case, expressed in the trenchant and powerful words already quoted by Lord Denning M.R., seems to have disappeared largely from the judicial landscape, for in no case thereafter, as far as we have been apprised, was it even referred to, still less considered. The question that accordingly looms large is, what should this court in the present case now do? Are we to say that Lord Hardwicke must be brushed aside, and that counsel for the appellant is not entitled to claim that on any view there is here a difficult question which ought to be investigated further and which can properly be investigated only by ascertaining all the facts? In *Craies*, p. 587, it is pointed out that in the old cases (*M'Kenzie* v. *Stewart* and *Biddulph* v. *Biddulph* (1790) 5 Cru.Dig. 34 decided by the House of Lords in 1790) there was no discussion of the proposition there acted upon that the court may go behind private statutes and, if satisfied that they were obtained by fraud, decline to act upon them. The editor then adds, at p. 587: "The question has never been seriously discussed in any modern case."

For my part, I think it is now high time that the matter should be discussed. Furthermore, there are features of this present case which appear to me to make it highly desirable in the public interest that they should be.

For those reasons I concur with Lord Denning M.R. that this appeal should be allowed.

STEPHENSON L.J. I agree that the paragraphs struck out by the master and the judge raise an arguable point of law and that this appeal should therefore be allowed. Like my Lords, I cannot and do not indicate what the outcome of the argument should be. I say only this, that I am convinced by *M'Kenzie* v. *Stewart*, to which my Lords have referred, and I would add *Green* v. *Mortimer* (1861) 3 L.T. 642, that the question whether there has been an abuse of the Parliamentary procedure which regulates unopposed private Bills may be a question for the courts as well as for Parliament in a suit brought by a person who claims that by the alleged abuse he has been deprived of a proprietary right without compensation.

Appeal allowed with costs in Court of Appeal and below, including costs before master.
Paragraphs 3 and 4 of reply restored.
Discovery in 28 days.
Leave to appeal refused.

Solicitors: *Field, Fisher & Martineau for Tanner, Vowles & Cheshire, Bristol, Solicitor, British Railways Board; Lovell, White & King.*

M. M. H.

[COURT OF APPEAL]

JARVIS *v.* SWANS TOURS LTD.

[Plaint No. 7051904]

1972 Oct. 17, 18 — Lord Denning M.R., Edmund Davies and Stephenson L.JJ.

Damages—Contract—Breach—Mental distress—Breach of holiday contract—Whether damages for disappointment at loss of promised facilities for enjoyment recoverable

In August 1969 the plaintiff, a solicitor aged about 35, booked a 15 day Christmas winter sports holiday with the defendants for his annual fortnight's holiday. He did so on the faith of the defendants' brochure which described the named "house party centre" in very attractive terms. He paid the defendants' charges of £63·45. The holiday was a great disappointment to the plaintiff who claimed damages including general damages for inconvenience and loss of benefit. The county court judge found that for the first week he got a holiday which was to some extent inferior and, for the second week, a holiday which was very largely inferior to what he had been led to expect and awarded him £31·72 damages.

On the plaintiff's appeal against the amount of damages:—

Held, allowing the appeal, that the plaintiff was entitled to be compensated for his disappointment and distress at the loss of the entertainment and facilities for enjoyment which he had been promised in the defendants' brochure and his damages should be increased to £125.

Per curiam. In a proper case, including a contract for a holiday, damages can be recovered for mental distress and vexation (post, pp. 237H—238A, 239E–G, 240G—241A).

Dicta of Pollock C.B. in *Hamlin* v. *Great Northern Railway Co.* (1856) 1 H. & N. 408, 411 and Mellor J. in *Hobbs* v. *London & South Western Railway Co.* (1875) L.R. 10 Q.B. 111, 122 not followed.

The following cases are referred to in the judgments:

Bailey v. *Bullock* [1950] 2 All E.R. 1167.
Bruen v. *Bruce (Practice Note)* [1959] 1 W.L.R. 684; [1959] 2 All E.R. 375, C.A.
Feldman v. *Allways Travel Service* [1957] C.L.Y. 934.
Griffiths v. *Evans* [1953] 1 W.L.R. 1424; [1953] 2 All E.R. 1364, C.A.
Hamlin v. *Great Northern Railway Co.* (1856) 1 H. & N. 408.
Hobbs v. *London & South Western Railway Co.* (1875) L.R. 10 Q.B. 111.
Stedman v. *Swan's Tours* (1951) 95 S.J. 727, C.A.

