ACTIONS BY OR AGAINST TRADE UNIONS IN ONTARIO

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The circumstances in Ontario in which a trade union can only sue or be sued in a representative action and the circumstances in which a trade union may sue or be sued in its own name have been subject to uncertainty.

The purpose of the following article is to resolve that uncertainty as far as possible upon consideration of the relevant Ontario statutes in relation to applicable principles enunciated in decisions of courts.

The leading cases have been gathered together and attention drawn to their inter-relationships. Comments are made on the possible or probable trend of court decisions; these comments are necessarily subject to *caveat emptor* until they have been established right or wrong by events.

I. *Representative Actions.*

In Ontario representative actions are brought under rule 75 of the Supreme Court which states:[1]

> Where there are numerous persons having the same interest, one or more may sue or be sued, or may be authorized by the Court to defend, on behalf of, or for the benefit of all.

Representative actions are cumbersome proceedings. Questions arise concerning whether the persons put forward as plaintiffs or defendants, as the case may be, properly represent the members of a group such as a trade union.

In addition, in some circumstances no representative action, regardless of its merits, can be brought. It has been held that a representation order cannot be made under rule 75 appointing persons to represent the membership of an unincorporated trade

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[1] Rules of Practice of the Supreme Court of Ontario. See Chitty's Ontario Annual Practice (1960).

union and authorizing them to defend an action for damages for torts of the union, concurred in by the union's executive board, unless the unincorporated union is possessed of a trust fund to which the plaintiffs are entitled to resort in satisfaction of their claim.[2]

Further, a representation order, to add representatives of a trade union as defendants in a damage action, was refused where the local union concerned was not possessed of a fund in Ontario to satisfy the plaintiff's claim. The international union, to which the local union belonged, had its headquarters in Washington, D.C., where it had a death benefit fund and a general fund. It would not have been reasonable to conclude that the international union would come to the aid of the local union and satisfy a judgment out of its general fund. Further, the persons sought to be added did not have the management of the union and control of its funds.[3]

The Canadian and United Kingdom authorities, upon which the above two decisions were founded, are reviewed in *Body* v. *Murdoch*.[4] The gist of this line of cases is that it is not proper or convenient to allow a plaintiff to obtain what would be a personal judgment against every member of an unincorporated body for the tortious act of one or some of its officers or members. The problem is emphasized by the revolving character of the membership of an unincorporated association in the course of which there may be many changes in membership between the time that a cause of action arises and the time at which judgment on it is given.

The pertinent features of the cases cited, for the purpose of this statement, are that they were actions in tort for damages against unincorporated associations which had not a status under the statute which constituted either of the associations a legal entity.

Different considerations apply, however, to actions between trade unions and their members. In *Orchard* v. *Tunney*[5] the Supreme Court of Canada held that the relation of a member to his trade union is not a matter of status but is a matter of contract by which each member commits himself to all others jointly on a foundation of specific terms governing individual and collective action, terms which, moreover, allow for the change of those within the inter-relationship by withdrawal from, or new entrance into,

[2] *Body* v. *Murdoch*, [1954] O.W.N. 658.
[3] *Smith Transport, Ltd.* v. *Baird*, [1957] O.W.N. 405.
[4] *Supra*, footnote 2.
[5] [1957] S.C.R. 436.

membership. The underlying assumption is that the members are creating a body of which they are members, and it is as members only that they have accepted obligations. But since an unincorporated trade union has no contractual capacity, it cannot as such incur liability in tort.[6]

Bonsor v. *Musicians' Union*[7] was referred to, where the House of Lords held that a trade union, registered under the United Kingdom Trade Union Acts of 1871 and 1876, was liable in contract for the wrongful expulsion of a member.

In the case of actions in tort or contract against unincorporated or unregistered trade unions, the courts have treated the proceedings as against the group and have limited the execution of judgments to the property of the group. Representative actions have not been allowed to be used as a procedure against representatives of the group for the purpose of getting a judgment enforceable against the property of each individual member of the group.

Since the judgment in *Orchard* v. *Tunney*[8] was against certain named individuals in their personal, but not in their representative, capacity, the observations of the court concerning the execution of judgments in actions against the group being limited to group property are *obiter*. The *obiter*, however, is strong in judicial weight and is consistent with the trust fund aspect of representative actions in tort. It would be appropriate, therefore, to view this *obiter* as the enunciation of a rule of law which is likely to be applied.

