

The Association will support amateur play in any other part of the world and has agreed to provide a formal transfer to enable Mr. Blackler to participate in non-professional play in Australia. He claims he will have a full-time occupation and will also be involved in occupational training programs; therefore the sport will be merely a hobby. Even if the New Zealand regulations allowed him to play, his economic livelihood would not depend upon the sport.

The Association conducts training and development for a young player as an amateur solely with the interest of the sport and his own mental and physical well-being in mind.

At the trial in the Supreme Court of New Zealand, Mr. Justice Perry came to the conclusion that under its rules, the Association did have the necessary power to withhold a clearance; that the rule entitling the Association to withhold a clearance constituted a restraint of trade and accordingly was prima facie void as being contrary to public policy, but on a full consideration of the facts he came to the conclusion that the restraint was reasonable having regard to the player's interest and reasonable also in the interests of the public, and declined to grant the declaration sought.

On appeal to the Appellate Division of the Supreme Court of New Zealand, the majority members of the Court held that the rule entitling the Association to withhold a clearance was void as being an unreasonable restraint of trade, and Mr. Blackler's appeal was allowed and the declaration sought by him was granted:

"It (Association rules) enables the respondent (Association), acting in conjunction with the leagues governing the game overseas, to prevent any player, whether of international rank or merely a junior player, exercising his right to seek this type of employment overseas. It places in the hands of the respondent a complete and unfettered discretion to withhold its consent or to refuse a ...

clearance in respect of any of its players. It is unrestricted in point of time and place. It is no answer for the respondent to say that it exercises its wide powers in a reasonable manner. In my opinion this very extensive kind of restriction is particularly obnoxious..."

(North J. at pg. 556)

## APPENDIX A-3

MCDONALD V EDMONTON METROPOLITAN HOCKEY ASSOCIATION  
(1970 - Alberta Supreme Court, Edmonton)

(Before Mr. Justice Lieberman)

## - B R I E F -

Mark Lindsay McDonald, through his father, Hugh B. McDonald, requested the Edmonton Metropolitan Hockey Association to approve his transfer from a team in the Canadian Athletic Club to a team in the Knights of Columbus Athletic Club. This was to be effective beginning with the 1970/71 hockey season, enabling the boy to play with the K. of C. Bantam AA team. The refusal of the EMHA to grant a release prompted the father to appeal to the court.

The Plaintiff had been a player with the Rio Terrace Community since 1965. He was unable to play with the K. of C. organization previously because his local Catholic parish did not sponsor a team. However, when he began attending a Junior Catholic High School out of the community, he became eligible for a parochial Bantam AA team which he had qualified to play, should he secure a release from the CAC.

Unbeknownst to Mark or his father, the EMGA, in 1969, amended its registration regulations to restrict a boy playing hockey to the community in which he lived. His only grounds for transfer would be if his family moved. The reason the EMGA established this ruling was to prevent an uncontrolled flow of player talent from creating an unbalanced league.

Certain teams had complained to the EMHA that other teams were "stealing" the players from their community in an attempt to produce a strong, competitive team. As far as the EMHA was concerned, this case was not any different.

Prior to precipitating legal action, Mr. Hugh McDonald appealed the EMHA refusal to the Registration Committee of the EMHA. This appeal was also refused. Mr. McDonald was removed from the committee meeting before any decision was made and later informed by telephone. The Registration Committee followed the telephone call with a formal letter stating their decision and the reasons affecting this decision.

Mr. Justice Lieberman concluded that the EMHA decision denied Mark the freedom of playing hockey with a team of his choice. He therefore granted an injunction quashing the EMHA ruling, and ordered the EMHA to transfer and register the boy with any hockey team of his choice, associated with the defendant Association. An appeal by the EMHA amended the injunction to simply order the Canadian Athletic Club to release the boy.

## APPENDIX A-4

SOUTH SIDE ATHLETIC CLUB ET AL V CANADIAN AMATEUR HOCKEY  
ASSOCIATION, ALBERTA AMATEUR HOCKEY ASSOCIATION, MAPLE LEAF  
JUNIOR HOCKEY CLUB (1972 - Alberta Supreme Court, Edmonton)

## - B R I E F -

The case stemmed from an AAHA hearing which granted three of seven junior hockey players releases from the only Junior A level hockey club in Edmonton. The plaintiffs claim that the hearing committee executed partial discretionary powers as the three boys released attend university, while the remaining four do not.