The following additional case was referred to in argument:

Farnworth Finance Facilities Ltd. v. *Attryde* [1970] 1 W.L.R. 1053; [1970] 2 All E.R. 774, C.A.
Pearce v. *Lunn-Poly* [1968] C.L.Y. 528.
Pollock (W. & S.) & Co. v. *Macrae*, 1922 S.C. (H.L.) 192, H.L.(Sc.)

APPEAL from Judge Corley at Ilford County Court.

By his particulars of claim the plaintiff, James Walter John Jarvis, claimed against the defendants, Swans Tours Ltd., that on or about August 10, 1969, he entered into a contract with the defendants by which he promised to pay them £63·45 and the defendants in consideration thereof granted him the right to partake of package holiday facilities (called "Swans houseparty in Mörlialp") described in their brochure and in the form upon which they confirmed the reservation of the facilities. The plaintiff claimed the breach by the defendants of a fundamental term of the contract that they should arrange "a Swans Houseparty at the Hotel Krone at Giswil, Switzerland" in that there was no houseparty at all during the second week of his holiday and breaches of express and implied terms of the contract. He claimed that the £63·45 had been paid for a consideration which had wholly failed and that in consequence of the defendants' breach of contract he had lost the benefit of his two weeks' paid leave of absence with the benefit of a winter holiday. Special damages of £63·45 (the cost of holiday) and £93·25 (salary for two weeks) with general damages for inconvenience and loss of benefit were claimed.

On March 2, 1972, in the Ilford County Court Judge Corley awarded the plaintiff £31·72 damages.

The plaintiff appealed on the ground, inter alia, that the judge had failed to give compensation or adequate compensation for inconvenience and for loss of benefit which the plaintiff reasonably expected to derive from the contract had it been properly performed by the defendants.

The facts are stated in the judgment of Lord Denning M.R.

S. N. Parrish for the plaintiff. There was here a fundamental breach of contract by the defendants going to the root of the contract: see *per* Lord Denning M.R. in *Farnworth Finance Facilities Ltd.* v. *Attryde* [1970] 1 W.L.R. 1053, 1059–1060, citing *Charterhouse Credit Co. Ltd.* v. *Tolly* [1963] 2 Q.B. 683 and stating that no credit need be given for use since "the value of any use" was "offset by the great amount of trouble." The plaintiff's damages are not limited to the price which he paid for his ticket. He is entitled to damages for his feelings of "annoyance and frustration": see *Feldman* v. *Allways Travel Service* [1957] C.L.Y. 934 and *Stedman* v. *Swan's Tours* (1951) 95 S.J. 727.

As to defective performance of a contract, see *McGregor on Damages*, 13th ed. (1972), p. 24, para. 28: "In the case of an ordinary service contract . . . most loss will be consequential." As to the recovery of expenses rendered futile by the breach, see *McGregor on Damages*, 13th ed., p. 26, para. 32.

In many cases the inconvenience caused and the trouble given have resulted in the award of damages. The plaintiff had frustration, boredom and the discomfort of being unable to have communication with his fellows for a whole week. The county court judge gave no adequate compensation for the loss of benefit which the plaintiff could reasonably be expected to derive from the holiday for which he contracted. He should be awarded all his out of pocket expenses and the damages should be apportioned as claimed.

Peter K. J. Thompson for the defendants. The appeal is on a point of law. There is no challenge to the county court judge's findings of fact. It is not a case of a total failure of consideration. If there had been a total failure of consideration the question would have to be approached differently.

Once it is accepted that there was not a total failure of consideration, the proper approach to damages is to put on the one hand the value of the holiday, that is the price that the plaintiff was prepared to pay for it, and on the other hand what he got. The value of the holiday should be taken to be what the plaintiff was prepared to pay for it. The county court judge did not leave out of account boredom and frustration. He properly took into account the discomforts which he suffered. The plaintiff said that it was a mundane holiday, a bore. He had substantial benefit from his holiday. The judge was right to award the plaintiff the value of the holiday as promised, less the value what he actually got.

[LORD DENNING M.R. There is an intangible element about a ticket for a holiday.]

In the absence of other evidence the value of the holiday is what the plaintiff is prepared to pay for it. The price and the value to the purchaser will not always be the same, but the judge was right to equate the two in this case as there was no evidence before him that the value of the holiday exceeded the price.

