

Full Court]

[Jan. 23.

METALLIC ROOFING CO. v. LOCAL UNION SHEET METAL WORKERS.

Parties—Foreign incorporated association—Local branch—Right to sue and serve with process—Representative action for tort—Rule 200—Selection of representatives.

Held, affirming the decision of a Divisional Court, 5 O.L.R. 424, that the defendant associations, being trade unions not registered under the Trade Unions Act, one being a general association of the metal workers of the United States and Canada, and the other a local union or branch of the general association, were not corporations nor quasi corporations nor partnerships, and were not capable of being sued and served with process as such in the ordinary way.

Held, also, varying the decision of MACMAHON, J., that both associations could be sued in respect of wrongs committed within the jurisdiction, in a representative action, under Rule 200.

Temperton v. Russell (1893) 1 Q.B. 435 not followed, in view of the remarks in *Duke of Bedford v. Ellis* (1901) A.C. 1, and *Taff Vale R.W. Co. v. Amalgamated Society of Railway Servants*, ib. 426.

Semble, that a wider selection of representatives of the general association should have been made, instead of confining it to the first vice-president; but upon that point the defendants had concluded themselves by a consent.

Tilley, for plaintiff. *O'Donoghue*, for defendant.

HIGH COURT OF JUSTICE.

Teetzel, J.]

WHITESELL v. REECE.

[Dec. 9, 1904.

Costs—Scale of—Damages at trial \$400—To be paid into Court—Present value \$180—Payment over—Defences—County Court jurisdiction.

In an action by remaindermen against a life tenant of a farm for selling the timber, the trial Judge found for the plaintiff and assessed the damages at \$400, to be paid into Court, to be paid out to the plaintiffs on the death of the life tenant, who was to have the interest in the meantime. On an appeal to a Divisional Court the judgment was affirmed as to amount of damages, but varied by directing that instead of the \$400 being paid into Court and the life tenant receiving the interest, the present value of the plaintiffs' interest should be paid to them fixed at \$180.

Held, 1. Although the formal judgment adjudged that the trial judgment "is hereby varied by reducing the sum payable