II. *Actions By and Against Trade Unions as Legal Entities in Their Names.*

The *Taff Vale* case[9] is the starting point for consideration of actions by and against trade unions, as legal entities, in their names. An action in tort was brought against the union which had been registered under the United Kingdom Trade Union Act

[6] See *Local Union 1562, United Mine Workers of America et al* v. *Williams and Rees* (1919), 59 S.C.R. 240. The respondents were refused membership in a local union. Subsequently, they were discharged by the employer. They then sued the union, which was not incorporated or registered under the Trade Union Act of Canada now R.S.C., 1952, c. 267, for conspiracy to injure. The Supreme Court of Canada refused an application to make certain individuals defendants in a representative capacity. The court held that no action lay against an unincorporated and unregistered body in an action in tort such as the one before it. This decision, qualified as to Canada, certain *obiter* in the *Taff Vale* case, discussed *infra*, footnote 9, that an unregistered trade union may be sued in a representative action.

[7] [1956] A.C. 104.

[8] *Supra*, footnote 5.

[9] *Taff Vale Railway* v. *Amalgamated Society of Railway Servants*, [1901] A.C. 426.

of 1871. The House of Lords held that the union could be sued in its registered name. It was pointed out that if the union could not be sued in its registered name, it could be sued in a representative action and its property could be reached to satisfy damages. Accordingly, the distinction between a representative action and an action against the trade union under its registered name was one of form and not of substance. The use of the registered name in legal proceedings imposed no duties and altered no rights. It was only a more convenient mode of proceeding than that which would have to be adopted if the name could not be used. The use of the registered name was not compulsory but it was at least permissive.[10]

In *Bonsor* v. *Musicians' Union*,[11] the House of Lords affirmed the *Taff Vale* case[12] on the point that a registered union can be sued in its registered name. However, damages would only be recoverable from its funds. If the right to sue a trade union in its registered name is exercised and judgment for money obtained, there is no procedure whereby execution could be levied against individual members.

Insofar as confining the execution of a judgment in an action against the group to the property of the group the judgment in *Bonsor* v. *Musicians' Union*[13] has the same effect as the judgments of the Supreme Court of Canada in the case of representative actions. It is to be anticipated that the same rule would be applied in Ontario with respect to judgments against trade unions in their names as entities, by virtue of the status conferred upon them by statute.

The Trade Union Act of Canada[14] was considered by the Supreme Court of Canada in *Starr* v. *Chase*.[15] The court pointed out that this Act had not been adopted by the provinces and that there was doubt respecting the constitutional powers of the Dominion to enact certain of its provisions. Attention was specially directed to section 32 (now section 29), which provides, *inter alia*, that the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed unlawful, so as to render void or voidable any agreement or trust. The view was

[10] *Metallic Roofing Co. of Canada* v. *Local Union No. 35, Amalgamated Sheet Metal Workers International Association et al.* (1905), 9 O.L.R. 171 (C.A.) affirmed the *Taff Vale* case on the point that bodies of this nature, registered or not, are not above the law. If they cannot be sued in their registered names, they can be sued in a representative action.

[11] *Supra*, footnote 7.

[12] *Supra*, footnote 9.

[13] *Supra*, footnote 7.

[14] R.S.C., 1952, c. 267.

[15] [1924] S.C.R. 495.

expressed that this provision *prima facie* deals with civil rights and property.

No trade union Act comparable to the United Kingdom or Canadian Acts has been enacted in Ontario. However, the Ontario Rights of Labour Act,[16] may, in the light of the decision of the Supreme Court of Canada in the *Therien* case,[17] have to be considered as, in part constituting a "trade union" Act for Ontario. But, if that is the case, the Act will have to be so considered in the absence of provisions in it for registration. Consequently, it would appear that the *Taff Vale* case[18] does not apply in the provincial area of labour jurisdiction in Ontario respecting action by or against trade unions under a "registered" name.

The constitutionality of the Dominion Act has not been clarified and only a few trade unions have registered under it. As to those trade unions in the federal area of labour jurisdiction, which have registered under this Act, the possibility of actions by and against such trade unions as legal entities in their registered names should not be entirely overlooked.

