words "fittings for gas," and was, therefore, not exempt from distress; but the Court of Appeal reversed this decision, holding that any apparatus which is used for the supply and consumption of gas would come within the meaning of the words, "fittings for gas."

PRACTICE—COSTS—ONE OF THE TWO PLAINTIFFS SUCCESSFUL—ENG. ORD. 16 R. 1 (ONT. RULE, S. 89,92).

Gort v. *Rowney*, 17 Q. B. D. 625, settles a point of practice which arises on a state of facts the offspring of the Judicature Act. Two plaintiffs joined in one action, claiming for separate and distinct causes of action, as they are empowered to do by Eng. Rule, 1883, Ord. 16 r. 1. (See Ont. Rules 89, 92.) The action was referred to arbitration, the costs to abide the event. One of the plaintiffs succeeded, and the other failed in the action. The question was under the circumstances how the costs of the action should be borne. A Divisional Court (Lord Coleridge, C.J., and Fry, L.J.), reversing Field, J., held that the successful plaintiff was entitled to so much of the costs as related to her claim, and that the defendant was entitled as against the unsuccessful plaintiff to so much of the costs as related exclusively to the latter's claim, and as to the general costs of the action, one-half was to be paid by the defendant to the successful plaintiff, and one-half by the unsuccessful plaintiff to the defendant. The Court of Appeal, however, set aside this elaborate apportionment of the costs in favour of the much simpler and more reasonable disposition of the costs made by Field, J., viz., that the successful plaintiff was entitled to recover the whole of his general costs of the action, and the defendant was only entitled to recover from the unsuccessful plaintiff the costs occasioned by joining such plaintiff.

LIBEL—PRIVILEGE—PUBLICATION OF JUDGMENT.

In *Macdougall* v. *Knight*, 17 Q. B. D. 636, the plaintiff complained of the defendants having published a report of a judgment delivered in a former action brought against them by the plaintiff without any report of the evidence, there being passages in the judgment reflecting on the plaintiff's character.

It having been found by the jury that the report in question was a fair and accurate report of the judgment, and that it was published *bona fide*, and without malice, it was held by Day and Wills, JJ., that it was no libel, and that the defendant was entitled to judgment on the findings, and that it was unnecessary to ask the jury whether the pamphlet was a fair report of the trial, and this decision was affirmed by the Court of Appeal.

The nature of the plaintiff's contention may be gathered from Lord Esher's remarks at p. 639, where he says:—

> The proposition on behalf of the plaintiff is that if a verbatim report of the judgment is published, and the judgment so published reflects on the character of any person, the publication cannot be defended unless a report of all the evidence given at the trial is also published, or, if this is not the proposition, it must then be suggested that the jury should be asked whether the judgment contained a fair and accurate representation of the facts proved.

This argument he answers further on at p. 640:—

> The question as to fairness arises only when the report is not *literatim et verbatim*; if it is so, no such question can arise. It has been decided, as I have observed, that a report of one day's proceedings may be published, and in the same way the judgment is quite a separate part of the proceedings. Suppose the judgment to be erroneous, still the people who were not in court, but who read the report, are put in the same position as those who were in court and heard the judgment delivered. The responsibility for the accuracy of the judgment rests on the judge who delivers it, not on the person who publishes the report of it. I am of opinion, therefore, that an accurate report of a judgment is not libellous.

PRACTICE—CONCURRENT WRIT—STATUTE OF LIMITATIONS.

In *Smallpage* v. *Tonge*, 17 Q. B. D. 644, the question submitted to the Court of Appeal was whether, after a writ of summons has been issued and renewed, a concurrent writ of summons for service out of the jurisdiction could properly be ordered when its issue would affect the operation of the Statute of Limitations. Wills and Grantham, JJ., had refused to authorize the issue of a concurrent writ under such circumstances; but the Court of Appeal (Cotton and Lindley, L.L.J.,) reversed this decision, and held that the right of action had been kept alive by the original writ which had been duly renewed, and that the court, in ordering the issue of a concurrent writ, was only making the action effectual by ordering service out of the jurisdiction.