
*REPRESENTATION OF DEFENDANTS IN TRADE UNION
ACTIONS FOR TORT.*

By the Trades Union Act (R.S.C. c. 125) certain acts which at the common law were illegal as being in restraint of trade, are made lawful, but by s. 4 no legal proceedings can be taken to enforce or carry out such acts. The formation of trade unions is authorized, and associations of this kind can be legally formed, which sometimes exceed their powers, and in pretended furtherance of their objects inflict serious injuries on individuals. It is quite obvious that if the service of every member of a trade union, which has authorized and carried out a wrongful act, were a necessary preliminary to obtaining compensation at law for such injuries, the person wronged would be practically without redress, and the law would have created a legal monster which it was incapable of controlling. To make one person responsible for the wrongs done by others, to which he has not assented, is repugnant to legal principles. Where a tort is committed all who aid or counsel, direct, or join in the commission of the tort are joint tortfeasors, and as such liable to the person wronged; but how far can members of a society not formed for the commission of any unlawful act, and who do not actively aid, counsel, direct or join in the commission of the wrong, be held responsible for the acts of those members of the association who do, as members and officers of such association counsel, aid, or abet the commission of a wrongful act? It may be said all such acts are ultra vires of the association, and only those who take part in them are legally liable for the wrong done. At the same time the fact remains that the funds and organization of the association are used for the purpose of carrying out the illegal act. The wrong is done and often at the instance of persons who are individually worthless, and unless the funds of the association can be made answerable no efficient remedy can be obtained. The *Taff Vale Railway* case hereafter referred to is supposed to have established that the funds of such an association can be made liable to answer for damages so inflicted and that by means of a representative action.