The judge took the right matters into account. In *Bailey* v. *Bullock* [1950] 2 All E.R. 1167, an action against a firm of solicitors, the plaintiff recovered damages for inconvenience and discomfort but not for the annoyance and mental distress which he had suffered.

It was argued that it was wrong to give a single sum as damages and that they should have been apportioned.

[LORD DENNING M.R. We are all inclined to think that it was one contract and the damages should be assessed together.]

The cost of the holiday, including the second week, and salary for two weeks were claimed as special damages. The cost of the holiday is not special damages although it is a matter which could be taken into account if the causal nexus were established.

The crucial question is whether the judge's figure for damages is so low that it should be set aside.

On general damages it is accepted that a plaintiff who has suffered appreciable damage for physical inconvenience and discomfort is entitled to damages but one has to tread more carefully for mental suffering (see, for example, *Addis* v. *Gramophone Co. Ltd.* [1909] A.C. 488).

The note of the judgment of the county court judge was not submitted to him for approval: see *Bruen* v. *Bruce* [1959] 2 All E.R. 375 and R.S.C., Ord. 59, r. 19 (4) and the note to *The Supreme Court Practice* 1973, p. 865.

Parrish in reply referred to *W. & S. Pollock & Co.* v. *Macrae*, 1922 S.C. (H.L.) 192, alternative remedies for defects on sale, and *Pearce* v. *Lunn-Poly* [1968] C.L.Y. 528.

LORD DENNING M.R. Mr. Jarvis is a solicitor, employed by a local authority at Barking. In 1969 he was minded to go for Christmas to Switzerland. He was looking forward to a ski-ing holiday. It is his one

fortnight's holiday in the year. He prefers it in the winter rather than in the summer.

Mr. Jarvis read a brochure issued by Swans Tours Ltd. He was much attracted by the description of Mörlialp, Giswil, Central Switzerland. I will not read the whole of it, but just pick out some of the principal attractions:

> "House Party Centre with special resident host. . . . Mörlialp is a most wonderful little resort on a sunny plateau . . . Up there you will find yourself in the midst of beautiful alpine scenery, which in winter becomes a wonderland of sun, snow and ice, with a wide variety of fine ski-runs, a skating rink and exhilarating toboggan run . . . Why did we choose the Hotel Krone . . . mainly and most of all because of the 'Gemütlichkeit' and friendly welcome you will receive from Herr and Frau Weibel . . . . The Hotel Krone has its own Alphütte Bar which will be open several evenings a week . . . . No doubt you will be in for a great time, when you book this house-party holiday . . . Mr. Weibel, the charming owner, speaks English."

On the same page, in a special yellow box, it was said:

> "Swans House Party in Morlialp. All these House Party arrangements are included in the price of your holiday. Welcome party on arrival. Afternoon tea and cake for 7 days. Swiss dinner by candlelight. Fondue party. Yodler evening. Chali farewell party in the 'Alphütte Bar'. Service of representative."

Alongside on the same page there was a special note about ski-packs. "Hire of Skis, Sticks and Boots . . . Ski Tuition . . . 12 days £11·10."

In August 1969, on the faith of that brochure, Mr. Jarvis booked a 15-day holiday, with ski-pack. The total charge was £63·45, including Christmas supplement. He was to fly from Gatwick to Zurich on December 20, 1969, and return on January 3, 1970.

The plaintiff went on the holiday, but he was very disappointed. He was a man of about 35 and he expected to be one of a house party of some 30 or so people. Instead, he found there were only 13 during the first week. In the second week there was no house party at all. He was the only person there. Mr. Weibel could not speak English. So there was Mr. Jarvis, in the second week, in this hotel with no house party at all, and no one could speak English, except himself. He was very disappointed, too, with the ski-ing. It was some distance away at Giswil. There were no ordinary length skis. There were only mini-skis, about 3 ft. long. So he did not get his ski-ing as he wanted to. In the second week he did get some longer skis for a couple of days, but then, because of the boots, his feet got rubbed and he could not continue even with the long skis. So his ski-ing holiday, from his point of view, was pretty well ruined.

