

pecially in cases of account against trustees, and other persons standing in a fiduciary position, the judgment always directs the account to be taken in such a way as to cover not only all receipts up to the date of the writ, but also all moneys received up to the taking of the account, and also of all prospective receipts until the winding-up of the trust. Indeed any other procedure might involve an endless series of actions. The action of *Witham v. Vane*, *supra*, though brought in the Chancery Division appears to have been in substance an action on a covenant, and probably on that ground was properly governed by Common law principles, which would not be applicable to other cases where an account is sought. The case of *Stewart v. Henderson*, *supra*, may also be said to have been a common law action and in like manner governed by common law principles. *Hoffman v. McCloy*, on the other hand, seems to have been of an equitable nature, the defendant apparently being trustee or agent or partner of the plaintiff and as such accountable to him for his proportion of the moneys received and to be received in respect of the sale of the patent; and what the plaintiff sought was a declaration of his right, and an account by the defendant as his trustee or agent, or partner.

The judgment of the Court at the trial of the action declared the plaintiff's rights, and awarded payment of the amount then actually in the defendant's hands belonging to the plaintiff, but omitted to direct an account of future receipts by the defendant for the plaintiff. The majority of the Divisional Court was of the opinion that the judgment could not properly have contained such a direction, although it is, we think, the common practice in the case of trustees, or agents or partners to order such accounts.

It is not very clear from the report in what position the defendant stood to the plaintiff. A patent for an invention had apparently been sold by the defendant and by virtue of some agreement between the plaintiff and defendant the latter was bound to account to the plaintiff for a certain proportion of the proceeds of the sale; but, in whatever position the defendant