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C. 1967 V.R. 449

REPORTS OF CASES

DETERMINED IN THE

HIGH COURT OF AUSTRALIA

[HIGH COURT OF AUSTRALIA.]

STEVENS . . . . . APPELLANT;
PLAINTIFF,

AND

KEOGH AND OTHERS . . . . . RESPONDENTS.
DEFENDANTS,

ON APPEAL FROM THE SUPREME COURT OF NEW SOUTH WALES.

appl'd 48 S.R. 500
65 W.N. 191

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SYDNEY, *April* 1-3.

MELBOURNE, *June* 7.

Latham C.J., Starke, Dixon, McTiernan and Williams JJ.

Association—Police—Voluntary—Trade union—Public statement by Commissioner of Police—Prejudice of member—Libel action by member against Commissioner—Costs—Payment by Association—Powers—Payment challenged by another member—Objects and rules of Association—"Redress of any grievance to which members may become subject"—Maintenance—Trade Union Act 1881-1936 (*N.S.W.*), *s.* 14 (5), 31.

Upon representations made to him by a citizen and certain departmental investigations the Commissioner of Police directed that a charge of indecency laid against the citizen by G., a police constable, be cancelled and G. was suspended from duty. The charge was revived under ministerial direction. In a lengthy statement which appeared in the press prior to the hearing of the charge the Commissioner denounced the conduct of G. in the performance of his duties as a police constable, particularly in relation to the arrest by G. of the citizen and also of many other citizens on charges of indecency. The charge against the citizen was dismissed by a magistrate. A departmental inquiry found G. guilty of concocting charges against citizens but he was

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exonerated by an Appeal Board constituted under the *National Security (Man Power) Regulations*, and he resumed duty. G. brought an action for libel against the Commissioner and the newspaper, and at G.'s request the Police Association of New South Wales, of which he was a member, paid the costs incurred by G. in the action. The jury returned a verdict in favour of the defendants. In a suit in equity brought against the trustees and officers of the Police Association and the Association itself, S., a member of the Association, sought a declaration that the payment so made out of the funds of the Association in respect of G.'s costs was *ultra vires* and unlawful and an order that the amount so paid should be repaid by the personal defendants. The objects of the Police Association are, "by all lawful means," *inter alia*, "to promote the interest of the police service . . . ; to secure redress for any grievance to which members may become subject; . . . and to make financial provision for carrying out any of the . . . objects." The suit was dismissed.

Held,

(1) by the whole Court, that the payment of G.'s costs did not, in the circumstances, infringe the law of maintenance, and by *Starke*, *Dixon*, *McTiernan* and *Williams* JJ. (*Latham* C.J. dissenting), that the payment was not *ultra vires* or beyond the powers of the Police Association; and

(2) by *Latham* C.J., *Starke* and *Williams* JJ., that S. was entitled to bring the suit.

Quære, by the whole Court, (i) whether the Police Association is a trade union within the meaning of those words as defined in s. 31 of the *Trade Union Act* 1881-1936 (N.S.W.); and (ii) whether a certificate under s. 14 (5) of that Act is conclusive evidence that the organization referred to in the certificate is a trade union within the meaning of s. 31.

Decision of the Supreme Court of New South Wales (*Roper* J.), by majority, affirmed.

APPEAL from the Supreme Court of New South Wales.

In a suit brought by way of statement of claim in the equitable jurisdiction of the Supreme Court of New South Wales the plaintiff, Percival Thomas Stevens, a sergeant of police and a member of the Police Association of New South Wales, sued Alfred John Keogh, Lewis Henry Griffiths and Lionel Thomas Smith, Trustees, John Vincent Driscoll, President, Stanley Grant Fisher, Treasurer, and Charles Joseph Cosgrove, General Secretary, respectively of the said Association, and the Association itself for a declaration that certain payments made out of the funds of the Association were *ultra vires* and unlawful, and also for an order that the moneys so paid should be repaid to the Association.

The moneys paid amounted to £2,010 2s. 7d. and were paid for the costs of one Neville William Grigg, a police constable, of a libel

action brought by him against Consolidated Press Ltd., the editor of the *Sunday Telegraph* newspaper and William John MacKay, the Commissioner of Police. In the libel action Grigg alleged that an article written by the Commissioner and published in the newspaper contained serious reflections upon him.

The executive of the Association agreed to finance the action on Grigg's behalf. Grigg was unsuccessful in the action and Stevens now claimed as against the trustees and the named officers of the Association that the moneys applied in support of Grigg in the litigation should be repaid to the Association.

For some time before January 1943, Grigg and one Carney, another police constable, both members of the Association, had been doing special duty consisting in the detection and suppression of indecency in public conveniences for men. On Sunday, 10th January 1943, upon a charge of such indecency, they arrested a man who not only maintained his innocence but alleged that the charge had been concocted. This man, after his release on bail, brought his case under the notice of the Commissioner. The Commissioner, having regard, it was said, to other complaints concerning Grigg and Carney, caused an investigation to be made by police officers of a large number of cases in which Grigg and Carney had proceeded and he had the charge against the particular man cancelled or withdrawn from the charge sheet. On the afternoon of 18th January, he suspended Grigg and Carney, and they, on the following day, interviewed the president of the Police Association.

The executive of the Association held a meeting on that day and considered the matter, which aroused much interest in the police service.

A departmental board of inquiry presided over by a superintendent of police was constituted and opened its proceedings about a week later. In the meantime, under ministerial direction, the charge had been revived against the man who had been arrested, and he was brought before a magistrate about 1st February 1943. One of the morning newspapers of 30th January contained some criticisms of the course taken by the Commissioner and in a statement published in the press on 31st January the Commissioner dealt at length with the case. The Commissioner's statement contained much that was highly damaging to Grigg and Carney and provided the foundation for the action of libel, which ultimately Grigg brought as stated above with the full support of the Association.

It was in paying Grigg's costs of that action that the challenged disbursement of £2,010 2s. 7d. was made from the Association's funds. But in the meantime, in a variety of proceedings, the

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allegations had been inquired into, with a diversity of result. The magistrate discharged the accused, not being satisfied with the truth of the charge. The departmental inquiry, presided over by a superintendent of police, found Grigg and Carney guilty on a large number of charges including that of concocting a charge against the man they arrested on 10th January 1943. Grigg and Carney then went before a Local Appeal Board constituted under the *National Security (Man Power) Regulations*, which were treated as restricting the power of dismissal from the police force. The Chairman of the Board was a District Court Judge. He and the member representing the " employees " refused to act upon the evidence adduced on such of the charges as were brought before them, regarding that evidence as discredited and unworthy of belief, and they exonerated Grigg and Carney. The proceedings before the Board terminated abruptly in this way on 28th June. On the following day, a meeting of the executive committee of the Association took place, and the whole case was reviewed. It was said that counsel appearing against Grigg and Carney before the Local Appeal Board had complained that, because the proceedings were not *in camera*, he had been unable to rely upon charges and call evidence which would have proved convincing, and that for that reason, and for reasons connected with the manner in which the press reports of the proceedings and incidents of the case had been presented, Grigg and Carney had not been effectively cleared.

Grigg and Carney desired to bring an action for libel against the Commissioner, but, according to the evidence, Grigg said that he was poor and had a wife and child dependent upon him. He was, however, prepared to stake his all in the matter. After much discussion the executive resolved to support Grigg with the financial assistance necessary to enable him to conduct the libel action. A question having been raised as to the power under the rules to do this and the rules having been referred to, the executive, in purported exercise of a power of interpretation, also resolved, so far as it could properly do so, to interpret the rules as covering the proposed expenditure.

The Association's solicitor instituted the action on 27th July 1943, in Grigg's name. In the declaration the whole of the Commissioner's statement of 31st January 1943 was complained of. The pleas were the general issue ; fair comment on a matter of public interest ; and truth and public benefit. The trial occupied twenty days and concluded on 18th September 1944, when the jury found a verdict for the defendants.

On 31st August 1944, a cheque for £500 on account of costs was paid to the solicitors; on 8th September another payment of £300 was made; and on 28th September a final cheque for £1,210 2s. 7d. was handed to the solicitors, making a total of £2,010 2s. 7d. Before, on and after 28th September 1944 the executive received letters from certain branches of the Association protesting against paying such costs. But, on 5th November 1944, a mass meeting of members of the Association that was called confirmed the executive's action, and, in April 1945, the Annual Conference of the Association adopted a report and balance sheet in both of which the payments were expressly mentioned.

The Association is registered under the *Trade Union Act* 1881-1936 (N.S.W.). It has some 3,000 members. Stevens did not claim a remedy against the Association but joined it as a defendant because the members of the Association were too numerous to be joined as plaintiffs.

