

specially indorsed. Can such a right be claimed by a plaintiff who deliberately rejects the appropriate form and uses instead the form of general indorsement? I think not; and I think that he cannot have his position bettered by permitting him on the hearing of the application, which when made was untenable, to amend by *essentially altering* the character of the indorsement."

The English practice against the allowance of compound claims, partly special and partly not, did not meet with general favor among the Ontario Judges. The manifest convenience and saving of expense which would result to a plaintiff from the sanctioning of compound claims, led Boyd, C., (u), proceeding along what he took to be a proper line of analogy, (v), to favor such a course of practice. Meredith, J., while recognizing that "before the liberal interpretation of the Rules," in the English case which Boyd, C., had cited, and in other cases (w) "the current of authority in Ontario was uniformly against a plaintiff's claim to final judgment under Rule 739, upon a specially indorsed writ where other claims, not the subject of special indorsement, were added", and while also recognizing that *Bisset v. Jones* was distinguishable, as being based upon a different rule, nevertheless followed, (x), the course taken by the Chancellor. "If the Rules do not warrant it," said Meredith, J., (y), "they ought to." But a strict compliance with the English decisions was insisted upon by a Divisional Court, (z), and by the Court of Appeal, (a), successively. Thus our practice stood in 1897; when it was altered, so as to permit of compound claims.

Our present Rule 138 provides: "The writ of summons may, at the option of the plaintiff, be specially indorsed with a statement of his claim, or of the remedy or relief to which he claims to be entitled, *where the plaintiff seeks* to recover a debt or liquidated demand in money." . . . And Rule 602, (2), states that a motion under Rule 603, (1), "may be made in respect of a cause of action specially indorsed under Rule 138, though the writ may also be indorsed with any other claim, and such order may be made in respect of the cause of action so specially indorsed as

(u) *Huffman v. Doner*, 12 P.R. 492; *Hay v. Johnston*, 12 P.R. 596.

(v) *Bisset v. Jones*, 32 Ch. D. 635.

(w) *Smith v. Davies*, 28 Ch. D. 650, *Blake v. Harvey*, 29 Ch. D. 827.

(x) *Mackenzie v. Ross*, 14 P.R. 299.

(y) *Ibid.*

(z) *Hollender v. Fjoulkes*, *supra*.

(a) *Solmes v. Stafford*, *supra*.