

REVIEW OF CURRENT ENGLISH CASES

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PRACTICE—EVIDENCE—ACTION TO PERPETUATE TESTIMONY—
DEPOSITIONS—PUBLICATION—SUBSEQUENT LEGITIMACY SUIT
—INABILITY OF WITNESSES TO ATTEND TRIAL—ADMISSIBILITY
OF DEPOSITIONS.

Beresford v. Attorney-General (1918) P. 33. This was a petition to establish that the petitioner was the legitimate eldest son of the fifth Marquis of Waterford. Prior to the institution of these proceedings the respondents in view of the petitioners' claim had instituted a suit to perpetuate testimony and the depositions of certain witnesses were taken in that suit. The testimony of these witnesses was required in the present proceedings but the witnesses were too infirm to be able to attend to give evidence. The respondents therefore applied to Horridge, J., in Chambers, for leave to use the depositions of these witnesses, but he refused the motion, but ordered the evidence of these witnesses to be taken on commission. The Court of Appeal (Eady, Warrington and Scrutton, L.JJ.) held that the respondents were, in the circumstances, entitled to use the depositions as claimed and it was not necessary to take their evidence again on commission, or to produce the witnesses in Court.

PRIZE COURT—CARGO LADEN ON ENEMY VESSEL—TRANSFER OF
CARGO FROM ENEMY VESSEL TO NEUTRAL, IN TRANSITU, AFTER
WAR BEGAN—CARGO WAREHOUSED IN BRITISH PORT—SEIZURE
AS PRIZE.

The Bawean (1918) P. 58. This was a proceeding in the Prize Court for condemnation of a cargo seized in the following circumstances: Before the outbreak of war some cases of tea were shipped in a Chinese port on a German vessel bound to Hamburg. The tea was consigned to a firm in Bremen. War having broken out after the vessel had sailed, she put into a Dutch port for refuge, and the cargo was transferred to a Dutch vessel, the consignees at Bremen having sold the tea to a Dutch firm who directed it to be conveyed to London, intending there to sell it. On its arrival at London the tea was warehoused in the port of London, where it was subsequently seized as prize. Evans, P.P.D., held that the transfer after the war began was inoperative to protect the cargo from seizure as prize, and it was accordingly condemned.