

REVIEW OF CURRENT ENGLISH CASES.

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PRACTICE—ACTION BROUGHT BY WRONG PERSON—ADDING ATTORNEY-GENERAL AS PLAINTIFF—AMENDMENT—TERMS OF AMENDMENT—COSTS.

Attorney-General v. Pontypridd Waterworks Co. (1908) 1 Ch. 388. This action was originally commenced by a municipal body for a mandatory injunction to enforce the provisions of an Act of Parliament. It was objected by the defendants that the statement of claim disclosed no cause of action. Thereupon the plaintiff obtained leave to amend the writ and statement of claim by adding the Attorney-General as a co-plaintiff, and the question was reserved as to the terms on which the amendment should be allowed to be disposed of by the judge at the trial. Warrington, J., held that the original plaintiffs had no right of action, and that the terms on which the Attorney-General should be added were first that the plaintiffs should pay all costs up to the order adding him, and that the Attorney-General should only be entitled to such relief as he could have claimed if the action had been commenced at the date on which he was added as a party.

POWER—APPOINTMENT BY WILL—TESTAMENTARY DOCUMENT NOT PROVABLE AS A WILL—INVALID EXECUTION OF POWER—WILLS ACT, 1837 (1 VICT. c. 26) ss. 1, 9, 10—(R.S.O. c. 128, s. 13.)

In re Barnett, Dawes v. Izer (1908) 1 Ch. 402 is a singular case because Warrington, J., as judge in deciding it refused to follow a decision which he himself, as counsel for the plaintiff, had persuaded the late Mr. Justice Kekewich to give *In re Broad* (1901) 2 Ch. 86. The question in both cases was whether a power to appoint by will is well executed by a document, which, though purporting to be a will, and an exercise of the power, is nevertheless unprovable as a will by reason of defect of execution, or other cause. Kekewich, J., had held that it was a good execution of the power, but Warrington, J., holds that that decision is clearly contrary to the express provisions of the Wills Act, s. 10 (R.S.O. c. 128, s. 13) and he therefore declined to follow it. He naively suggests that counsel and the judge must have forgotten that section when *Re Broad* was argued.