

*PC*  
*G.M.A.*

*T. Wilson & Co.*

*presently* / 1, 1961

IN THE PRIVY COUNCIL

No. 51 of 1960

ON APPEAL

FROM THE WEST INDIES FEDERAL SUPREME COURT

B E T W E E N :

WALTER ANNAMUNTHODO (Plaintiff) Appellant  
and  
OILFIELDS WORKERS' TRADE UNION (Defendant) Respondent

---

RECORD OF PROCEEDINGS

UNIVERSITY OF  
W.C.I.  
19 FEB 1961  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

63616

T.L.WILSON & CO.,  
6, Westminster Palace Gardens,  
Victoria Street,  
London, S.W.1.

Solicitors for the Appellant.  
POTHECARY & BARRATT,  
73/76, King William Street,  
London, E.C.4.  
Solicitors for the Respondent

IN THE PRIVY COUNCILNo. 51 of 1960ON APPEALFROM THE WEST INDIES FEDERAL SUPREME COURTB E T W E E N :WALTER ANNAMUNTHODO (Plaintiff) Appellant

- and -

OILFIELDS WORKERS'  
TRADE UNION (Defendant) RespondentRECORD OF PROCEEDINGSINDEX OF REFERENCE

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<u>IN THE FEDERAL SUPREME COURT</u> Affidavit of service of Notice and Grounds of Appeal.	6th August 1959

IN THE PRIVY COUNCIL

No. 51 of 1960

ON APPEAL

FROM THE WEST INDIES FEDERAL SUPREME COURT

B E T W E E N :

WALTER ANNAMUNTHODO (Plaintiff) Appellant

and

OILFIELDS WORKERS' TRADE UNION (Defendant) Respondent

RECORD OF PROCEEDINGS

No. 1

WRIT OF SUMMONS

In the  
Supreme Court

Writ of Summons

TRINIDAD.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

No. 350 of 1958

No. 1  
Writ of Summons  
17th May 1958

BETWEEN

WALTER ANNAMUNTHODO Plaintiff

and

OILFIELDS WORKERS' TRADE UNION Defendant

ELIZABETH II, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO:

OILFIELDS WORKERS' TRADE UNION, whose registered office is at  
No.4a Lower Hillside Street,  
San Fernando

WE command you within Eight days after the

In the  
Supreme Court

No. 1

Writ of Summons  
17th May 1958  
continued

service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court, Port of Spain, in an action at the suit of

WALTER ANNAMUNTHODO

and take notice, that, in default of your so doing, the Plaintiff may proceed therein, and judgment may be given in your absence.

WITNESS: The Honourable Mr. Justice Fabian Camacho, Acting Chief Justice of our said Court at Port of Spain, in the said Island of Trinidad, this 17th day of May, 1958. 10

N.B. - This Writ is to be served within Twelve Calendar Months from the date thereof, or, if renewed within Six Calendar Months from the date of the last renewal including the day of such date and not afterwards.

The Defendant may appear hereunder by entering an appearance either personally or by Solicitor at the Registrar's Office at the Court House in the Town of Port of Spain. 20

The plaintiff's claim is for :

1. A declaration:
  - (a) that he is and/or is entitled to be and/or remain a member of the defendant Union.
  - (b) That the purported expulsion of the plaintiff from the defendant Union by resolution of its General Council dated on or about the 16th day of June, 1957, was ultra vires the defendant Union and void. 30
2. An injunction restraining the defendant Union, its Executive Committee, its General Council, and other its servants or agents from in any way excluding the plaintiff from his right to be a member of and/or to participate in the activities of the Defendant Union.
3. Damages for breach of contract.

3.

4. Such further or other relief as the nature of the case may require.

5. Costs.

In the  
Supreme Court

No. 1

Writ of Summons  
17th May 1958  
continued

This Writ was issued by Mr. Mark Thomas Inskip Julien whose address for service is No.78 Queen Street, Port of Spain, Trinidad, Solicitor for the Plaintiff who resides at Ste Madeline Village and is a Stores Clerk.

M.T.I. Julien,  
Solicitor for Plaintiff.

10

No. 2

STATEMENT OF CLAIM

No. 2

Statement of  
Claim  
30th May 1958

TRINIDAD.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

No. 350 of 1958

BETWEEN

WALTER ANNAMUNTHODO Plaintiff,

and

OILFIELDS WORKERS'  
TRADE UNION Defendant

20

STATEMENT OF CLAIM

1. The plaintiff is a worker employed in the oil industry with the Texaco Trinidad Oil Co., Pointe-a-Pierre and resides at Ste Madeline Village in the Island of Trinidad.

2. The defendant is a Trade Union registered under the provisions of the Trade Unions Ordinance, Ch.22 No.9 of the Revised Laws of Trinidad and Tobago, and having its registered office at No.4a Lower Hillside Street, in the town of San Fernando in the said Island.

30

In the  
Supreme Court

No. 2

Statement of  
Claim  
30th May 1958  
continued

3. Up to the 16th day of June, 1957, the plaintiff was and was acknowledged by the defendant Union its servants and agents to be, a member (but he was not at any material time an officer or member of the General Council or of any Branch or Executive Committee) of the defendant Union. As such member the plaintiff voted at meetings and shared in the benefits provided for by the rules of, and paid dues regularly to, the defendant Union. The defendant Union holds property and/or funds in the use and/or division of which in the event of its dissolution the plaintiff was entitled as a member to participate. 10

4. By a summons dated the 15th day of May, 1957 and signed on behalf of the defendant Union by its Secretary, one J.C.Houlder, the plaintiff was required to appear on the 9th day of June 1957 before the General Council of the defendant Union (being the body duly empowered to discharge the due government and conduct of the defendant Union) to answer the four charges stated therein, being 'offences' defined as such in and by the rules of the defendant Union. The said summons was the first whereby, and its issue was the first occasion whereon, the plaintiff was ever charged with any offence under and/or against the rules of the defendant Union. 20

5. The said offences charged as aforesaid, were, and/or were stated to be, as follows :-

(a) A charge of plotting contrary to rule 26." 30

The statement of offence was that the plaintiff "a member of the O.W.T.U. did during the year 1956, plot against the following officers: John F.F.Rojas, President General. Thomas Hunte, 1st Vice President, Joseph Houlder, General Secretary and John Commissiong Treasurer, all of the O.W.T.U., contrary to rule 26."

Particulars of the said offence were set forth in the aforesaid summons and the plaintiff will refer at the trial to the summons and the rules of the defendant Union for their true nature and effect. 40

(b) A charge of "Irregular Discussion of Union Business contrary to rule 25."



The statement of offence was that the plaintiff "a member of the O.W.T.U. did on Wednesday the 15th August, 1956, and Friday the 17th August, 1956, hold irregular discussions of Union Business contrary to rule 25."

In the  
Supreme Court

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No. 2

Particulars of the said offence were set forth in the aforesaid summons and the plaintiff will refer at the trial to the summons and the rules of the defendant Union for their true terms and effect.

Statement of  
Claim  
30th May 1958  
continued

10

- (c) A charge of "Breach of Rule 32: Complaints and Appeals."

The statement of offence was that the plaintiff, a member of the Oilfields Workers' Trade Union has been for months now making public statements and charging in public Executive Officers of the Oilfields Workers' Trade Union with corruption in connection with the funds of the O.W.T.U. and the utilisation of the said funds for personal use by John F.F.Rojas, Thomas C. Hunte, Joseph C. Houlder and J.E.Commissioning, all General Officers of the Oilfields Workers' Trade Union, contrary to rule 32."

20

Particulars of the said offence were set forth in the aforesaid summons and the plaintiff will refer at the trial to the summons and the rules of the defendant Union for their true terms and effect.

30

- (d) A charge of "disrespectful conduct contrary to rule 27."

The statement of offence was that the plaintiff "a member of the Pointe-a-Pierre Branch of the Oilfields Workers' Trade Union did at a meeting of the Pointe-a-Pierre Branch on Monday the 4th day of February, 1957, held in the Oilfield's Workers' Palms Club behave in a manner which was grossly disrespectful to John F.F.Rojas, President General of the O.W.T.U."

40

Particulars of the said offence were set

In the  
Supreme Court

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No. 2

Statement of  
Claim  
30th May 1958  
continued

forth in the aforesaid summons and the plaintiff will refer at the trial to the summons and the rules of the defendant Union for their true terms and effect.

6. On the said 9th day of June 1957, the plaintiff duly appeared before the said General Council of the defendant Union, when the said four charges were heard and determined by the General Council.

7. By letter dated the 17th day of June, 1957, signed by its said Secretary on its behalf, the defendant Union notified the plaintiff that the said General Council had found the plaintiff guilty of all the charges laid against him by the General Secretary of the Oilfields Workers' Trade Union and that the plaintiff had been expelled under Rule 11, Section 7, of the rules of the defendant Union on the ground that his general conduct had been prejudicial to the best interests of the Union. 10

8. By letter dated the 21st day of June, 1957, the plaintiff appealed to the Annual Conference of delegates pursuant to the authority of rule 11 (7) of the rules of the defendant Union, but as notified to the plaintiff by letter dated the 12th day of May, 1958 the said Conference dismissed the plaintiff's said appeal and confirmed his expulsion from the defendant Union. 20

9. Neither the defendant Union, nor the General Council nor the Annual Conference of Delegates acting for the defendant Union, had or has any power to expel or exclude or confirm the expulsion or exclusion of the plaintiff from being and/or remaining a member and/or voting at meetings and/or participating in the activities of the defendant Union pursuant to any resolution in that behalf purported to be passed consequent upon, and by reason of the aforesaid four charges. The said expulsion was ultra vires the defendant Union and accordingly void for each and every of the following among other reasons: 30 40

(a) It was an excess of jurisdiction and/or against natural justice for the defendant Union, the plaintiff never being at any material time a member of its General Council or of any Branch or Executive Committee thereof and never having made

any charge in writing against any member or officer, to convict the plaintiff of any offence under rule 32 of the rules of the Defendant Union.

In the  
Supreme Court

(b) In the circumstances hereinbefore alleged, there was no power in the General Council to expel the plaintiff upon his being found guilty of any of the four offences aforesaid.

No. 2

Statement of  
Claim  
30th May 1958  
continued

10

(c) The plaintiff was never charged and/or was never notified (in writing, orally or otherwise) of any charge against him and/or was never given any opportunity of being heard in respect of any action contemplated against him under rule 11 (7) of the rules of the defendant Union, and accordingly it was incompetent and/or against natural justice for the defendant Union to expel the plaintiff thereunder.

20

(d) It was incompetent and/or against natural justice for the defendant Union to impose any penalty whatsoever upon the plaintiff in respect of an offence and/or rule with which he was never at any time charged and/or to which his attention was never at any time drawn.

30

(e) The defendant Union exceeded its powers and/or improperly took into account matters which it was incompetent so to take into account for the exercise of its discretion in imposing a penalty upon the plaintiff in that, in so doing, it acted on the footing (but improperly and/or unlawfully) that the plaintiff was, and/or had been lawfully found, guilty of an offence under rule 32 of the rules of the defendant Union.

10. Further, the plaintiff says that upon his joining the defendant Union there was effected a contract of membership between himself and the defendant Union the terms whereof are set forth in the rules of the defendant Union.

40

11. It was an implied term of the said contract of membership that the defendant Union would not wrongfully and/or unlawfully and/or otherwise than in due conformity with the said rules expel the plaintiff from membership of the defendant Union or exclude him from participating in the activities of the defendant Union.

12. By the purported expulsion of the General

In the  
Supreme Court

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No. 2

Statement of  
Claim  
30th May 1958  
continued

Council notified to the plaintiff by letter dated the 17th day of June, 1957, as aforesaid, the defendant Union is in breach of the said implied term, and the plaintiff has suffered damage.