There were many other matters, too. They appear trivial when they are set down in writing, but I have no doubt they loomed large in Mr. Jarvis's mind, when coupled with the other disappointments. He did not have the nice Swiss cakes which he was hoping for. The only cakes for tea were potato crisps and little dry nut cakes. The yodler evening consisted of one man from the locality who came in his working clothes for a

little while, and sang four or five songs very quickly. The "Alphütte Bar" was an unoccupied annexe which was only open one evening. There was a representative, Mrs. Storr, there during the first week, but she was not there during the second week.

The matter was summed up by the judge:

> "During the first week he got a holiday in Switzerland which was to some extent inferior . . . and, as to the second week, he got a holiday which was very largely inferior"

to what he was led to expect.

What is the legal position? I think that the statements in the brochure were representations or warranties. The breaches of them give Mr. Jarvis a right to damages. It is not necessary to decide whether they were representations or warranties: because since the Misrepresentation Act 1967, there is a remedy in damages for misrepresentation as well as for breach of warranty.

The one question in the case is: What is the amount of damages? The judge seems to have taken the difference in value between what he paid for and what he got. He said that he intended to give "the difference between the two values and no other damages" under any other head. He thought that Mr. Jarvis had got half of what he paid for. So the judge gave him half the amount which he had paid, namely, £31·72. Mr. Jarvis appeals to this court. He says that the damages ought to have been much more.

There is one point I must mention first. Counsel together made a very good note of the judge's judgment. They agreed it. It is very clear and intelligible. It shows plainly enough the ground of the judge's decision: but, by an oversight, it was not submitted to the judge, as it should have been: see *Bruen* v. *Bruce* (*Practice Note*) [1959] 1 W.L.R. 684. In some circumstances we should send it back to the judge for his comments. But I do not think we need do so here. The judge received the notice of appeal and made notes for our consideration. I do not think he would have wished to add to them. We will, therefore, decide the case on the material before us.

What is the right way of assessing damages? It has often been said that on a breach of contract damages cannot be given for mental distress. Thus in *Hamlin* v. *Great Northern Railway Co.* (1856) 1 H. & N. 408, 411 Pollock C.B. said that damages cannot be given "for the disappointment of mind occasioned by the breach of contract." And in *Hobbs* v. *London & South Western Railway Co.* (1875) L.R. 10 Q.B. 111, 122, Mellor J. said that

> "for the mere inconvenience, such as annoyance and loss of temper, or vexation, or for being disappointed in a particular thing which you have set your mind upon, without real physical inconvenience resulting, you cannot recover damages."

The courts in those days only allowed the plaintiff to recover damages if he suffered physical inconvenience, such as having to walk five miles home, as in *Hobbs'* case; or to live in an over-crowded house, *Bailey* v. *Bullock* [1950] 2 All E.R. 1167.

I think that those limitations are out of date. In a proper case damages

for mental distress can be recovered in contract, just as damages for shock can be recovered in tort. One such case is a contract for a holiday, or any other contract to provide entertainment and enjoyment. If the contracting party breaks his contract, damages can be given for the disappointment, the distress, the upset and frustration caused by the breach. I know that it is difficult to assess in terms of money, but it is no more difficult than the assessment which the courts have to make every day in personal injury cases for loss of amenities. Take the present case. Mr. Jarvis has only a fortnight's holiday in the year. He books it far ahead, and looks forward to it all that time. He ought to be compensated for the loss of it.

A good illustration was given by Edmund Davies L.J. in the course of the argument. He put the case of a man who has taken a ticket for Glyndbourne. It is the only night on which he can get there. He hires a car to take him. The car does not turn up. His damages are not limited to the mere cost of the ticket. He is entitled to general damages for the disappointment he has suffered and the loss of the entertainment which he should have had. Here, Mr. Jarvis's fortnight's winter holiday has been a grave disappointment. It is true that he was conveyed to Switzerland and back and had meals and bed in the hotel. But that is not what he went for. He went to enjoy himself with all the facilities which the defendants said he would have. He is entitled to damages for the lack of those facilities, and for his loss of enjoyment.

A similar case occurred in 1951. It was *Stedman* v. *Swan's Tours* (1951) 95 S.J. 727. A holiday-maker was awarded damages because he did not get the bedroom and the accommodation which he was promised. The county court judge awarded him £13·15. This court increased it to £50.

I think the judge was in error in taking the sum paid for the holiday £63·45 and halving it. The right measure of damages is to compensate him for the loss of entertainment and enjoyment which he was promised, and which he did not get.

Looking at the matter quite broadly, I think the damages in this case should be the sum of £125. I would allow the appeal, accordingly.

