

**DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION MADE
UNDER SECTION 108A(1) OF THE TRADE UNION AND LABOUR
RELATIONS (CONSOLIDATION) ACT 1992**

MR G DOWNING

v

THE TRANSPORT AND GENERAL WORKERS UNION

Date of Decision:

13 March 2003

DECISION

Upon application by the Applicant under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) for a declaration that the Transport and General Workers Union (“the Union”) acted in breach of the rules of the Union.

1. I refuse to make the declaration sought that the Union was in breach of its rule 11.5.

REASONS

1. By an application dated 12 April 2002 the Applicant made two complaints against his Union, the Transport and General Workers Union (“the Union”). Following correspondence with my office, one complaint of an alleged breach of the rules of the Union was pursued. This was:
 - 1.1 That the Union breached its rule 11.5 in that the Branch Officer, John McCabe, Branch Secretary Cricklewood TGWU 1/342 failed to ensure a legitimate ballot and count was conducted for Branch Officer positions on 30 November 2001 and the count on 3 December 2001.

This is a matter within the jurisdiction of the Certification Officer by virtue of section 108A(2)(a) of the 1992 Act.

2. This matter was investigated in correspondence. As required by section 108B(2) of the 1992 Act, the parties were offered the opportunity of a formal hearing and such a hearing took place on 14 February 2003. The Union was represented by Mr R Collins (Assistant General Secretary), Mr E McDermott (Regional Secretary for the Union's South East and East Anglia Region), Mr T Scanlon (Regional Industrial Organiser) and Mr O Jackson (Senior Regional Industrial Organiser) gave evidence on behalf of the Union. The Applicant acted in person and gave evidence. A bundle of documents was prepared for the hearing by my Office. This consisted of the exchanges of correspondence with the parties, together with their enclosures. The union also provided me with a letter dated 27 February 2002 from Mr Jackson to Mr McDermott, in which Mr Jackson summarised his findings following the conclusion of his enquiry into the matter raised with the Union by the Applicant. I admitted this document in evidence. This decision has been reached on the basis of the representations made by the Applicant and the Union, together with such documents as were provided by them.
3. I determined this complaint according to the powers delegated to me by the Certification Officer under Section 254(3) and (4) of the 1992 Act.

Findings of Fact

4. Having considered the representation made to me and the documents to which I was referred I make the following findings of fact.
5. The Applicant was a member of the Cricklewood 1/342 Branch of the Union (the Branch). At the relevant time he worked in one of several bus garages operated by Metroline Travel.

6. The action of which the Applicant complains concerns the ballot on 30 November 2001 at the Cricklewood 1/342 Branch of the Union and the subsequent count of the ballot on 3 December 2001. Ballots were held for two positions: that of Garage Representative, for which the incumbent, Mr T O'Callaghan, was challenged by the Applicant; and for the position of Branch Chair for which the incumbent Mr K Murray was challenged by a Mr Jiwa.
7. The ballot was arranged by branch officers who chose two scrutineers from the Branch whom, it was intended, would carry out the count. As soon as he knew who the scrutineers were the Applicant was unhappy with regard to their independence. They had been coopted onto the branch committee in what the Applicant thought was an improper way, they both had canvassed for his opponent, and at least one of them had been selected by the incumbent Branch Chair who was one of the candidates in the other election taking place that day.
8. The ballot began in an open area of the garage but upon objection being raised to the Applicant's presence in the near vicinity of the ballot box and the Applicant's refusal to withdraw, the Branch Secretary moved the ballot box and all related papers into an inner Union room. The ballot proceeded with the Applicant continuing to observe the proceedings from adjacent areas. At lunch time Mr P O'Donnell provided temporary cover for Mr McCabe as balloting officer. Mr O'Donnell agreed to the Applicant sitting in the ballot room. However the Union's convenor for Metroline, Mr H Foley, said this could not be allowed. Thus, throughout the day, with a few short breaks, the Applicant had a partial view of the balloting. There was acknowledged animosity between the Applicant and Mr Foley. The Applicant was uneasy in view of the involvement of a number of his opponents and their supporters in the supervision of the balloting. The Applicant believed that these arrangements provided ample opportunity for his opponents to vote in an irregular manner. These fears were enhanced by the fact that the ballot papers were not numbered and individual voters did not have to sign the voters list to say they had voted.

