

DECISION OF THE CERTIFICATION OFFICER ON APPLICATIONS MADE  
UNDER SECTION 5 OF THE TRADE UNION ACT 1984

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Applicants: L WILLS and two others

Trade Union: TRANSPORT AND GENERAL WORKERS' UNION

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DATE OF DECISION: 22 May 1986

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DECLARATION

Under section 5 of the Trade Union Act 1984 I am empowered to make a declaration applied for by any person who claims that their trade union has failed to comply with one or more of the provisions of Part I of the Act. In making the declaration I am required to specify the provisions with which the trade union has failed to comply.

For the reasons which follow I declare that, in relation to the election, held between 11 November 1985 and 6 December 1985, of two representatives of the Region No. 3 constituency of the Transport and General Workers' Union to serve for two years on the General Executive Council of the Union, the Union failed to comply with section 2(7) of the Act (or with that section as it may be modified by section 3(1)), in that the Union failed to do all that was reasonably practicable to ensure that the members of Branch 2/106 were sent or had made available to them as were

## The Applications

1. This decision concerns applications by Mr L Wills, Mr B Wills and Mrs G Wills under section 5 of the Trade Union Act 1984 ("the Act"). I received the applications on 5 February 1986. The essence of the applications as regards the election for the General Executive Council was that the members of the Branch were given no opportunity to vote.

## The Facts

2. An election was held by the Union for territorial executive representatives of the General Executive Council of the Union. The election was based on Regional constituencies and was held between 11 November and 6 December 1985. The applicants are members of Branch 3/106 and that Branch was situated within Region No. 3 (South West), which was required to elect two representatives.

3. There is no dispute that the members of the Branch were entitled to vote in the election. However, my enquiries of the Union revealed that although the Branch Secretary received voting papers, they were not supplied to the members because of a decision that the Branch should not participate in the election. That decision was apparently taken at a Branch meeting.

## Reasons for making the Declaration

4. There is no doubt that, by the Branch's action, the Union failed to do all that was reasonably practicable to ensure that the members of Branch 3/106 were able to vote in the 1985 elections for regional representatives on the Union's General Executive Council. The Union acknowledged that the failure went beyond a matter of administrative muddle or error; it was a deliberate breach at local level of the Union's own rules as well as of the requirements of the Act.

## Steps to be taken to remedy the declared failure

5. The Union told me that they shared my view of the seriousness of this case. Although they thought the end result was unlikely to be affected, they had come to the conclusion that it was necessary in the interests of fairness and credibility to re-run the ballot throughout the whole of Region No. 3. They also stated that the Union would devote more resources to future elections in this largely rural area, including more provision for postal balloting where necessary.

## Observations

6. It is evident that this application was fully justified. The entire membership of Branch 3/106 were disenfranchised by a deliberate decision taken, apparently, by a few individuals at a Branch meeting. I was told by the Union that the background was a history of divisions within the Branch, as well as of differences between the Branch and District officials. It is not clear when the appropriate District and Regional officers of the Union became aware of what had happened, or what action, if any, they took; but I was informed on behalf of the Union that this clear breach of the Act and of the Union's own rules came to the notice of the Union's Head Office only during the course of my enquiries. Much of the history remains obscure; and I therefore welcome the Union's decision to re-run the ballot throughout the whole of Region No. 3.