

"There seems no direct statement as to what rules a society may enact. Section 31 of the Act of 1909 provides that no amendment of rules shall be registered unless the rules as amended contain all the provisions that would be required in such rules in accordance with the Second or Third Schedules of the Act. The Second Schedule deals with the rules of societies, and the Third Schedule with the rules of branches. There is nothing very precise in these rules. Rules can be altered: but I apprehend that rules, like other laws, can speak only from their registration. What Rule 22 (f) purports to do is to demand from a branch a return of benefits paid to the branch and which the branch has disbursed to its members. It is, as was put by Mr. Skerrett, to demand from the shareholders of a company the dividends paid to them. It is even more than that, for the sick-benefits paid were paid in pursuance with the rules, and it is ordering that these benefits be repaid.

"It is not unusual for friendly societies by rules to make levies on branches or courts; but I am not aware that it has been held that they may make a levy that bears unequally on branches, and that is not in conformity with some general principle. This rule, if it can be construed as a levy, is not on the principle of equality. It is making a levy by seeking to set aside or treat as null a rule that has been in existence and has been acted upon.

"Further, the rule may have the effect of taking all the Sick and Funeral Fund: and it was stated that in one court this would happen, thus preventing members getting possible funeral benefits, for the lodge may have no money to reinsure its members for funeral benefits. Were this to happen the provisions of section 40 of the Friendly Societies Act, 1909, would be violated, for no funds for funeral benefits would be left.

"The power to alter rules is not clear: Rule 39 (h) shows how rules can be altered. It reads as follows:—

"39. (h.) Any courts wishing to make or alter any of these rules shall summon a meeting of the whole court for that purpose, and should the court sanction an alteration in any rule or prepare a new one, notice thereof, duly certified by C.R., S.C.R., and secretary, with court seal attached, shall be sent to the district secretary and each court in the district at least two months prior to a district meeting, at which meeting such new or amended rule shall be brought forward for confirmation or rejection. The executive shall also have power to prepare any new rule or the amendment of any district or subordinate court rule, and it is hereby provided that a copy of all proposed alterations to rules by the executive shall be sent to each court at least two months prior to a district meeting, at which they shall be brought forward for confirmation or otherwise."

"I assume, however, that this rule is sufficient to authorize the society to alter the rules, and the altered rule would bind a member of the society; and a branch or lodge or court is a member. How far this power of alteration can go is seen in *Allen v. Gold Reefs of West Africa (Limited)* (1900, 1 Ch. 657) in the case of a company, in *Smith v. Galloway* (1898, 1 Q.B. 71) in the case of a friendly society, in *Pepe v. City and Suburban Permanent Building Society* (1893, 2 Ch. 311) in the case of a building society, in *Baily v. British Equitable Assurance Company* (1904, 1 Ch. 374), reversed on appeal (1906, A.C. 35), in the case of an assurance company. These are all cases—and more might be quoted—in which it is clear that where there is a legal power in a company or society the members are subject to it in their future relations with the company or society. All these cases are applicable when considering the new Rule 22 (g); but Rule 22 (f) is not the alteration of a rule to affect future cases, but it is the negation and repeal of a subsisting rule and current arrangement. It is treating the existing rules as having been non-existent and ordering moneys paid under them to be returned. This is more than what is called a retrospective or retroactive law. Such a law may modify or even destroy existing rights. This law does more: it orders a matter ended and concluded to be reopened and dealt with as if the law now enacted had been in existence in the past. As to retrospective by-laws see *Smith v. Cox* (1910, 13 Gaz. L.R. 181); *Smith v. New Zealand Express Company* (1910, 13 Gaz. L.R. 183).

"The question is, Has the fact that the rules were registered made them valid? Our statute has not the words used in the statute 4 and 5 Will. IV, cap. 40, sec. 4 (referred to in *Dewhurst v. Clarkson* (1854, 3 E. & B. 194), and in *Osborne v. Amalgamated Society of Railway Servants* (1909, 1 Ch. 163; 1910, A.C. 87), making the rules binding on all members and officers. Further, the rules of a friendly society must be 'consistent with the requirements of the Friendly Societies Act and the law of New Zealand.' It was admitted by counsel for the defendants that if an amending rule were not consistent with the Act and with the laws of New Zealand, this Court had power to declare the amending rule *ultra vires*, and that it was not necessary to invoke the aid of the forum set up in the rules.

"I am of opinion that the proposed alteration in Rule 22 (f) goes beyond a mere alteration, and is not in accordance with the rules. I am further of opinion that Rule 22 (f) may take all the Sick and Funeral Fund, and will do so in the case of one court, and leave nothing for funeral benefits. It is a violation of section 40 to take a Sick and Funeral Fund and apply it to one object only.

"For these reasons I am of opinion that the Court should, so far as paragraph (f) is concerned, make the order asked for and grant an injunction if the defendants attempt to carry out the provisions of Rule 22 (f)."

OWNERSHIP OF HALL.

It is found that there frequently exists considerable doubts as to the particular fund that can legally claim the hall property of a society as an asset. Many of these properties have been acquired years ago, and the mode of financing their purchase is lost in obscurity. What has repeatedly come before the Department is the fact that lodges have financed hall properties out