

The practice relating to representative actions originated in Equity, in cases where, owing to the multiplicity of parties, it would be impossible to carry on a suit if all persons interested had to be made plaintiffs or defendants. In such cases the plaintiff might sue on behalf of himself and all others in the same interest, respecting some right to property, and a defendant might be sued as representing himself and all others in the same interest. But where any relief was granted in which the unrepresented parties were individually concerned, they would ordinarily be made parties at a later stage in the suit. Administration and partition suits are familiar examples of this procedure. Any person who was required to account, or against whom any personal relief was sought, was always required to be made a defendant prior to the hearing. In suits against companies, the shareholders were never made defendants in the first instance, but where a judgment recovered against a company remained unsatisfied, and it was desired to levy execution against shareholders, *sci. fa.* proceedings were necessary. This procedure consisted of a writ directed to the shareholders against whom execution was sought to be issued, calling on them to shew cause why execution should not issue against them. To this writ no defence which could have been set up to the original clause of action could be made. The only question being whether or not the party served was a shareholder and whether or not, as such, he was indebted to the company, and if so, to that extent execution might be awarded against him, so far as necessary to satisfy the judgment.

The method of procedure by representation was unknown to the common law. At law all persons against whom an adjudication was sought were required to be made defendants in person, and there was no such thing known to common law practice as a suitor, whether plaintiff, or defendant, representing anybody but himself.

But the Judicature Act not only perpetuated the equity practice as regards representative actions where rights of property are concerned, but also extended it to actions of a purely common