AND THE PLAINTIFF CLAIMS :

1. A declaration:
  - (a) that he is and/or is entitled to be and/or remain a member of the defendant Union.
  - (b) that the purported expulsion of the plaintiff from the defendant Union by resolution of its General Council dated on or about the 16th day of June, 1957, was ultra vires the defendant Union and accordingly void. 10
2. An injunction restraining the defendant Union, its Executive Committee, its General Council, and other its servants or agents, from in any way excluding the plaintiff from his right to be or remain a member and/or to participate in the activities of the defendant Union. 20
3. Damages for breach of contract.
4. Such further or other relief as the nature of the case may require.
5. Costs.

Sgd. Hugh A.S. Wooding,  
Of Counsel.

Delivered this 30th day of May, 1958 by Mr. Mark Thomas Inskip Julien of No. 78 Queen Street, Port of Spain, Solicitor for the above-named Plaintiff-Walter Annamunthodo whose address for service is the same. 30

Sgd. M.T.I. Julien,  
Plaintiff's Solicitor.

To: T.M. Kelshall & Son,  
c/o Donald Nelson,  
41 St. Vincent Street,  
Port of Spain.

Solicitors for the Defendant herein.

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No. 3

D E F E N C E

In the  
Supreme Court

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TRINIDAD.

No. 3

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

Defence

No. 350 of 1958.

24th September  
1958.

BETWEEN

WALTER ANNAMUNTHODO                      Plaintiff

and

OILFIELDS WORKERS'  
TRADE UNION                                      Defendant

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10

DEFENCE of the above named defendant OILFIELDS WORKERS' TRADE UNION delivered this 24th day of September 1958 by its Solicitors T.M.Kelshall & Son of No.9a Harris Promenade, San Fernando.

T.M.Kelshall & Son,  
Solicitors.

1. The defendant Union admits:

20

(a) the allegations of fact contained in paragraphs 1,2,4,5,7 and 8 of the Statement of Claim:

(b) so much of paragraph 3 as alleges that the plaintiff was, until the decision of the said General Council on the 16th June, 1957, a member of the Union and so recognised;

30

(c) so much of paragraph 6 as alleges that the plaintiff duly appeared before the said General Council on the said 9th day of June, 1957, when the said four charges were heard by the said Council; but save as aforesaid, denies each and every allegation and/or implication of fact in the Statement of Claim contained in the same way as if the same were herein set out and traversed seriatim.

In the  
Supreme Court

No. 3

Defence

24th September  
1958  
continued

2. Further as to paragraph 6 of the Statement of Claim, the defendant Union says that, after the hearing of the 9th day of June, 1957, and at the close of the case on both sides, the enquiry was adjourned to the 16th day of June, 1957, for due consideration and determination when the said General Council

- (a) duly found that the plaintiff was guilty of all the said charges;
- (b) was duly satisfied that the general conduct of the plaintiff (as disclosed at the said hearing) was prejudicial to the interests of the Union; and, as they lawfully might do, 10
- (c) considered it a fit case for the application of the powers conferred upon them by rule 11 (7) and accordingly duly ordered the expulsion of the plaintiff from the said Union.

3. With further reference to paragraph 8, of the Statement of Claim, the defendant Union says that the said appeal was duly heard on the 30th day of March, 1958, when the same was duly dismissed and the said order for the expulsion of the plaintiff from the said Union was duly confirmed. 20

4. The defendant Union denies that there was no power to expel or exclude or to confirm the expulsion or exclusion of the plaintiff in the circumstances or as alleged in paragraph 9 of the Statement of Claim or that any of the bodies there specified acted ultra vires or without due competence or improperly and/or unlawfully or in excess of jurisdiction against natural justice. 30

5. The defendant Union denies that there has been any breach on its part of the alleged (or any) contract with the plaintiff or that the plaintiff has suffered any damage.

P. T. Georges,

Of Counsel.

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No. 4

REPLY TO DEFENCE

In the  
Supreme Court

No. 4

Reply to  
Defence

17th October  
1958

TRINIDAD

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

NO. 350 of 1958

BETWEEN

WALTER ANNAMUNTHODO

Plaintiff

and

OILFIELDS WORKERS'  
TRADE UNION

Defendant

10

Reply of the above-named Plaintiff delivered  
the 17th day of October 1958 by Mr. Mark Thomas  
Inskip Julien, Solicitor for the plaintiff herein.

M.T.I. Julien,

Plaintiff's Solicitor.

The plaintiff joins issue with the defendant upon  
its Defence.

20

Hugh A.S.Wooding,

Of Counsel.

TO: T.M.Kelshall & Son,  
9a Harris Promenade,  
San Fernando.

Solicitors for the Defendant herein.

In the  
Supreme Court

COURT NOTES

No. 5

Monday 15th June, 1959.

Court Notes  
15th June 1959

Mr. Selby Wooding for the plaintiff.

Sir Courtenay Hannays Q.C. (P.T. Georges with him)  
for the defendant.

Wooding opens :

At no time during period 1953-1957 was the plaintiff an officer of any sort. By consent Rules of O.W.T.U. put in and marked 'A'. 10

It is the actions of the General Council that are in question in this case.

Submit effect of rules is to vest a right of property in the plaintiff and to constitute a contract between the plaintiff and the Union which will found the jurisdiction of the Court.

Charges are alleged contraventions of rules 25, 26, 27, 32.

Letter of 15/5/57 and Charges put in and marked 'B'. 20

Enquiry into the 4 charges was held on the 9th June, 1957. Decision was not given on that day.

N.B. Letter of 12th June, 1957 intimating that decision on 4 charges would be given on 16th June.

No intimation to plaintiff at any time before 17/6/57 that any charge was being laid under rule 11(7).

Notice must be given or charge brought under rule 11(7). Submit the General Council could not expel the plaintiff and that their action in purporting to do so was ultra vires and void. 30



Charge 1. - Breach of rule 26.

This was the first occasion on which plaintiff had been charged with any offence under rule 26. He was only a member. Therefore expulsion cannot be justified under rule 26.

Charge 2 - Breach of rule 25.

Rule 25 has to be properly construed.

Submit no right of expulsion given to General Council.

10

In penal statute or rule, defendant entitled to benefit of any doubt that may exist in the language.

Consider spirit of the rule.

Craies on Statute Law, 5th edition, pp.504-505.

Dickinson v. Fletcher.

Submit second half of rule stands. It is completely at variance with the first half of the rule.

20

Consider spirit of rule. Refer to rules 26, 27, 28.

No right under rule 25 to expel ordinary member for first offence.

Charge 3-Breach of rule 32.

Plaintiff never a member of the General Council or a Branch Committee.

N.B. Rule 32(5).

This sub-rule provides machinery for charges being brought by one member against another.

30

Charge 4 - Breach of rule 27.

No power of expulsion under rule 27 as it was a first offence.

In the  
Supreme Court

                      
No.5

Court Notes  
15th June 1959  
continued

In the  
Supreme Court

Under none of these rules does power of expulsion arise. Refer to rule 11(7).

No.5

Is a charge constituted thereby? If so, notice should have been given of it.

Court Notes

15th June 1959  
continued

If person charged with a specific offence for which penalty is only a fine, there is no inherent right to expel. This right is only contained in the rules.

If there is, it involves the creation of a domestic tribunal. If such a tribunal is created it must give notice of the charge and an opportunity to the defendant to be heard.

10

Citrine on Trade Union Law (1950) - pp.214 - 220.

Burn v. National Amalgamated Labourers' Union. (1920) 2 Ch. 374.

The ingredients of the offence under section 11(7) are conduct prejudicial to the interests of the Union.

The plaintiff should have been notified that he is charged with conduct prejudicial to the Union.

20

It is cardinal principle that a person charged with an offence should know the penalties to which he is liable so that he should be able to make whatever representations he desires on the basis that he is liable to expulsion.

Contrast rule 25 with rule 3(5).

You must bring to notice of plaintiff specific terms of rule 11(7) - conduct prejudicial to the interests of the Union.

30

Charges 1 and 2 relate to same facts yet necessary to bring separate charges.

Fisher v. Keane (1879) 11 Ch. D. 353.

In the  
Supreme Court

Labouchere v. Wharmcliffe (1879) 13 Ch.346,  
352.

No.5

Notice must be given that what is being investigated is whether plaintiff's conduct was prejudicial to the interests of the Union.

Court Notes

15th June 1959  
continued

Andrews v. Salmon (1888) 4 T.L.R. 490

10 Plaintiff not given an opportunity of showing that his conduct was not prejudicial to the interests of the Union.

Darcy v. Adamson, 57 S.J. 391.

The ostensible reason for expulsion must be the real reason.

Persons should not be accused of one thing and punished for another.

Andrews v. Mitchell (1905) A.C. 78, Per Lord Robertson at p.83.

Evans v. National Union of Printing (1938)  
4 All E.R. 51.

20 Submit Plaintiff does not come within the ambit of rule 32.

Can it be said categorically that the General Council would have necessarily expelled the plaintiff if he were found guilty only on three charges and not all four?

Vester & Gardiner on Trade Union Law and Practice (1st edition) p.180 Re Remedies.

Bonsor v. Musicians Union (1955) 3 A.E.R.518

30 At time of filing of action the plaintiff was employed by Texaco.

In the  
Supreme Court

PLAINTIFF'S EVIDENCE

Plaintiff's  
Evidence

No.6

EVIDENCE OF WALTER ANNAMUNTHODO

No.6

Walter  
Annamunthodo  
Examination.

WALTER ANNAMUNTHODO SWORN states:

I live at St. Madeleine Village. From 1944 till 1958 I was employed in the oil industry at Pointe-a-Pierre by Texaco (Trinidad) Inc.

In 1952 I became a member of the Defendant Union and remained a financial member until my expulsion on the 17th June, 1957. When I joined the Union, I bought a copy of the Rules. I became liable to pay certain contributions thereunder which I paid.

10

I attended meetings and voted. At no time was I an officer of the Union, or of any branch.

Prior to my receipt of letter of 15th May, 1957, I had never been charged with any offences under the Rules of the Union.

I received this letter dated the 17th June, 1957. Before receipt of this letter I had no intimation that the Union was proceeding against me in respect of conduct prejudicial to the interests of the Union - under rule 11(7).

20

Cross-  
examination

Cross-examined - Sir Courtenay Hannays, Q.C.

I consider it serious to say of an officer of a Trade Union that he is robbing the Union, particularly if he is the President General of the Union. It would be very serious if anyone said falsely of him that he had represented to the Union that he had bought a property for \$85,000. but only paid \$60,000. and invested the remaining \$25,000. for his own benefit.

30

It would also be a serious matter to say he sold cars belonging to the Union and bought a car and a fridge for his Secretary from the proceeds.

It is a serious thing for such charges to be

made against a Union member. I would take such a charge seriously. It is a serious statement to make unless you have positive proof and even then you don't know if you can prove such a thing.

Such charges reflect seriously on the Union. They would affect the Union.

If subscription lists are being passed around for the assistance of members who have suffered losses from fire, I don't think it would be right to say that I wouldn't subscribe because the President General would take all. These are things with which I was charged.

On the 9th June, 1957, no decision was given. The matter was adjourned to the 16th June. I considered the charges against me a serious matter all along. I was told to appear on the 16th to hear the decision. I did not appear on the 16th because I had to attend a mock trial.

At the hearing of the 9th June, I denied having made the statements. I did not say they were public property.

I did not apologise for any of the statements. I have not done so up to now.

Not Re-examined.

Case for the plaintiff.

No.7

COURT NOTES

Defence calls no evidence.

Wooding refers to Wolstenholme v. Amalgamated Musicians' Union (1920) 2 Ch. at. 388

In that case members knew that meeting was called for purpose of considering his expulsion, so that he had a full opportunity to make

In the  
Supreme Court

Plaintiff's  
Evidence

No.6

Walter  
Annemunthodo

Cross-  
examination  
continued

No.7

Court Notes

15th June 1959

10

20

30

In the  
Supreme Court

No.7

Court Notes

15th June 1959  
continued

representations on the question of his expulsion.