So far as material the rules of the Association provide as follows:— "2. The objects of the Association shall be, by lawful means—(*a*) To promote the interest of the Police Service by every means consistent with its Regulations . . . (*b*) To afford opportunity for the full discussion of any subject having relation to the general welfare of the Police Force, and to provide for the use of all reasonable and constitutional means in dealing with any matters affecting any member thereof. (*c*) To secure redress for any grievance to which members may become subject. (*d*) To inquire into and secure fair and reasonable adjustment on behalf of members in cases of any charge, suspension, reduction in rank, position, or rank and pay, dismissal or retirement. (*e*) To advise and assist members in preparing and placing cases before any Departmental Inquiry or Appeal Tribunal . . . (*j*) To make financial provision for carrying out any of the foregoing objects . . . 29. Requests for defence at Departmental inquiries or Police Appeals Board by the General Secretary or by outside legal representation shall be made first through the Branches and be approved by them, and the Executive shall then deal with each on its merits . . . 63. The Executive shall exercise all the powers specially conferred upon it by these Rules, and may exercise all such powers and do all such acts and things as may be done by the Association, and as are not hereby required to be exercised or done by the Association in Conference assembled . . . 64. . . . . (*d*) To investigate complaints by members of the Association, and take such action as may be deemed necessary in regard thereto . . . 68. The Executive shall have authority to interpret any Rule, and shall finally determine any

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matter relating to the Association on which the Rules are silent . . . 127. The funds of the Association shall be applied to the following purposes :—. . . (*d*) Defraying any expenses incurred in any appeal to a Federal or State Board or Court of Arbitration or Industrial Appeal. (*e*) Making payments in connection with any matters prescribed by these Rules or affecting the general interests of members . . . (*g*) Providing legal assistance for members involved in Departmental Inquiries or Appeals under the provisions of the Police Appeal Act. (*h*) Defraying any expenses incurred in any appeal to Federal or State Court wherein any question of general interest of members is involved."

Roper J. held that the payments were justified under rule 2 (*c*) of the Association or, alternatively, that it was open for the executive to interpret rule 2 (*c*) as authorizing the application of the moneys in the manner stated, and dismissed the suit.

From that decision Stevens appealed to the High Court.

Weston K.C. (with him *Hardie*), for the appellant. Under the *Trade Union Act* 1881-1936 (N.S.W.) the expenditure would have been justified only if it had been for a purpose authorized by the rules. By s. 107 of the *Industrial Arbitration Act* 1940 (N.S.W.) the application of the funds of a trade union is limited " to any lawful object or purpose for the time being authorised by its rules." The object or purpose must be found in the rules and not in the mind of an executive committee interpreting the rules. The payments made by the Association were not authorized by its rules. The rules show that the whole executive is entrusted with the custody of the funds in the same sense as a director of a company. The rules are the Association's statutory charter, like the memorandum of association of a company, and cannot be exceeded. The responsibility of each member of the executive is the ordinary responsibility of an agent in receipt of moneys under his control. The rules were drawn with precision and care and there is no reason why they should be given a loose interpretation. Rule 2, the " objects " rule, and rule 127, the " purposes " rule, were intended to exhaust the matters in respect of which the Association's funds could be expended upon litigation, therefore it is impossible to construe the words in rule 2 (*c*) as relating to costs of litigation. If those words could be so construed then every provision in the rules which expressly relates to costs would be unnecessary. *Oram* v. *Hutt* (1) is a persuasive authority as to the proper construction of the first part of clause (*a*) of rule 2 and as to the meaning of the words in clause (*c*) of that rule. That case indicates

(1) (1914) 1 Ch. 98.

the way in which these objects should be considered ; they deal with grievances of members as members and with the rights of members as members. The Association did not suffer any legal wrong. There is nothing in the rules of the Association to justify the action taken by it (*Greig* v. *National Amalgamated Union of Shop Assistants, Warehousemen and Clerks* (1)). There is no sufficient evidence that Grigg was a poor person who needed charity. The poverty must be poverty in fact and not merely in belief (*Harris* v. *Brisco* (2)).

[*Latham* C.J. referred to *Alabaster* v. *Harness* (3).]

The word " appeal " is used in clauses (*d*) and (*h*) of rule 127 in its proper sense. This interpretation is supported by rule 131. Alternatively, upon the assumption that the word " appeal " is used in those clauses in the sense of " resort to," such " resorting to " as would be had under those clauses would be a " resorting " by the Association and not by individuals. The sole provision in rule 127 as to private individuals is that contained in clause (*g*). It is not unreasonable to suggest that the Association did not intend that its funds should be used to meet the costs incurred in private litigation. Rule 127 does specifically state the purposes for which the funds shall be applicable. That is a full compliance with s. 16 of the *Trade Union Act* 1881-1936 and the First Schedule thereunder, and has a limiting effect. The words " lawful object or purpose " in s. 107 of the *Industrial Arbitration Act* 1940 mean a lawful object or purpose for which the rules of the trade union concerned authorize the expenditure of money. In that Act the words " object " and " purpose " are not used in contradistinction, the manner in which they appear to be used in the First Schedule to the *Trade Union Act* 1881-1936, but are synonymous. Rule 68 cannot be called in aid by the respondents. The matter of whether the objects or purposes have been exceeded is necessarily a question for a competent court of law. The rule is *ultra vires*. Section 10 of the *Trade Union Act* 1881-1936 was meant to deal with a case where a trustee signed a document in formal compliance with the rules but did not actually receive any part of the moneys misappropriated by another.

Barwick K.C. (with him *Smyth*), for the respondent. There can be no difference in principle between maintenance justified on the basis of common interest (*Alabaster* v. *Harness* (4)) and maintenance justified on the basis of charity. This is emphasized the more when it is borne in mind that maintenance is a misdemeanour and so the

(1) (1906) 22 T.L.R. 274, at p. 275.
(2) (1886) 17 Q.B.D. 504, at pp. 511, 512.
(3) (1894) 2 Q.B. 897, at p. 905 ; affirmed (1895) 1 Q.B. 339.
(4) (1894) 2 Q.B. 897 ; (1895) 1 Q.B. 339.

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mental attitude of the maintainor is the critical fact. The maintainor's belief in a state of facts, which if they did exist would have justified him, would be quite adequate. *Harris* v. *Brisco* (1) does not decide to the contrary, but, apparently, favours the proposition that a bona-fide belief in the poverty of the assisted person is sufficient (2). The evidence shows that Grigg was a poor man, and also that there was a common interest. *Oram* v. *Hutt* (3) is directed solely to the question of the existence or not of a common interest and is of no assistance in the matter of construing the rules now under the consideration of this Court. Nor does *Greig* v. *National Amalgamated Union of Shop Assistants, Warehousemen and Clerks* (4) bear on the question of construction. The problem is : Can the particular act, that is to say, the giving of financial aid to Grigg in his libel action, be said to be fairly conducive to the objects of the Association ? To treat the libel as a mere libel on an individual member is to disregard the realities of the situation. It was not a mere libel on an individual member in his individual capacity. If a Commissioner of Police, at the behest of an influential member of the community, is willing, in disregard of his responsibility to and the responsibility of his constables, to interfere in the manner shown by the evidence and, in justification of his own administration, to make false statements concerning his constables, then matters arise which closely affect each and every member of the police force. Each member of the police force is entitled to the protection of the Commissioner. Clause (*j*) of rule 2 authorizes the making of financial provision for the carrying out of each of the other objects stated in that rule. The expenditure is also rendered lawful by the *Industrial Arbitration Act*. The words " Police Service " as used in rule 2 (*a*) have a meaning wider than the words " Police Association." The word " members " in rule 2 (*c*) should be construed as meaning also " a member." The expenditure is within the authority conferred by clause (*h*) of rule 127. The words " any appeal " as used in that clause mean " in any application in any resort to " the courts mentioned and wherein the general interest of members is involved. Section 107 of the *Industrial Arbitration Act* 1940 is not susceptible of the construction that it means any lawful object for which the rules authorize disbursement ; the section gives power to a trade union, whether it has power under its rules or not, to expend money for any lawful object which is an authorized object under its rules. Upon the assumption, contrary to the foregoing submission, that the objects should be regarded as mere objects and that rules are requisite for

(1) (1886) 17 Q.B.D. 504.
(2) (1886) 17 Q.B.D., at p. 513.
(3) (1914) 1 Ch. 98.
(4) (1906) 22 T.L.R. 274.

the implementation of those objects, then, having regard to rule 2 (*j*), rule 127 should be read, prima facie, as a complete implementation of the objects.

[DIXON J. It may be that there are certain features which prevent the Police Association from being a trade union.]

The Association is registered under s. 6 of the *Trade Union Act* 1881-1936 as a trade union: See *Ex parte Brennan* (1). The expenditure was approved by the Association in annual conference which, under rule 115, has "supreme authority over all matters affecting the general management of the Association." The maintenance of this litigation was within the objects. The members as members became subject to a grievance within the meaning of rule 2 (*c*) because of the course taken by the Commissioner. Rules 2 and 127 are cumulative with or without the addition of the *Industrial Arbitration Act*. Rule 68 does not oust the jurisdiction of the Court; it is not *ultra vires* nor is it in breach of the contract or obligation (*Amalgamated Society of Engineers* v. *Smith* (2)). Inasmuch as under rules 141 to 144 inclusive the appellant has no beneficial interest in the funds of the Association he has no *locus standi* in the suit (*Yorkshire Miners' Association* v. *Howden* (3); *Allen* v. *Gorton* (4)). The respondents are sued on the basis of a breach of trust. The circumstances of the case are such that under s. 85 of the *Trustee Act* 1925-1938 (N.S.W.) the respondents should be relieved from the breach of trust, if any, made by them. The respondents acted reasonably and honestly and should be excused in respect of the breach of trust.

