

with sufficient solemnity, but I can assure him that I was as serious as an owl when I wrote those articles. The chief difficulty that I see about the matter is that the judges in various subsequent cases have indicated that they do not agree with the arguments there advanced, and it appears to me that their disapproval also extends to the arguments advanced by your correspondent.

Yours truly,

Toronto, September 21st, 1894.

A. H. MARSH.

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PRACTICE—SUMMARY JUDGMENT. 2.

To the Editor of THE CANADA LAW JOURNAL:

SIR,—In your report of *Hollender v. Ffoulkes*, 30 C. & J. 435, it is said that *Solmes v. Stafford*, 16 P.R. 78, is followed, and *Hay v. Johnston*, 12 P.R. 596, is not followed. It might be inferred from this that *Hay v. Johnston* is overruled.

But a little reflection will show, I submit, that *Hay v. Johnston* may be good law, notwithstanding the later decisions. There were in that case two separate claims or causes of action joined together for convenience and expedition and economy, but always remaining separate, so that one could proceed, and the other dropped or discontinued at any time. Judgment on the one would not necessarily affect the other. They really were two separate actions.

Why, then, if the reasons existed for giving summary judgment on one claim, should that judgment be delayed till the other claim is tried? The defendant in the action on the note, and the defendant in the other action, are two different persons. The writ as to the promissory note is not the less "specially indorsed" under Rule 739 because it is further indorsed with an unliquidated claim, not connected in any way with the liquidated claim so as to make that unliquidated also. The liquidated claim remains liquidated, and the plaintiff is entitled to judgment on it.

*Solmes v. Stafford* and *Hollender v. Ffoulkes* would also appear to be good law (if I may presume to say so); for by connecting an unliquidated claim for interest with a liquidated demand for the principal, the whole claim is rendered an unliquidated one.