Huntley v. Thornton (1957) 1 All E.R. 234,239.

2.15 p.m.

Hannays replies:

No question is raised as to propriety of decision of General Council or Annual Conference in convicting the plaintiff of the alleged charges.

Question is do the provision of rule 11(7) constitute a specific charge or are they merely part of the powers of the General Council under the circumstances. 10

The specific rules under which charges brought prescribe pecuniary penalties.

Vester v. Gardiner at pp. 175 - 176.

Disciplinary powers.

Dawkins v. Antrobus, 17 Ch.D. 615 (1881) 617.

Per Jones, L.J. at pp.622 - 9.

Per Brett, L.J. at p.631.

The first question is whether there was anything contrary to natural justice. 20

"Charge made against the plaintiff from beginning to end was the sending of the envelope....  
....."

No notice required.

Rule 11(7) is a general power conferred on the General Council.

Wolstenholme v. Amalgamated Musicians' Union  
123 L.T. p.741.

Per Eve, J. at pp. 744 - 5.

Consider context of rule 11(7). 30

## Powers of General Council.

Opportunity to be heard must be given with regard to the facts. The power under rule 11 (7) provides for greater penalty. It is a question of penalty.

10 Rule 11(7) is enabling rule - enabling General Council to impose penalty of expulsion, etc. - in cases where it considers penalties laid down by rules relating to specific charges are not adequate to suit the circumstances.

General power does not call for a specific charge.

This is not a specific section creating specific offences. It is a general power to be used after the specific facts creating offences have been investigated by due enquiry.

Adjourned Tuesday, 16th June, 1959.

Tuesday, 16th June, 1959 at 9.30 a.m.

16th June 1959.

Sir Courtenay Hannays, Q.C. (continuing)

20 Rule is an enabling rule. What is required is that the member should be informed of the particular acts charged against him and that he be given an opportunity of denying, explaining, etc. the allegations.

If that is done, then the principles of natural justice are complied with.

Evans v. National Union of Printing (1938)  
4 All E.R. 51.

30 After member found guilty, considered that case was fit for application of rule 24(3).

Rule 11(7) does not create an offence - but founds a discretionary power given to the General Council.

Requirements of natural justice in these quasijudicial tribunals mean that member must be given an opportunity of being heard. Fairplay.

In the  
Supreme Court

No.7

Court Notes

15th June 1959  
continued

In the  
Supreme Court

No.7

Court Notes

16th June 1959  
continued

Question of penalty is another matter when question of conduct has been concluded.

Only two rules give a right of appeal to the Annual Conference (in respect to offences) viz. Rule 3(5) and Rule 11(7) vide also Rules 32(1) re complaints against officers.

Rules 3(5) and 11(7) are general enabling powers giving discretion to General Council, over which power of review is given to the Annual Conference.

10

Consideration of rule 25.

First part of rule is clear and unambiguous.

Craies on Statute Law (5th edition) pp.83 et seq. 85.

Maxwell's Interpretation (10th edition) pp. 4 - 6.

Odger's on Construction, 3rd edition pp.194 - 7.

In second part of rule word 'other' has a meaning viz. a person not "so charged."

20

Mc Clean v. Workers' Union (1929) 1 Ch. 602 per Maugham J. at pp. 623 - 624.

There is specific power to expel under rule 25 and also power under general enabling rule 11 (7).

Lee v. Showman's Guild (1951) 1 T.L.R. 1115 - 9 p. 1121.

Wooding - Craies on Statute Law (5th Edition) p.84.

Word 'other' has no meaning at all.

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Look at intention of rules as a whole.

Judgment reserved.

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No. 8

J U D G M E N TIn the  
Supreme Court

No.8

TRINIDAD.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGOJudgment  
25th June 1959

No. 350 of 1958 P.O.S.

No. 23 of 1959 S.F.

## BETWEEN

WALTER ANNAMUNTHODO Plaintiff

and

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OILFIELDS WORKERS'  
TRADE UNION DefendantJ U D G M E N T

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The plaintiff, who was employed in the oil industry during the period 1944-1958, became a member of the Oilfields Workers' Trade Union (hereinafter called the Union) in the year 1952, and remained a member thereof continuously until the 17th June, 1957, when the General Council of the Union expelled him from membership as a result of an enquiry held into four charges preferred against him. By a letter dated the 15th May, 1957, signed by the General Secretary of the Union, the plaintiff was called upon to appear before the General Council on the 9th June, 1957, to answer the charges, full particulars of which were communicated to the plaintiff.

30

The plaintiff appeared before the General Council on the appointed date, and an enquiry into his alleged conduct was duly held. According to the evidence of the plaintiff (and he was the only witness called at the trial of this action) his defence was a complete denial of the allegations. The General Council did not give a decision on the 9th June, 1957, and by letter of the 12th June, the plaintiff was requested to attend a meeting of the Council to be held on

In the  
Supreme Court

No.8

Judgment  
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continued

the 16th June, 1957. This letter is in the following terms :-

"This serves to notify you that you are requested to attend the adjourned meeting of the Union's General Council, sitting as a Board of Enquiry, on Sunday 16th inst. at 10 o'clock in the forenoon when the evidences taken last Sunday at the hearing of the charges laid against you and others would be considered by Council and a decision given on the matter."

10

The plaintiff, however, did not attend this meeting, having by letter dated the 14th June, 1957, excused himself on the ground that owing to a previous engagement to be the Judge at a Mock Trial sponsored by a Girls' Group in his district, he was unable to attend the Board of Enquiry, and requested that the General Council's decision be communicated to him in writing.

By letter dated the 17th June, 1957, the General Secretary of the Union complied with this request. The letter is as follows :-

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"This is to inform you that you have been convicted on all the charges laid against you by the General Secretary of the Oilfields Workers' Trade Union.

"The General Council has as a result seen fit to expel you under the provisions of Rule 11 Section 7 on the ground that your general conduct has been prejudicial to the best interests of the Union."

30

By letter dated the 21st June, 1957, the plaintiff (inter alia) gave notice of appeal against this decision. The Annual Conference of Delegates held on the 30th March, 1958, considered the plaintiff's appeal and upheld the decision of the General Council.

By this action the plaintiff challenges that decision and claims that it is ultra vires and void. The grounds on which this claim is based may be summarised briefly as follows :-

40

(1) That the purported exercise by the

General Council of its powers under Rule 11(7) of the Rules of the Union is null and void, as the plaintiff was never charged with any offence under that Rule.

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Judgment  
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continued

- 10 (2) That, according to the true construction of Rules 25, 26 and 27 expulsion from membership was not a penalty that could properly be applied to the plaintiff in the circumstances under consideration.

The charges made against the plaintiff were as follows :-

- (1) Plotting - contrary to rule 26.

20 This charge alleges that the plaintiff, a member of the Union, One Hugh Norton, an officer of the Pointe-a-Pierre Branch of the Union, and one Cecil Mitchell; a member of the Union, during the year 1956, plotted against certain officers of the Union, and in particular that on the 15th and 17th days of August, 1956, they put their plot into effect by holding meetings at which they falsely published gross slanders concerning the said officers.

- (2) Irregular Discussion of Union Business - contrary to Rule 25

30 On this charge the plaintiff and the said Hugh Norton and Cecil Mitchell are alleged, at the said times and places, to have discussed Union business at meetings at which persons who were not members of the Union were present.

- (3) Offence - Breach of Rules 32 - Complaints and Appeals.

40 This alleges that the plaintiff and the said Hugh Norton and Cecil Mitchell repeatedly, and in particular at the said times and places, made statements in public accusing the said officers of the

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continued

Union of theft, corruption and utilisation of Union funds for their personal use.

(4) This charge reads as follows :-

"Statement of Offence"

Disrespectful conduct contrary to Rule 27.

That you Walter Annamunthodo, a member of the Pointe-a-Pierre Branch of the Oilfields Workers' Trade Union did at a meeting of the Pointe-a-Pierre Branch on Monday the 4th of February 1957 held at the Oilfields Workers' Palm Club, behave in a manner which was grossly disrespectful to John F.F.Rojas, President General of the Oilfields Workers' Trade Union.

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Particulars.

That you, at the said meeting in reply to a request by the President of the Pointe-a-Pierre Branch, Comrade Israel Yearwood, that members take around subscription lists to collect money in aid of members of the Oilfields Workers' Trade Union who had suffered losses through fire, refused to take any list and stated as your reason that when the money was collected it would have to go to Central Office where Rojas and others might spend it for their own purpose.

20

Rule 11(7) is one of a series of rules relating to the constitution, duties and powers of the General Council of the Union, and is to the following effect :-

30

"The General Council may fine any member, who is proved to the satisfaction of the said Council, to have been guilty of conduct prejudicial to the interests of the Union any sum not exceeding \$5.00 and/or may suspend or expel such member from the Union. Any member so fined, suspended or expelled, shall have the right of appeal to the Annual Conference of Delegates whose decision shall be final and binding, provided however, that

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any member who may have been fined, suspended or expelled before these rules came into force shall have no right of appeal under these rules. No suspended or expelled member shall have any claim on the funds or activities of the Union or any part thereof."

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Supreme Court

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10 In none of the above mentioned charges was any reference made to Rule 11(7), nor was it specifically alleged that the plaintiff had been "guilty of conduct prejudicial to the interests of the Union". To use the plaintiff's own words - before the receipt of the letter of the 17th June, 1957, he had had no intimation that the Union was proceeding against him in respect of conduct prejudicial to the interests of the Union under Rule 11(7).

20 The question that arises for consideration is whether any such intimation or notice was necessary, and whether its absence invalidates the enquiry held by the General Council.

30 It was submitted on behalf of the plaintiff that Rule 11(7) creates a specific offence of being guilty of conduct prejudicial to the interests of the Union, that the plaintiff was never charged therewith, nor notified that one of the questions to be investigated by the General Council was whether he was guilty of such conduct, and that it was, accordingly, contrary to the principles of natural justice for the Council to give a decision adverse to the plaintiff on a charge on which he was given no opportunity of being heard.

40 Reference was made to several authorities which affirm the well established proposition that it is contrary to the principles of natural justice that a man should be found guilty of an offence with which he is not charged, and the critical question for determination, therefore, is whether Rule 11(7) is to be construed as creating a specific offence of "being guilty of conduct prejudicial to the interests of the Union" or as merely conferring on the General Council the power of imposing the stipulated penalties in any case where, after due enquiry into specific charges which have been proved to

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continued

its satisfaction, the Council is of opinion that the conduct, which is the subject matter of the charges, is prejudicial to the interests of the Union.

The general principle is expressed in the headnote to Fisher v. Keane, 11 Ch.D. 353 as follows :-

"The committee of a club, being a quasi-judicial tribunal, are bound, in proceeding under their rules against a member of the club for alleged misconduct, to act according to the ordinary principles of justice, and are not to convict him of an offence warranting his expulsion from the club without giving him due notice of their intention to proceed against him, and affording him an opportunity of defending or palliating his conduct: and the Court will, at the instance of any member so proceeded against, declare any resolution passed by the committee without previous notice to him, based upon ex parte evidence and purporting to expel him from the club, to be null and void, and will restrain the committee by injunction from interfering, by virtue of such resolution, with his rights of membership."