The Supreme Court of Canada has held that sections 1 to 55 of the Industrial Relations and Disputes Investigation Act[19] are *intra vires* the Parliament of Canada in *Reference re the validity of the Industrial Relations and Disputes Investigation Act (Can.) and Applicability in Respect of Certain Employees of Eastern Canada Stevedoring Co., Ltd.*[20] In the sections mentioned provision is made for employees joining trade unions, for unions regulating relations between employers and employees, for trade unions being certified as the bargaining agents of employees and for employers and bargaining agents, on behalf of employees, negotiating binding collective agreements. It would seem strange if the Government of Canada lacked constitutional power to enact trade union legislation to serve as an organizational medium or institutional framework within which the statutory creature it has brought into being for such purposes may operate. This is especially so as, in the *Therien* case,[21] the Supreme Court of Canada held that the British Columbia trade union and labour relations legislation constituted as entities the trade unions to which they applied.

The Supreme Court also held in that case, which originated in British Columbia, that the trade union as a legal entity could be

[16] R.S.O., 1960, c. 354 discussed *infra*.
[17] *International Brotherhood of Teamsters, Chauffeurs & Helpers, Building Material, Construction and Fuel Truck Drivers, Local 213* v. *Therien* (1960), 22 D.L.R. (2d) 1 (S.C.C.), discussed *infra*.
[18] *Supra*, footnote 9.
[19] R.S.C., 1952, c. 152.
[20] [1955] S.C.R. 529.
[21] *Supra*, footnote 17.

made liable in name for damages either for breach of a provision of The Labour Relations Act[22] or under the common law. A trade union, as defined in the British Columbia Act, and particularly if it has been certified as a bargaining agent, is suable as an entity and its funds are subject to the same liabilities as the general law would impose on a private individual doing the same things. The decision in the *Taff Vale* case[23] was approved by the Supreme Court.

Questions arise concerning the extent to which this decision may be followed in Ontario, especially in view of section 3(2) of the Ontario Rights of Labour Act which reads as follows:[24]

> A trade union shall not be made a party to any action in any court unless such trade union may be so made a party irrespective of any of the provisions of this Act or of *The Labour Relations Act*.

The *Therien* case[25] is of such importance that it is necessary to outline its facts and to refer to various portions of the decision of the Supreme Court of Canada.

Therien was the owner of a small fleet of trucks. He drove one of the trucks himself and hired drivers to operate the others. The union brought pressure on Therien to join it. Since he was an employer and an independent contractor, he could not legally join the trade union under the provisions of the British Columbia legislation. The trade union then threatened to picket a construction company, with which it had entered into a closed shop collective agreement, and with which Therien had business relations, if he did not join the union. Thereupon, the company terminated its relations with him.

In the course of its decision the court dealt with section 2 of the former British Columbia Trade Unions Act[26] which, in the case of trade disputes, gave protection to trade unions and associations of workmen or employees against liability for torts. That section was considered to contemplate disputes between employers and employees. As the wrongful threats here were not made in any such connection, the section did not afford protection for the union. However, this Act, by its reference to trade unions as such, as well as to the servants and agents of such unions, restricting their liability in tort to the extent defined (trade disputes within the meaning of the Act), recognized the fact that a trade union is an entity which might be enjoined or become liable in tort.

An analogous recognition may exist in relation to section 3(2)

[22] S.B.C., 1954, c. 17.
[23] *Supra*, footnote 9.
[24] *Supra*, footnote 16.
[25] *Supra*, footnote 17.
[26] R.S.B.C., 1948, c. 342.

of the Ontario Rights of Labour Act.[27] That sub-section also refers to a trade union as such; and by restricting the meaning of making a trade union a party to any action in any court, unless it may be so made a party irrespective of any of the provisions of the Rights of Labour Act[28] or of the Labour Relations Act,[29] the legislature may be considered to have recognized that a trade union can be made a party to an action in court irrespective of the provisions of these two Acts.

Attention is directed to Section 64a of the Ontario Labour Relations Act enacted in 1960,[30] subject to proclamation, as a further recognition by the legislature that a trade union has the capacity to be made a party to court proceedings. This section provides that proceedings for certain specified purposes may be instituted in the Supreme Court by or against a trade union in its name.

