

dorsement altogether, Holmested and Langton, Judicature Act, 3rd ed., p. 270, but now Rule 33, as at present framed, expressly authorizes the inclusion in a special endorsement of a claim for interest, whether payable by way of damages or otherwise.

Under the Rules as they now stand, the whole endorsement is, in my judgment, a valid special endorsement properly made, of a claim which is properly the subject of such an endorsement.

Even if the interest on the balance were not the subject of a special endorsement, the endorsement would still be a valid special endorsement as to that part of the claim which was properly the subject of a special endorsement: see Rule 37, which points out what is to be done where unliquidated claims, other than interest, are joined with claims which may be specially endorsed.

The defendant's motion fails, and he must pay the costs of the motion.

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MASTER-IN-CHAMBERS.

NOVEMBER 21ST, 1913.

CAIRNCROSS v. McLEAN.

5 O. W. N. 352.

*Judgment—In Default of Statement of Defence—Misunderstanding of Solicitors—Judgment Set Aside—Settlement of Action—Enforcement of—Necessity of New Action—Motion to Strike out Statement of Claim.*

HOLMESTED, K.C., set aside a judgment signed in default of delivery of statement of defence upon the ground that the same was the result of a misunderstanding between the solicitors of the parties. *Quare*, as to whether a settlement of an action can be enforced in the same action.

Reference to authorities.

Application by defendant to set aside a judgment signed for default of defence and also to set aside the statement of claim.

K. Mackenzie, for defendant.

L. Davis, for plaintiff.

HOLMESTED, K.C.:—The action was commenced on the 9th November, 1910, to enforce a contract for the sale of certain land by the plaintiff to the defendant. It is common