Counsel for the plaintiff quoted the following passage from the judgment of Jessel, M.R. in Labouchere v. Earl of Wharncliffe. 13 Ch. D.346 at p.352 :

"In a case where a decision depended upon their (i.e. the committee's) opinion - in other words, upon their judgment - it was most important that the materials on which that judgment was formed should be accurately ascertained; and, of course, that could only be done by a proper investigation, by giving due notice to the accused, and by taking - I do not say legal evidence, or that evidence not strictly legal might not be admissible - but by taking evidence on the question of facts before them, and satisfying themselves as to the truth. They could then form their opinion. That was not done in the present case; and, in my view, the committee have not followed in substance their own rule at all. The judgment of a committee, with the

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continued

10 facts of a case fully before them, might be right or it might be wrong. With that the Court has nothing to do. If, having given the accused fair notice, and made due inquiry, the committee came to the conclusion that the conduct of one of the members of the club was injurious to its welfare and interests, no judicial tribunal could interfere with any consequences which might arise from an opinion thus fairly formed."

It seems to me that Labouchere's case is of absolutely no assistance to the plaintiff, as the circumstances there were entirely different from those of the present case. To illustrate this, reference may be made to another passage in the said judgment in which the learned Master of the Rolls said at pp.351-2 :-

20 "But there was not a syllable to the effect that the committee were going to consider Mr. Labouchere's own conduct, or to censure him in any way. No evidence was taken, and I am even now unable to see what the exact nature of the charge was against Mr. Labouchere. These charges have been suggested. There was the conduct of Mr. Labouchere in connection with the alleged assault upon him; there was his conduct in writing the letter to Mr. 30 Lawson; and there was his conduct in publishing that letter in "TRUTH"; but I am quite in the dark as to whether one charge was made singly, whether two were made, or whether all three were made and considered proved to the satisfaction of the committee. Of inquiry there did not appear to have been any of any kind or description; and it appears to me that the committee were not justified in acting as they have 40 done."

Counsel placed great reliance on Andrews and others v. Mitchell, (1905) A.C. 78 in which the House of Lords held to be null and void the decision of the arbitration committee of a Friendly Society in expelling a member who had been duly summoned before the committee for a breach of the rules, (viz. being out after

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9 p.m. when in receipt of sick pay) which made him liable to a fine of 2s.6d., but was in his absence expelled upon a different charge, viz, one of fraud and disgraceful conduct, of which no written notice had been given him as required by the rules.

In my opinion, however, this case is inapplicable to the circumstances for the reason that the conduct of the plaintiff which the General Council held to be prejudicial to the interests of the Union, and for which they purported to inflict the penalty of expulsion was the same conduct with which the plaintiff had been properly charged and found guilty. This, however, does not conclude the matter, as the same conduct may be the subject matter of different charges, as indeed was the case in connection with three of the charges against the plaintiff. So that we revert to the question already posed, viz. whether on its true construction Rule 11(7) creates a specific offence of "being guilty of conduct prejudicial to the interests of the Union", of which notice in those specific terms should have been given to the plaintiff.

It appears to me that of all the cases cited the only one that gives some assistance in the determination of this matter is Wolstenholme v. Amalgamated Musicians' Union, (1920) 2 Ch. 388. the facts of which were as follows :-

"On May 2, 1918, the plaintiff, who was a member of the Cardiff Branch of the defendant registered Trade Union, wrote a letter to the General Secretary of the Head Office saying that a large number of irregularities prevailed at the Branch Office, and making charges of serious misconduct against members of the Committee, in that they were accepting engagements at prices smaller than those charged to their own employer. As a result of this letter the Branch, after considerable correspondence and meetings, ultimately passed a resolution on January 5, 1919, expelling the plaintiff from the Union, as he refused to withdraw in writing the charges so made after disclaiming any intention to make any reflections on the Branch or its members, and promising to write to that effect.



Under Rule XVI(3) of the rules of the Union it was competent for any Branch, at a special or quarterly meeting, to fine, suspend, or expel any member from the Union, upon satisfactory proof being given that he had by his conduct 'brought the Union into discredit'.

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10 In an action by the plaintiff against the Union for a declaration that the resolution expelling him was ultra vires and void, and for a consequential injunction :-

Held, that Rule XVI(3) must be read as an enabling one as well as one dealing with procedure, and that 'bringing the Union into discredit' meant bringing the Union, or any Branch of it, into discredit with the public, or any section of it, or with the other competent parts of the whole organisation.

20 Held, therefore, on the facts, that the conduct of the plaintiff afforded ample materials for the branch to come to the conclusion to expel him, and the action failed.

In delivering his judgment in this case Eve J. said at p.394 :-

30 "What then is the offence on which the Union relies? It is the writing of a letter which it is contended according to its true and natural construction contains charges of misconduct against other members of the Union, and the persistent refusal to withdraw in writing the charges so made even after a disclaimer by the plaintiff of any intention to make such charges and a promise by him to write and say that he had never intended by his first letter to make any reflections on the Cardiff Branch or the members thereof.

40 An attitude such as this, is - it is urged - either conduct calculated to bring discredit on the Union, or alternatively, the making of malicious and false charges against fellow members, offences for which it is argued expulsion is the appropriate punishment under Rules XVI(3) and Rule XXVIII(2) respectively."

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and at pp. 399 - 401 :-

"Such are the salient facts of the case, and the question I now have to consider is whether there is any rule justifying the plaintiff's expulsion. It is admitted that the particular rule under which he was being expelled was never discussed at all, but this is immaterial if there be in fact a rule justifying what was done, and Mr. Ariss in his evidence says :  
"We acted under Rule XVI(3); it was thought he was liable to expulsion under two rules, that one and Rule XXVIII(2),"

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I do not think any case is made out under the latter of these rules. Assuming that the charges in the letter of May 2, supplemented by the oral addition of individual names on September 1, were charges within that rule and were without foundation, I do not think there are any materials on which I could hold them to have been shown to be malicious or made through malice, and proof of malice is a necessary ingredient before the power to expel under the first sentence of this rule arises.

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The result is that the action of the defendants must be justified, if at all, by the earlier rule. The rule is in these terms, Rule XVI(3). His Lordship read the rule. There is no doubt that rule reiterates grounds for expulsion which are specifically provided for in other rules - e.g., fraudulent misapplication of funds in Rule XXXI(8) and Rule XXVI (1) and (10), and misapplication of moneys of any member or candidate instructed for payment to the Union in Rule XXVI(8) and (9), and it may perhaps truthfully be said that the other cases for expulsion dealt with in specific rules - such, for example, as the expulsion of the Secretary under Rule XI(7) and of him or any other officer under Rule XXII(8) - are conveniently summarised as conduct bringing the Union into discredit.

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Upon this critical analysis of the rule and upon its position in the Book of Rules and the subject matter with which it mainly deals, an argument was put forward on behalf

of the plaintiff that the rule ought to be construed as one of procedure only - as one which vests in the Branch a power to expel on any of the grounds for which expulsion is the penalty but which does not in itself confer any power to expel upon grounds other than those mentioned in the specific rules to which I have just referred.

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I do not think I should be doing right in so restricting the language of the rule. It is true that treated as an enabling rule, some of its language - as in not a few other cases in the Book of Rules - may be tautological, but, on the other hand, to restrict it to procedure involves the imposition of a very strained construction on the sentence dealing with conduct bringing the Union into discredit, and provokes the inquiry why the draftsman - if he intended the rule to extend to all cases of expulsion provided for in the rules did not say so instead of specifying certain grounds and leaving the others to be deduced from the reference to conduct bringing the Union into discredit - and not the less so because the specifically mentioned grounds would appear to be quite as much calculated to bring discredit on the Union as those which it is suggested are compendiously dealt with by the phrase 'conduct bringing the Union into discredit.'

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I think I ought to read the rule as an enabling one as well as one dealing with procedure, and this brings me to the final question I have to consider, and that is whether there was evidence on which it could be found that the plaintiff had been satisfactorily proved by his conduct to have brought the Union into discredit."

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It is to be observed that no suggestion appears to have been made by counsel for the Plaintiff in Wolstenholme's case that there was any violation of the principles of natural justice in that the plaintiff had not been charged in the specific words used in Rule XV1(3), viz. that he, by his conduct, had brought the Union into discredit.

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It was pointed out by counsel for the plaintiff herein that in Wolstenholme's case the member knew that the question of his expulsion was being considered, and in fact attended the meeting at which the resolution for his expulsion was passed, and it was submitted that it is a cardinal principle that a person charged with an offence should be informed of the penalties to which he is liable, so as to be able to make whatever representations he thinks fit on the question of punishment. I am unable to accept this submission, for which, in my opinion there is no foundation.

10

What, of course, is fundamental is that an accused person must be informed of the charges against him and afforded a full opportunity of defending himself. It is beyond controversy that these conditions were observed in relation to the four charges brought against the plaintiff.

It is obvious that the expression "conduct prejudicial to the interests of the Union" as used in Rule 11(7) is wide enough to cover acts which are made specific offences by several other Rules, e.g. Rules 25-30 inclusive and Rule 32, and the intention of Rule 11(7) is manifestly to provide, in appropriate circumstances, more severe penalties for those offences than are stipulated by the Rules in question.

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When due consideration is given to this fact as well as to the context in which Rule 11(7) appears, viz, as one of a series of rules relating to the constitution, duties and powers of the General Council, it becomes, in my judgment clear that the proper construction of Rule 11(7) is that it is, in the language of Eve, J. in Wolstenholme's case an "enabling power", entitling the General Council to impose more severe penalties for specific offences than is permissible under the Rules creating those offences, in cases where the Council is satisfied that the acts constituting the offences in question are prejudicial to the interests of the Union.

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In these circumstances it seems to me that the Rule does not give rise to an offence which is separate and distinct from the specific offences with which the plaintiff was charged, so

as to make the giving to the plaintiff of notice of the fact that his case was being dealt with under the provisions of Rule 11(7) a necessary pre-requisite to the validity of the enquiry held into his conduct.

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continued

10 It was further contended that there was no evidence before the General Council to support the third charge against the plaintiff, viz. an alleged breach of Rule 32. As the plaintiff was never a member of the General Council or of any branch Committee of the Union, any charge against him of a breach of Rule 32 must be in respect of a contravention of Rule 32(5), which is in the following terms :-

20 "(5) All charges made by any member or officer against another must be in writing and if any charge, on investigation, is proved to be made through malice and without foundation, the member or officer preferring such charge shall be liable to suspension or expulsion or be fined any sum not exceeding five dollars as the case deserves."

It is clear that the allegations contained in the third charge do not fall within the ambit of Rule 32(5), and I hold that the plaintiff was wrongly convicted on this charge, and, accordingly was not liable to expulsion for any alleged breach of Rule 32(5).

30 It was also urged that, on the assumption that it was open to the General Council to invoke the provisions of Rule 11(7), their decision to expel the plaintiff is rendered invalid by the fact that one of the grounds on which they purported to exercise the power of expulsion was the fact that they found the plaintiff guilty of the third charge, and it was submitted that the test to be applied in connection with this matter is whether or not it can be said categorically that the Council would necessarily have had recourse to the penalty of expulsion if they had not convicted the plaintiff on the third charge.

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In my judgment, this test is not applicable

In the  
Supreme Court

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25th June 1959  
continued

to the circumstances under consideration, and even if it were, it seems to me that the question must be answered in the affirmative. It is only necessary to bear in mind that the conduct of the plaintiff which was being enquired into on the third charge was exactly the same as that for which he was properly found guilty on the first and second charges. No suggestion has been made that the allegations made in the first, second and fourth charges (or any of them) are, if proved, not such as can properly be held to be conduct prejudicial to the interests of the Union, and, indeed, any such suggestion would clearly be preposterous.

10

I, accordingly, come to the conclusion that the decision of the General Council in expelling the plaintiff from membership of the Union was a valid exercise of the powers vested in them by Rule 11(7) of the Rules of the Union. This finding is sufficient to dispose of the plaintiff's claim in this action, but I now turn to deal with a question that arises for consideration on the assumption that I am in wrong in reaching this conclusion.