The following extracts from the *Therien* judgment, must be quoted:[31]

> Were it not for the provisions of the Trade Unions Act and the Labour Relations Act, if the union were simply an unincorporated association of workmen, it would not, in my opinion, be an entity which might be sued by name . . . .
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> What was said by Farwell, J. in the passage from the judgment in the *Taff Vale* case which is above quoted appears to me to be directly applicable. It is necessary for the exercise of the powers given that such unions should have officers or other agents to act in their names and on their behalf. The Legislature by giving the right to act as agent for others and to contract on their own behalf, has given them two of the essential qualities of corporations in respect of liability for tort since a corporation can only act by its agents.
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> . . . In the absence of anything to show a contrary intention — and there is nothing here — the Legislature must be taken to have intended that the creature of the statute shall have the same duties and that its funds shall be subject to the same liabilities as the general law would impose on a private individual doing the same thing . . . .
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> In my opinion, the appellant is a legal entity which may be made liable in name for damages either for breach of a provision of the Labour Relations Act or under the common law.

Consideration of actions by or against trade unions as legal entities falls into two areas.

The first area is that of actions between a member of a trade union and the trade union of which he is a member. The decision of the Supreme Court of Canada in *Orchard* v. *Tunney*,[32] made it

[27] *Supra*, footnote 16.
[28] *Ibid.*
[29] R.S.O., 1960, c. 202.
[30] S.O., 1960, c. 54.
[31] *Supra*, footnote 9, at p. 11.
[32] *Supra*, footnote 5.

clear that in a province which has not enacted trade union legislation, similar to the United Kingdom Trade Union Acts of 1871[33] or 1876[34] or the Trade Disputes Act 1906,[35] the making of a representation order was proper in an action between a member of a trade union and his union. Since such legislation has not been enacted in Ontario, it would appear that actions between such parties cannot be brought by or against the union as a legal entity, but must continue as representative actions under rule 75 of the Supreme Court.

The second area is that of actions between trade unions and employers. In *Orchard* v. *Tunney* it was said:[36]

> In this country, apart from removing from them [trade unions] all taint of illegality as combinations, legislation, generally speaking, has been limited to arrangements with employers. In Manitoba the Labour Relations Act, R.S.M., 1954, c. 132, provides the usual machinery for the certification as bargaining agents, for the conciliation of labour disputes looking to the elimination of strikes, for the negotiation of labour agreements and for ancillary matters such as unfair labour practices.

The approach of the court to the suability of unincorporated associations in their names is described in the following words:[37]

> Most of their purposes in some form or other touch property; and as their economic character grows that contact is correspondingly enlarged. In a degree, depending on the nature of their objects, they have been left largely to their own government on the ground, probably, that it is better to let family affairs settle themselves; but as they have evolved and membership has taken on greater economic importance recourse to the Courts has become more frequent and the warrant for judicial interposition to prevent injustice has called for a more critical analysis of the jural elements involved.

Following that, in the *Therien* case,[38] under legislation in British Columbia of the same general scope as the Manitoba legislation described in the previous paragraphs, it was held that Therien could sue the trade union in its own name as a legal entity. The Ontario Labour Relations Act[39] is of the same general scope as the Manitoba legislation and apart from section 3(2) of the Ontario Rights of Labour Act,[40] there would be little reason to doubt that the decision in the *Therien* case[41] would apply in Ontario as in British Columbia. However, section 3(2) involves considerations which require comment. The section prescribes restrictions

[33] 1871, 34 & 35 Vict., c. 31.
[34] 1876, 39 & 40 Vict., c. 22.
[35] 1906, 6 Edw. 7, c. 47.
[36] *Supra*, footnote 5, at p. 441.
[37] *Ibid.*
[38] *Supra*, footnote 17.
[39] *Supra*, footnote 29.
[40] *Supra*, footnote 16.
[41] *Supra*, footnote 17.

on making a trade union a party to an action. It is to be kept in mind, therefore, what an action and party are. Section 1(a) of the Judicature Act[42] defines an action as meaning "a civil proceeding commenced by writ or in such other manner as may be prescribed by the rules". Section 1(n)[43] defines a party as including "a person served with notice of or attending a proceeding, although not named on the record." Rule 4 provides as follows:[44]

> Except where otherwise authorized by any statute or by any rule every proceeding in the Court (other than a proceeding that may be taken ex parte) shall be by action commenced by the issue of a Writ of Summons.

In this regard rule 622[45] is also to be kept in mind. It states:

> Mandamus, prohibition and certiorari may be granted on summary application by originating notice.

