There are also two distinct sets of defendants. On the first branch the infants are not properly parties. On the second branch the executors are not necessary parties. It appears to me that this cannot be done. As I understand the cases, you cannot join separate causes of action against separate sets of defendants. You may join separate causes of action against the same defendants; or you may join (in some cases) separate defendants where there is only one cause of action.

The latest case on the point (Chandler and Massey, Limited, v. Grand Trunk R. W. Co., decided on 15th May instant) is to be found in 2 O. W. R. 427. There, in giving the decision of a Divisional Court, Sir W. R. Meredith, C.J., said: "Collins, L.J., puts the matter very clearly in Thompson v. London County Council, [1899] 1 Q. B. at p. 844. . . . We must interpret Rules 186 and 192 in the light of the authorities, and follow Quigley v. Waterloo Mfg. Co., 1 O. L. R. 606, which proceeds upon the English cases. Here the causes of action against the two defendants are distinct, and they cannot be sued in the alternative." This is sufficient to dispose of the motion.

But I think it well to point out that the second ground of action could not be "conveniently disposed of in the same action with the first." If the two grounds were allowed in one action, the defendants might, by way of counterclaim, set up a later will than that of October, 1898, which might make it necessary to call in other defendants than those already before the Court. And these in their turn might set up another will or codicil still later. The state of the record in such a case would be indeed astonishing.

But, even as now constituted, it is impossible to see what advantage can result from the objectionable paragraph. Until the will admitted to probate has been finally set aside, it would be idle to attempt to establish another. And a final determination of the first point might not be reached for some years—or conceivably the evidence given at the trial might shew that as early as October, 1898, the necessary testamentary capacity was wanting. Again, if the will of November, 1902, was set aside, the will of October, 1898, if no later was proved, would be prima facie valid. Then the defendants would become the real plaintiffs in that issue, and the plaintiff would be the defendant. It is inconceivable that both issues could be tried at the same time. One would have to be postponed. These considerations seem to shew that the two causes of action could not conveniently be tried together, and therefore cannot conveniently be joined. The