20

The plaintiff was never an officer of the Union nor of any branch thereof, and as it was the first occasion on which he was ever charged with any offence, he was clearly not liable to expulsion under either Rule 26 or Rule 27, each of which provides a pecuniary penalty for a first offence in the case of an ordinary member. The position with regard to Rule 25, however, is not so clear, and a difficult question of construction arises in relation to this Rule, which reads as follows :-

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"It shall be irregular for any officer or member of the Union to discuss the business of the Union in public or with persons who are not members of the Union and any officer or member so charged and found guilty shall forfeit his office or be suspended from membership or be fined any sum not exceeding five dollars or expelled. Any other member found guilty of such breach shall be fined two dollars (\$2.00) for the first offence, for the second offence he shall be suspended from membership for three months and for a third similar offence he shall be expelled."

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Supreme Court

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No.8

Judgment  
25th June 1959  
continued

10 Counsel for the plaintiff submits that the second half of this Rule, which provides a pecuniary penalty for breach thereof in the case of a first offence by a member is completely at variance with the first half of the Rule, which on its literal construction, purports to make a member liable to expulsion even for a first offence. In these circumstances it is urged that the intention of the Rule is to make the penalty of expulsion applicable only to officers in the case of a first offence, and that the proper construction of the Rule requires the deletion therefrom of the words "or member" occurring immediately after the words "any officer" in the fourth line thereof. In this connection a comparison is made between this Rule and Rules 26 and 27, which, however, are differently expressed.

20 There is at first sight much to be said in favour of this argument, which counsel for the plaintiff sought to re-inforce by referring to certain passages from Craies on Statute Law (5th edition) at pp. 504-505. It seems to me, however, that this argument fails to pay due regard to the rule of construction expressed in the same treatise at p.90 as follows :-

30 "The first business of the Courts is to make sense of the ambiguous language, and not to treat it as unmeaning, if being a cardinal rule of construction that a statute is not to be treated as void, however oracular."

and to the principles enunciated at pages 82 et seq. of the same work and at pages 4-7 of Maxwell on the Interpretation of Statutes (10th edition).

40 It must be borne in mind that the words of the first portion of Rule 25 are in themselves clear and unambiguous, and that the difficulty of construction arises only because the words "other member found guilty" in the second part of the Rule appear at first sight to be at variance with the words "member so charged and found guilty" in the first part.

It was submitted by counsel for the defendant Union that the words "other member found

In the  
Supreme Court

No.8

Judgment  
25th June 1959  
continued

guilty" can and must, in this context, be held to mean "a member not so charged," and that, however inconvenient this meaning may appear to be, it has the effect of getting rid of any apparent variance between the two portions of the Rule and of enabling it to read as a coherent whole.

After careful consideration I have, with some diffidence, come to the conclusion that this is the proper method of approach to the present problem, and that, in the result, Rule 25 must be construed as permitting the application of the penalty of expulsion in the circumstances under consideration.

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For the foregoing reasons, I hold that the defendant Union is entitled to judgment, and I dismiss the action with costs.

C. E. Phillips,  
Puisne Judge.

25th June, 1959.

No.9

Order on  
Judgment  
25th June 1959

No. 9

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ORDER ON JUDGMENT

TRINIDAD

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

SUB-REGISTRY - SAN FERNANDO.

No. 350 of 1958.

BETWEEN

WALTER ANNAMUNTHODO Plaintiff

and

OILFIELDS WORKERS' Defendant  
TRADE UNION

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Entered the 25th day of June, 1959

On the 25th day of June, 1959

Before the Honourable Mr. Justice C.E. Phillips.

This action having, on the 15th and 16th days



of June, 1959, been tried in the presence of Counsel for the plaintiff and the defendant, upon reading the pleadings filed herein, upon hearing the evidence of the plaintiff taken on his oral examination at the trial and what was alleged by Counsel on both sides, and this action having thereupon been adjourned for judgment and standing for judgment this day in the paper in the presence of Counsel for the plaintiff and the defendant and the said Judge having ordered that judgment be entered for the defendant for its costs of defence and having by consent of the parties directed that execution be stayed for six weeks, and if within that time the plaintiff gives notice of appeal and file the same, execution be further stayed until the determination of such appeal.

In the  
Supreme Court

No.9

Order on  
Judgment  
25th June 1959  
continued

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IT IS THIS DAY ADJUDGED

That the defendant recover against the plaintiff its costs of defence to be taxed

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AND IT IS BY CONSENT ORDERED AND DIRECTED

That execution herein be stayed for six weeks from the date hereof, and if within that time the plaintiff give notice of appeal and file the same, execution be further stayed until the determination of such appeal,

H.L.Rousseau,  
Sub-Registrar, San Fernando.

No.10

NOTICE AND GROUNDS OF APPEAL

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IN THE FEDERAL SUPREME COURT  
APPELLATE JURISDICTION  
NOTICE OF APPEAL

In the Federal  
Supreme Court

No.10

TRINIDAD.

CIVIL APPEAL NO.15 of 1959.

Notice and  
Grounds of  
Appeal  
6th August 1959.

BETWEEN

WALTER ANNAMUNTHODO  
(Plaintiff) Appellant  
and

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OILFIELDS WORKERS' TRADE  
UNION (Defendant) Respondent

TAKE NOTICE that the (plaintiff) Appellant

In the Federal  
Supreme Court

No.10

Notice and  
Grounds of  
Appeal  
6th August 1959  
continued

being dissatisfied with the whole decision (more particularly stated in paragraph 2 hereof) of the Supreme Court of Trinidad and Tobago contained in the judgment of the Honourable Mr. Justice Clement Phillips dated the 26th day of June, 1959, doth hereby appeal to the Federal Supreme Court upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the reliefs set out in paragraph 4.

And the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

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2. Judgment was given for the defendant Union with costs, dismissing the plaintiff's claim for:

(a) "A declaration that (i) he is and/or is entitled to be and/or remain a member of the defendant Union. (ii) that the purported Expulsion of the plaintiff from the defendant Union by resolution of its General Council dated on or about the 16th day of June, 1957 was ultra vires the defendant Union and accordingly void."

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(b) "An injunction restraining the defendant Union, its Executive Committee its General Council, and its servants or agents from in any way excluding the plaintiff from his right to be or remain a member and/or to participate in the activities of the defendant Union."

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(c) "Damages for breach of Contract."

(d) "Such further or other relief as the nature of the case may require."

(e) "Costs."

3. Grounds of Appeal

(1) The learned trial judge erred in law in holding:

(a) That there was power contained in the language of Rule 25 of the rules of the defendant Union which permitted

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or entitled it to expel the  
(plaintiff) appellant thereunder.

In the Federal  
Supreme Court

No.10

Notice and  
Grounds of  
Appeal  
6th August 1959  
continued

(b) That in the circumstances obtaining and on the due construction of Rule 25 the defendant Union was empowered thereunder to expel the (plaintiff) appellant from membership of the defendant Union.

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(c) That the defendant Union was entitled to expel the (plaintiff) appellant from the defendant Union by reason of the provisions contained in Rule 11(7) of the rules of the defendant Union notwithstanding that the (plaintiff) appellant was never notified in writing or otherwise that any action under the said Rule 11(7) was being contemplated against him.

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(d) That the (plaintiff) appellant having been informed of the charges against him and having been given an opportunity of defending himself thereon, it was unnecessary that the (plaintiff) appellant should have been informed of the defendant Union's intention to proceed to penalise and/or otherwise deal with him under the provisions of the said Rule 11(7) so that the (plaintiff) appellant might make such representations in respect thereof as he deemed fit.

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(e) That the provisions of Rule 11(7) were enabling in the sense that the defendant Union was thereunder entitled to impose more severe penalties for specific offences than is permissible under the rules creating those offences in cases where the defendant Union is satisfied that the acts constituting the offences in question are prejudicial to the interests of the union, without first having given the (plaintiff) appellant notice of its intention so to act and an opportunity

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In the Federal  
Supreme Court

No.10

Notice and  
Grounds of  
Appeal  
6th August 1959  
continued

to make such representations thereon  
as he may think fit.

(f) That in its failure to notify the  
(plaintiff) appellant of its inten-  
tion to proceed against and/or to  
deal with and/or take action against  
and/or punish him under the said  
Rule 11(7), the defendant Union did  
not thereby violate the rules of  
natural justice.

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(2) The decision of the learned trial judge  
is unreasonable and/or against the weight  
of the evidence and/or cannot be support-  
ed having regard to the evidence and  
accordingly should be reversed.

4. (a) That the judgment in favour of the defen-  
dant Union should be set aside and that  
judgment be given in favour of the (plain-  
tiff) appellant in the terms of the re-  
liefs set out in paragraph 2 hereof, and  
that the (plaintiff) appellant be entitled  
to recover from the defendant Union his  
costs of the action in the Court below and  
of his appeal to the Federal Supreme  
Court.

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(b) Such further or other relief as to the  
Court may seem just.

5. Persons directly affected by the appeal :

	<u>Name</u>	<u>Address</u>	
(a)	Walter Annamunthodo (Appellant)	of St. Madeline Villate	30
(b)	Oilfields Workers' Trade Union (Respondent)	of No.4 Lower Hillside Street, San Fernando.	

Dated this 6th day of August, 1959.

M.T.I. Julien,  
Appellant's Solicitor.

To Messrs. T.M. Kelshall & Son,  
c/o Donald Nelson, 41 St. Vincent Street,  
Port of Spain,  
Solicitors for the Respondent herein

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" Oilfields Workers' Trade Union,  
of No.4 Lower Hillside Street,  
San Fernando the Respondent herein.

No.11

In the Federal  
Supreme Court

J U D G M E N T

No.11

IN THE FEDERAL SUPREME COURT

Judgment  
25th January  
1960

APPELLATE JURISDICTION

CIVIL

Territory: TRINIDAD

ON APPEAL FROM THE SUPREME COURT OF

TRINIDAD AND TOBAGO

1959 No.15 - TRINIDAD

10 BETWEEN:

WALTER ANNAMUNTHODO  
Plaintiff-Appellant

and

OILFIELDS WORKERS'  
TRADE UNION  
Defendant-Respondent

BEFORE:

20 The Honourable Mr. Justice Rennie  
" " Mr. Justice Archer  
" " Mr. Justice Wylie

30th November, 1st December, 1959.

Mr. Selby Wooding, instructed by Mr.M.T.I.Julien,  
for the Plaintiff-Appellant.

Sir Courtenay Hannays, Q.C., and Mr.P.T.Georges,  
instructed by Messrs.T.M.Kelshall & Son, for the  
Defendant-Respondent.

J U D G M E N T

Mr. Justice Archer,

30 The appellant was employed in the oil in-  
dustry of Trinidad from 1944 to 1958. In 1952  
he became a member of the Oilfields Workers'

In the Federal  
Supreme Court

No.11

Judgment  
25th January  
1960  
continued

Trade Union, a body registered under the Trade Union Ordinance and the respondent in this appeal. On the 15th May, 1957, the General Secretary of the Union addressed a letter to the appellant calling upon him to appear before the General Council of the Union on the 9th June 1957, to answer four charges preferred against him for trade Union offences alleged to have been committed by him. These charges had been laid by the General Secretary himself and were described as Plotting; contrary to Rule 26; Discussion of Union Business, contrary to Rule 25, Breach of Rule 32; Complaints and Appeals and Disrespectful Conduct, contrary to Rule 27, respectively, and in respect of each a statement of offence and particulars of offence were set out. The rules referred to were the Rules of the Union which were also registered under the Ordinance and of which the appellant had purchased a copy when he joined the Union. The appellant attended before the General Council on the 9th June, 1957, and denied the charges. No decision was given on that day and the matter was adjourned to the 16th June 1957. The appellant did not attend the hearing on the 16th June, 1957. By letter of the 17th June, 1957, the General Secretary of the Union informed the appellant that he had been convicted on all the charges laid against him and that the General Council of the Union had expelled him under the provisions of Rule 11(7) on the ground that his general conduct had been prejudicial to the best interest of the Union. The appellant gave notice of appeal to the Annual Conference of Delegates under Rule 11(7). There is no evidence as to whether he appeared before that body or not but on the 12th May, 1958, the General Secretary informed him by letter that his expulsion had been upheld by the Annual Conference of Delegates.