The Edmonton Mets Hockey Club remains the only Junior A level hockey club in Edmonton as a result of an amalgamation from two preceding clubs. The seven boys desired releases from the new club, partly because of the more intense schedule facing the team. This, they felt, conflicted with other important activities.

The plaintiffs alleged that the Edmonton Met Club "wrongfully and without justification claimed their playing rights and refused to execute or provide them with their releases". The plaintiffs also claimed the Mets did not comply with the rules and regulations set down by the AAHA in declaring them operative for the current season "and as such have no claim to the individual plaintiff's rights as hockey players". The plaintiffs felt that, in general, the "Defendants' conduct was depriving them of the right to enter into a contract to play for a team of their choice."

The plaintiffs further note that the AAHA enacted a ruling in November, 1972 coincidental to the case in question, whereby a Junior B level team could not enlist more than two Junior A calibre players. All seven boys originally involved in the incident were requesting releases from the Junior A clubs so they would be free to partake in Junior B hockey.

The defendants' reluctance to approve such transfers relates to the possibilities that would arise from an uncontrolled flow of higher calibre players moving into a lower calibre league. The defendants declare the purpose of rulings such as the above are an attempt to prevent an uncontrolled player movement which would create "super teams" and deter fair competition.

The case was not continued because the releases were granted.



## APPENDIX A-5

## ORGANIZATIONAL CONSTRAINTS ON A LOCAL HOCKEY PLAYER

The following is a specific case history -- as related by the individual and subsequently "researched" by the legal counsel to this study:

*The young player commenced his hockey career playing two years Bantam Hockey, two years Midget hockey and in 1971, when he was sixteen years of age, he played Junior A Hockey with the Edmonton Maple Leafs. To play with the Maple Leafs he was required to sign a Player's card. The Edmonton Maple Leafs is affiliated with the Oil Kings and during the 1971 season he played one game for the Oil Kings. He received no pay for playing with the Maple Leafs, nor did he receive any pay for playing the one game with the Oil Kings.*

*In 1972 the player attended the Oil King training camp and stayed with the Oil Kings until regular scheduled hockey commenced, at which time he was loaned to the Winnipeg Jets, which was referred to as a Tier One, Junior A club. He stayed in Winnipeg for one month, during which time he played one game for the Winnipeg Jets. He did not sign a Tier One Junior A contract with Winnipeg, nor did he receive any pay except room and board. He attended school while in Winnipeg. While the player was in Winnipeg, the coach of the Winnipeg Jets told him that he was unable to work out a deal with the Edmonton Oil Kings*

*for his release. A short while before the Winnipeg Jets were to play the Oil Kings in Edmonton, the coach of the Winnipeg Jets asked the player to sign a contract. The player informed the coach that he did not want to sign a contract until he got to Edmonton and discussed the same with his father. The player journeyed to Edmonton with the Winnipeg Jets to play the Oil Kings and prior to the game he was in goal for the warm-up. After the warm-up, in the dressing room the Winnipeg coach informed the player that he would not be playing in the game because he had not signed a contract. At this point, the player left the club and did not return to Winnipeg.*

*The player then remained in Edmonton for the balance of the 1972-73 hockey season and played with the Edmonton Mets, which is a Tier Two Junior A club. To play with the Edmonton Mets he wasn't required to sign a contract, but merely signed a player's card. He received no pay for playing with the Edmonton Mets.*

*In or about the month of January, 1973 he heard on the radio that he had been traded to the Swift Current Tier One Junior club. He did not report to the Swift Current club.*

*The player is now seventeen years of age and attending Grade 12 at an Edmonton High School. He is interested in playing hockey and also attending the University of Alberta, commencing September, 1973. If he goes to University he hopes to play with the Golden Bears. However, he appears very interested in playing Tier One Junior A Hockey and thinks that in all probability he will report to the Swift Current Junior Hockey Club in the fall of 1973 with a view to playing with that club if he gets a good deal.*