Such unwarranted addition to the indorsement form must be the result of a bonâ fide mistake, however; for, as the last-cited authorities point out, (*m*), if it is not, another Rule passed in 1893, (R.S.C., Nov. 1893, Rule 3, (9), now Order 14, Rule 9, (b)), applies, namely, the one directing that "if the plaintiff makes an application under this order where the case is not within the order . . . the application shall be dismissed with costs to be paid forthwith by the plaintiff."

In view of the conclusion to Order XIV, Rule 1, (b), to the effect that the Judge may "allow the action to proceed as respects the residue of the claim," a conclusion which apparently sanctions compound claims, partly special, and partly not, and which appears to provide for judgment under Order XIV, being obtained in such cases for the special part of the claim, without prejudice to proceedings to recover the residue, it is rather surprising to be informed that the established English practice is to regard Order XIV, Rule 1, (b), as above stated, or, in other words, (*n*), "as only intended to give the Court discretionary power to prevent technical objections from defeating the purpose of Order XIV, in cases where a bonâ fide mistake has been made in drawing a special indorsement." As explaining why the Rule has been so interpreted, it has been pointed out, (*o*), that, while Order XIV, Rule 1, still opens with the words "where the defendant appears to a writ of summons specially indorsed under Order III, Rule 6," the word "only" has not been eliminated from the first sentence of the last-named Order, and, further, that, as we have seen, the above-quoted Order XIV, Rule 9, (b), imposes a penalty on a plaintiff proceeding under Order XIV on a claim not within the Order (*p*).

Summing up under this head, it may be said that, according to the present English practice, "no claim which could not by itself be made the subject of a special indorsement can be included therein, or joined therewith. Its presence vitiates the special indorsement, though the Court has now power to remedy the fault by amendment" (*q*).

As to the nature and extent of the power of amendment in the converse case; to which Order XIV, Rule 1, (b), does not

(*m*) Ibid.
(*n*) Annual Practice (1903), 128.
(*o*) Ibid.
(*p*) Vide *Rodway* v. *Lucas*, supra; *Sheba G. M. Co.* v. *Trubshaw*, supra.
(*q*) Annual Practice (1903), 14.