

Practice.

ROBERTSON, J.]

[Oct. 2.]

NOYES v. YOUNG.

Consolidation of actions—Application of common defendant—Identity of cause of action.

Two separate actions were brought by a husband and wife against the same defendant for damages for injuries received by each of the plaintiffs owing to the alleged negligence of the defendant in permitting a pair of horses to run away and run into a vehicle in which both plaintiffs were seated, causing them to be thrown out and trampled on. The husband alleged greater injuries than the wife and claimed \$3,000 damages, while she claimed \$2,000. The defences were the same, with the addition in the wife's action of a paragraph stating that such action was unnecessary; the main defence in both was contributory negligence.

Held, upon an application made by the defendant at the trial, that both claims should have been joined in one action; and an order was made consolidating them.

Smurthwaite v. Hannay, 10 Times L.R. 649; *Westbrook v. Australian, etc., Navigation Co.*, 23 L.J.N.S. (C.P.) 42; *Williams v. Township of Raleigh*, 14 P.R. 50, distinguished.

A. G. Chisholm for the plaintiffs.

Love for the defendant.

Chy. Div'l Court.]

[Oct. 13.]

BALDWIN v. QUINN.

BALDWIN v. MCGUIRE.

Costs—Taxation between solicitor and client—Agreement to pay costs of two actions—Separate sets of costs—Affidavits on production—Motion for summary judgment—Defective endorsement on writ of summons.

Two actions were brought by the same plaintiffs against different defendants to recover rent for different parcels of land. The defences were not identical, and, though one solicitor acted for both defendants, he did not respond to overtures of the plaintiffs to have one action abide the result of the other. A compromise was effected, and it was agreed between the parties "that judgment shall be entered in each of the said actions for the amounts claimed therein by the plaintiffs, with costs of suit between solicitor and client," and judgments were entered accordingly.

Held, that the plaintiffs were entitled to tax a separate set of costs for each action.

The plaintiffs made six affidavits on production, either prompted by the action of the defence, or by way of voluntary supplement to the original affidavit.