As proceedings by way of mandamus, prohibition or certiorari on summary application by originating notice are under a rule, they are, by definition, actions.

It was held in *Canadian Seamen's Union* v. *Canada Labour Relations Board*[46] that a trade union, which is not incorporated and not registered under any statute, cannot commence proceedings by originating notice for certiorari. In other such proceedings, one of which went to the Supreme Court of Canada, trade unions have appeared as parties without question or argument.[47] The Ontario Court, however, has not yet adjudicated directly upon the question of whether a trade union can be made a party to an action in its own name.

In the *Canadian Seamen's Union* case,[48] it was the trade union which unsuccessfully sought to initiate the proceedings. In the other two cases it was the employees, in one case, and the employer, in the other case, which successfully initiated the proceedings. Beyond the question of initiating the proceedings, it is difficult to distinguish these cases. The *Canadian Seamen's* case, however, does illustrate the limitation from which trade unions will suffer unless they have the status of legal entities and the capacity to be party to court proceedings in their names through the area defined in the *Therien* case.[49]

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[42] R.S.O., 1960, c. 197.
[43] *Ibid.*
[44] *Supra*, footnote 1.
[45] *Ibid.*
[46] [1951] O.R. 178.
[47] *Toronto Newspaper Guild and Globe Printing Company*, [1953] 2 S.C.R. 18; *Studebaker-Packard of Canada, Ltd.* v. *International Union, United Automobile, etc. Workers of America*, [1957] O.W.N. 584.
[48] *Supra*, footnote 47.
[49] *Supra*, footnote 17.

It is said in section 3(2)[50] that a trade union shall not be made a party to an action in any court "unless such trade union may be so made a party irrespective of any of the provisions" of the Rights of Labour Act[51] or the Labour Relations Act.[52]

A possible application of the words in quotation could be that inasmuch as a trade union would not be a legal entity for the purpose of employer-trade union relations, except for the provisions of the Labour Relations Act, it follows that in no circumstances could a trade union be a party in name to an action between an employer and a trade union. The difficulty involved in such a wide interpretation is that it would leave the legal identity undoubtedly created by the statute in a juridical void as to both its legal rights and its legal responsibilities. In that event, for instance, trade unions could not be parties to proceedings by way of certiorari under rule 622.[53]

Another, and probably a more appropriate, application of these words arises from a more general appreciation of the Ontario Labour Relations Act.[54] This Act confers on trade unions certain rights and responsibilities concerning such matters as certification as the bargaining agents of employees, the negotiation of collective agreements, the conciliation of collective bargaining disputes, the arbitration of collective agreement disputes and the processing of complaints concerning trade union discrimination. Administrative and quasi-judicial agencies are set up to administer and adjudicate these matters. And these agencies and their activities are paralleled and protected by privitive clauses against interested parties attempting to have the functions assigned to them carried out or supervised on their merits by the courts, save, of course, respecting proceedings under rule 622[55] which, for some purposes, for reasons of constitutional law, overrides privitive clauses. It is in the area of this application that it seems most likely that the legislature intended that a trade union should not be made a party to an action unless it could be made a party irrespective of any provision of the Acts mentioned in section 3(2).[56] Otherwise, the agencies mentioned would be subject to the supervision of the court to a greater extent than contemplated under the terms of the Act.

Such an application of section 3(2)[57] would also conform to the decision of the Supreme Court of Canada in the *Therien* case[58]

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[50] *Supra*, footnote 16.
[51] *Ibid.*
[52] *Supra*, footnote 29.
[53] *Supra*, footnote 45.
[54] *Supra*, footnote 29.
[55] *Supra*, footnote 53.
[56] *Supra*, footnote 16.
[57] *Ibid.*
[58] *Supra*, footnote 17.

that a trade union is a legal entity which may be made liable in name for damages either for breach of a provision of the Labour Relations Act[59] or under the common law. In the event that such an application should be adjudged to be the correct one, the result would be that the *Therien* decision[60] will not apply in Ontario respecting damages resulting from breach of a provision of the Ontario Labour Relations Act;[61] it will, however, apply in the case of damages in actions founded on causes under the common law, in respect of which an employer could sue a trade union in its name as a legal entity.

