action,[12] and the exception[13] governing the court of review in appeals from federal courts, has been extended by the cases to appeals from the Board of Tax Appeals. The rationale of this extension is that the Board has appellate jurisdiction over the rulings of the Commissioner of Internal Revenue and enjoys the same powers and limitations as federal courts in this respect.[14]

Thus, in the instant case, the Supreme Court, in reversing the Board of Tax Appeals and affirming the ruling of the Commissioner of Internal Revenue, applied the exception to the general rule. The record of the case on appeal contained sufficient facts to uphold the ruling when the correct section of the statute was applied. The fact that the Commissioner based his ruling on the wrong section of the statute and failed to invoke the correct section was of no importance.

R. T. S.

INSURANCE — NON-FORFEITURE STATUTE — DEDUCTION OF LOAN — [Missouri].—Insured borrowed money on two life insurance policies which contained a clause that any indebtedness to the company would be deducted *in any settlement of the policy* but did not provide for deduction of indebtedness in computation of paid-up or extended insurance. Insured left the state and the policies lapsed. A month after lapse, in response to inquiry by plaintiff beneficiary, insurer notified her that it was issuing extended term insurance which, after deducting the loan from the cash value, would carry the policies for five months. She failed to reply to the notice. After the death of insured five years later, plaintiff demanded payment of the policies, contending that deduction of the indebtedness from the cash value was improper and, accordingly, there was sufficient reserve to extend the insurance until the date of death. Insurer contended that its procedure followed the Missouri non-forfeiture statutes,[1] and that the period of extended term insurance had expired. *Held*, that under the peculiar terms of the policies insurer was not entitled to deduct the loan from the cash value in computing the amount to be used for purchase of extended insurance, and that plaintiff was entitled to recover the amount of extended insurance indicated in the policies, less the indebtedness.[2]

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12. Dobbins v. Commissioner of Internal Revenue (1929) 31 F. (2d) 935.

13. In Lewis-Hall Iron Works v. Blair (1928) 23 F. (2d) 972, 974, the court adopted the statement found in 4 C. J. (1916) 663, that "Where a judgment or order is correct, it will not be reversed on appeal because the trial court has based its decision on insufficient or erroneous reasons or grounds, or has stated no reasons therefor." Helvering v. Gowran (1937) 302 U. S. 238; Hurwitz v. Commissioner of Internal Revenue (1930) 45 F. (2d) 780; Dickey v. Burnet (1932) 56 F. (2d) 917; Commissioner of Internal Revenue v. Linderman (1936) 84 F. (2d) 727.

14. Kottemann v. Commissioner of Internal Revenue (1936) 81 F. (2d) 621.

1. R. S. Mo. (1929) secs. 5741-5744.

2. Fitzsimmons v. American Union Life Ins. Co. (Mo. App. 1939) 133 S. W. (2d) 680. In Griffin v. Pennsylvania Mut. Life Ins. Co. (1940) C. C. H. Ins. Law Serv. par. 501,277, the same court allowed judgment on extended insurance for less than face amount.

Prior to non-forfeiture statutes, upon lapse the insurer could keep the entire reserve. Insurers then had little occasion to lend money on the security of a policy. Companies more readily lent money from the reserve after statutes were passed requiring the return of at least the major part of the reserve on lapse of the policy.[3] All legal-reserve life insurance policies, except those for term insurance, contain non-forfeiture provisions, with specified procedure to be followed when there is a policy loan. Similar provisions exist by statute in most states. When money is lent from the reserve, the policy is usually assigned as security and a personal note given by the insured.

Courts are generally agreed that where the policy so provides an insurer may deduct the amount of the loan from the reserve before applying non-forfeiture provisions.[4] The period covered by extended insurance is then determined by the balance. In some cases courts have given effect to policy provisions or have construed a statute so as to allow an additional deduction of the loan from the face amount of the extended insurance so issued.[5] Where deduction of the indebtedness from the reserve has been refused, the reason advanced has been either discrimination against borrowing policy holders[6] or the particular provisions of the policy involved.[7]. The present case comes within the latter group.

The Missouri statute, amended since the policies in question were issued, now provides that, after deducting from three-fourths of the net value the unpaid portion of any notes given on account of past premium payments and any other indebtedness secured by said policy, the balance shall be taken as a net single premium for temporary insurance (extended insurance).[8]

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3. Note (1939) 13 Tulane L. Rev. 270, 273.

