

AUSTRALIA / JUDGMENT

Cooper, E.S. v. Penman, D. & Anor [1987] FCA 336

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CATCHWORDS: INDUSTRIAL LAW - Registered organization - Rules - Interpretation
- Blection to fill casual vacancy in office of Assistant Federal
Secretary - Rejection of nomination - Whether candidate required
to have been a financial member of the organization for the
preceding three years - Meaning of "financial member".
Conciliation and Arbitration Act 1904 (Cth), s.171C
ELIZABETH SUSAN COOPER v. DAVID PENMAN & ANOR
No. ACT 10 of 1987
Neaves J.
25 June 1987
Canberra
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IN THE FEDERAL COURT OF AUSTRALIA
AUSTRALIAN CAPITAL TERRITORY
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) No. ACT 10 of 1987
DISTRICT REGISTRY)
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)
INDUSTRIAL DIVISION
BETWEEN : ELIZABETH SUSAN COOPER
Applicant
AND: DAVID PENMAN
First respondent
THE AUSTRALIAN JOURNALISTS
ASSOCIATION
Second respondent

MINUTE OF ORDER

JUDGE MAKING ORDER : Neaves J.

DATE OF ORDER : 25 dune 1987

WHERE MADE : Canberra

THE COURT ORDERS

THAT:

1. The application be dismissed.

2. The injunction granted herein by Everett J. on 29 May 1987 be dissolved.

3. There be no order as to costs.

Note: Settlement and entry of orders is dealt with in Order 36 of the Federal Court Rules.

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BETWEEN : ELIZABETH SUSAN COOPER

Applicant

AND: DAVID PENMAN

First respondent

THE AUSTRALIAN JOURNALISTS

ASSOCIATION

Second respondent

CORAM: Neaves J.

DATE: 25 June 1987

REASONS FOR JUDGMENT

Elizabeth Susan Cooper ("the applicant") is a member of The Australian Journalists Association ("the Association") which is an association registered as an organization under the Conciliation and Arbitration Act 1904 (Cth) ("the Act"). On 11 May 1987, the applicant lodged with David Penman ("the first respondent") a nomination as a candidate for election to fill a casual vacancy in the office of Assistant Federal Secretary of the Association caused by the resignation of the former occupant of the office upon his election to the office of Federal Secretary. The first respondent is an officer of the Australian Electoral Commission

who has been appointed by the Federal Executive of the

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Association to be the Returning Officer for the purpose of the election to fill that casual vacancy. The applicant's nomination was rejected by the second respondent and she has applied to this Court, pursuant to s.171C of the Act, for the following orders -

(a) an order declaring that the rejection of the nomination was invalid; and
; (b) an order directing the first respondent to accept the nomination and to conduct the election accordingly.

The circumstances which give rise to the questions that fall for decision upon this application may be shortly stated. The applicant has been a member of the Association for approximately seventeen years, having become a member in

1970. From that time until August 1981, the applicant paid all membership fees and other moneys due by her as a member of the Association. She was during that period an active member of the Association and served on various committees. In August 1981 she went to Fiji and was, in accordance with the relevant rules of the Association, transferred "from full membership to Reserve Membership" (see rule 46[a]). She returned from Fiji in January 1985. During the period the applicant was in Fiji she paid no dues to the Association, being under no obligation to do so. Upon her return to Australia she recommenced paying membership fees and was at the date she lodged her nomination with the second respondent, and is, a financial member of the

Association.

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On those facts, the applicant has raised two questions. These are:

- {a) Do the rules of the Association, on their proper construction, require that a person nominating for election to the office of Assistant Federal Secretary shall have been a financial member of the Association for the preceding three years?
- (b) If so, does the applicant satisfy that requirement?

It is necessary to turn to the rules of

the Association. It must be said, at once, that the rules exhibit a lack of clarity and precision to a degree which is almost unbelievable particularly, where, as in the present case, the members of the Association, or a majority of them, may be supposed to have a facility in, and more than a passing acquaintance with, the use of the English language.

