stated to be the law in 31 Cyc. 1212. There it is said: "All the cases are agreed that an infant may in general act as an agent."

But then it was submitted that in any case the action should have been brought in the name of the parents and that there is no power in the attorney to sue unless he could do so as assignee.

This objection seems well taken. The only case on the point I have found is in *Re Wallace,* 14 Q. B. D. 22, also reported in 54 L. J. Q. B. 293; 51 L. T. N. S. 551, and 33 W. R. 66, which seems to shew that it was thought to be a new and important decision. See 31 Cyc. 1394. That was the case of a petition in bankruptcy by a creditor which had to be signed by himself. But the C. A. held that a signature of the creditor by his attorney was sufficient—because it was said "the signature is essential to the doing of the act—the commencement of the proceedings in bankruptcy—which is authorized."

That is a reason which does not apply to the commencement of an action. It was argued by counsel for the plaintiff that I had no power to dismiss the action or to strike out the statement of claim as not shewing any cause of action, *Harris* v. *Elliott,* 4 O. W. N. 939, points out that this can only be done under C. R. 259 or 261, or under the inherent jurisdiction of the Court.

Nor can C. R. 298 be used to strike out the name of the plaintiff. The proper procedure would have been for the plaintiff to have taken out letters of administration, as no doubt he could have done under his power of attorney except for the fact that he will not be of full age until May next. Owing to the slow progress of the case it cannot be tried until next autumn, if a jury is asked for, as no doubt will be the case.

The case could, therefore, be put into the correct form if stayed until administration had been granted with leave to plaintiff to amend the writ and statement of claim accordingly. The right to do this was denied relying on the case of *Blayborough* v. *Brantford Gas Co.,* 18 O. L. R. 243, citing and following *McHugh* v. *G. T. R.,* 2 O. L. R. 600. Here, however, there is no attempt to do what was attempted in those cases. The action is brought on behalf of those entitled, and if the plaintiff had alleged that he was the administrator the action could have proceeded and he could