4. Columbian Mut. Life Ins. Co. v. Vasser (1935) 230 Ala. 284, 160 So. 696; Daugherty v. General American Life Ins. Co. (1935) 190 Ark. 245, 78 S. W. (2d) 805; State Life Ins. Co. v. McNeese (Ind. App. 1939) 19 N. E. (2d) 854; National Life Ins. Co. v. Kuykendoll (1924) 206 Ky. 361, 267 S. W. 140; Oppenheimer v. Prudential Ins. Co. (1939) 193 La. 170, 190 So. 369; Payne v. Minnesota Mut. Life Ins. Co. (1916) 195 Mo. App. 512, 191 S. W. 695; Bledsoe v. Midland Life Ins. Co. (Mo. App. 1937) 106 S. W. (2d) 930; Owens v. Reserve Loan Life Ins. Co. (1934) 206 N. C. 864, 175 S. E. 203.

5. Pacific Mut. Life Ins. Co. v. Davin (C. C. A. 4, 1925) 5 F. (2d) 481; Massachusetts Mut. Life Ins. Co. v. Jones (C. C. A. 4, 1930) 44 F. (2d) 540; National Life Ins. Co. v. Kuykendoll (1924) 206 Ky. 361, 267 S. W. 140; Oppenheimer v. Prudential Ins. Co. (1939) 193 La. 170, 190 So. 369; Schoonover v. Prudential Ins. Co. (1932) 187 Minn. 343, 245 N. W. 476. For example: $2,000 policy, $500 loan indebtedness, $900 reserve; $400 should be used to purchase $1,500 of extended insurance for the term indicated in the policy.

6. Mutual Benefit Life Ins. Co. v. Davis (1903) 115 Ky. 404, 73 S. W. 1020; Emig's Adm'r v. Mutual Benefit Life Ins. Co. (1907) 127 Ky. 588, 106 S. W. 230. But see Scheuer, Wise & Co. v. New York Life Ins. Co. (1919) 203 Ala. 127, 82 So. 157, in which deduction was allowed despite discriminatory provisions; Dibrell v. Citizens Nat'l Life Ins. Co. (1913) 152 Ky. 208, 153 S. W. 428.

7. Carter v. Metropolitan Life Ins. Co. (1919) 264 Pa. 505, 107 Atl. 847.

8. R. S. Mo. (1929) sec. 5741 (R. S. Mo. (1919) sec. 6151, as amended by Mo. Laws of 1923, 233).

Missouri courts have held that the statutory provisions are mandatory in the sense that any provision in the policy to evade the statute is void and unenforceable.[9] But in every case where a deduction was allowed the policy specifically provided for deduction of the loan from cash value before computation of the period of extended term insurance.[10] There was no such provision in the policies here involved.

Unless the policy provides for the automatic operation of a non-forfeiture option, the Missouri statute provides that there shall be extended insurance.[11] However, if the company has provided a means of computation more favorable to the insured, the statutory provision for computation of reserve value does not govern.[12]

The policies and loan agreements in question provided that any indebtedness to the company would be deducted "in any settlement of this Policy." The court of appeals said that the issue was whether the company had the right *under the policies*, in the light of the quoted clause, to deduct the loan from the cash value and to apply only the balance to purchase extended insurance. As there was no provision in the policy for automatic non-forfeiture procedure, the statute was so far applicable as to require extended term insurance. But the statutory method fixes only the minimum of protection for avoiding forfeitures.[13] The phrase, "settlement of this policy," in the policy and loan agreement provisions, was construed to mean settlement by the acceptance of cash surrender value or final settlement at death. Therefore, the contractual provisions were more favorable to the insured than the statutory terms, in that deduction of the loan was to be made only at "settlement" rather than from the reserve under paid-up or extended insurance options, and therefore the policies and loan agreements controlled on this point.[14]

The solution of the problems presented by the instant case seems to lie

9. Cravens v. New York Life Ins. Co. (1899) 148 Mo. 583, 50 S. W. 519, aff'd (1900) 178 U. S. 389; Burridge v. New York Life Ins. Co. (1908) 211 Mo. 158, 109 S. W. 560; Leibing v. Mutual Life Ins. Co. (1917) 269 Mo. 509, 191 S. W. 250, aff'd (1922) 259 U. S. 209; State ex rel. Heuring v. Allen (1938) 342 Mo. 81, 112 S. W. (2d) 843. Cf. New York Life Ins. Co. v. Dodge (1918) 246 U. S. 357; State ex rel. Clark v. Becker (1934) 335 Mo. 785, 73 S. W. (2d) 769.