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By Rule 5(2) the supreme authority of the Union is vested in the Annual Conference of Delegates and Rule 11(1) the government of the Union between Annual Conferences is vested in the General Council.

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By his writ the appellant claimed a declaration that he had been wrongfully expelled from the Union, an injunction, and damages for breach of contract. In paragraph 9 of his statement of claim, he pleaded that neither the Union, nor the

General Council nor the Annual Conference of Delegates acting for the Union, had any power to expel or exclude him or confirm his expulsion or exclusion. His case both in the court below and upon appeal has, however, been that the action of the General Council is ultra vires and no accusation has been made against the Annual Conference of Delegates.

In the Federal  
Supreme Court

No.11

Judgment  
25th January  
1960  
continued

10 The trial judge found that the appellant had been properly expelled from membership of the Union and that his expulsion was justified under Rule 11(7) and also under Rule 25. He held that the appellant was not liable to expulsion under either Rule 26 or Rule 27 and that Rule 32 was inapplicable to the conduct of the appellant. There is no appeal against the judge's findings with respect to Rules 26, 27 and 32. Rule 11(7) and Rule 25 are as follows:-

"Rule 11 - General Council

20 (7) The General Council may fine any member who is proved to the satisfaction of the said Council, to have been guilty of conduct prejudicial to the interests of the Union any sum not exceeding \$5.00 and/or may suspend or expel such member from the Union. Any member so fined, suspended or expelled shall have the right of appeal to the Annual Conference of Delegates whose decision shall be final and binding,  
30 provided however, that any member who may have been fined, suspended or expelled before these rules came into force shall have no right of appeal under these rules. No suspended or expelled member shall have any claim on the funds or activities of the Union or any part thereof."

"Rule 25 - Irregular Discussion  
of Union's Business

40 It shall be irregular for any officer or member of the Union to discuss the business of the Union in public or with persons who are not members of the Union and any officer or member so charged and found guilty shall forfeit his office or be suspended from membership or be fined any sum not exceeding five dollars or expelled.

In the Federal  
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No.11

Judgment  
25th January  
1960  
continued

Any other member found guilty of such breach shall be fined two dollars (\$ 2.00) for the first offence, for the second offence he shall be suspended from membership for three months, and for a third similar offence he shall be expelled."

The appellant had never held office in the Union nor had he ever previously been convicted under the Rules of the Union.

Counsel for the appellant based his argument on two grounds. He submitted that on the true construction of Rule 25, the appellant being an ordinary member and being a first offender, could not properly have been expelled thereunder. He also submitted that Rule 11(7) creates the offence of acting in a manner which is prejudicial to the best interests of the Union, and that as no charge for this offence had been preferred against the appellant, it was contrary to natural justice that he should have been convicted of the offence. He conceded that if the appellant was guilty of the conduct charged under Rules 25, 26 and 27, he had acted in a manner prejudicial to the best interests of the Union.

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Counsel for the respondent argued that the expression "any other member found guilty of such breach" in Rule 25 means any member not charged with irregular discussion of the Union's business but nevertheless found guilty of the offence. Maugham, J. in Maclean v. Workers' Union (1929) 1 Ch. 602 expressed the opinion that a rule of an association providing for condemnation of a member without calling upon him to explain his conduct would be valid. Denning L.J. in Lee v. Showmen's Guild (1952) 1 A.E.R. 1175 was of the contrary opinion, but, even assuming the former view to be correct, it would require the plainest terms to justify so exceptional an interpretation.

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In Rule 26 a clear distinction is drawn between officer and member and in the case of a first offence a member is not liable to expulsion. In rule 27 the distinction is between officer and ordinary member and neither is liable to expulsion for a first offence. These two rules are as follows :-

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"Rule 26 - Plotting of MembersIn the Federal  
Supreme Court

No.11

Judgment  
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1960  
continued

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(1) Any officer or member who is charged with plotting against fellow officers or members shall on conviction, if an officer forfeit his office, or be suspended or fined any sum not exceeding five dollars or be expelled; and if a member be fined two dollars for the first offence; for a second offence he shall be suspended from membership for three months or may be expelled from the Union.

(2) Any officer or member attending the meeting with motives to create disharmony among officers and members assembled, thereby disturbing the peaceful and harmonious working of the same, shall be subjected to the same penalties."

"Rule 27 - Respect to Officers

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All officers and members are required to show due respect to the officers of the Union who have been duly elected. Anyone charged and found guilty of disrespectful conduct in this connection, if he be an officer shall, for the offence, either forfeit his office or be suspended from office. If he be an ordinary member he shall for the first offence be fined the sum of one dollar. Anyone found guilty for a second offence may be expelled."

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Rule 28 is not worded in the same way but unless it also differentiates between officers and ordinary members it is difficult to see what the Rule can mean. The rule reads as follows :-

"Rule 28 - Insubordination

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Any officer or member found guilty of insubordination to those in high authority shall either forfeit his office or be suspended from office and fined any sum not exceeding five dollars (\$5.00). Any ordinary member found guilty of such offence shall either be fined any sum not exceeding two dollars and fifty cents or be suspended from membership for any period not exceeding three months."

In the Federal  
Supreme Court

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Judgment  
25th January  
1960  
continued

The draftsmanship is defective. Forfeiture of, and suspension from, office have no application to the case of a member who is not an office holder and the first part of the Rule cannot therefore be read as if the word "member" means ordinary member. What has obviously been done is first to mention the categories of officer and of member and then to deal with each separately. This treatment of the two categories leads me to suppose that a similar awkwardness of expression has occurred in Rule 25. There is no sensible difference between member and ordinary member and, in my view, these several Rules were intended to prescribe separate penalties for officers and ordinary members in the manner unmistakably set out in Rules 26 and 27. It follows that as the appellant was an ordinary member he was not liable to expulsion for his breach of Rule 25 and his expulsion was valid only if it was authorised under Rule 11(7).

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Bias has not been alleged against the General Council but counsel for the appellant contended that the General Council had dealt with the appellant under Rule 11(7) without due inquiry into a charge formulated under that Rule and had therefore infringed the principles of natural justice. The Rules are silent as to the procedure to be followed by the General Council when conducting an inquiry into charges. There is no evidence as to what took place at the hearing before the General Council besides the bald statement by the appellant that he denied the charges but the inquiry must have been a factual inquiry into the appellant's conduct with a view to determining his guilt or innocence on the charges laid. The question of the punishment he deserved could not properly arise until he had been found guilty. The judge held that Rule 11(7) under which the General Council awarded punishment is an enabling rule in the sense in which *Eve J. construed a corresponding rule in Wolstenholme v. Amalgamated Musicians' Union (1920) 2 Ch. 388.* I think that he was right and substantially for the reasons he has given which are based upon his examination of the judgment in that case. A rule in that or the like form is commonly to be found in the code of rules of clubs and similar organisations. It is not dependent for its operation upon a formal charge for a specific offence under that or some other rule and natural justice is

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satisfied if the member knows what the accusation against him is and he is given an opportunity to defend his conduct. Counsel for the appellant found himself compelled to submit that the right of appeal to the Annual Conference of Delegates provided for in Rule 11(7) is confined to persons charged and found guilty of offences under that Rule and that a person charged and found guilty under Rule 25 had no right of appeal. In my view, this is an argument of despair. Irregular discussion of the Union's business might well constitute conduct which is prejudicial to its best interests and such an interpretation of these two rules would leave to an accuser a choice of rule under which to proceed against an accused member and give to him the right to determine whether the member should be punished without benefit of a right of appeal to the Annual Conference of Delegates. I see no reason to believe that it is the intention of the Rules to place such a weapon in his hands. The right of appeal is a general right and Rule 11(7) is not merely another rule creating an offence.

The appellant was given a hearing by the General Council. He knew what the allegations against him were and he defended himself. In my judgment, therefore, there is no evidence of a breach of the rules of natural justice in the proceedings before the General Council and the appellant is not entitled to the relief which he seeks. But even if some fault could be found with the adjudication by the General Council, the appellant could not succeed. The common-sense of the matter is that the appellant has ceased to be a member of the Union because the Annual Conference of Delegates which is the supreme authority in the Union has ruled that he should no longer be a member. That ruling was given on the 30th March, 1958, but the appellant had since the 17th June, 1957, known that Rule 11(7) was being invoked against him. There is nothing to show that he was not afforded ample opportunity to make whatever representations he wished to the Annual Conference of Delegates; indeed, he has made no complaint in this respect; and there is no question of a failure of natural justice at the hearing before that body.

In the Federal  
Supreme Court

No.11

Judgment  
25th January  
1960  
continued

In the Federal  
Supreme Court

I would dismiss the appeal with costs.

Dated the 25th day of January, 1960.

No.11

(Sgd.) C.V.H. ARCHER  
Federal Justice.

Judgment  
25th January  
1960  
continued

Mr. Justice Rennie:

I concur.

(Sgd.) A.B. RENNIE,  
Federal Justice.

Mr. Justice Wylie:

I agree that, for the reasons given in the judgment already delivered by Mr. Justice Archer, the appellant could not be expelled for breach of Rule 25.

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In my judgment, the opening sentence of rule 11(7) constitutes an entirely independent breach of the rules which would justify the Council in expelling a member. In my view, the provision is the general rule concerning misconduct prejudicial to the interests of the Union corresponding to the general rule to a similar effect to be found in the rules of many clubs, unions and other bodies. It is similar to - but by no means identical with - the rule considered in Wolstenholme v. Amalgamated Musicians' Union (1920) 2 Ch. 388, where Eve, J. rejected the argument that the rule concerned ought to be construed as one of procedure only conferring a power to expel on grounds for which expulsion was the penalty set out in other rules. He held that the rule was an enabling one conferring power to expel for "conduct bringing the Union into discredit" (to quote the language of the rule) although the conduct in question in that case did not amount to a breach of any other rule. This sentence in rule 11(7) does not refer to any other rule, as did the rule in Wolstenholme's case, and, in my judgment, it stands entirely on its own, authorising expulsion of a member who is proved to the satisfaction of the General Council "to have been guilty of conduct prejudicial to the interests of the Union." Consequently, this rule could operate whether or not

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the same conduct amounts to a breach of any other rule.

In the Federal  
Supreme Court

No.11

Judgment  
25th January  
1960  
continued

10 The charges in this case were drafted with great care and particularly giving full details of the conduct of the appellant which was to be enquired into, but at the head of each charge was set out the rule which was alleged to have been broken. These were rules 26 (plotting against officers of the Union) rule 25 (irregular discussion of Union business) rule 32 (making complaints publicly concerning officers of the Union) and rule 27 (disrespectful conduct towards officers of the Union.) The General Council had no power to expel the appellant for breach of any of these rules, and the form of the charges might therefore lead appellant to believe that expulsion would not be considered. However, this could not preclude the General Council from invoking other rules against the appellant if the evidence justified such a course and provided that appellant had a reasonable opportunity to be heard in respect of a charge under another rule.

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In my judgment, he had this opportunity. The evidence was taken on 9th June, 1957, in the presence of the appellant. He was notified by letter that, on 16th June, this evidence "would be considered by Council and a decision given on the matter." He was also requested to attend, but declined because of a prior engagement. This could not preclude the General Council from proceeding and the appellant cannot now complain that his absence in such circumstances precluded the General Council on the grounds of violation of the rules of natural justice from doing what it could have done without violating those rules, had he been present. It has been pointed out that it may be difficult to define precisely what is meant by the rules or principles of natural justice, but, in this case, the appellant had heard all the evidence given against him and was given the opportunity to be present at the adjourned hearing and in my opinion, in the circumstances of this case, that is sufficient to satisfy the principles of natural justice in any event.