Weston K.C., in reply. There was no malicious exercise of power by the Commissioner: See *Grigg* v. *Consolidated Press Ltd.* (5). He is empowered to withdraw a formal charge: *Police Regulation Act* 1899 (N.S.W.) and rule 21 of s. 2 of the Rules made thereunder. The Court must construe the objects and purposes just as it finds them and they cannot be construed so as to include matters or things not comprehended within them even though conducive thereto (*Amalgamated Society of Railway Servants* v. *Osborne* (6); *Osborne* v. *Amalgamated Society of Railway Servants* (7); *Amalgamated Society of Engineers* v. *Smith* (8); *Palmer's Company Precedents*, 15th ed. (1938), vol. 1, p. 437). Rule 29 of the Association's rules supports the view that clauses (*d*) and (*h*) of rule 127 were not meant to relate to

(1) (1915) 15 S.R. (N.S.W.) 173; 32 W.N. 51.
(2) (1913) 16 C.L.R. 537, at p. 558.
(3) (1905) A.C. 256, at p. 283.
(4) (1918) 18 S.R. (N.S.W.) 202, at p. 205; 35 W.N. 69, at p. 70.
(5) (1945) 45 S.R. (N.S.W.) 247; 62 W.N. 113.
(6) (1910) A.C. 87, at pp. 92-94, 104-106.
(7) (1911) 1 Ch. 540, at p. 565.
(8) (1913) 16 C.L.R., at p. 560.

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individual members. Rule 64 (*d*) is neither an object nor a purpose but is simply a power conferred upon the executive to achieve the objects or the purposes. Rule 68 is severable. This case is stronger than a " company " case. The beneficial interest in the Association's assets, unless and until the Association be wound up, is, of necessity, in its members (*Edgar and Walker* v. *Meade* (1); *Webster* v. *Bread Carters' Union of New South Wales* (2); *Osborne* v. *Amalgamated Society of Railway Servants* (3)). There is in the members of the Association beneficial interest in property in the ordinary sense of that expression. The existence of property in the individual is not necessary to exercise jurisdiction. By s. 8 of the *Trade Union Act* the property of a trade union is vested in its trustees for the use and benefit of the trade union and its members, therefore they have a statutory right to use it. It may be that the respondents other than the trustees are not entitled to the benefit of s. 85 of the *Trustee Act* (*In re Windsor Steam Coal Co.* (1901) *Ltd.* (4)). Assuming there was a liability prima facie, if the Court sees fit to relieve the respondents from costs then costs should not be visited on the appellant; he being a representative party applying to the Court in order to protect the funds of the Association. If the payments were wrong and they were made wilfully either as to all or any thereof, then the appellant should not be compelled to pay any part of the costs of those respondents who stood by and received indulgence.

Cur. adv. vult.

June 7.

The following written judgments were delivered :—

LATHAM C.J. This is an appeal from a judgment of the Supreme Court of New South Wales (*Roper* J.) dismissing an action in which the plaintiff, who is a member of the Police Association of New South Wales, sued the Trustees, the President, Treasurer and Secretary of the Association and the Association itself for a declaration that certain payments made out of the funds of the Association were *ultra vires* and unlawful, also claiming an order that the moneys expended should be repaid to the Association. The moneys paid amounted to £2,010 2s. 7d. and were paid for the costs of one Neville William Grigg, a constable, of a libel action brought by him against Consolidated Press Ltd., the editor of the *Sunday Telegraph* and Mr. William John MacKay, Commissioner of Police. In the libel action Grigg alleged that an article written by Mr. MacKay contained

(1) (1916) 23 C.L.R. 29, at pp. 43, 44.
(2) (1930) 30 S.R. (N.S.W.) 267; 47 W.N. 105.
(3) (1911) 1 Ch., at p. 562.
(4) (1929) 1 Ch. 151, at pp. 159, 161, 163, 169.

serious reflections upon him. The executive of the Police Association agreed to finance the action on behalf of Grigg. Grigg lost the action and the plaintiff now claims as against the trustees and the named officers of the Association that the moneys applied in support of Grigg in the litigation should be repaid to the Association.

The Police Association is a trade union registered under the *Trade Union Act* 1881-1936 of N.S.W. It is not a corporation—see cases cited in *Halsbury's Laws of England*, 2nd ed., vol. 32, p. 486. It has some 3,000 members, and the plaintiff in the present proceedings claims no remedy against the Association, but joins it as a defendant because the members of the Association are too numerous to be joined as plaintiffs. A question was raised as to whether the Association was entitled to be registered as a trade union because the *Trade Union Act* 1881-1936, s. 31, defines " trade union " as meaning a combination for regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions upon the conduct of any trade or business. It would appear to be difficult to bring the police force within this definition, but s. 14 (5) of the Act provides that a certificate of registry, unless proved to be withdrawn or cancelled, shall be conclusive evidence that the regulations with respect to registry have been complied with. It was proved that such a certificate had been issued to the Police Association. There are cases in which it was in effect held, contrary to high authority, that the word " conclusive " in a similar provision did not bear its prima-facie meaning. I refer to the comment upon these cases in *Palmer's Company Precedents*, 12th ed. (1922), Part I., pp. 23-25. But it is not necessary for the purpose of the present case to determine the effect of the certificate, because the same questions with respect to the rules of the Association would arise if the Association were held to be a voluntary association which was not a trade union.

The plaintiff is met at the outset by a contention that he has no right of action because he cannot sue to enforce the rules upon a contractual basis (*Cameron* v. *Hogan* (1)) and because he has no right of property which can justify the intervention of the court. The rules of a voluntary association, in cases where the members of the association have no proprietary rights, are, as a general rule, left to be enforced by the means provided by the rules themselves ; if, however, members have a right of property under those rules the courts will interfere to protect that right of property (*Baird* v. *Wells* (2) ; *Cameron* v. *Hogan* (3)). In the present case the rules of

(1) (1934) 51 C.L.R. 358.
(2) (1890) 44 Ch. D. 661.
(3) (1934) 51 C.L.R., at p. 372.

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the Association do not confer upon the members any right to share in the property of the Association, either during the existence of the Association or upon its liquidation or winding up. But the rules contain provisions with respect to the application of the funds of the Association. The plaintiff as a member of the Association is prima facie entitled to invoke the assistance of a court in order to prevent misapplication of the funds. If he were unable to take proceedings in any court for this purpose, then a member would be quite helpless if the controlling body of the Association deliberately determined to misuse the funds of the Association. In *Yorkshire Miners' Association* v. *Howden* (1), Lord *Macnaghten* said, in words quoted by *Roper* J., " I need hardly point out how disastrous it might be to the funds of this union, and to trade unions generally, if there were no means of preventing the masters and managers of the union from diverting its funds from their legitimate and authorized purposes " (2). The effect of this case is that, notwithstanding the prohibition of certain proceedings in respect of trade unions (contained in the case of New South Wales in s. 4 of the *Trade Union Act* 1881-1936) " the Courts can lawfully construe rules so as to preserve members' rights by preventing the improper diversion of funds " of a trade union : per *Isaacs* J. in *Amalgamated Society of Engineers* v. *Smith* (3). See also *Amalgamated Society of Carpenters, Cabinet Makers and Joiners* v. *Braithwaite* (4) ; *Allen* v. *Gorton* (5). I agree with *Roper* J. that the plaintiff has sufficient interest to maintain the suit.

The plaintiff contends that the support accorded to Grigg in his litigation amounted to maintenance at common law and that the payments made were therefore illegal. The defendants sought to meet this contention by alleging a common interest between Grigg and other members of the Association, but the learned trial judge rejected this defence, applying the principles laid down in *Alabaster* v. *Harness* (6) and *Oram* v. *Hutt* (7). His Honour's decision upon this matter was not challenged upon the hearing of the appeal.

A further answer by the defendants to the charge of maintenance was that they were entitled to assist Grigg on grounds of charity, Grigg being a poor man and being believed by the personal defendants to be a poor man. The learned judge held that the assistance given to Grigg was excused on the ground of charity. The contention that charity might justify what would otherwise be maintenance was not disputed : see *Harris* v. *Briscoe* (8). But it

(1) (1905) A.C. 256.
(2) (1905) A.C., at p. 266.
(3) (1913) 16 C.L.R., at pp. 557, 558.
(4) (1922) 2 A.C. 440.
(5) (1918) 18 S.R. (N.S.W.) 202 ; 35 W.N. 69.
(6) (1895) 1 Q.B. 339.
(7) (1914) 1 Ch. 98.
(8) (1886) 17 Q.B.D., at p. 512.

was argued that there was no evidence that Grigg was in fact a poor man, but only, at most, evidence that the members of the executive of the Association bona fide believed that he was a poor man, and that actual poverty, and not merely a belief in the poverty of a litigant, was necessary to support a plea of charity in reply to an allegation of maintenance. *Harris* v. *Brisco* (1) is against this contention and no contrary authority was cited. It is unnecessary, however, to deal with this question because there was some evidence that Grigg was a poor man and was incapable of sustaining the expense of the litigation which he contemplated. The evidence was slight, but there was no evidence to the contrary. There is no ground for making a finding in this court of appeal that Grigg was not a poor man.

The substantial questions which were argued upon the appeal relate to the provisions of the rules of the union considered in the light of the *Trade Union Act* 1881-1936 and the *Industrial Arbitration Act* 1940. The rules provide for the application of moneys of the Association for carrying out the objects of the Association, which include rule 2 (*c*)—" to secure redress for any grievance to which members may become subject." The rules also contain special provisions relating to the application of funds in defraying expenses incurred in " appeals " to Federal or State boards or courts of arbitration or industrial appeals, and in certain other proceedings. The question whether the executive had power under the rules to apply the funds of the Association in paying the costs of the unsuccessful libel action brought by Constable Grigg is one of *ultra vires*, not of mere irregularity in internal management. In the latter case the rule in *Foss* v. *Harbottle* (2) would be applicable, and the Court would not interfere by injunction at the instance of individual members of the union in a case where a majority could regularize what had been done irregularly (*Cotter* v. *National Union of Seamen* (3)). In the present case the rules set out the objects or purposes to which the moneys of the Association may be applied, and no resolution of any majority could validly authorize any application of moneys except to those objects or purposes.

