceed two hundred dollars) in the following cases, namely:—

1. Where the term and interest of the tenant of any such corporeal hereditaments shall have expired, or been determined by the landlord or the tenant by a legal notice to quit.

2. Where the rent of any such corporeal hereditament shall be sixty days in arrear, and the landlord shall have right by law to re-enter for non-payment thereof.

"For the recovery of *corporeal hereditaments.*"

If a thing is capable of being inherited it is an heriditament—it is no less an heriditament because the party has a leasehold interest in it. *Baddeley* v. *Denton*, 4 Exch 508. Hereditament is a general term for every description of property. *Harris* v. *Davison*, 15 Sim. 134 Whatever may be inherited is an hereditament, be it corporeal or incorporeal, real, personal, or mixed. Co. Litt, 6 A. "*Corporeal* hereditament" as used in this clause, we take it, will include anything on which entry can be made or of which the Sheriff can give possession, but not anything on which entry cannot be made or of which the Sheriff cannot deliver possession under a writ of execution. Ejectment would not lie at Common Law for incorporeal hereditaments as for advowsons, common in gross, or other things which pass only by grant. The action of ejectment is maintainable in the County Courts, we assume for all kinds of corporeal hereditaments.

A general limit to the action is found in the words, "where the yearly value of the premises, or the rent payable in respect thereof, does not exceed two hundred dollars."

It will be observed that it is *either* the yearly *value or* "the *rent*," the words are in the alternative, and if either do not exceed the limit—two hundred dollars—ejectment for the premises, it is presumed, will lie in the County Courts. Several cases on this point have been decided in England, under the enactment 9 & 10 Vic, ch 95, sec. 122, which is in terms nearly identical with ours. It gives jurisdiction for the recovery of tenements "where the value of the premises, or the rent payable in respect to such tenancy, did not exceed the sum of £50 by the year, and upon which no fine shall have been paid," &c.

The first case in point on this enactment is, *Fearon* v. *Norvall*, 1 Co. Court Cases 171. It was an application to the Bail Court for an order for a prohibition upon the following facts. A judgment had been pronounced in favor of the landlord, directing possession of the premises to be given. Several months after the judgment the landlord, treating it as a nullity, commenced another action and again recovered judgment, and the prohibition was moved for on—first, the ground of the prior judgment existing unreversed, and secondly, that as the value of the premises (though not the rent) exceeded £50 there was no jurisdiction. In respect to this last point Patteson, J., expressed himself upon the argument as follows: "There is no pretence for saying that where the rent does not exceed £50 per annum, and there is no fine—it is not within the section even though the value may be a thousand pounds. I am quite clear upon this point." Reserving the other point in giving judgment, after taking time to consider, his lordship said: "I disposed of the second objection upon the argument being clearly of opinion that if the rent did not exceed £50 it was immaterial how great might be the value of the premises

Crowley v. *Vitty*, 1 Co. Court cases, 528. In this case there was an agreement in writing to take certain premises at £1 per week. Subsequently the rent was reduced by a verbal arrangement to a sum under £50 per year, but the yearly *value* was shown to be over £50 so that there was clearly no jurisdiction unless the rent was under £50. The Court held that the verbal arrangement did not discharge the written agreement and that the original demise stood. Baron Alderson, in the course of argument in the case referred to the point of which we are speaking, thus: "What do you say to a case of this sort—suppose a man takes a piece of land, pays £25 a-year ground rent, and builds a house on it worth £500 a-year—do you mean to say the owner of the land could in such a case go to the County Court under this section to turn out his tenant?"

The suggestion thrown out by Alderson, B., that to give jurisdiction, neither the rent nor the yearly value must exceed £50 was laid hold of but held to be unsound in *Earl of Harrington* v. *Ramsay*, which is the leading case on the point. This case was first determined in the Court of Common Pleas, on motion for rule for prohibition, 2 Co. Court cases, 154 At the trial before the County Court Judge it appeared that the rent of the premises in question was £41 per annum, but that their value exceeded £50 per annum, and it was thereupon contended that the judge had no power to proceed if either the annual rent or the value exceeded £50. The learned judge of the County Court however ruled adversely and judgment was given for the plaintiff against which the defendant appealed.

Upon the argument Bramwell for the prohibition, referred to the language used by Alderson, B, in *Crowley* v. *Vitty*. The learned judge is reported to have said, with reference to the rent forming the criterion: "That cannot be so always. Suppose a man take a piece of land and pays £25 a-year ground rent, and he builds a house on it worth £800 a year, could the owner of the land go to the County Court under