

not exposed to unusual danger, the existence of which the defendant knew or ought to have known, and therefore that there must be a new trial to inquire into the supervision exercised by the defendant over the firearms used in the theatrical performances, and the ammunition provided for them, and with the loading of the pistols.

PRACTICE—PARTIES—ACTION OF TORT—UNINCORPORATED SOCIETY—LIBEL PUBLISHED IN SOCIETY'S JOURNAL—"PERSONS HAVING THE SAME INTEREST IN ONE CAUSE OR MATTER"—LEAVE TO SUE ONE OR MORE MEMBERS ON BEHALF OF ALL—RULE 131—(ONT. RULE 75).

*Mercantile Marine Service Assoc. v. Toms* (1916) 2 K.B. 243. This was an action to recover damages for an alleged libel published in the journal of an unincorporated society, and the plaintiffs applied for leave to sue certain officers of the association on behalf of all the members, who numbered about 15,000. Low, J., dismissed an appeal from a district registrar refusing the application; and the Court of Appeal (Eady and Pickford, L.JJ.) affirmed his decision. Eady, L.J., points out that all the members of the association cannot be said to have the same interest in the matters in question, because, *prima facie*, only those who published or authorized the publication of the alleged libel would be liable. He also intimates that Rule 131 (Ont. Rule 75) has no application to actions of tort.

PRIZE COURT—NEUTRAL VESSEL—CONTRABAND CARGO—INTENTION TO SUPPLY COAL TO ENEMY WARSHIPS—FALSE PAPERS—FRAUD—ABANDONMENT OF VOYAGE—DISPOSAL OF CARGO OTHERWISE THAN TO ENEMY—CAPTURE ON RETURN VOYAGE—RESTITUTION—COSTS.

*The Alwina* (1916) P. 131. This was a prize case. The ship in question was a neutral vessel which left a British port with a cargo of coal consigned to a firm in Buenos Aires, but in fact intended for a German warship. On arriving at Teneriffe the master found that he was suspected, and abandoned the voyage and sold the cargo. In the course of her return voyage with a cargo of ore shipped from a Spanish port, she put in at Falmouth and was seized as a prize. Evans, P.P.D., held that, in the circumstances, the vessel must be restored to its owner, and that although the general rule is that when contraband cargo is discharged the liability of a vessel to seizure is at end, yet if the neutral vessel by means of