



Minnesota Reports; Cases Argued and Determined in the Supreme Court of Minnesota Volume 23

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This historic book may have numerous typos and missing text. Purchasers can usually download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1879 edition. Excerpt: ...by several hundred dollars the amount claimed by plaintiff. Defendants moved, below, that Davis be made a party to this action, upon the ground that, in this action, as it now stands, they can set off so much only of their claim as equals the amount of plaintiff's claims, and that, as their cause of action cannot be split so as permit them to recover the residue of Davis, such residue will be lost to them, unless they can be permitted to recover it of Davis in this action. The splitting of an entire cause of action is forbidden, because it produces an unnecessary multiplicity of suits. *Farrington v. Payne*, 15 John. 432; *Guernsey v. Carver*, 8 Wend. 492; *Badger v. Titcomb*, 15 Pick. 409; *Bennett v. Hood*, 1 Allen, 47. Where this result does not follow, the rule against splitting does not apply. See *Risley v. Squire*, 53 Barb. 280; *Bennett v. Hood*, 1 Allen, 47. In the case at bar, if the defendants, after recovering, by way of set-off, so much of their claim against H. Davis as equals the amount of plaintiff's claim, recover the residue in a subsequent action against H. Davis, there is no unnecessary multiplicity of actions, since both recoveries are requisite to the complete assertion of defendants' rights. It is, moreover, to be observed that the rule hardly applies to this case, for the reason that it is the vexing of the same person by an unnecessary multiplicity of actions, against which the rule is directed. See authorities supra. The ground upon which defendants base their motion is, therefore, untenable. To any suggestion that, if Davis could be made a party to this action, it would avoid the necessity of another suit to recover the residue of defendants' claim, there are two answers: First, such is not...

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