Rule 5 makes general provision for the control and

Management of the Association. It reads:

"Supreme control of the Association shall rest with financial members voting by plebiscite. The governing body shall be Federal Council, with complete authority over policy, management, and all affairs of the Association. The general administration of the Association shall be vested in Federal Executive, and through it, Federal Management Committee, which shall run the day to day affairs of the Association. The membership of the Association shall be divided into Branches and/or Divisions to one of which each member shall belong. A branch shall have authority to act for its members within the scope of these Rules and in accordance with decisions of Federal Council and/or Federal Executive. Financial members voting by ballot shall be the highest authority of a Branch. The management of a

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Branch shall be vested in a Branch Committee. Branch members residing in defined areas of a Branch may be divided into Sub-Branche s and vested with authority to act in accordance with these Rules and under control of a Branch. A group of Branch members may be formed into a Section with authority to advise and assist the Branch Committee. A group of members employed within an office may elect a house committee in consultation with the Branch Committee."

The rules provide for a Federal Council (Rule 6), a Federal Executive (Rule 15) and a Federal Management Committee (Rule 16A). The membership of the Association is to be divided by the Federal Council into Branches, to one of which each member is to be attached (Rule 20faq). Rule 20£j1 provides:

"CjJ A Branch shall consist of all the members residing within its territory and any new members who may be attached to it by decision of Federal Council or Federal Executive, except that members of the Association who reside temporarily in the Canberra Branch shall, while they are so residing, be members of the Canberra Branch but shall not pay any dues-to that Branch. They shall retain their Branch membership and shall pay their dues to the Branch to which they belong."

A decision by a Branch may be made by the financial members of the Branch voting by ballot, by the financial members of the Branch present and voting at a general meeting, or by resolution of the Branch Committee (Rule 20€d)).

Rule 37 provides for admission to membership. A person seeking membership must complete and sign a form of

application. The application together with an amount,

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called an entrance payment, provided for in Rule 38 is to be lodged with the Secretary of the Branch in which the applicant resides. Admission to membership depends upon a decision of the Federal Secretary endorsed by the Federal Executive or the Federal Management Committee. An applicant who 1s admitted to membership is deemed to be a member of the Association and attached to the Branch in which he resides or, if he does not reside within a Branch, to the Branch determined by the Federal Secretary. Provision is made in Rule 47 for the transfer of a member from one Branch

to another.

A membership fee is payable in respect of each

financial year commencing on 1 July. The fee is due and

Payable at the commencement of the financial year (Rule 39[a3]). A reduced fee is payable if the member is admitted to membership after the first quarter of the financial year

(Rule 39**fb**3). Approval may be given for a member to pay his

membership fee by instalments (Rule 39**fe**1). A member may be granted exemption from payment of his membership fee (Rule 41[a]). Sub-rules 41**ff**g], Ch? and Cil provide:

"Cg1 Members who have been granted exemptions from payment of membership fees, in accordance with this Rule shall be included by each Branch or Division in an exemption list, which shall be included in its annual report.

Chi No member who has granted Csicl exemption from payment of membership fees shall be included in any lists of either financial or unfinancial members required under the Rules of the Association or any returns necessary under the Australian Conciliation and

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Arbitration Act, nor shall he be included in the total number of members of the Association or the total number of members of his Branch for the purposes of any per capita payments.

Cil A member who has been granted exemption from payment of his membership fee shall be entitled to receive notice of any General Meeting and to attend such meeting CEbut not to voted, to receive copies of 'The Journalist', and any report or document issued by the Association, to apply for financial assistance and to have any personal complaint concerning Association administration considered by Federal Council, Federal Executive, or his Branch, sub-Branch or Division. During the period of his exemption he shall not be entitled to any other rights, privileges or benefits or Csicl membership."

Termination and resignation of membership of the

Association is dealt with in Rule 48.

Under Rule 40 a levy may be imposed on all ora portion of the members of the Association for the purpose of providing a fund or funds to carry out specific work of the Association or of a Branch or to enable effect to be given to any of the objects of the Association. A levy is due and

Payable on the date fixed by the authority which imposes it

(Rule 40£c]). Exemption from payment of a levy may be granted (Rule 40fd]).

A fine may be imposed upon a member found guilty of one of the offences prescribed in Rule 50 (Rule S50Lb]).

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The Federal Council of the Association consists of a Federal President, two Federal Vice-Presidents, the Federal Secretary, the Assistant Federal Secretary, the President and Secretary of each Branch and additional delegates from each Branch (Rule 6Cb1]). The Assistant Federal Secretary is entitled to speak, to move and second

motions and amendments and to vote on all matters before

the Federal Council (Rule 6£h]).

