

both at law and in equity, except that in equity, by the judgment at the hearing, a reference was frequently directed, and further directions were reserved; and at law an interlocutory judgment was allowed to be signed for damages to be assessed, followed by a final judgment when the assessment had taken place.

Both of these modes of obtaining judgment are perpetuated by the Consolidated Rules, but our correspondent, and those who think with him, seem to have found an entirely new procedure laid down, whereby you can get a final judgment for part of the relief claimed against a defendant at one stage of the proceedings, and then prosecute the action in order to obtain another judgment against him for some other relief. For this novel procedure we think some specific authority ought to be found in the Rules, which, however, we have not been able to discover. There is this to be said against it, that in the prosecution of the action for the further relief the plaintiff may fail, and in the disposition of the costs it might, had the whole case been before the court, be proper to order the costs of the action in so far as it failed to be deducted from the amount which the plaintiff is actually found entitled to recover in the action, but the plaintiff may, in the meantime, have prevented that by levying the amount under his judgment previously obtained, so that the court may be thus deprived of the power of doing complete justice.

The old equity procedure certainly did not permit a plaintiff to obtain relief in that manner. The action had to be heard *pro confesso*, or on the pleadings, or tried in the usual way, as to the whole case, when one judgment was pronounced as to all the relief claimed. If there is any Rule which has changed the practice, which is it? Perhaps our correspondent can point it out. We fear that he will have to fall back on the analogy Rule which is supposed by some judges to sanction all the aberrations of practice which can be devised.

We do not think that in any case two actions are necessary, as our correspondent suggests. If the defendant does not appear it is merely a question whether the judgment is to be obtained according to the procedure pointed out for "specially indorsed writs," or whether the action must be brought to a hearing on motion for judgment as provided in other cases; one course is almost as speedy as the other.—EDITOR C.L.J.]