10. Payne v. Minnesota Mut. Life Ins. Co. (1916) 195 Mo. App. 512, 191 S. W. 695; Knapp v. John Hancock Mut. Life Ins. Co. (1924) 214 Mo. App. 151, 259 S. W. 862; McGinnis v. Aetna Life Ins. Co. (Mo. App. 1935) 78 S. W. (2d) 501; Bledsoe v. Midland Life Ins. Co. (Mo. App. 1937) 106 S. W. (2d) 930.

11. R. S. Mo. (1929) sec. 5744; State ex rel. Adams v. Allen (Mo. 1938) 125 S. W. (2d) 854.

12. Gooch v. Metropolitan Life Ins. Co. (1933) 333 Mo. 191, 61 S. W. (2d) 704.

13. Ibid.

14. The court in the instant case relied on Smith v. Mutual Benefit Life Ins. Co. (1903) 173 Mo. 329, 72 S. W. 935, which held that cash loans cannot be deducted. But the Smith case was expressly decided on R. S. Mo. (1899) sec. 7897, which permitted deductions of premium loans only and not cash loans. Seven days after the Smith case was decided the statute was amended to permit deductions of cash loans (Mo. Laws of 1903, 208).

in better draftsmanship of such contracts. The policies called for deduction of the indebtedness on final settlement, which was not clearly defined. The court probably construed the contract, and accordingly enforced it, in a way different from that contemplated by the draftsman. There is, however, nothing in the opinion to indicate that, had the policy provided for deduction of indebtedness from the reserve before application of the balance to the purchase of extended insurance, the deduction would be improper.[15]

S. M. M.

UNINCORPORATED ASSOCIATIONS—TRADE UNIONS—ADJUDICATION OF INTERNAL DISPUTES—[Missouri].—The plaintiffs, forty-two members of a local union, brought a bill against the two individual defendants who were in control of the union, asking, among other things, for the defendants' ouster, for an accounting, and for appointment of a temporary custodial receiver in aid of the principal relief sought. The evidence showed that the defendants had misappropriated the funds of the Local, had mismanaged its affairs, and had threatened to continue to do so; that they had intimidated the members from seeking relief from tribunals established by the union; and that resort to union tribunals was useless because of the influence and control of the defendants. The circuit court appointed a temporary custodial receiver. From the order refusing revocation of the interlocutory decree appointing the receiver the defendants appealed. *Held*, that equity had jurisdiction to appoint a receiver.[1]

This case involves two significant points: (1) the jurisdiction of a court to decide a dispute between the officers of a union and its members before the remedies provided by the rules of the union have been exhausted, and (2) the relation between the appointment of a receiver and recognition of the status of an association as a legal entity.

As a general rule courts will not take jurisdiction over a dispute involving the internal affairs of an association such as a trade union when the member who seeks relief has not exhausted the remedies provided by the association.[2] This is so because the relation between the member and the

15. For general discussion of the problem involved, see Magee, *General Insurance* (1936) 477; Maclean, *Life Insurance* (5th ed. 1939) 195; Heubner, *Life Insurance* (3d ed. 1935) 316; 3 Couch, *Insurance* (1929) 2061, sec. 638; Note (1936) 10 Temple L. Q. 200; Note (1939) 13 Tulane L. Rev. 270; Note (1937) 113 A. L. R. 606.

1. Robinson v. Nick (Mo. App. 1940) 136 S. W. (2d) 374.

2. Mulroy v. Supreme Lodge (1888) 28 Mo. App. 463; Webster v. Rankins (Mo. App. 1932) 50 S. W. (2d) 746, and cases therein cited; Note (1927) 49 A. L. R. 379. The rule holds true generally even where property rights are involved: Cameron v. Internat'l Alliance (1935) 118 N. J. Eq. 11, 176 Atl. 692, 97 A. L. R. 594; Mulroy v. Supreme Lodge, supra; Note (1899) 68 Am. St. Rep. 856, 870. See Chaffee, The Internal Affairs of Associations Not for Profit (1930) 43 Harv. L. Rev. 993, 1020-1029. Sometimes it is stated broadly that courts will not interfere in the internal affairs of an association: McMurray v. Brotherhood (D. C. W. D. Pa. 1931) 50 F. (2d) 968, aff'd (C. C. A. 3, 1931) 54 F. (2d) 923; Wrightington, *The Law of Unincorporated Associations and Business Trusts* (2d ed. 1923) 320.