Rule 10 is headed "Federal Officers". It provides (Rule 10fa]) that a Federal President, two Federal Vice-Presidents, a Federal Secretary and an Assistant Federal Secretary are to be the Federal Officers of the Association. The Federal President and the two Federal Vice-Presidents are to be elected every two years (CRule 10EfI). The respective terms of office of the Federal Secretary and the Assistant Federal Secretary, being terms of not less than three years and not more than four years, are to be fixed by the Federal Council {Rule 10f£b]). Provision is made for the periodic election of the Federal Secretary and the Assistant Federal Secretary by Rules 10fs]

- EvJ. Rules 10£Ewd - 10£2] provide as follows:

"[wl In the event of the Federal Secretary or Assistant Federal Secretary dying, resigning or being removed from office between meetings of Federal Council the Federal President Shall convene a special meeting of Federal Executive as early as practicable to fix the terms and conditions of employment of his successor. Federal Executive shall then appoint a Returning Officer to call for nominations from financial members of the Association [who shall have been

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financial members of the Association for at least the preceding three years] and to receive and determine the validity of nominations and fix a date and time for the closing of nominations. Nominations shall be called by advertisement in 'The Journalist'. The relevant provisions of Clauses l10£g3021 and Eid of this Rule shall apply for the election.

The Returning Officer shall submit a report in writing to the first meeting of Federal Executive or Federal Management Committee to be held after the date fixed for the closing of nominations.

If more than one valid nomination is received Federal Executive or Federal Management Committee shall determine whether a ballot will be held in conjunction with Branch Annual Elections as prescribed in these Rules for the election of Federal Officers or conducted separately.

The Returning Officer, if required, shall conduct a separate ballot of the national financial membership in accordance with the appropriate provisions of Rule 56 and report the result to Federal Executive or Federal

Management Committee."

Provision for the election of the officers

Branch is made in Rule 28.

Rules 43,

full and with all their imperfections:

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FINANCIAL MEMBER

A Financial member of the Association is a member who:

Cil A member who on September 30 of the current financial year owed no dues to the Association Cexcept who has been exempted from payment of his membership fees in accordance with Rule 4114;

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subscriptions by instalment in a manner approved by a Branch Committee pursuant to Rule 39C31] Cexcept a member who is paying subscriptions in accordance with Rule 43ACcI[]];

A member who has been admitted or readmitted to membership of the Association and has paid all dues in accordance with Rule 39f6b1.

Cb] A financial member is entitled to all

rights

and privileges and benefits of

membership of the Association but shall

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eligible for election:

as member of a Branch Appeal Committee unless he/she has been a financial member of the Association for the preceding ten years.

as member of a Branch Judiciary Committee unless he/she has been a financial member of the Association for the preceding five years.

as a Federal President, Federal

Vice-President or Federal Secretary unless he/she has been

a financial member of the

Association for the preceding three years.

as President, Vice-President, Treasurer or Secretary of a Branch unless he/she has been a financial member of the Association for the preceding three years.

as a Branch Delegate to Federal Council unless he/she has been a financial member of the Association for the preceding three years.

as a member of a Branch Committee unless he/she has been a financial member of the Association for the preceding year.

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A member's membership of an organisation with which the Association has reciprocal rights shall count as membership of the Association for the purpose of sub-clause [b] of this Clause.

A financial member is entitled to be issued with a card which identifies him during its currency as a financial member of the Association.

Notwithstanding anything to the contrary in these Rules, to be eligible to stand for election to any office established by, or specified in, these Rules for which an election is required, a member, other than a member to whom Rule 43f(a)(1) applies, must at the close of nomination for such office, owe no dues to the Association. For the purposes of Rule 33E(b)(2) a financial member

nominating another financial member for election to an office in a Branch must, unless the member is a member to whom Rule 43Ea(1) applies, owes no dues to the Association at the close of nominations for such office.

PAID UP MEMBERS

A paid-up member of the Association is a member who has paid all arrears to the Association, including his/her subscriptions for the current financial year ending June 30th next.

A paid-up member is entitled to all privileges, benefits and responsibilities of financial membership as specified in Rule 43Ea, Cb1 and [Ecl.

A member who has paid all his/her arrears and has entered into a contract in a payroll deduction scheme for the payments of the current year's subscription shall be deemed to be a Paid Up Member.

A paid-up member is entitled to be issued with a card which identifies him during its currency as a paid-up member of the Association.