Constables Grigg and Carney had been specifically assigned the task of detecting offences against decency in public places. They had been engaged upon this work for some time and had instituted a considerable number of prosecutions. In a period of twelve months they had been responsible for the arrest of more than 200 persons for such offences. On 9th January 1943 a man was arrested for an offence

(1) (1886) 17 Q.B.D. 504.
(2) (1843) 2 Hare 461 [67 E.R. 189].
(3) (1929) 2 Ch. 58.

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of this character. He made representations to the Commissioner, Mr. MacKay, who formed the opinion that he was innocent of the offence. The Commissioner directed that the charge be withdrawn. The Commissioner then detailed some senior officers of police to make an enquiry into the prosecutions for indecency which had taken place in recent years, and on 18th January suspended the two constables. They were charged with offences before a departmental board of enquiry, which found that the charges were proved, and they were suspended. An appeal brought to a board constituted under the *National Security (Man Power) Regulations* was successful, and the constables were reinstated. The decision of the Board was given on 28th June 1943. The Association paid the expenses incurred by the constables in respect of the proceedings before the two boards. It is not suggested that the executive could not properly spend the funds of the Association in this way. In the meantime the Premier had directed the Commissioner of Police to proceed with the charge which he had ordered to be withdrawn. The person charged was acquitted by the magistrate. On 31st January 1943, the day before the charge was heard, the article already mentioned appeared in a newspaper conducted by Consolidated Press Ltd.

The question of supporting Grigg in his litigation was brought before the executive of the Association and at a meeting held on 29th June 1943 it was determined to assist him. Any record of the discussion of the matter was deliberately "kept out of the minutes." The secretary of the Association and other defendants gave evidence that at that meeting the whole matter was very fully discussed, that the secretary referred to various rules of the Association relating to the application of moneys of the Association, and particularly to rule 68, which gives power to the executive to interpret the rules. Ultimately motions were carried that the executive interpret the rules so as to enable it to provide for financial assistance in Grigg's case, and that the executive should sponsor or assist Grigg in his proposed libel proceedings.

Under the authority of these resolutions the executive paid from the bank account in the name of the Association to the solicitors of Grigg the sum of £500 on 31st August 1944 and another sum of £300 on 6th September 1944. The cheque for £500 was signed by the defendant Fisher (treasurer) and the defendant Cosgrove (secretary). The cheque for £300 was signed by the defendant Driscoll (president) and Cosgrove. The executive directed the trustees to sell certain Commonwealth stock in their hands belonging to the Association to enable further payments to be made to Grigg's solicitors. The trustees sold the stock and the proceeds were paid

into the bank account of the Association. A cheque for £1,210 2s. 7d. was drawn on 28th September 1944 and was paid on 9th October to Grigg's solicitors.

Roper J. held that the payments were justified under rule 2 (*c*) of the Association or, alternatively, that it was open to the executive to interpret rule 2 (*c*) as authorizing the application of the moneys in the manner stated. The *Trade Union Act* 1881-1936, s. 16, provides that the rules of a registered trade union shall contain provisions in respect of several matters mentioned in the First Schedule to the Act. The First Schedule to the Act sets out the matters to be provided for by the rules of trade unions, including: "The whole of the objects for which the Trade Union is to be established the purposes for which the funds thereof shall be applicable. . . ." This provision draws a distinction between the objects of the union and the purposes for which the funds of the union may properly be applied. The *Industrial Arbitration Act* 1940, s. 107, modifies these provisions by abolishing in relation to the application of funds the distinction between the objects of the union and the purposes for which funds may be applied. Section 107 (1) provides that a trade union shall have power to apply and use the moneys and other property of the union for or in connection with any lawful object or purpose for the time being authorized by its rules. Accordingly, if there can be found in the rules any provision which makes it an object of the union to assist libel proceedings by members of the Association, then moneys of the Association may properly be applied for that purpose, even though there is no other provision in the rules authorizing such application. The rules of the Association, evidently drafted in relation to the *Trade Union Act*, distinguish between the objects of the Association, which are set out in rule 2, and the purposes to which the funds of the Association may be applied, which are stated in rule 127. But the effect of the *Industrial Arbitration Act* 1940, s. 107, is to authorize the application of funds for any of the objects of the Association.

In my opinion the provisions of the *Industrial Arbitration Act*, s. 107, are not important in this case because rule 2, which sets forth the objects of the Association, includes par. (*j*) as an object, namely "to make financial provision for carrying out any of the foregoing objects." Accordingly, if the support of Grigg in his litigation can be brought either within the objects of the Association as set out in rule 2, or within the purposes to which the funds of the Association may be applied as set out in rule 127, the action of the executive should be held to be authorized by the rules.

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Rule 2 contains the following provisions :—

" The objects of the Association shall be, by all lawful means— (*a*) To promote the interest of the Police Service by every means consistent with its Regulations, and with loyalty to the Government of New South Wales, the British Empire, and His Majesty the King. (*b*) To afford opportunity for the full discussion of any subject having relation to the general welfare of the Police Force, and to provide for the use of all reasonable and constitutional means in dealing with any matters affecting any member thereof. (*c*) To secure redress for any grievance to which members may become subject. . . . (*e*) To advise and assist members in preparing and placing cases before any Departmental Inquiry or Appeal Tribunal. . . . (*j*) To make financial provision for carrying out any of the foregoing objects."

Rule 127 deals with the application of the funds of the Association. It provides that the funds of the Association shall be applied to, *inter alia*, the following purposes :—". . . (*d*) Defraying any expenses incurred in any appeal to a Federal or State Board or Court of Arbitration or Industrial Appeal. (*e*) Making payments in connection with any matters prescribed by these Rules or affecting the general interests of members. . . . (*g*) Providing legal assistance for members involved in Departmental Inquiries or Appeals under the provisions of the *Police Appeal Act*. (*h*) Defraying any expenses incurred in any appeal to Federal or State Court wherein any question of general interest of members is involved."

It will be seen that there are specific provisions relating to matters of a litigious character in which the promotion or defence of interests of members of the police force or of the Association are involved. The word " appeal " in pars. (*d*) and (*e*) should, I think, be read as meaning " application," because the proceedings before Federal or State boards or courts of arbitration are not generally " appeals " in the technical legal sense of that term. These provisions show that funds may be applied in meeting the expenses of proceedings before Federal or State courts, arbitration courts, courts of industrial appeal, departmental enquiries or appeals under the *Police Appeal Act* and applications to any Federal or State court where any question of general interest of members is concerned. It will be observed that the phrase is " general interest of members " and not " general interest to members."

These specific provisions with respect to proceedings before tribunals of one kind and another would be unnecessary if other rules, such, for example, as rule 2 (*c*), relating to the redress of grievances, meant that the executive might apply moneys of the Association

in connection with any proceedings in which a member of the Association was interested. This consideration, though not conclusive, supports the view that rule 2 (*c*) does not apply to legal proceedings. The argument for the defendants which prevailed with *Roper* J. was that rule 2 (*c*) applies to personal grievances of members of the Association connected with their employment and that the provision of funds to assist Grigg in his libel action was the means of securing redress of a grievance to which Grigg, a member of the Association, was subject. The only grievance of Grigg which could be redressed by the libel action was the alleged defamation. His suspension had been removed and he had been reinstated in the force. He, and the executive of the Association, however, considered that his character had not been entirely cleared by the proceedings before the Man Power Appeal Board and there is no ground for challenging the bona fides of this opinion. The enquiry by the Board did not deal with many of the charges which had been made against Grigg.

Before considering whether the alleged defamation of Grigg by the Commissioner was a grievance to which he could be said to be subject, I examine the argument that some general interest of the police force or some grievance of members of the force was involved in Grigg's libel action. The argument was, first, that the public statement of the Commissioner involved an assertion of a right of administrative supervision over the prosecution of charges made by constables and that this was a matter of concern to all members of the force. The suggestion, therefore, was that all the members of the Association and, indeed, of the police force, had a grievance in this regard which required redress. But if it was desired to establish a rule or a practice entitling a member of the police force to proceed with any prosecution without regard to the opinion of his superior officers, this object could not be achieved by Grigg's libel action. Undoubtedly it would be within the functions of the executive of the Association to take steps to procure the alteration of any rule or practice to which objection was taken, but a libel action against a newspaper and the Commissioner could not change any existing rule or practice or establish any new rule or practice.

In the next place, it was argued that any defamation of a member of the force in relation to his duties, and particularly by the Commissioner, involved an interest of the whole force and a grievance of the whole force, including members of the Association. Of course the members of the force would be " interested " in such a matter in the same way, though to a greater degree, as members of the public. But is such an interest an interest in relation to which the

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Association was authorized to spend money? In this connection reference may be made to what was said in *Oram* v. *Hutt* (1) by Lord *Parker*—". . . a libel action is a personal action which in point of law concerns only the parties to it—the matters legally at issue are merely whether the plaintiff has been libelled, and if so to what damages he is entitled." (2), and in *Alabaster* v. *Harness* (3) by Lord *Esher* M.R.—" Such an action [a libel action] is a personal action, which in point of law only concerns the person who brings it. The matters legally at issue in it are whether the plaintiff has been libelled, and, if so, to what damages he is entitled in respect of the libel upon himself." (4).

In my opinion, therefore, it should not be held that Grigg's libel action was an appeal to a State court " wherein any question of general interest of members was involved " within the meaning of rule 127 (*h*). For these reasons the action of the executive in assisting Grigg in libel proceedings cannot, in my opinion, be justified on the ground that the executive was thereby securing redress for any grievances to which members of the force in general or any number of them were subject or as a means of dealing with " any question of general interest of members " under rule 127 (*h*).