9. Voting finished at 5pm. At this point the Applicant learned that the ballot count was to be conducted by Pat O'Donnell and Roger Clark in the union room which would be locked during this time. Both Mr O'Donnell and Mr Clark were regarded by the Applicant as supporters of his opponent. The Applicant therefore asked to observe the count to avoid the irregularities which he believed could occur in such unsupervised circumstances. The Applicant demanded that the count be held in full view of all present and that one of his supporters should be allowed to take part in the count. This was refused. The garage manager, Mr Laughlin offered either to count the votes himself in his office or have them counted in full view of the two candidates. The Applicant found this acceptable but the other candidate did not. Mr Foley then instructed the Branch Secretary to lock the ballot box in the Union room and then to transport it to the Union's Regional Office in Hillingdon the following Monday morning after the election. The Applicant objected strongly to this because he again believed that this would leave the ballot box vulnerable to interference over that weekend. Following an altercation the Police were called by the Applicant.
10. At this point the Union's Regional Industrial Organiser, Mr Scanlon, became more heavily involved. He had been contacted by telephone and he saw no objection to the Applicant being present at the count. However, Mr Foley objected to this. Mr Scanlon then made 3 other suggestions. One of these was agreed - namely that the ballot box should be secured in the office of Mr Laughlin and that he (Mr Scanlon) attend the count, after the weekend, on 3 December. This was agreed and the matter settled before any arrival of the police.
11. On the Monday morning Mr Scanlon attended the branch and appointed two wholly independent counters, (agreed with the candidates). The candidates were invited to observe the count along with himself and Mr McCabe, the balloting officer. The Applicant was defeated by nine votes in a total count of 167 unspoilt votes (a turnout of around 80%). There were four more votes in the box than recorded on the list of those who had voted.

12. The Applicant was content with the conduct of the count but remained concerned at the opportunities that had been open to his opponents for interference prior to the count. He wrote to the Union's General Secretary on 4 December 2001 complaining about the conduct of the ballot and count. The General Secretary replied on 18 December and advised the Applicant that "... *ballots to elect representatives are conducted by the Regional Administration in accordance with rule.*" and that "*The guidelines for the conduct of ballots to elect representatives, which are issued by the General Executive Council, state that the Regional Committee shall arrange for scrutineers, who are responsible to the Regional Committee, to supervise the ballot*". "*In these circumstances...*" the General Secretary continued, informing the Applicant that the matter had been referred to the Regional Secretary, who would correspond directly with the Applicant.
13. The Regional Secretary (Mr E McDermott) wrote to the Applicant on 2 January 2002 to the effect that the Senior Regional Industrial Organiser (Mr O Jackson) would investigate the Applicant's allegations of irregularities at the Branch election and report back to him. In the meantime the Regional Secretary stated that he was not prepared to annul the ballot of 30 November 2001. The Senior Regional Industrial Organiser confirmed by letter to the Applicant on 9 January 2002 that he would be conducting the enquiry into the Applicant's allegations about the Branch ballot.
14. An enquiry was duly held at the Cricklewood Branch on 13 February 2002, by the Senior Regional Industrial Organiser, at which the Applicant and Branch Officials were present. The Regional Secretary advised the Applicant of the result of this enquiry, on 11 March, informing him that, in the Union's view, there was no merit in the Applicant's complaints, that the complaints were not upheld and the ballot result would stand. The Applicant was sent a copy of the Cricklewood Enquiry Report by the Regional Secretary on 11 April 2002. On the 12 April the Applicant complained to my Office about the conduct of the ballot and count by the Branch. He alleged a breach of Union Rule 11 and the Union's "Guidelines for Regions for the Conduct of Ballots to Elect Representatives". After correspondence with the Applicant, my Office established that the Applicant's complaint specifically related to a breach of Union rule 11 clause 5, paragraph 2. I

accepted this complaint on 18 July 2002 as a complaint made under section 108A(1) of the 1992 Act which related to a matter referred to in section 108A(2)(a) of the 1992 Act concerning “*the appointment or election of a person to, or the removal of a person, from any office.*”

The Relevant Statutory Provisions

15. The provisions of the 1992 Act which are relevant for the purpose of this application are as follows:-

“108A-(1) A person who claims that there has been a breach or threatened of the rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the Certification Officer for a declaration to that effect, subject to sections (3) to (7).

