

v. Local Union No. 30, 5 O. L. R. 424, ante 183, also a trades union case, and I think the spirit and meaning of the judgment of the Divisional Court in that case are in accord with the judgment which I am about to pronounce in this. I do not overlook the fact that my learned brother Britton has, upon an interlocutory application in this case, 5 O. L. R. 585, ante 406, seemed to express a different view; but I am, sitting here, obliged to follow what I consider to be judgments binding upon me. Probably if his judgment be read very closely, it does not go so far as to express an opinion which goes to the root of the matter here.

Now here I do not find, even if there is a recognition by the Legislature, in the way in which I have mentioned, authorizing certain officers to perform the ceremony of marriage, that there is anything analogous to the power which was conferred by the Legislature in England upon trades unions; and, further, I do not find that there is any secondary object; there is no commercial object in this. It is quite true that it has been pointed out that the society, or some one for the Army, owns a farm and a newspaper, but I am not told that these are conducted in any spirit of commercial enterprise, or for any particular commercial purpose.

Upon the whole I have a very clear opinion that the objections to the maintenance of this action are well founded and must prevail. It is not necessary for me in that view, to express any opinion upon the merits of the main case.

I am inclined to think, although I do not so expressly decide, that I should have let the case go to the jury to determine whether or not what took place upon the evening in question did or did not constitute a nuisance or act of neglect on the part of some person or persons. It may be that the remedy of these plaintiffs, if they have any, is against the individual members of the immediate circle of people who were conducting the services upon that evening. Upon that, also, it is not necessary now to express an opinion; but upon the whole, without any hesitation, I have to withdraw the case from the jury, and dismiss the action.

BRITTON, J.

OCTOBER 16TH, 1903.

CHAMBERS.

RE BOSBRIDGE v. BROWN.

*Prohibition—Division Court — Judgment—Notice—Waiver  
—Acquiescence—Laches—Costs.*

Motion by defendant for prohibition to the 1st Division Court in the county of Carleton.