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I agree also with what has been said in the judgment of Mr. Justice Archer concerning

In the Federal  
Supreme Court

No.11

Judgment  
25th January  
1960  
continued

the effect in the circumstances of the appellant exercising his right of appeal. The appellant presumably had the opportunity then to put forward any submissions he might wish to make as to why rule 11(7) should not be invoked against him and he has not complained of the conduct of the appeal.

I agree that the appeal should be dismissed with costs to the respondent.

(Sgd.) C. Wylie,  
Federal Justice.

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No.12

Decree  
25th January  
1960

No.12

DECREE

IN THE FEDERAL SUPREME COURT  
APPELLATE JURISDICTION

Civil Appeal No.15 of 1959. Territory: TRINIDAD  
& TOBAGO.

BETWEEN

WALTER ANNAMUNTHODO          Plaintiff-Appellant  
and

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OILFIELDS WORKERS'  
TRADE UNION                      Defendant-Respondent

Entered the 25th day of January 1960  
On the 25th day of January 1960.

BEFORE :

The Honourable Mr. Justice Rennie  
"                      "                      Mr. Justice Archer  
"                      "                      Mr. Justice Wylie

UPON READING the Notice of Appeal on behalf of the plaintiff-appellant dated the 6th day of August, 1959, and the judgment hereinafter mentioned.

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AND UPON READING the record of proceedings filed hercin

In the Federal Supreme Court

AND UPON HEARING Mr.Selby Wooding, of Counsel for the plaintiff-appellant, and Sir Courtenay Hannays, Q.C. of Counsel for the defendant-respondent

No.12

Decree.

AND MATURE DELIBERATION thereupon had  
IT IS ORDERED

25th January  
1960  
continued

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That the judgment of the Honourable Mr. Justice Clement Phillips dated the 25th day of June 1959, in favour of the said defendant-respondent be affirmed and this appeal dismissed with costs to be taxed and paid by the said plaintiff-appellant to the said defendant-respondent.

AND IT IS ALSO ORDERED

That there be a stay of execution for a period of three weeks from the date hereof.

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By the Court,  
R.V. McIntosh Clarke  
Registrar.

No.13

ORDER GRANTING CONDITIONAL LEAVE TO APPEAL

No.13  
Order Granting  
Conditional  
Leave to  
Appeal  
12th February  
1960

IN THE FEDERAL SUPREME COURT

ON APPEAL FROM THE FEDERAL SUPREME COURT

APPELLATE JURISDICTION

Civil Appeal No.15 of 1959.

TRINIDAD

BETWEEN

WALTER ANNAMUNTHODO

Appellant-Petitioner

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and

OILFIELDS WORKERS'  
TRADE UNION

Respondent.

On the 12th day of February 1960  
Entered the 12th day of February 1960  
Before Sir Eric Hallinan, Chief Justice,  
Mr.Justice C.Wylie and Mr.Justice J.F.  
Marnan.

UPON the Petition of the above - named

In the Federal  
Supreme Court

No.13

Order Granting  
Conditional  
Leave to

Appeal  
12th February  
1960

continued

Appellant dated the 3rd day of February 1960, preferred unto this Court on the 12th day of February 1960 for leave to appeal to Her Majesty in Her Majesty's Privy Council against the judgment of the Court comprising The Honourable Mr. Justice Rennie The Honourable Mr. Justice Archer and the Honourable Mr. Justice Wylie made herein on the 25th day of January, 1960.

UPON READING the said petition, the affidavit of Mark Thomas Inskip Julien of the 3rd day of February 1960, and upon hearing what was alleged by Counsel for the Appellant and Counsel for the Respondent:

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THE COURT DOTH ORDER

That subject to the performance by the said Appellant of the conditions hereinafter mentioned and subject also to the Final Order of this Honourable Court upon the due compliance with such conditions leave to appeal to Her Majesty in Her Majesty's Privy Council against the said judgment of their Lordships of the Federal Supreme Court (Appellate Jurisdiction) be and the same is hereby granted to the Appellant.

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AND THE COURT DOTH FURTHER ORDER

That the appellant within a period of 3 months from the date of this order deposit into Court or enter into good and sufficient security to the satisfaction of the Registrar in the sum of \$1,200.00 for the estimated costs of the appeal in the Federal Supreme Court and also enter into good and sufficient security to the satisfaction of the Registrar in the sum of \$2,400.00 in one or more securities or deposit into Court the said sum of \$2,400.00 for the due prosecution of the said appeal and for the payment of such costs as may become payable to the Respondent in the event of the Appellant not obtaining an order granting him final leave to appeal or of the appeal being dismissed for non-prosecution or for the part of such costs as may be awarded by Her Majesty Her Heirs and Successors or by the Judicial Committee of the Privy Council to the Respondent on such appeal

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AND THIS COURT DOTH FURTHER ORDER



That all costs of and occasioned by the said Appeal shall abide the event of the said Appeal to Her Majesty in Her Majesty's Privy Council if the said Appeal shall be allowed or dismissed or shall stand dismissed for want of prosecution

In the Federal Supreme Court

No.13

Order Granting Conditional Leave to Appeal  
12th February 1960  
continued

AND THIS COURT DOTH FURTHER ORDER

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That the appellant do within 3 months from the date of this order in due course take out all appointments that may be necessary for settling the transcript record in such appeal to enable the Registrar of the Supreme Court to certify that the said Transcript record has been settled and that the provisions of this order on the part of the Appellant have been complied with :

AND THIS COURT DOTH FURTHER ORDER

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That the Appellant be at liberty to apply at any time within 4 months from the date of this order for Final Leave to appeal as aforesaid on the production of a certificate under the hand of the Registrar of the Supreme Court of due compliance on their part with the conditions of this order;

AND THIS COURT DOTH FURTHER ORDER

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That the Judgment or order of the trial Judge of the 25th day of June, 1959, as well as the Judgment or order of the Federal Supreme Court dated the 25th day of January, 1960, be stayed pending the hearing and final determination of the said appeal to Her Majesty in Her Privy Council

AND THIS COURT DOTH ALSO FURTHER ORDER

That the costs of and incidental to this application be costs in the cause and that there should be liberty to the parties herein to apply as they may be advised.

Registrar

In the  
Privy Council

No.14

ORDER IN COUNCIL GRANTING SPECIAL  
LEAVE TO APPEAL

No.14

Order in Council  
Granting Special  
Leave to Appeal.  
7th June 1960

AT THE COURT AT BUCKINGHAM PALACE  
The 7th day of June, 1960

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRIVY SEAL  
LORD CARRINGTON

LORD MILLS  
MR. WALKER-SMITH

WHEREAS there was this day read at the Board  
a Report from the Judicial Committee of the Privy  
Council dated the 16th day of May 1960 in the  
words following, viz. :-

10

"WHEREAS by virtue of His late Majesty  
King Edward the Seventh's Order in Council  
of the 18th day of October 1909 there was  
referred unto this Committee a humble Peti-  
tion of Walter Annamunthodo in the matter  
of an Appeal from the Federal Supreme Court  
Trinidad between the Petitioner and Oil-  
fields Workers' Trade Union Respondent sett-  
ing forth (amongst other matters) that by  
Writ of Summons dated the 21st May 1958 in  
the Supreme Court of Trinidad and Tobago the  
Petitioner claimed a Declaration that he was  
a member of the Oilfields Workers' Trade  
Union and that his purported expulsion  
therefrom by the General Council of that  
Union was ultra vires and void and for an  
injunction damages other relief and costs:  
that on the 25th June 1959 the Action was  
dismissed with costs: that the Petitioner  
appealed to the Federal Supreme Court which  
on the 25th January 1960 dismissed the  
Appeal: that the Petitioner applied to  
the said Federal Supreme Court for leave  
to appeal to Your Majesty in Council and on  
the 12th February 1960 leave was granted

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upon conditions: that by reason of poverty the Petitioner was unable to comply with such conditions: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal in forma pauperis from the Judgment of the Federal Supreme Court Trinidad dated the 25th January 1960 and for further and other relief :

In the  
Privy Council

Order in Council  
Granting Special  
Leave to Appeal.  
7th June 1960  
continued

10 "THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof no one appearing at the Bar in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal in forma pauperis  
20 against the Judgment of the Federal Supreme Court of Trinidad dated the 25th day of January 1960:

"And Their Lordships do further report to Your Majesty that the proper officer of the said Federal Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the  
30 hearing of the Appeal."

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

40 Whereof the Governor or Officer administering the Government of the Colony of Trinidad and Tobago for the time being and all other persons whom it may concern and to take notice and govern themselves accordingly.

W. G. AGNEW

Exhibits

E X H I B I T S

B

EXHIBIT B.

Letter, General  
Secretary to W.  
Annamunthodo.  
15th May 1957

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.

15th May, 1957.

Comrade Walter Annamunthodo,  
The Trinidad Oil Company,  
Pointe-a-Pierre.

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Dear Comrade,

This serves to notify you that you are  
required to appear before the General Council of  
the Oilfields Workers' Trade Union on the 9th  
June 1957 at 10 a.m. precisely to answer three  
(3) of the appended charges Numbered 1,2, and 3  
laid against you for Trade Union offences commit-  
ted jointly with Comrades Hugh Norton and Cecil  
Mitchell and an additional charge laid singularly  
against you Numbered 4.

20

Yours faithfully,

Sgd. J.C.Houlder,

General Secretary

Oilfields Workers' Trade Union.

Charge 1.

Statement of Offence: Plotting. Contrary  
to Rule 26.

That you comrade Walter Annamunthodo, a  
member of the O.W.T.U. Hugh Norton, an officer  
of the Pointe-a-Pierre Branch of the O.W.T.U.

30

and Cecil Mitchell, a member of the O.W.T.U. did during the year 1956 plot against the following officers: John F.F. Rojas, President General; Thomas Hunte 1st Vice President, Joseph Houlder General Secretary and John Commissiong Treasurer, all of the O.W.T.U. contrary to Rule 26.

Exhibits

B

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
15th May 1957  
continued

10

Particulars That you did plot among other things to hold meetings in the Refinery Area of Pointe-a-Pierre during the luncheon time in order to disseminate wicked, malicious and unfounded statements against these officers and fellow Branch Officers with a view to hold them up to public ridicule, contempt and distrust and thus weaken the leadership of the O.W.T.U.

20

That you did put your plot into effect by holding a series of meetings in the Refinery Area at Pointe-a-Pierre at which meetings you published gross slanders of the aforementioned officers.

That on Wednesday the 15th of August, 1956 between the hours of 12.00 a.m. and 1.00 p.m. you held a joint meeting at the Mechanic Shed at which you Comrade Annamunthodo among other falsehoods alleged that the President General had embezzled \$25,000.00 of O.W.T.U.'s funds.

30

That at the said meeting you Comrade Norton supported the remarks of Comrade Annamunthodo.

That at the said meeting you Comrade Mitchell among other falsehoods alleged that the aforementioned officers had sold a car belonging to the O.W.T.U. and had failed to bring into account the moneys received.

40

That on Friday 17th of August, 1956 you held a joint meeting near the Information Room at Pointe-a-Pierre between 12.00 a.m. and 1.00 p.m. at which you Comrade Annamunthodo repeated the charges that the President General had embezzled \$25,000.00 of O.W.T.U.'s funds.

That at the said meeting you Comrade Norton supported Comrade Annamunthodo's allegation and added that there were quite a few

Exhibits

B

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
15th May 1957  
continued

thousand dollars of O.W.T.U. funds for which the Executives could not account to the Auditors.

Charge 2.

Irregular Discussion of Union Business contrary to Rule 25.

Statement of Offence:

That you Comrade Walter Annamunthodo, a member of the O.W.T.U. Hugh Norton, an officer of the Pointe-a-Pierre Branch and Cecil Mitchell a member of the O.W.T.U. did on Wednesday the 15th of August, 1956 and Friday the 17th day of August, 1956 hold irregular discussions of Union Business contrary to rule 25.