The question, as I see it, is whether the assistance to Grigg can be justified on the ground accepted by the learned trial judge, namely under rule 2 (*c*) " to secure redress for any grievance to which members may become subject ", the grievance being a grievance of Grigg. The contention is that the defamation of Grigg was a grievance and that the rule applies to grievances of individual members. I see no reason for differing from the latter proposition. But was the defamation a " grievance " to which Grigg was " subject " ? If the words were " to secure redress of any grievances of members " some of the difficulties which I have met in endeavouring to construe them would disappear. But the expression " grievances to which members are subject " has, I think, a different significance. As all my brethren are of a different opinion, however, I reach this conclusion with considerable doubt in what must be regarded upon any view, I think, as a marginal case.

It is conceded for the defendants that some limitation must be placed upon some of the very general words contained in the rules. For example, par. (*a*) of rule 2, relating to the interests of the police service, relates to the interests of the police service as a police service and not to the private interests of the individual members thereof. Paragraph (*b*), in its reference to " dealing with any

(1) (1914) 1 Ch. 98
(2) (1914) 1 Ch., at p. 104.
(3) (1895) 1 Q.B. 339.
(4) (1895) 1 Q.B., at p. 342.

matters affecting any member " of the police force must be limited to matters affecting them as members of the police force. Paragraph (*c*), " to secure redress for any grievance to which members may become subject " cannot fairly be construed as authorizing the expenditure of the money of the Association to redress any private grievance of a member. It was contended for the appellant, and conceded by counsel for the respondent, that these rules would not authorize the Association to assist a member of the force in a quarrel about his account with his butcher or his baker. But it is urged that a quarrel with the Commissioner of Police is a different matter when it arises out of the conduct or alleged conduct of a member of the Association as a member of the force. The proposition upon which this argument depends is that when a member of the force makes a bona fide claim against another person in respect of an alleged wrong done to him and that claim is connected with his conduct as a police officer, the Association may lawfully spend the funds of the Association to assist him in litigation. The claim may be for damages for defamation, for assault, for negligence. In my opinion it is stretching the relevant words too far to say that in each of these cases the police officer is " subject to a grievance." His claim is for damages for a personal wrong ; it is that for which he seeks redress ; but a judgment in his favour should not, in my opinion, be described as redressing a grievance to which he is subject.

In one sense anything of which a person complains—whether it is being knocked down by a motor car or an excessive tax assessment—is a grievance to him. But the words " grievance to which he is subject " refer only, in my opinion, to a continuing cause of complaint the removal of which is desired, and not to a particular past event such as the publication of a libel or an assault. The words " redress of grievances to which members are subject " refer to bringing about a change in existing conditions under which members of the police force are working so as to improve their position for the future. An example of this application of the words is to be found in a sentence in the annual report of the Association in 1945, where reference is made to the advisability of the Association " seeking approach to arbitration as a means of obtaining redress of many grievances such as pay, overtime payment, and general working conditions." Of course the rules cannot be interpreted or limited by phrases used in a report, but I quote this statement as illustrating what, in my opinion, is the fair and natural meaning of the rule in question. I therefore reach the conclusion, though, as I have said, with doubt, that the rules do not justify the payments made by the executive.

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The defendants relied, however, upon rule 68, which provides that " The Executive shall have authority to interpret any rule." The evidence of the secretary is that he read to a meeting of the executive the rules to which I have referred and that the executive carried a resolution that " the Executive interpret the rules to provide for financial assistance in Grigg's case." But such a resolution is not an interpretation of any particular rule. No specific rule is referred to as that of which an interpretation is given. The resolution says in effect " We interpret the rules, as a whole, so as to authorize the executive to assist Grigg." In my opinion this is not an effective exercise of the power given by rule 68. But, further, the executive cannot alter the meaning of rules by " interpreting " them. If the rules, upon their proper construction, which I have endeavoured to state, limit the powers of the executive in the application of the funds of the Association, the Association cannot remove those limits by any process of " interpretation."

I would allow the appeal.

STARKE J. The appellant in this appeal sought a declaration in an action that he brought against the respondents in the Supreme Court of New South Wales that certain payments made out of the funds of the Police Association of New South Wales in respect of costs and disbursements of and in connection with certain litigation were *ultra vires* and unlawful and an order that the individual respondents repay those payments to the Association.

On this appeal the claim for repayment of the amounts was not pressed, but the declaration was sought because it was regarded as important that the powers of the Association should be settled for the future.

The case is somewhat unusual.

Grigg was an officer of police who had been suspended and subsequently, I think, dismissed from the service by the Commissioner of Police for misconduct in the performance of his duty. He appealed to a Board constituted under the *National Security (Man Power) Regulations* and, though its jurisdiction seems questionable, it ordered his reinstatement in the police force. Grigg then brought an action against the Commissioner for libel in respect of a public statement made by the Commissioner in reply to newspapers and other comments explaining his actions and denouncing the conduct of Grigg as an officer of police.

The trial of this action, which lasted many days, resulted unfavourably to Grigg and judgment was entered for the Commissioner. Grigg was unable to bear the heavy expense of such an action

and he appealed to the Police Association of New South Wales, of which he was a member, for support.

The Association is registered as a trade union under the *Trade Union Act* 1881-1936 of New South Wales which also seems questionable, but it obtained a Certificate of Registration which the Act prescribes "shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with." For the purposes of the day I propose to treat this certificate as conclusive that the Association is a trade union authorized to be and duly registered under the Act (See the cases collected in *Palmer's Company Precedents*, 15th ed. (1938), Part 1, General Forms, pp. 19-22).

The executive of the Association resolved to support Grigg in his action for libel against the Commissioner and paid some £2,000 out of the funds of the Association in respect of Grigg's costs in his action against the Commissioner. Several of the individual respondents, who were members of the executive or trustees of the Association, authorized or effected these payments which were passed by an annual conference of the Association and were also, it seems, approved by a mass meeting of members of the Association.

In order to succeed the appellant must therefore show that these payments were *ultra vires* the Association, that is, beyond its power, for it is an elementary principle that the Court will not interfere with the internal management of statutory corporations acting within their powers (*Dominion Cotton Mills Co. Ltd.* v. *Amyot* (1)).

The question depends upon the rules of the Association. Its objects, *inter alia*, are to promote the interest of the police service, to secure the redress for any grievance to which members may become subject and to make financial provisions for carrying out the objects of the Association.

The management of the Association is vested in the executive which has the powers specially conferred upon it by the rules and authority to exercise all such powers and do all such acts and things as the Association may do and are not required to be exercised or done by the Association in conference assembled. And the executive has authority to investigate complaints by members of the Association and take such action as may be deemed necessary in regard thereto.

The executive also controls the funds of the Association which may be applied, *inter alia*, in defraying any expenses incurred by any appeal to a Federal or State Board or Court of Arbitration or Industrial Appeal or in any appeal to a Federal or State Court wherein any question of general interest of members is involved or in making payments in connection with any matters prescribed by the rules or

(1) (1912) A.C. 546.

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affecting the general interests of members or in providing legal assistance to members involved in Departmental Inquiries or Appeals under the provisions of the *Police Appeal Act*.

The executive has also authority to interpret any rule and finally determine any matter relating to the Association on which the rules are silent. But this authority does not empower the executive to expand the capacity or the objects of the Association. It does not enable the executive to authorize acts on the part of the Association that are beyond its powers.

However the objects or the capacities of the Association in relation to its members as officers of police are in very general terms, which should receive a liberal rather than a restrictive interpretation.

It is true enough that an action for libel is a personal action but the extent to which defamation of a police officer affects the general interest of members of the Police Association depends upon its character and its connection with the performance of their duties as officers of police.

In the present case it appears that the Commissioner had denounced the conduct of Grigg in the performance of his duties as an officer of police, his arrest of a citizen and the charging him with an offence, the charge book entry whereof made at the instance of Grigg, which the Commissioner directed be cancelled and that no proceedings be taken against the citizen, a course from which the Commissioner, under political direction, was obliged to retreat and to issue a summons against the citizen who was ultimately discharged. According to evidence tendered by the respondents in the present case the Commissioner assisted the citizen in his defence rather than his officer, Grigg, who had made the charge.

All this, as it seems to me, might well be the subject of dissatisfaction in the police force and give rise to a grievance in the members of the force requiring attention. At all events the executive of the Police Association might reasonably take that view and consider that supporting Grigg in his action was an effective method of redressing the grievance and promoting the interests of the police service.

In my opinion therefore the payment of Grigg's costs in his action against the Commissioner was not *ultra vires* or beyond the powers of the Police Association.

An objection that the appellant was not a party competent to maintain the action was rejected at the trial. In my opinion the objection was untenable for the reasons given below (See also *Palmer's Company Precedents*, 15th ed. (1938), Part 1, p. 101). Further it was contended that the Police Association was guilty of maintenance in that it had given assistance to Grigg in his

action without any interest therein or other reason recognized by law as justifying its interference. The trial judge rejected the contention on the ground that the assistance was given out of charity, though I should not in any case have thought that the respondents or any of them officiously inter-meddled in an action that no way belonged to them and with which they had nothing to do, to use the old description of maintenance (See *Tomlin's Law Dictionary*, vol. 2 (1809) (Maintenance); *Oram* v. *Hutt* (1)).

The appeal should be dismissed.