UNFINANCIAL MEMBER

An unfinancial member of the Association is a member who:

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Cid On September 30 of the current financial year owed no dues to the Association fexcept a member who has been exempted from payment of his membership fees in accordance with Rule 411].

Ciil Has been admitted or re-admitted to the Association since June 30 of the next preceding financial year and has not paid his full membership fees in accordance with Rule 39LEb4.

Cb] An unfinancial member shall not be

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entitled to:

Cl] any of the rights, privileges and benefits of the Association; E23 hold any office in the Association;

£33 nominate for election to any office;

C41 nominate any candidate for

election to any office; (51 vote on any matter; (61 receive notice of any meeting; E71 take part in any meeting or proceedings connected with the

Association;

E81 receive copies of 'The Journalist' or any report or document issued by the Association.

An unfinancial member shall not be denied the right to have any personal complaint concerning the Association administration considered by Federal Council, Federal Executive or by his Branch, sub-Branch or Division.

HONORARY MEMBERSHIP

The Committee of a Branch or a Division may create an Honorary Membership and by resolution may transfer to such membership any financial member or former member who has been a member of the Association for not less than 10 years and who has rendered valuable assistance in promoting the Objects of the Association and who is not employed on work defined in rule 2 and any foundation member of a Branch.

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"Dues" is defined in Rule 2A to mean any money due and

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Honorary Members shall not pay any dues to the Association and shall not exercise any voting power. They shall be entitled only to receive notice of any General Meeting, to attend and speak at such meetings, to receive copies of 'The Journalist' and any report or document issued by the Association to the general membership.

Honorary Members on obtaining employment in work defined in Rule 2 may be re-admitted to membership without entrance fee on making application in accordance with Rule 37.

RESERVE MEMBERSHIP

Any member who is absent from Australia or who has not been employed for six months or more on work defined in Rule 2 and who desires to retain some form of membership with the Association, may at the discretion of the Committee of the Branch or Division be transferred from full membership to Reserve Membership.

Reserve Members shall not pay any dues to the Association and shall not exercise any voting power.

Reserve Members shall not be included in the membership of the Branch or Division, but a list of Reserved Members may be published in the annual report.

A Reserve Member on obtaining employment in Australia in work defined in Rule 2 and on payment of dues shall be transferred by the Committee to financial membership and shall then be entitled to all rights, privileges and benefits of membership.

At the discretion of Federal Executive copies of 'The Journalist' shall be sent to retired A.J.A. members nominated by a Branch."

payable to the Association.

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Rule 55 provides for the Federal Council to confer

"Honorary Life Membership of the Association". Rule 55£e]

provides that Honorary Life Members are to have "all the

rights and privileges of financial members of the

Association".

The answer to the first question, whether the rules of the Association require that a person nominating for election to the office of Assistant Federal Secretary shall have been a financial member of the Association for the preceding three years, depends upon the resolution of the inconsistency, or the apparent inconsistency, between Rule 10CwI and Rule 43£b1]. The text of these rules has already been set out. The latter rule makes plain that a financial member is

entitled to all the rights, privileges and benefits of membership of the Association with the qualification that such a member is not eligible for election to the various offices in the Association unless he or she has been a financial member for a specified period of years. Different periods are specified in respect of different offices. What is curious is that the rule makes no provision as to eligibility for election to the office of Assistant Federal Secretary. One may speculate, but it can be no more than speculation as no evidence was placed before the Court in relation to the matter, that the rules did not originally provide for an office of Assistant Federal Secretary and that, when the rules were amended to provide for that office, the appropriate amendment to Rule 43[b] was

inadvertently overlooked. Rule 10 identifies who are the

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Federal Officers of the Association and is concerned with their terms and conditions of service, their rights and their election to office. Rule 10£w] relates to the filling of a casual vacancy in the office of Federal Secretary or the office of Assistant Federal Secretary and, after referring to the appointment of a Returning Officer to call for nominations from financial members of the Association to fill the casual vacancy adds, in parenthesis, "who shall have been financial members of the Association for at least the preceding three years". The question is whether the effect of those words is to add, in the case of a nomination for the office of Assistant Federal Secretary, a requirement

for eligibility to the requirements set out in Rule 43{£b}.

Counsel for the applicant submitted that Rule 43Cb] was the rule primarily concerned with eligibility for election to the various offices, including the Federal offices, within the Association; that Rule I10££w] had a different purpose; and that the requirement in that rule that the person nominating has been a financial member for at least the three years preceding nomination was to be read not as an operative provision but as reflecting, albeit

incorrectly, the requirements set out in Rule 43{fb}.