III. *Partnership.*

Rule 100 of the Supreme Court deals with suits by and against partnerships upon a basis analogous to actions by or against trade unions in their name as legal entities under statute. It reads as follows:[62]

> Any two or more persons (whether British Subjects or not, and whether residing within or without Ontario) claiming or being liable as partners, and carrying on business within Ontario, may sue or be sued in the name of the firm of which such persons were co-partners at the time of the accruing of the cause of action.

The Partnerships Act[63] and the Partnerships Registration Act[64] do not make a partnership a corporation nor do these Acts provide that a partnership may sue or be sued in the partnership name. The partnership is only required to register the firm name under which it will operate and list the names of the persons who are members of the partnership. The mere registration of the partnership name, which falls far short of the status and powers conferred on a trade union under labour relations legislation, is considered sufficient to create the partnership a legal entity which may sue or be sued in its firm name on matters forming part of the professional or business purposes of the partnership.

Conclusion

1. The policy of the courts has been to prevent representative actions in tort against an unincorporated or unregistered association from being used as a procedure to get a judgment which can be executed against the property of individual members of the association. In the absence of a general rule of law to this effect,

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[59] *Supra*, footnote, 29.
[60] *Supra*, footnote 17.
[61] *Supra*, footnote 29.
[62] *Supra*, footnote 1.
[63] R.S.O., 1960, c. 288.
[64] R.S.O., 1960, c. 289.

the courts developed the "trust fund" rule to prevent such a result in representative actions. The plaintiff was not allowed to commence his action unless he could show the existence of group property adequate to satisfy any judgment obtained.

2. The "trust fund" rule, while equitable as to individual members of such associations, imposes substantial disabilities on persons who have just claims against these associations:

(a) The plaintiff is required to show the existence of group property, adequate to satisfy a judgment he might get, prior to having at his command proceedings such as judgment debtor proceedings, through which he could more effectively establish the existence or non-existence of group property.

(b) The "trust fund" rule up to this time has contemplated property in being rather than income. This is of importance regarding trade unions in view of the prevalence of check-off provisions in collective agreements under which employers regularly remit substantial amounts of dues deducted from wages of workers for whom a trade union is the bargaining agent. According to surveys of the Economics and Research Branch of the Department of Labour for Canada as far back as 1954, close to three-quarters of the collective agreements in manufacturing and three-fifths of those in non-manufacturing provided for the check-off method of collecting union dues.[65]

(c) The statements made in (a) and (b) should be considered also in relation to general funds held at international headquarters outside of Canada, the situation which was encountered in *Smith Transport, Ltd.* v. *Baird.*[66]

3. There is strong reason to anticipate that the decision of the Supreme Court of Canada in the *Therien* case[67] will be applied in Ontario to enable unincorporated and unregistered trade unions in the province to sue and be sued as entities in their name in tort for damages under the common law. Pending further judicial interpretation, the area to which it appears the *Therien* case will apply will be broadly that of employer-trade union points of contact in labour relations.

Likewise, it is to be anticipated, that in the case of a judgment against a trade union in its name, the decision in *Bonsor* v. *Musicians' Union*[68] will be applied and recovery of damages limited to trade union funds or property. This would be in conformity with the policy of the Supreme Court to restrict recovery on a

[65] (1954), 54 Labour Gazette 1587.
[66] *Supra*, footnote 3.
[67] *Supra*, footnote 17.
[68] *Supra*, footnote 7.

judgment against an unincorporated or unregistered association to group property. So long as there is a rule of law that a judgment against the group cannot be executed against the property of individual members, there will not be need to require a plaintiff to show, before proceeding with his action, the existence of a group fund or property from which a judgment can be satisfied.

4. The decision of the Supreme Court of Canada in *Orchard* v. *Tunney*[69] indicates that in the absence in a province of trade union legislation, such as the United Kingdom Acts of 1871[70] and 1876[71] and the Trade Union Act[72] of Canada, actions between a member of a trade union and his trade union will be in contract and in the form of representative actions. However, the *obiter* in that decision would limit the satisfaction of liabilities incurred in a group action to the property of the trade union. This would constitute a rule of law that would preclude satisfaction of such judgments in a representative action against an unincorporated or unregistered trade union against the property of individual members. Hence, there would not appear to be a need to require a plaintiff to show, before proceeding with his action, the existence of a group fund or property from which it can be satisfied.

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[69] *Supra*, footnote 5.
[70] *Supra*, footnote 33.
[71] *Supra*, footnote 34.
[72] *Supra*, footnote 14.