

**MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Article 146: Rule 160)**

**Case Stated by Magistrates' Court**

**IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND**

**On Appeal by way of Case Stated under the  
Magistrates' Courts (Northern Ireland) Order 1981**

**BETWEEN:**

**CHIEF INSPECTOR W McCLENAGHAN  
ROYAL ULSTER CONSTABULARY**

*Complainant/Appellant*

**AND**

**THE FIRST EAST BELFAST LIVERPOOL SUPPORTERS' CLUB,  
JOHN McCANDLESS, JOHN NICHOL, THOMAS NICHOL,  
DAVID LAVERTY, THOMAS J NICHOL, DAVID BERRY,  
GEORGE FERGUSON, WILLIAM STITT, DAVID STEVENSON  
AND JOSEPH THOMPSON**

*Defendants/Respondents*

**CASE STATED**

**by John P Clery, Resident Magistrate, in respect of his adjudication  
at a Magistrate's Court sitting at Belfast in the County Court  
Division of Belfast on the 20th day of May 1999.**

1. The above named Defendants/Respondents appeared before me on the 20th day of May 1999 to answer the complaints set out in the First Schedule annexed hereto.
2. The complaints arose as a result of a Police investigation of the running of the Defendant/Respondent Club, which commenced when certain matters were brought to the attention of the Police by the accountants brought in by the officers of the Club to investigate its accounts.

Despatched the within Case Stated to Department of the  
Director of Public Prosecutions, Solicitor for Appellant,  
this 2nd day of September 1999.

  
Clerk of Petty Sessions

3. In consequence, the first named Defendant, a registered Club, pleaded guilty to the seven offences set out in the First Schedule hereto and the other Defendants pleaded guilty to the various offences alleged against them in the said First Schedule, the said various offences having been committed on the following dates as set forth in the said First Schedule, namely "a date unknown between the 31st day of March 1998 and the 15th day of May 1998, the 28th day of April 1998, the 1st day of May 1998, the 1st day of May 1998, the 24th day of July 1998, the 24th day of July 1998 and the 27th day of July 1998".
4. The facts of the case, insofar as material to the point of law herein, as stated by prosecution and defence counsel, were as follows:-

The club and its officials failed to submit the statement of annual accounts for the year 1997, that being an obligation arising from 31 March 1998 onwards. Police visited the club at the end of April 1998 and on succeeding days. At those times the club and its officers failed to comply with a police requirement to produce certain documents relating to the club finances and inspections revealed that the club did not have the prescribed vouchers relating to transactions, assets and liabilities, and did not have in place a prescribed system of control of accounts, etc. Police warned that action would be considered and advised that they would return at a future date to ascertain if the matters would be rectified. Police visited the club premises at 24 July 1998 and found that the club continued to have no prescribed vouchers and system of control and served a further notice to produce documents relating to the club finances which was not complied with.

On behalf of the club and the other defendants it was stated to me by counsel for the defendants that the official on whom responsibility for the above matters had been devolved was, during this period, in a state of health which handicapped him in the execution of his duties. They pointed out that in the previous history of the club neither it nor any official had been convicted of any similar offence.

I accepted all the above assertions of fact.

The prosecution submitted to me that for the purpose of imposing penalty points under the Registration of Clubs (Northern Ireland) Order 1996, there were at least 3 "occasions" out of which the offences arose. Counsel for the defendants submitted that the offences arose out of one continuing state of affairs and constituted one occasion.

I decided that the defendant submission that there was one occasion was correct.

5. By Order made on the 20th day of May 1999, as varied by Article 158A of the Magistrates' Courts (Northern Ireland) Order 1981, I imposed fines, together with concurrent penalty points, which meant that the total of penalty points against each Defendant was eight.

6. The question for the Opinion of the Court of Appeal is:-

"Was I correct in law in holding that the various offences should be treated as having been committed on the same occasion?"