be precise amount or thing in controversy, should be stated with peculiar exactitude. If more than one case is decided in one opinion, the titles of all should be given. The want of these details often makes it difficult to recognize the same case on appeal. Thus, we are well satisfied that the case of *Voorhies* v. *Baxter* (1 Abb. Pr.) is the same as that reported on appeal (17 N. Y. Rep.) as *Voorhies* v. *Childs*, Executor; that *Reubens* v. *Joel* (13 N. Y.) really affirms *Neustadt* v. *Joel* (2 Duer.); and that *Gardner* v. *Clark*, as reported successively in 6 How. Pr. R., 17 Barb., and 21 N. Y., is but one case. This, however, is not so clear as it might easily have been made by a more explicit statement of facts in each case. No reporter can tell, with absolute certainty, that his cases have not been reported before, or will not be again. He should therefore so prepare his report as to facilitate the search of his readers for the same case in its antecedent or subsequent stages. —*N. Y. Transcript.*

DIVISION COURTS.

TO CORRESPONDENTS.

All Communications on the subject of Division Courts, or having any relation to Division Courts, are in future to be addressed to "The Editors of the Law Journal, Barrie Post Office."

All other Communications are as hitherto to be addressed to "The Editors of the Law Journal, Toronto."

IN THE MATTER OF A PLAINT INSTITUTED IN THE DIVISION COURT OF THE UNITED COUNTIES OF HURON AND BRUCE, BETWEEN WILLIAM E. GRACE, PLAINTIFF, AND SAMUEL S. WALSH, DEFENDANT.

Division court—Splitting demands—Prohibition.

Plaintiff rendered an account to defendant commencing with the amount of an account rendered on the 30th of June, 1862, and continuing to the 14th of October, when the balance, after allowing a credit of $4.25, was $106 43 In February, 1863, he sued in the Division Court, the statement of claim commencing with the 24th of April, and ending on the 10th of October, 1862, and amounting to $99.31 He was allowed to recover without abandoning the excess, notwithstanding the production of the larger account rendered; and in May he sued for the items included in that account, but not in the former action, and was also allowed to recover. Defendant then applied for a prohibition. *Semble*, that the application should have been made in the first suit, but the point was not settled, as, after rule nisi granted, the plaintiff consented to the writ going without costs. [Q. B., T. T, 1863.]

John Paterson applied for a rule calling on the judge of the County Court of Huron and Bruce, and the said William E. Grace, to show cause why a writ of prohibition should not issue, directed to the said judge, to prohibit him from further proceeding in the above-mentioned plaint, instituted about the 23rd of May last, on the ground that the plaintiff ought not in law to be allowed to prosecute the plaint in the Division Court.

The applicant, Walsh, gave notice in writing on the 25th of July last to the judge, and on the 27th of July last to the plaintiff, Grace, of his intention to move, on the ground that Grace split an indivisible cause of action for goods sold and delivered, in order to bring two actions.

From the affidavits it appeared that the plaintiff rendered to the defendant an account, commencing with the amount of an account rendered on the 30th of June, 1862, $27 71, and continuing on to the 14th of October, 1862, when the amount was $110 68, and credits were given for $4 25, leaving a balance apparently due of $106 43. On the 13th of February, 1863, the plaintiff took out a summons from the Division Court. The statement of claim attached to the summons commenced with an item on the 24th of April, 1862. The last item was under the date of the 10th October, 1862, and the amount was $99 31. The items prior to the 1st of July in this claim amounted to $28 02½ All the other items after June 30th to October 14th corresponded exactly in description and price, except one, where there was 12½ cts more charged in the last than in the first.

When this suit was brought to trial, it was objected for the defendant that this claim was a portion of a larger account, and the larger account was produced, and the right of the plaintiff to recover was disputed, on the ground that he was splitting his demand, contrary to the 59th section of the Division Courts' Act, and that he could not maintain this suit without abandoning the balance The judge replied, that the objection could not prevail against the plaintiff in that suit, as upon the face of the claim then in the court there was no appearance of the same having been divided: that the objection could only be of effect in case any future action was brought for the recovery of the difference of the account produced and that sued for; and he gave judgment for the plaintiff

On the 22nd of May, 1863, the plaintiff took out another summons against the defendant, claiming an account of $12 This was composed of the very same items as had been charged by the plaintiff to defendant in the account first rendered, but not included in the account first sued for, and at the foot of this claim the credits given in the account rendered, amounting to $4 25, were also given. The plaintiff in the second action claimed $7 75 When this came on for trial, it was objected for the defendant that the plaintiff having previously divided his claim and recovered judgment for the greater portion thereof, he must be taken to have abandoned the claim in the present action, as it was the remaining portion of the divided claim.

It was stated that the judge of the Division Court on that occasion gave judgment for the plaintiff, and on the 22nd of June, 1863, the defendant gave notice to the plaintiff that he should move to have the judgment set aside and a nonsuit entered according to leave reserved, or for a new trial, setting out on what grounds the application would be made. A day was appointed to hear the parties, and the defendant was represented by an agent, who swore that no one appeared to oppose the application, nor was it to his knowledge opposed by affidavit or otherwise, but the application was refused and the judgment ordered to stand.

DRAPER, C. J.—I entertain some doubts on this case, not that I have any doubt that this is precisely one of the very cases the legislature meant to provide for. What I am not clear about in my own mind is, whether the prohibition should not have been applied for in the first suit, for if it was made plain to the judge presiding that the plaintiff was then suing for the portion of a larger demand over which the division court had no jurisdiction, then the case should have been stopped, unless the plaintiff abandoned the excess, and if he did not a prohibition would have gone. Whether under the facts shewn it will not lie, I think doubtful. We will let the rule go, in order to hear the point argued. See *In re Ackroyd*, 1 Ex. 479; *Isaac* v. *Wyld*, 7 Ex. 163; *Lord Bagot* v. *Williams*, 3 B. & C. 235.

Per cur.—Rule nisi (*a*).

CORRESPONDENCE.

To the Editors of the Law Journal.

HILLSBORO, February, 15th, 1864

GENTLEMEN,—You will much oblige by answering the following in your next issue.

A sues B (a tradesman) who a *few days* before the sitting of court absconds. C takes out an attachment and seizes B's account book. C of course has to sue, &c., at the next sitting of court, which will not be till June. Does A get the full amount of his judgment from the proceeds of the book, or does he only get a proportion?

Your obedient servant,

THOS. W. K. SCOTT,
Cl 5th Div. Ct. Co. Lambton.

[The question put by our correspondent is not free from doubt. We think, however, that A would be entitled to get the full amount of his judgment; the only deduction which could be

(*a*) In the following term the rule *nisi* was taken out and made absolute, with out costs, by consent.