Support for this view was to be found, he submitted, in the circumstance that Rule 10fCw] was primarily concerned with a different subject matter and the reference to eligibility appeared in parenthesis, thereby indicating that it was not

the operative provision.

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It may be noted that Rule 100£s1, which deals with the periodic elections for the offices of Federal Secretary and Assistant Federal Secretary contains a provision concerning eligibility for nomination in similar terms to that in Rule 10Ew]. So does Rule 28Cel relating to the election of the Secretary of a Branch. The provision in Rules 10fs3, 10LwJ and 28€e] may be contrasted with the provision in Rule 10Chij which, in making financial membership of the Association the test of eligibility for nomination for election to the office of Federal President and the two Federal Vice~Presidents, provides that that requirement is "subject to Rule 43Eb3LiJ". It may be noted, in passing, that the reference to Rule 43CbDILiJ appears to be incorrect - Rule 43£bILiiiJ appears to be intended. This latter formula, that is by referring to Rule 43£b], is also used in referring to the calling for nominations for election as Branch Officers, members of the Branch Committee, Branch Delegates to Federal Council and representatives on the Judiciary Committee and the Appeal

Committee (see Rule 33EbIC1ICi1).

Attractive as it at first seems, as a means of resolving the first question, to read Rule 10[w] as making no substantive provision concerning eligibility to nominate for election to the office of Federal Secretary or the office of Assistant Federal Secretary but as doing no more than re-stating, albeit inaccurately, what is substantively prescribed in Rule 43Cb1]Liiil, I have, after considering the

rules as awhole, concluded that there is insufficient

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justification for giving no effect to the relevant words of Rule 10fWJ. Whether an examination of the history of the rules would throw light on the matter I am unable to say as

the necessary material to enable that examination to be made is not before the Court. Had the draftsman of Rule 10Ew] adopted the approach which is reflected in Rules 10h] and 33f£bIC1ICiI of treating Rule 43CbI as relevantly prescribing, at least as to the period during which a candidate for office must have been a financial member of the Association, the rules of eligibility, the present problem would not have arisen. However, he chose in Rule 10f0w], as he also did in Rules 10£s] and 28£el, to make express provision concerning eligibility by reference to years of financial membership. Effect must, I think, be

given to that express provision.

I, therefore, conclude that the first question must be answered in the affirmative, that is to say, the rules of the Association, on their proper construction, require that a person nominating for election to the office of Assistant Federal Secretary shail have been a financial member of the

Association for the preceding three years.

I turn now to the second question, whether the

applicant satisfies that requirement.

It is not in dispute that, upon the applicant taking up residence in Fiji, the Committee of the Canberra

Branch of the Association, pursuant to Rule 46Cal,

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transferred her "from full member ship to Reserve Membership". It may be assumed, though there is no material before the Court to establish the fact, that, upon her return to Australia in January 1985, she was transferred by

the Committee "to financial membership" pursuant to Rule

46Cdl.

Counsel for the first respondent submitted that the provisions of Rule 46[d1] were decisive of the question and required that it be answered in the negative. By providing for the applicant's transfer "to financial membership" upon her return, the rule made plain that, during the period of reserve membership, the applicant was not a financial member of the Association. Unless that were the position the

language of rule 46fd] could be given no force or effect.

Counsel for the applicant, on the other hand, submitted that the reference in Rule 46f£d]J to "financial membership", when read in its context, was a synonym for the expression "full membership" in Rule 46a]. In his submission, the question whether the applicant was a financial member of the Association for the three years preceding 11 May 1987, the date of her nomination, was to be answered by reference to Rule 43£LaJ[i]. The question which that rule posed, it was submitted, was whether on 30 September in each relevant financial year the applicant "owed no dues to the Association", a question which must, in the case of the financial years when the applicant was in Fiji, be answered in the affirmative because, as a Reserve Member, no dues were payable (Rule 46[b]).

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Rule 43Lal provides three tests which are independent of each other for determining whether a member of the Association is a financial member. The first test, unlike the other two, refers to the situation existing on "September 30 of the current financial year". It is not clear whether a member of whom it can be said that on that date he "owed no dues to the Association" is a financial member for the remainder of the current financial year or until 30 September of the next financial year. Unless the latter is its effect, it is difficult to see how its provisions assist in

determining who are the financial members of the Association between 1 July and 30 September in any financial year. Fortunately, however, that question

does not arise in the present case.