DIXON J. The ostensible purpose of this appeal is to fix upon the president, secretary, treasurer and the three trustees of the Police Association of New South Wales a liability to replace in the funds of the Association an amount of £2,010 2s. 7d. which they had paid away, as it is asserted, for purposes not authorized by the rules of the Association. But, from what took place during the argument of the appeal, it would seem that the plaintiff-appellant, though suing on behalf of all members who are not placed on the defendant's side of the record, sought rather to establish the principle than to obtain the relief claimed. Be that as it may, I think that the appeal should fail in substance, on the ground that the payments cannot be considered to have been made by such defendants-respondents without lawful authority.

The course of events out of which the question arises is not one which can be dwelt upon with any satisfaction, and, as the merits of none of the incidents or proceedings are before us for examination, the material facts can be stated very shortly.

For some time before January 1943 two constables, named Carney and Grigg, both members of the Police Association, had been doing special duty consisting in the detection and suppression of indecency in public conveniences for men. On Sunday, 10th January 1943, upon a charge of such indecency, they arrested a man who not only maintained his innocence but alleged that the charge had been concocted and who was able, after his release on bail, to carry his case to the Commissioner of Police. The latter, in the light, it is said, of other complaints concerning the two constables, adopted energetic but unusual measures. He caused an investigation to be made by police officers of a large number of cases in which the two constables had proceeded and he had the charge against the particular man cancelled or withdrawn from the charge sheet. On the afternoon of 18th January, he suspended Carney and Grigg, and they, on the following day, saw the

(1) (1914) 1 Ch. 98.

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President of the Police Association, among the objects of which is inquiry into, and securing, the reasonable adjustment on behalf of members in case of a charge or suspension and the advising and assisting of members in preparing their cases and placing them before a departmental inquiry or appeal tribunal.

A meeting of the executive was held on that day and considered the matter, which naturally aroused much interest, if not concern, in the service.

A departmental board of inquiry presided over by a superintendent was constituted and opened its proceedings about a week later. In the meantime, under ministerial direction, the charge had been revived against the man who had been arrested, a journalist, suspected on that ground of being a person of influence, and he was to be brought before the magistrates about Monday, 1st February 1943. One of the morning newspapers of 30th January contained some criticisms of the course taken by the Commissioner and in a statement published in the press of the following day, Sunday, 31st January, he dealt at length with the case. The Commissioner's statement to the press contained much that was highly damaging to the suspended constables and provided the foundation for an action of libel, which ultimately Grigg brought against the Commissioner and a newspaper together with its editor, with the full support of the Police Association.

It was in paying the plaintiff's costs of this action that the challenged disbursement of £2,010 2s. 7d. was made from the Association's funds. But, in the meantime, in a variety of proceedings, the allegations had been inquired into, but with a diversity of result. The magistrate, in the proceedings before whom the resources of the police department are said to have been made available to the defendant, discharged the latter, not being satisfied with the truth of the charge. The departmental inquiry, presided over by the superintendent, found the two constables guilty on a large number of charges including that of concocting a charge against the man they arrested on 10th January. But Carney and Grigg then went before a Local Appeal Board under the *National Security* (*Man Power*) *Regulations*, which, strange as it may seem, were treated as restricting the power of dismissal from the police force.

The Chairman of the Board was a District Court Judge. He and the member representing the " employees " refused to act upon the evidence adduced on such of the charges as were brought before them, regarding that evidence as discredited and unworthy of belief, and they exonerated the two constables. The proceedings before the Board terminated abruptly in this way on 28th June. On the

following day, a meeting of the executive committee of the Police Association took place, and the whole case was reviewed. It was said that counsel appearing against Carney and Grigg before the Local Appeal Board had complained that, because the proceedings were not *in camera*, he had been unable to rely upon charges and call evidence which would have proved convincing, and that for that reason and for reasons connected with the manner in which the press reports of the proceedings and incidents of the case had been presented, the constables had not been effectively cleared.

Grigg and his companion desired to bring an action for libel against the Commissioner, but, according to the evidence, said that he, Grigg, was poor and had a wife and child dependent upon him. He was, however, prepared to stake his all in the matter. After much discussion the executive, as it has been found, resolved to support Grigg with the financial assistance necessary to enable him to conduct the libel action.

A question having been raised as to the power under the rules to do this and the rules having been referred to, the executive, in purported exercise of a power of interpretation, also resolved, so far as it could properly do so, to interpret the rules as covering the proposed expenditure.

The Association's solicitor instituted the action on 27th July 1943 in Grigg's name. In the declaration the whole of the Commissioner's statement of 31st January 1943 was complained of. The pleas were the general issue, fair comment on a matter of public interest and truth for the public benefit. The trial occupied twenty days and concluded on 18th September 1944, when the jury found a general verdict for the defendants.

On 31st August 1944, a cheque on account of costs for £500 was paid to the solicitors, on 8th September another was paid for £300 and on 28th September a final cheque for £1,210 2s. 7d., making the total of £2,010 2s. 7d.

Before, on and after 28th September 1944, the executive received letters from certain branches protesting against paying such costs. But, on 5th November 1944, a mass meeting that was called confirmed the executive's action, and, in April 1945, the annual conference of the Association adopted a report and balance sheet in both of which the payments were expressly mentioned.

The Police Association of New South Wales is registered under the *Trade Union Act* 1881-1936 (N.S.W.), and on the part of the plaintiff some consequences both in relation to his *locus standi* and in the interpretation and limitation of the powers of the body were claimed as flowing from that fact. It is, however, a matter which

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I put on one side, partly because I do not think it very material, and partly because I am by no means satisfied that the Association is of a description falling within s. 31 of the Act, or that the conclusiveness ascribed to a certificate of incorporation under s. 15 (1) of the English *Companies Act* 1929 belongs to a certificate under s. 14 (5) of the *Trade Union Act* 1881-1936 (N.S.W.), a provision which is based on the last part of s. 18 of the *Companies Act* 1862 (" requisitions " being changed to " regulations ") and does not derive either from s. 192 of that Act or s. 1 of the *Companies Act* 1900 ; see *Bowman* v. *Secular Society Ltd.* (1), per Lord *Finlay*.

The objects of the Police Association include the promotion of the interests of the police service ; the providing for the use of all reasonable and constitutional means in dealing with any matters affecting any member of the force, the securing of redress of any grievance to which members may become subject and the inquiry into, and the securing of, fair and reasonable adjustment on behalf of members in cases of any charge, suspension, reduction of rank, position, or rank and pay, dismissal or retirement. The interpretation of the above expression " grievance to which members may become subject " has been a source of difficulty. Is it speaking of grievances felt as a class by members of the Association, or which amounts to the same thing, of the force ? Or does it include the grievance of any individual member ? I think that it is clear enough that the grievance must be about a matter affecting them or him in their or his capacity of member of the force or of the Association. But, no doubt, it is a question whether the expression refers to grievances affecting a whole class or includes what is suffered by an individual member. I think that the expression is intended to cover the redress of individual grievances. The use of the plural " members " where the singular would be more appropriate is seen in the object about " adjustment on behalf of members in cases " (again plural) " of any charge suspension " &c. But what appears to me the determining consideration is that throughout the rules you see as a chief aim of the Association the care of the individual policeman who becomes a member in his relations with authority. It is plain that one of the most important purposes of the body is to see that the individual has every proper and legitimate protection where otherwise he might suffer prejudice in his character of member of the police service.

The clause setting out the objects of the Association concludes by making it an object to make financial provision for carrying out any

(1) (1917) A.C. 406, at p. 420.

of the other objects. The management of the Association is entrusted to the executive, a body composed of the President and sixteen members elected by and from the delegates at the annual conference. The executive may, subject to special exemptions, exercise all the powers of the Association. The annual conference, however, has supreme authority over all matters affecting the general management of the Association and has the sole right and power of making altering amending or repealing the rules. The executive controls the funds of the Association, about the application of which the rules make some express, though rather general, provisions. One " purpose " to which they may be applied is making payments in connection with any matters prescribed by the rules or affecting the general interest of members; and another is defraying any expenses incurred in any appeal to a Federal or State Court wherein any question of general interest of members is involved. The existence of another rule dealing with industrial tribunals makes it clear that the courts referred to are not simply Arbitration Courts. " Appeal to " I think must mean " resort to."

In my opinion the foregoing powers sufficed to enable the executive to undertake the costs of Grigg's action for libel against the Commissioner and the newspaper company together with its editor.

The wide expressions which occur in some of the objects clauses must, no doubt, be limited by reference to the general nature of the Association. They do not extend to the supporting of members in their private claims or disputes not arising out of their character as members of the police force or of the Association. But my conclusion that the particular litigation in question was within the purview of the Association depends upon the complexion which it was open to the executive to place upon the transactions out of which it arose. The guilt or innocence of the two police officers was a matter of dispute about which it was open to the executive to take either view. It is clear that they took a view favourable to the two men. No doubt the Commissioner had taken the opposite view, but founding themselves upon the assumption that it was the man charged by the constables who was in the wrong and not the two constables, the executive might regard it as a matter of deep concern to the police force that the Commissioner should publish such a complete condemnation of the two police officers on the eve of the hearing of the information against the man.

The course taken by the Commissioner in publicly disowning the proceedings and pronouncing upon the honesty of the charge made by the two constables was a matter in which the Police Association had an interest. It is not a question whether the

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Commissioner was justified by the circumstances in this course, but whether the matter could reasonably present itself to the executive as one in which the Association ought to become responsible. The executive was called upon to consider it after the decision of the Local Appeal Board and in the light of the complaint on the part of the constables that the damage to their reputation had not been undone.

