

PRACTICE—PARTIES—COUNTERCLAIM—JOINDER OF THIRD PARTY
AS DEFENDANT TO COUNTERCLAIM—RELIEF CLAIMED AGAINST
DEFENDANTS TO COUNTERCLAIM IN ALTERNATIVE—JOINDER
OF DIFFERENT CAUSES OF ACTION IN COUNTERCLAIM.

Smith v. Buskell (1919) 2 K.B. 362. This was an action for the price of goods sold and delivered. The defendant by his defence pleaded that the goods were not delivered in good condition, and that the plaintiff committed a breach of an implied term of the contract to pack the goods properly. He also raised the same points by way of counterclaim against the plaintiff and to the counterclaim he added as defendants a railway company to whom the goods had been delivered for transmission to the defendant; claiming alternatively against them damages, in case the goods had been delivered in good condition, for negligence. The plaintiff moved to strike out the railway company, as defendants in the counterclaim but Roche, J., refused the motion and the Court of Appeal (Warrington and Duke, L.JJ.) affirmed his decision, being of the opinion that although the claims were not strictly alternative, so as to be mutually exclusive, yet that the relief claimed against the railway was sufficiently "connected with the original subject of the cause or matter" within sec. 24(3) of the Judicature Act (Ont. Jud. Act, sec. 16 (d)), to enable the claim against the railway company to be joined with the claim against the plaintiff.

SOLDIER'S WILL—TESTAMENTARY INTENTION—CODICIL—LETTER
CONTAINING INSTRUCTIONS TO ALTER WILL—INSTRUCTIONS
RELATING ALSO TO REAL ESTATE—WILLS ACT (1 VICT., c.
26, s. 11)—(R.S.O. c. 120, s. 14).

Godman v. Godman (1914) P. 229. In this case a testator, having made a will in 1915 dealing with his real and personal estate in due form, subsequently enlisted as a soldier, and in 1917 wrote a letter directing certain changes in his will which purported to affect both the disposition of his real and personal estates. The question at issue was whether this letter was sufficient as a soldier's will, so as to be entitled to probate as a codicil. Horridge, J., held that the letter would, if it had been confined to the personal estate, have been a good soldier's will, and as such, entitled to probate as a codicil; but he held that the fact that it also dealt with realty, and the disposition thereby purported to be made of it, was so mixed up with the personal estate it was impossible to disentangle it, therefore the letter was not valid even as to the personalty.