EDMUND DAVIES L.J. Some of the observations of Mellor J. in the hundred-year-old case of *Hobbs* v. *London & South Western Railway Co.*, L.R. 10 Q.B. 111, 122–124 call today for reconsideration. I must not be taken to accept that, under modern conditions and having regard to the developments which have taken place in the law of contract since that decision was given, it is right to say, as Mellor J. did at p. 122 that:

> "for the mere inconvenience, such as annoyance and loss of temper, or vexation, or for being disappointed in a particular thing which you have set your mind upon, without real physical inconvenience resulting, you cannot recover damages. That is purely sentimental, and not a case where the word inconvenience, as I here use it, would apply."

On the contrary, there is authority for saying that even inconvenience that is not strictly physical may be a proper element in the assessment of damages. In *Griffiths* v. *Evans* [1953] 1 W.L.R. 1424, in the course of a dissenting judgment where a solicitor was being sued for negligence in wrongly advising a plaintiff as to his right to sue his employers at common

law, Denning L.J. said at p. 1432 that the damages should be assessed "by taking into account the inconvenience and expense to which the plaintiff will be put in suing the employers, and the risk of failure."

Be that as it may, Mellor J. was dealing with a contract of carriage and the undertaking of the railway company was entirely different from that of the defendants in the present case. These travel agents made clear by their lavishly illustrated brochure with its ecstatic text that what they were contracting to provide was not merely air travel, hotel accommodation and meals of a certain standard. To quote the assurance they gave regarding the Mörlialp House Party Centre, "No doubt you will be in for a great time, when you book this House Party Holiday." The result was that they did *not* limit themselves to the obligation to ensure that an air passage was booked, that hotel accommodation was reserved, that food was provided and that these items would measure up to the standards they themselves set up. They went further than that. They assured and undertook to provide a holiday of a certain quality, with "Gemütlichkeit" (that is to say, geniality, comfort and cosiness) as its overall characteristics, and "a great time," the enjoyable outcome which would surely result to all but the most determined misanthrope.

If in such circumstances travel agents fail to provide a holiday of the contracted quality, they are liable in damages. In assessing those damages the court is not, in my judgment, restricted by the £63·45 paid by the client for his holiday. Nor is it confined to matters of physical inconvenience and discomfort, or even to quantifying the difference between such items as the expected delicious Swiss cakes and the depressingly desiccated biscuits and crisps provided for tea, between the ski-pack ordered and the miniature skis supplied, nor between the "very good . . . houseparty arrangements" assured and the lone wolf second week of the unfortunate plaintiff's stay. The court is entitled, and indeed bound, to contrast the overall quality of the holiday so enticingly promised with that which the defendants in fact provided.

In determining what would be proper compensation for the defendants' marked failure to fulfil their undertaking I am of the opinion that, again to use Mellor J.'s terms [L.R. 10 Q.B. 111, 122], "vexation" and "being disappointed in a particular thing you have set your mind upon" *are* relevant considerations which afford the court a guide in arriving at a proper figure.

When a man has paid for and properly expects an invigorating and amusing holiday and, through no fault of his, returns home dejected because his expectations have been largely unfulfilled, in my judgment it would be quite wrong to say that his disappointment must find no reflection in the damages to be awarded. And it is right to add that, in the course of his helpful submissions, Mr. Thompson did not go so far as to submit anything of the kind. Judge Alun Pugh took that view in *Feldman* v. *Allways Travel Service* [1957] C.L.Y. 934. That, too, was a holiday case. The highly experienced senior county court judge there held that the correct measure of damages was the difference between the price paid and the value of the holiday in fact furnished, "taking into account the plaintiff's feelings of annoyance and frustration."

The trial judge clearly failed to approach his task in this way, which in my judgment is the proper way to be adopted in the present case. He said:

> "There is no evidence of inconvenience or discomfort, other than that arising out of the breach of contract and covered by my award. There was no evidence of physical discomfort, e.g., bedroom not up to standard."

His failure is manifested, not only by these words, but also by the extremely small damages he awarded, calculated, be it noted, as one half of the cost of the holiday. Instead of "a great time," the plaintiff's reasonable and proper hopes were largely and lamentably unfulfilled. To arrive at a proper compensation for the defendants' failure is no easy matter. But in my judgment we should not be compensating the plaintiff excessively were we to award him the £125 damages proposed by Lord Denning M.R. I therefore concur in allowing this appeal.