The view of the facts adopted by the executive may or may not have been well-founded, but *Roper* J. seems to have regarded them as acting bona fide. In these circumstances I do not think that it was beyond the powers of the executive to incur on behalf of the Association the financial responsibility of the costs of Grigg's libel action.

It was contended, however, that the assistance and support given to Grigg in his action of libel by the executive amounted to maintenance and, therefore, must be beyond the authority which the rules of the Association could or did confer.

The law of maintenance is founded not so much on general principles of right and wrong or of natural justice as on considerations of public policy (per Lord *Esher*) : *Alabaster* v. *Harness* (1). Notions of public policy are not fixed but vary according to the state and development of society and conditions of life in a community. The exceptions or justifications which allow a person or body of persons to maintain a litigant in a suit do not form a closed category, and I think that we should hesitate before saying that, independently of the want of means of Grigg, the circumstances of the present case would leave the Association or its executive without justification or excuse for the support given to Grigg in his lawsuit, so that it amounted to unlawful maintenance. But, be that as it may, I think that the executive had strong grounds for concluding that Grigg had no sufficient means to sustain the burden of the proceeding which he and they considered to be necessary to complete his relief from what they counted a form of oppression. It formed part of their reasons for proceeding as they did and, as on the findings, they must be taken to have acted in supposed furtherance of the ends of justice and not from any collateral motive, I think that is enough to prevent the law of maintenance operating to make the act of the executive in undertaking liability for the costs of the proceedings one outside their authority and not affecting the Association or its funds.

In my opinion the appeal should be dismissed with costs.

(1) (1895) 1 Q.B., at p. 342.

McTiernan J. In my opinion the appeal should be dismissed. In the action there is claimed a declaration that the payments out of the funds of the Association in respect of Grigg's action were "*ultra vires* and unlawful." A trade union is defined by s. 31 of the *Trade Union Act* 1881-1936 of New South Wales. The Act does not make a trade union a corporation. But its legal status is not assimilated to that of an individual person. A trade union cannot apply its funds to any object outside the ambit of the Act (*Amalgamated Society of Railway Servants* v. *Osborne* (1)). Another instance of the application of this principle is *Allen* v. *Gorton* (2).

In the case of a trade union which is registered under the Act, it cannot apply its funds for any object or purpose other than an object or purpose stated in its rules. In *Amalgamated Society of Railway Servants* v. *Osborne* (1), Lord *Macnaghten* said: "It is a broad and general principle that companies incorporated by statute for special purposes, and societies, whether incorporated or not, which owe their constitution and their status to an Act of Parliament, having their objects and powers defined thereby, cannot apply their funds to any purpose foreign to the purposes for which they were established, or embark on any undertaking in which they were not intended by Parliament to be concerned." (3).

This action has been tried upon the assumption that this Association is a registered trade union. This assumption involves the proposition that the Association is truly a trade union according to the definition in the Act.

It seems to me that if the Association is a registered trade union the case depends upon these two questions. First: Was the financial assistance given to Grigg to bring his libel action within the objects of the Association? Second: Is the object to which the funds of the Association were so applied an object within the ambit of the *Trade Union Act*?

If the Association is not truly a trade union, and its registration were for that reason null and void, the question whether it exceeded the limits of the Act would not of course arise, for it would in that event be a voluntary association without any legal status conferred by any Act. But there would be the question whether the payments in question were authorized by the rules of the Association.

I agree entirely with *Roper* J. in his opinion that the rules upon their true interpretation authorized the expenditure which is now challenged. The express objects of the Association include that of securing redress by all lawful means for any grievance to which

(1) (1910) A.C. 87.

(2) (1918) 18 S.R. (N.S.W.) 202; 35 W.N. 69.

(3) (1910) A.C., at p. 94.

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members may become subject, and of making financial provision for carrying out that and its other objects. The context of the rules makes it clear, I think, that the words " grievance to which members may become subject " in rule 2 (*c*) do not refer exclusively to a grievance which is common to all members of the Association. I think that the words apply to a grievance which affects to one or a number of members of the Association. According to the proper construction of rule 2 (*c*), I think that a member is subject to a grievance which is within its scope, where such member is aggrieved by any action taken by a superior whereby the member's conduct in the course of his duty is impugned or his career in the service prejudiced ; and that any such lawful action is within the scope of rule 2 (*c*) as is appropriate to redressing his grievance. I do not repeat the facts upon which the question whether Grigg was subject to such a grievance depend. In my opinion the facts bear out the conclusion that he had such a grievance. In the circumstances I think that to give financial aid to Grigg to bring an action for libel could reasonably be considered an appropriate method to attain the object of securing redress for the grievance under which Grigg was labouring by reason of the action taken by the head of the service. It has been mentioned that it is an express object of the Association to make financial provision for carrying out the express object of securing redress for any grievance to which a member is subject. In my opinion, therefore, the payments which are challenged are authorized by the rules of the Association. Accordingly, even if this is not an Association which is entitled to the legal status of a trade union under the Act and is therefore not legally registerable under it, the contention that the payments in question were *ultra vires* would fail.

If the Association is truly a trade union and therefore duly registered under the Act there is a question whether it is within the powers of a trade union to apply its funds to the object of providing legal aid to one of its members. There was no argument on this particular question. The argument was devoted to the interpretation of the rules. As at present advised, I think that it is not beyond the scope of the legitimate objects of a trade union to provide legal aid in the way of financial assistance out of its funds to a member to enable him to bring legal proceedings to redress any grievance to which he is subject in his relations with his employer. Instances of trade unions whose rules contained such an express object are to be found in *Adams* v. *London Improved Motor Coach Builders Ltd.* (1) ; *Greig* v. *National Amalgamated Union of Shop Assistants, Warehousemen and Clerks* (2). In *Oram* v. *Hutt* (3), the rules of

(1) (1920) 3 K.B. 82 ; (1921) 1 K.B. 495.

(2) (1906) 22 T.L.R. 274.

(3) (1913) 1 Ch. 259 ; (1914) 1 Ch. 98.

the Society contained no express power to make the expenditure which was there in question. Lord *Parker* and Lord *Sumner* (1) observed on the absence of any express power to justify the expenditure. There could hardly be any point in these observations if it is beyond the scope of the objects for which a trade union is legalized to provide legal aid for members in connection with their employment.

In the present case *Roper* J. found, and his finding is justified by the evidence, that " a material consideration leading the governing body of the defendant union to commit its funds in support of Grigg's action was the fact that the members of that body who supported the action believed that Grigg had a just cause of action which he for lack of means would be unable properly to take." Having regard to this finding and the authority of *Harris* v. *Brisco* (2), I agree that the plaintiff has failed to prove the allegation that the Association, or any of the individuals who are defendants, maintained Grigg in his libel action. As this allegation fails, it is unnecessary to decide the question whether, if it is an express object of a trade union to provide financial assistance to its members to bring or defend actions to secure redress of grievances connected with their employment, the expenditure of the funds collected from its members on that object would constitute maintenance, irrespective of the principle in *Harris* v. *Brisco* (2). It is to be observed that in *Oram* v. *Hutt* (3), Lord *Sumner* distinguished between the action taken by the union in the last-mentioned case and " the business of insurance or of mutual protection associations." (4).

The substantial question in the case is whether the payments in question were *ultra vires* and unlawful and, as that question must be decided in the negative, I think it is unnecessary to deal with the question of the plaintiff's right to sue.

WILLIAMS J. The material facts have been stated in the judgments of *Roper* J. in the court below and of the Chief Justice and *Dixon* J. in this Court, and I shall not repeat them in detail. They raise three main points of law which were argued before his Honour and on this appeal. They are : (1) whether the plaintiff is entitled to bring the suit ; (2) whether it was maintenance to provide financial assistance for Grigg in his libel action out of the funds of the Police Association ; (3) whether this assistance was authorized by the rules of the Association.

(1) (1914) 1 Ch., at p. 105.
(2) (1886) 17 Q.B.D. 504.
(3) (1914) 1 Ch. 98.
(4) (1914) 1 Ch., at p. 106.

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The Police Association is registered as a trade union under the *Trade Union Act* 1881-1936 (N.S.W.). The hearing proceeded before *Roper* J. on the assumption that the Association is in law a trade union as defined in s. 31 of the Act. On the appeal doubts were raised by *Dixon* J. as to the correctness of this assumption. The Act is founded upon the English *Trade Union Acts* of 1871 and 1876. It gives protection to all trade unions, whether registered or unregistered, and then proceeds to make provision for the registration of trade unions with resulting advantages not given to unregistered associations. Section 14 (1) provides that an application to register a trade union and printed copies of its rules shall be sent to the Registrar; (2) that the Registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under the Act, shall register such trade union and its rules; (5) that the Registrar upon registering a trade union shall issue a certificate of registry which certificate unless proved to have been withdrawn or cancelled shall be conclusive evidence that the regulations of the Act with respect to registration have been complied with. Section 18 of the English *Companies Act* 1862 provided that a certificate of incorporation shall be conclusive evidence that all the requisitions of the Act in respect of registration have been complied with. In *In re National Debenture and Assets Corporation* (1), the Court of Appeal held that a certificate under s. 18 could not be treated as conclusive of the fact that seven persons signed the memorandum of association, and that if less than seven persons did so the court had no jurisdiction to make a winding up order. *Lindley* L.J. said (2) that "It was decided as long ago as the time of Lord Justices *Knight Bruce* and *Turner*, that the Registrar could not by a certificate create a jurisdiction in himself so as to enable companies to be registered to which the Act had no application." In *Osborne* v. *Amalgamated Society of Railway Servants* (3), on appeal (4), *Farwell* L.J. pointed out (5) the extent to which the English *Trade Union Acts* were framed upon the lines of the *Companies Act* 1862. Section 14 (5) of the *Trade Union Act* 1881-1936 (N.S.W.) corresponds to s. 18 of the *Companies Act* 1862. On the other hand s. 192 of the *Companies Act* 1862 provided that a certificate of incorporation given to any company registered in pursuance of Part VII. of the Act shall be conclusive evidence that all the requisitions in respect of registration have been complied with, and the company is authorized to be registered under the Act as a limited company. In

(1) (1891) 2 Ch. 505.
(2) (1891) 2 Ch., at p. 517.
(3) (1909) 1 Ch. 163.
(4) (1910) A.C. 87.
(5) (1909) 1 Ch. at pp. 190, 191.

