

PRACTICE—COSTS—TWO DEFENDANTS REPRESENTED BY SAME
SOLICITOR—ONE DEFENDANT SUCCESSFUL, AND THE OTHER
UNSUCCESSFUL—PLAINTIFF'S LIABILITY FOR COSTS.

Ellingsen v. Det Skandinaviske Compani (1919) 2 K.B. 567. A simple point of practice was in question in this case. The action was against two defendants both of whom were represented by the same solicitor but on separate retainers, the action was dismissed as against one defendant with costs, and the plaintiff succeeded against the other with costs. The successful company had agreed to pay their solicitors the costs incurred on behalf of the unsuccessful defendant. On the taxation of the successful defendants' costs the taxing officer held that they were entitled to tax as against the plaintiff only one-half of the items incurred for the benefit of both defendants. And this decision was affirmed by Bailhache, J., and also by the Court of Appeal (Bankes, Scrutton, and Atkin, L.JJ.). It may be observed that the decision turns on the fact that the retainer of the defendants' solicitor was not a joint retainer by the defendants, but a separate retainer by each. If the retainer had been joint, *per se*, the successful defendants being liable to the solicitor for the whole costs, would have been entitled to tax them against the plaintiff.

HUSBAND AND WIFE—CONTRACT—TEMPORARY SEPARATION ALLOW-
ANCE FOR MAINTENANCE OF WIFE—DOMESTIC ARRANGEMENT
—NO RESULTING CONTRACT.

Balfour v. Balfour (1919) 2 K.B. 571. This was an action by a wife against her husband to enforce an agreement by the husband to pay her £30 per month for maintenance, she agreeing to support herself and not to call upon him for any further maintenance. The agreement was made in the following circumstances. The parties were married in 1900 and went to reside in Ceylon where defendant held a Government appointment. In 1915 the parties returned to England. In 1916 the defendant returned to Ceylon, leaving the plaintiff in England where she had to remain under medical advice. The plaintiff alleged that before his departure the agreement in question was made by the defendant. The parties remaining apart, the plaintiff subsequently obtained a decree *nisi* for the restitution of conjugal rights, and an order for alimony. Sargant, J., who tried the action held the agreement to be proved, and that it was actionable. The Court of Appeal (Warrington, Duke and Atkin, L.JJ.), however, held that the agreement merely amounted to a domestic arrangement, and gave no cause of action. The Court of Appeal, however,