

with. But apart from their own consent, there is no power to control or limit the plaintiffs' proceedings so long as they are regular.

The motion will be dismissed—costs in the cause to the plaintiffs.

Defendants appealed from above order to Hon. Mr. Justice Middleton-in-Chambers.

R. C. H. Cassels, for the defendants, appellants.

H. E. Rose, K.C., for the plaintiffs, respondents.

HON. MR. JUSTICE MIDDLETON (3rd May, 1912):—The Master, while refusing consolidation of the actions, has directed that they shall all be entered for trial at the same sittings of the Court; and at the trial the presiding Judge will, no doubt, make such arrangements as will prevent unnecessary repetition of evidence, in all the cases. But it is manifest that if each plaintiff has to establish that the fire escaped from the defendant's premises to his premises by reason of the negligence of the defendant, the issue in each case, although similar, is quite distinct.

There is much confusion upon the subject of consolidation of actions, arising mainly from a loose and inaccurate use of the word "consolidation." As said by Moulton, L.J., in *Lee v. Arthur*, 1909, 100 L. T. R. 61: "Consolidation is much more rarely applicable than is generally supposed, because the expression is used in cases where the word is really not appropriate at all, as in cases where the trial of one action is stayed pending the hearing of another action. In a case like that, the Court will not allow its process to be abused. That is often called consolidation, but it is not really consolidation."

It is important, in the first place, to observe that C. R. 435 is intended to deal with the consolidation of actions in the strict sense of that term. The jurisdiction to stay actions probably exists quite apart from any statutory provision, as part of the inherent power of the Court over its own process; but this power is recognized and confirmed by sec. 57, sub-sec. 9 of the Judicature Act.

Rule 435 provides that "actions may be consolidated by order of the Court or a Judge, in the manner in use in the Superior Courts of Common Law prior to the Ontario Judicature Act, 1881." The terms of this rule have given rise