Hammond v. *Prentice Bros. Ltd.* (1), *Eve* J. pointed out that the effect of this certificate was to afford conclusive evidence that the company was authorized to be registered under Part VII. A form of certificate to the same effect as that contained in s. 192 has been included in the modern *Companies Acts*, including the *Companies Act* 1936 (N.S.W.). Section 2 (1) of the English *Trade Union Act* 1913 now provides that any combination which is for the time being registered as a trade union shall be deemed to be a trade union as defined by the Act, so long as it continues to be registered. It is apparent from the footnote to *Halsbury's Laws of England*, 2nd ed., vol. 32, p. 457, that the learned author is of opinion that, apart from this section, it would be open to the court to determine whether an association, though registered, is a trade union. This view was taken, rightly in my opinion, by the Full Court of New South Wales in *Bank of New South Wales* v. *United Bank Officers' Association* (2). The *Trade Union Act* 1881-1936 (N.S.W.) has not been amended, so that there is nothing in the Act to preclude this Court from inquiring whether the Police Association, though registered, is a trade union as defined by s. 31.

If it became material, therefore, it would be necessary for the court to determine this point, but the appeal can, I think, be disposed of without doing so. The First Schedule to the *Trade Union Act* requires that the rules of a registered trade union shall provide for the whole of the objects for which it is to be established and the purposes for which its funds shall be applicable. Section 107 (1) of the *Industrial Arbitration Act* 1940 abolished this distinction between objects and purposes by providing that a trade union shall have power to apply and use its moneys and property for or in connection with any lawful object or purpose for the time being authorized by the rules. Rule 2 of the Police Association defines its objects and rule 127 the purposes for which its funds shall be applied, but the concluding object is to make financial provision for carrying out the foregoing objects, so that the rules themselves provide for the expenditure of the funds of the Association on any of its objects. The extent of the authority to expend the funds of the Association is therefore the same whether the Association is an unincorporated voluntary association or a registered trade union, so that I find it unnecessary to express an opinion upon this point.

I shall now proceed to discuss the three points of law in controversy.

1. The plaintiff's complaint is that the payments made to finance Grigg's libel action were maintenance and illegal, or unauthorized

(1) (1920) 1 Ch. 201. (2) (1921) 21 S.R. (N.S.W.) 593, at pp. 604-607.

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by the rules and therefore *ultra vires*. The funds of the Association consist of the entrance fees, subscriptions of and levies and fines made upon its members. These funds can only be lawfully expended in the manner provided by the rules. The position is the same whether such a body is incorporated or unincorporated. A member of a company or registered trade union or of an unincorporated voluntary association, whether he brings the proceedings as an individual or on behalf of himself and all other members other than the members who are charged with making the unauthorized payments, is entitled to sue for a declaration that the payments are unauthorized, and for consequential relief by way of injunction if there is a threat to continue to make such payments in the future, and for repayment in the case of past expenditure. In one of the early cases, *Simpson* v. *Westminster Palace Hotel Co.* (1), the Lord Chancellor said :—" The funds of a joint stock company established for one undertaking cannot be applied to another. If an attempt to do so is made, this act is *ultra vires*, and although sanctioned by all the directors and by a large majority of the shareholders, any single shareholder has a right to resist it, and a court of equity will interpose on his behalf by injunction." (2). In *Yorkshire Miners' Association* v. *Howden* (3), Lord *Macnaghten* pointed out that the right of an individual member to sue in such a case did not depend upon the Miners' Association being a registered trade union, and that the action could have been brought if it had been a voluntary association. The question was whether its registration as a trade union prevented the plaintiff bringing the action. He said that this right to sue " was established in this House in the case of *Simpson* v. *Westminster Palace Hotel Co.* (1), and is, I apprehend, beyond question." (4). An unincorporated voluntary association cannot be sued (*Bloom* v. *National Federation of Discharged and Demobilized Sailors and Soldiers* (5)), so that if the Police Association is not a registered trade union it is not a proper party. But the suit is otherwise properly constituted, and there would be no difficulty in making the necessary representative orders. A member of a voluntary association can only sue to enforce a civil right of a proprietary nature conferred upon him by the rules (*Cameron* v. *Hogan* (6)). Rule 144 of the rules of the Police Association provides that on a dissolution the surplus funds, after discharging debts and liabilities, shall be used only for the purpose of reorganizing the Association, so that the plaintiff is not entitled to share in these funds upon a

(1) (1860) 8 H.L.C. 712 [11 E.R. 608].
(2) (1860) 8 H.L.C., at p. 717 [11 E.R., at p. 610].
(3) (1905) A.C. 256
(4) (1905) A.C., at p. 263.
(5) (1918) 35 T.L.R. 50.
(6) (1934) 51 C.L.R. 358.

dissolution. But he has a right of a proprietary nature in the funds whilst the Association is a going concern. He is, in my opinion, entitled to bring the suit.

2. The general rule against maintenance was stated by Lord *Loughborough* in a passage in *Wallis* v. *Duke of Portland* (1), which was cited by *Finlay* L.C. in *Neville* v. *London* "*Express*" *Newspaper Ltd.* (2), "'that parties shall not by their countenance aid the prosecution of suits of any kind, which every person must bring upon his own bottom, and at his own expense.' But the law from the earliest times has countenanced some relaxation of the utmost strictness of that rule; and some particular cases have been specifically allowed as constituting excuses for that interference in the suit of another which would otherwise have amounted to maintenance." (3). One of the excuses is poverty. It is not maintenance against the law to "give gold or silver to a man that is poor to maintain his plea, if he himself cannot through his poverty": *Harris* v. *Brisco* (4). There is evidence that Grigg was a poor man who was unable to maintain his action from his own resources. In such circumstances it would not be maintenance for a stranger to assist him. On this ground the executive was justified in providing the necessary finance.

3. The important rules are 2 and 127. Several paragraphs in these rules were relied upon by Mr. *Barwick* as authority for the payments. I have considered all of them carefully, and am of opinion that the respondents must rest upon rule 2 (*c*). This authorizes the use of the funds of the Association "to secure redress for any grievance to which members may be subject." The meaning of this paragraph must be determined in the light of the general purposes for which the Association was formed and in the context of the rules as a whole. The general purposes are set out in pars. (*a*) and (*b*) of rule 2. They are comprehensive and indicate that the Association was formed to promote the interests, not only of the police service as a whole, but also the interests of its members as individuals. The words "members" and "member" are used indiscriminately throughout the rules, and no great weight can be attributed to the use of the plural or singular in any particular place. "Redress" and "grievance" are both words of wide signification. The *Oxford Dictionary* defines the meaning of "grievance" to include a wrong or hardship, real or supposed, which is considered to be a legitimate ground of complaint; and of "redress" to include compensation for

(1) (1797) 3 Ves. 494 [30 E.R. 1123].
(2) (1919) A.C. 368.
(3) (1919) A.C., at p. 385.
(4) (1886) 17 Q.B.D., at p. 512.

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or the correction of something wrong. The circumstances surrounding the libel action were fortunately most unusual. First there was the arrest of the man and the charge of indecent exposure on 9th January 1943, followed by the direction of the Commissioner of Police that the charge should be withdrawn. Then there was a departmental inquiry into the honesty of the charge and of over 200 previous similar charges, followed by the suspension of the constables on 18th January. Then there was the publication by the Commissioner of Police of the article complained of in the press on 31st January, immediately followed by the prosecution of the man before the magistrate and the dismissal of the charge on the ground that the defendant was entitled to the benefit of the doubt. Finally there was the hearing before the Board constituted under the *National Security* (*Man Power*) *Regulations* and the reinstatement of the constables on 28th June. The whole of these events received the widest publicity. The Commissioner of Police had stated in the press that after a thorough investigation by five inspectors and nine sergeants of the current and previous charges he had decided to suspend the constables. He made it plain that he believed that they were guilty of the deliberate fabrication of a large number of false charges of a particular kind in the performance of their duties. There were inconsistent findings of the Departmental and Man Power Boards, and an indecisive finding by the magistrate. The constables had been reinstated in the force but a stigma had been put upon them. Their reinstatement in the circumstances left the question of their integrity undecided, and their future as members of the force was in jeopardy. They still had a grievance, and it was a grievance of such a nature that an action for libel would be a normal method of obtaining redress. His Honour has found that the executive had a bona-fide belief in the justice of their cause. Rule 2 (*c*) is not confined, I think, to grievances affecting the police force generally, and is wide enough to cover any reasonable action calculated to secure redress for any grievance to which an individual policeman may become subject as a member of the force.

For these reasons I would dismiss the appeal with costs.

Appeal dismissed with costs.

Solicitors for the appellant, *Creagh & Creagh.*
Solicitors for the respondents, *Bartier, Perry & Purcell.*

J. B.