STEPHENSON L.J. I agree. What damage has the plaintiff suffered for the loss to him which has resulted from the defendants' breaches of this winter sports holiday contract and was within the reasonable contemplation of the parties to this contract as a likely result of its being so broken? This seems to me to be the question raised by this interesting case.

The judge has, as I understand his judgment, held that the value of the plaintiff's loss was what he paid under the contract for his holiday; that as a result of the defendants' breaches of contract he has lost not the whole of what he has paid for, but broadly speaking a half of it; and what he has lost and what reduces its value by about one half includes such inconvenience as the plaintiff suffered from the holiday he got not being, by reason of the defendants' breaches, as valuable as the holiday he paid for.

I approach the judge's judgment bearing in mind the unfortunate fact that counsel's note of it has not been submitted to him for his approval in accordance with what has been said by this court about the rule which is now R.S.C., Ord. 59, r. 19 (4). I agree with the judge that the breaches were not fundamental, that the consideration for the plaintiff's payment to the defendants did not wholly fail and that, although the plaintiff was frustrated, the contract was not. In my judgment, however, the judge seems to have under-valued the loss to the plaintiff from the breaches which he found: no welcome party; no suitable cakes for afternoon tea; no yodler evening in the true sense of the words; the Alphütte Bar not open several evenings of the week; no service of the representative in the second week and no house party arrangements for the second week; no English spoken by Mr. Weibel, the owner; no full length skis until the second week; not much fun at night and no tobogganing or bowling by day or by night.

The judge in assessing the loss also under-estimated the inconvenience to the plaintiff, perhaps because he followed the distinction drawn by Mellor J. in *Hobbs'* case, L.R. 10 Q.B. 111, 122–123, and disallowed any inconvenience or discomfort that was not physical, in so far as that can be defined. I agree that, as suggested in *McGregor on Damages*, 13th ed. (1972), p. 45, para. 68, there may be contracts in which the parties contemplate inconvenience on breach which may be described as mental: frustration, annoyance, disappointment; and, as Mr. Thompson concedes that this

is such a contract, the damages for breach of it should take such wider inconvenience or discomfort into account.

I further agree with my Lords that the judge was wrong in taking, as I think he must have taken, the amount the plaintiff paid the defendants for his holiday as the value of the holiday which they agreed to provide. They ought to have contemplated, and no doubt did contemplate, that he was accepting their offer of this holiday as an offer of something which would benefit him and which he would enjoy, and that if they broke their contract and provided him with a holiday lacking in some of the things which they contracted to include in it, they would thereby reduce his enjoyment of the holiday and the benefit he would derive from it.

These considerations lead me to agree with my Lords that the judge was wrong in applying to this contract to provide a winter sports holiday the method of measuring damages for breach of warranty set out in section 53 (3) of the Sale of Goods Act 1893, as it was applied in *Feldman's* case [1957] C.L.Y. 934, and that rather than try to put a value on the subject matter of this contract, first as promised and then as performed, and to include the inconvenience to the plaintiff in the process, we should award the plaintiff a sum of general damages for all the breaches of contract at the figure suggested by Lord Denning M.R.

I would add that I think the judge was right in rejecting the plaintiff's ingenious claim, however it is put, for a fortnight's salary. I agree that the appeal should be allowed and the plaintiff be awarded £125 damages.

Appeal allowed.
Damages of £125 awarded with costs in the Court of Appeal and in the county court.

Solicitors: *Maples, Teesdale & Co.; Paisner & Co.*

A. H. B.

[COURT OF APPEAL]

REGINA
v.
COMMISSIONER OF POLICE OF THE METROPOLIS,
Ex parte BLACKBURN AND ANOTHER (No. 3)

1972 Nov. 16, 17; 27

Lord Denning M.R., Phillimore and Roskill L.JJ.

Crime—Obscene libel—Obscene article—Pornographic publications—Police procedure—Whether performance of duty of law enforcement—Whether consent of Director of Public Prosecutions condition precedent to police prosecution—Whether case for mandamus—Obscene Publications Act 1959 (7 & 8 *Eliz.* 2, *c.* 66), *ss.* 1 (1), 2 (1), 3 (1) (3)—*Prosecution of Offences Regulations* 1946 (*S.I.* 1946 *No.* 1467 (*L.* 17)), *reg.* 6 (2) (*d*)