10

Particulars.

That you did on the 15th day of August, 1956 between the hours of 12.00 a.m. and 1.00 p.m. at the Mechanic Shed, Refinery Shipping Area, Pointe-a-Pierre discuss Union business at a meeting at which persons who were not members of the Union were present.

20

That you did on the 17th day of August, 1956 between the hours of 12.00 a.m. and 1.00 p.m. near the Information Room, Refinery Area, Pointe-a-Pierre discuss Union business at a meeting at which persons who were not members of the Union were present.

Charge 3.

Offence: Breach of Rule 32, Complaints and Appeal.

That you Walter Annamunthodo, member of the Oilfields Workers' Trade Union, Hugh Norton, officer of the Pointe-a-Pierre Branch of the O.W.T.U. and Cecil Mitchell, a member of the O.W.T.U. have been for months now making public statements and charging in public Executive Officers of the Oilfields Workers' Trade Union with corruption in connection with the funds of the O.W.T.U. and the utilization of the said Funds

30

for personal use by John F.F.Rojas, Thomas C. Hunte, Joseph C. Houlder and J.E. Commissiong all General Officers of the Oilfields Workers' Trade Union contrary to Rule 32.

Exhibits

B

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
15th May 1957  
continued

Particulars:

10 That you have repeatedly made those statements in public and in the presence of Branch Officers, members and non-members alike, that on 15th August, 1956, at the Mechanic Shed and on the 17th August, 1956 near the Information Room Pointe-a-Pierre between the hours of 12.00 a.m. and 1.00 p.m. (both days) you levelled verbal charges of theft, corruption and utilization of Union's funds for personal use against the aforementioned officers.

Charge 4.

(Walter Annamunthodo only)

Statement of Offence:

Disrespectful conduct contrary to Rule 27.

20 That you Walter Annamunthodo, a member of the Pointe-a-Pierre Branch of the Oilfields Workers' Trade Union did at a meeting of the Pointe-a-Pierre Branch on Monday the 4th February 1957 held at the Oilfields Workers' Palms Club behave in a manner which was grossly disrespectful to John F.F.Rojas, President General of the O.W.T.U.

Particulars.

30 That you, at the said meeting in reply to a request by the President of the Pointe - a Pierre Branch, Comrade Israel Yearwood, that members take around subscriptions lists to collect money in aid of members of the O.W.T.U. who had suffered losses through fire refused to take any list and stated as your reason that when the money was collected it would have to go to Central Office where Rojas and others might spend it for their own purpose.

Exhibits

EXHIBIT C (a)

C(a)

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
4th June 1957

OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,

San Fernando

4th June, 1957.

Walter Annamunthodo Esq.,  
c/o The Trinidad Oil Company Ltd.,  
Pointe-a-Pierre.

10

Dear Sir,

I am in receipt of your letter dated 3rd June 1957 requesting permission to appear with a Counsel on Sunday 9th instant to answer Charges laid against me.

I am to inform you that the appearance of Counsel in any domestic trial conducted by the Union within the ambit of our Constitution is a matter for the discretion of the Executive Committee or the General Council of the Union conducting an enquiry if and when they feel it becomes necessary.

20

During the 20 years of the existence of our Union several trials and enquiries of a similar nature have been conducted and at no time Counsel was allowed or admitted. There has been no precedent for the appearance of Counsel in these domestic Trade Union enquiries or trials. A precedent will not therefore be created in this instance; and it shall again remain a matter for the discretion of the Committee of the General Council conducting the hearing as aforementioned.

30

You are therefore advised that the enquiries relating to the charges laid against you shall be conducted on Sunday 9th instant in the normal and traditional way: and that



is without the appearance of Counsel on either side. You can be assured that the General Council will not hesitate to give anyone a full and fair hearing.

Yours Comradely,  
Sgd. J.C.Houlder,  
General Secretary,  
O.W.T.U.

Exhibits

C(a)

Letter  
General  
Secretary  
to W.  
Annamunthodo  
4th June 1957  
continued

EXHIBIT C (b)

C(b)

10

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
5th June 1957.

OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.  
5th June, 1957.

Comrade W.Annamunthodo,  
T.T.O.C., Main Stores,  
Pointe-a-Pierre.

20

Dear Comrade,

In reply to your letter of the 4th instant requesting a Certified copy of the rule under which you were charged, I am to inform you that you were charged under the Old Rule which is embodied in your Old Rule Book and I am Almost sure that you are in possession of same, therefore there is no necessity to send you a copy.

Yours in Comradeship,  
Sgd. J.C.Houlder,  
General Secretary  
O.W.T.U.

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Exhibits

C(c)

Letter,  
General  
Secretary  
to W.  
Annamunthodo  
12th June 1957

EXHIBIT C (c)

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

OILFIELDS WORKERS' TRADE UNION

No.4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.

12th June, 1957.

Comrade Walter Annamunthodo,  
c/o The Trinidad Oil Company,  
Pointe-a-Pierre.

10

Dear Comrade,

This serves to notify you that you are requested to attend the adjourned meeting of the Union's General Council, in the forenoon when the evidence taken last Sunday at the hearing of the charges laid against you and Others would be considered by Council and a decision given on the matter.

Yours Comradely,

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/S/ J.C.Houlder,  
General Secretary,  
O.W.T.U.

C(d)

Letter,  
W.Annamunthodo  
to General  
Secretary  
14th June 1957

EXHIBIT C (d)

LETTER, W. ANNAMUNTHODO TO  
GENERAL SECRETARY

c/o The Trinidad Oil Company,  
Ltd.,

Pointe-a-Pierre,

14th June, 1957.

30

The General Secretary,  
Oilfields Workers' Trade Union.  
San Fernando.

Dear Sir,

I acknowledge receipt of your letter dated

12th June 1957 advising me that the General Council will give its decision on Sunday 16th June 1957 on the hearing of the charges laid against me.

Exhibits

C(d)

Owing to a previous arrangement to be the Judge at a "Mock Trial" sponsored by a Girl's Group in my district at the same time, I regret that I cannot attend the Board of Enquiry.

Letter,  
W.Annamunthodo  
to General  
Secretary  
14th June 1957  
continued

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Under the circumstances I am sure you will be kind enough to send me the decision in writing at your earliest convenience.

I am,  
Yours truly,  
(ss) W.Annamunthodo.

EXHIBIT C (e)

C(e)

LETTER, GENERAL SECRETARY TO  
W.ANNAMUNTHODO

OILFIELDS WORKERS' TRADE UNION,  
4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.  
17th June, 1957.

Letter,  
General  
Secretary to  
W.Annamunthodo  
17th June 1957

20

Mr.Walter Annamunthodo,  
T.T.O.C. Stores,  
Pointe-a-Pierre.

Dear Sir,

30

This is to inform you that you have been convicted on all the charges laid against you by the General Secretary of the Oilfields Workers' Trade Union.

The General Council has as a result seen fit to expel you under the provisions of Rule 11 Section 7 on the ground that your general conduct has been prejudicial to the best interest of the Union.

Yours faithfully,  
/ss/ J.C.Houlder,  
General Secretary,  
O.W.T.U.

ExhibitsEXHIBIT C (f)

C(f)

LETTER, W. ANNAMUNTHODO TO  
GENERAL SECRETARYLetter,  
W. Annamunthodo  
to General  
Secretary  
21st June 1957c/o T.T.O.C.,  
Pointe-a-Pierre.

21st June, 1957.

The General Secretary,  
Oilfields Workers'  
Trade Union,  
4a Lower Hillside Street,  
San Fernando.

10

Dear Sir,

I was called out of my bed yesterday morning and handed a letter by Mr. J. Commissiong. It was dated 17th June, 1957, from the General Secretary of the O.W.T.U. advising me that I was found guilty on all charges laid against me by the General Secretary and that I was expelled under the provisions of Rule 11, Section 7.

I strongly resent any member of the executive calling at my home to perform the duties of the postman. You are quite aware of my postal address and any letter posted on 17th would have reached me earlier than 20th June. Besides, letters were delivered to me on the 5th June at my workplace by the Union's chauffeur and that was far more tolerable.

20

It is very regrettable that I received official information after you made official releases to the press. The President General made a pledge at the last Annual Conference to ruthlessly crush the pocket of opposition from Pointe-a-Pierre Branch. Is this one of the ruthless means by which his pledge is being carried out?

30

Please be reminded that I am still awaiting the names of the judges as requested in my letter to you dated 13th June, 1957. One finds it difficult to conceive that you are withholding such information from me.

From my letter to you dated 14th June, you could understand that it was not convenient to attend the General Council Meeting on 16th June, 1957 and I shall be thankful for a report stating the details of the decision.

I request that you bring it to the attention of the Executive Committee and the General Council that I give notice of appeal under Rule 11, Section 7.

I am,  
Yours truly,  
W. Annamunthodo.

EXHIBIT C (g)

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO  
OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.

25th June, 1957.

W. Annamunthodo, Esq.,  
T.T.O.C.  
Pointe-a-Pierre.

Dear Sir,

I refer to your letter dated 21st inst. in reply to the General Council's Notification of your expulsion. Your request in the last paragraph of the said letter appealing against the decision of the General Council under "Rule 11; Section 7" shall be brought to the attention of the Competent Authorities.

Yours faithfully,  
/s/ J.C.Houlder,  
General Secretary,  
O.W.T.U.

Exhibits

C (f)

Letter,  
W. Annamunthodo  
to General  
Secretary  
21st June 1957  
continued

C (g)

Letter,  
General  
Secretary to  
W. Annamunthodo  
25th June 1957

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Exhibits

EXHIBIT C (h)

C (h)

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

Letter,  
General  
Secretary to  
W.Annamunthodo  
1st July 1957

OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,  
San Fernando,  
Trinidad, B.W.I.

1st July 1957.

W.Annamunthodo, Esq.,  
c/o The Trinidad, Oil Company,  
Pointe-a-Pierre.

10

Dear Sir,

I am directed by the General Council to in-  
form you that your appeal against expulsion has  
been granted under Rule 11 Section 7 and that  
same shall be listed on the Agenda of the Union's  
next Annual Conference of Delegates.

Yours faithfully,  
/s/ J.C.Houlder,  
General Secretary,  
O.W.T.U.

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C(i)

EXHIBIT C (i)

Letter,  
W.Annamunthodo  
to General  
Secretary  
10th May 1958

LETTER, W. ANNAMUNTHODO TO  
GENERAL SECRETARY

c/o Texaco Trinidad Inc.,  
Pointe-a-Pierre.

10th May, 1958.

The General Secretary,  
The Oilfields Workers' Trade Union,  
4a Lower Hillside Street,  
San Fernando.

30

Dear Sir,

I shall be thankful to know the decision of

the Conference of Delegates in my appeal against expulsion which was heard on Sunday 30th March, 1958.

I am,  
Yours truly,  
W. Annamunthodo.

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Exhibits

C(i)

Letter,  
W. Annamunthodo  
to General  
Secretary  
10th May 1958  
continued

EXHIBIT C (j)

LETTER, GENERAL SECRETARY TO  
W. ANNAMUNTHODO

C(j)

Letter,  
General  
Secretary to  
W. Annamunthodo  
12th May 1958.

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OILFIELDS WORKERS' TRADE UNION

4a Lower Hillside Street,

San Fernando,

Trinidad, B.W.I.

12th May, 1958.

Walter Annamunthodo,  
c/o Texaco Trinidad Inc.,  
Pointe-a-Pierre.

Dear Sir,

20

Referring to your letter of 10th May 1958 in which you requested the decision of the Conference of Delegates on Sunday 30th March last, in your appeal against expulsion, I am pleased to inform you that your expulsion was upheld by the Annual Conference of Delegates.

Yours faithfully,

Joseph C. Houlder,

General Secretary,  
O.W.T.U.

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