A member will "owe" no dues to the Association if his membership fee for the current financial year, which would have become due and payable on the preceding 1 July, has been paid in full prior to 30 September and no other moneys by way of levy or fine are then outstanding. It may not be entirely clear that a member who, pursuant to Rule 41, had been granted prior to 30 September exemption from payment of his membership fee is properly to be regarded as a member "who owed no dues to the Association" on that date. The doubt is, however, removed by the words in brackets which, reflecting the provisions of Rule 41£h] that a member in that situation is not to be regarded as a financial or,

indeed, an unfinancial member of the Association.

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The second test set out in Rule 43£aJ relates to a member who has been permitted pursuant to Rule 39£eqi - incorrectly referred to as Rule 39£32 - to pay his membership fee by instalments. So long as such a member "is paying" his current subscription in the manner approved by the relevant Branch Committee he is to be regarded as a financial member. However, there is, again, an exception. A member who was in arrears but who has paid those arrears and entered into a contract in a payroll deduction scheme for the payment of the current year's subscription (Rule 43ACc) is excluded from financial membership. This is apparently the case notwithstanding that, by Rule 43ALb], a paid-up member is to be entitled to all privileges, benefits and responsibilities of financial membership. The fact that the member has failed to pay any levy or fine imposed upon

him is irrelevant when applying the test prescribed by Rule

43Calliil.

The third test set out in Rule 43CaJ asks whether the member has paid all dues in accordance with Rule 39[b1]. That rule provides for a member who is admitted to membership during the course of a financial year to pay only a proportion of the full membership fee. The word "dues" appears to be used in Rule 43EaICiil not in its defined sense of any money due and payable to the Association but as referring only to the membership fee. Again, the failure to pay any levy or fine is of no consequence so far as this test is concerned.

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A curious feature of Rules 43EaIEiJ and 44falCiJ is that almost identical language is used with the consequence that a member who on 30 September owed no dues to the Association is both a financial member (Rule 43fa3Lijd) and an unfinancial member (Rule 44faIEid). Presumably Rule 44CaiCil is intended to be read as if the word "no" before "dues" was omitted. How one should deal with the words in

parenthesis in the latter rule is not so clear.

In my opinion, the pattern emerges from reading the rules as a whole that Rules 43 and 44 are concerned only with those members of the Association upon whom a liability to pay membership fees falls by virtue of the provisions of Rule 39fad. Such a liability does not fall on a person who has been transferred to Honorary Membership pursuant to Rule 45, to Reserve Membership pursuant to Rule 46 or to Honorary Life Membership pursuant to Rule 55. Of those three classes of members, only Honorary Life Members are, by virtue of express provision in the rules, to have the rights and privileges of financial membership (Rule 55EeJ). That rule May not have the result that an Honorary Life Member becomes a financial member - all that the rule provides is that such

a member is to have the same rights and privileges.

If Honorary Members and Reserve Members are to be regarded as financial members of the Association, the

curious result would follow that they would enjoy greater

rights and privileges than a member who was exempted from

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payment of his membership fees pursuant to Rule 41 anda

member who is deemed to be a paid-up member by Rule 43Afc]. Such a result should not be accepted unless the language is compelling. In my view, Rule 43£La] is open to the construction which I prefer and to construe it in that way seems to me to be consistent with the intention of the draftsman to be gleaned from a consideration of the various

rules in their context.

I would, therefore, answer the second question by saying that the applicant did not, at the time of nominating for election to the office of Assistant Federal Secretary, satisfy the requirement of Rule 10fwJ. It follows that she has not demonstrated that any irregularity occurred on the part of the first respondent in rejecting her nomination.

The application is, therefore, dismissed. in

accordance with s.i97A of the Act, I make no order as to

costs.

I certify that this and the preceding 20 pages are a true copy of the Reasons for Judgment herein of the

Honourable Mr Justice Neaves. Associate

Dated: 25 June 1987

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22.

Counsel for the applicant Solicitors for the applicant

Counsel for the first respondent Solicitor for the first respondent

Counsel for the second respondent

Solicitors for the second respondent:

Date of hearing

. :

Mr R.C. Refshauge Macphillamy Cummins & Gibson

Mr C. Erskine Australian Government Solicitor

Mr J.W. Nolan Turner Freeman

16 June 1987

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