(2) the matters are -

- (a) The appointment or election of a person to, or the removal of a person from, any office
- (b) ...
- (c) ...
- (d) ...
- (e) ... ”

16. Section 108B(2) of the 1992 Act empowers the Certification Officer to make such enquiries as he thinks fit and, after giving the Applicant and the Union an opportunity to be heard, to make or refuse to make the declaration asked for. The Certification Officer is required, whether he makes or refuse the declaration sought, to give reasons for his decision in writing.
17. Section 108B(3) of the 1992 Act requires that where the Certification Officer makes a declaration he shall also, unless he consider that to do so would be inappropriate, make an enforcement order requiring, inter alia, the Union to take such steps to remedy the breach as may be specified in the order.
18. Section 254(3) “*The Certification Officer may appoint one or more assistant certification officers...*”

19. Section 254(4) *“The Certification Officer may delegate to an assistant certification officer such functions as he thinks appropriate,…”*

The Union Rules

20. The Union rules relevant to the Applicant’s complaints are as follows: -

Rule 9 REGIONAL INDUSTRIAL SECTOR, TRADE GROUP AND DISTRICT COMMITTEES

- 9.8 For the Regional Trade Group or District Committee the method of election shall be organised and conducted in accordance with the directions from time to time of the General Executive Council.

Rule 11 BRANCHES

- 11.2 The Regional Committee shall be required to ensure that each branch meets at regular intervals and fulfils its obligations under Rule. Where a branch fails to convene an Annual General Meeting of all members that branch will be suspended and members of the branch shall be allocated to a branch which meets the requirements of rule subject to the right of the branch to appeal to the General Executive Council.

- 11.5 Collectors and/or Shop Stewards may be appointed by a Branch subject to the right of members to elect shop stewards in the following paragraph and subject to the approval of the General Executive Council, whose duty shall be to record payments made in the book provided, and pay into the Branch the actual amounts collected at least once a week.

For the purpose of representing membership on matters affecting their employment, a shop steward or equivalent representative shall be elected by the membership in a defined working area, or at a Branch meeting, by a show of hands or ballot as may from time to time be determined.

Elections shall take place at least once every two years and the membership concerned may require to have special elections or elections at defined periods within this period. The representative so elected shall be in compliance and act in accordance with the Union Rules and Policies. Details of elected representatives shall be submitted to the District Officer of the Union who will be required to notify the employer concerned and report the details to the appropriate District Committee and Regional Committee for its ratification.

Rule 13 BALLOT VOTING

- 13.1 The General Executive Council may, in matters which in their opinion affect the interest of the Union, and shall, if a recalled Biennial Delegate Conference approves a recommendation for a strike involving the whole of the members of the Union, take a ballot vote of the members of the whole Union. The General Executive Council may also take a ballot vote of a territorial region or trade group whose particular interests are concerned.

- 13.2 ...

- 13.3 In all ballots of the Union to which this rule applies, the method of voting shall be by the marking of a ballot paper by the person voting and the election shall be organised and conducted with the directions from time to time of the General Executive Council.

THE COMPLAINT

That the Union breached its rule 11.5 in that the Branch Officer, John McCabe, Branch Secretary Cricklewood TGWU 1/342 failed to ensure a legitimate ballot and count was conducted for Branch Officer positions on 30 November 2001 and the count on 3 December 2001.

The Applicant's Submission

21. The Applicant contended that in the elections for Branch representative (for which he was a candidate) and Branch Chair on 30 November 2001 and the subsequent count on 3 December, the Branch did not carry out a legitimate ballot. The Applicant argued that this was a breach of Union rule 11 clause 5 paragraph 2. In support of this, the Applicant detailed specific irregularities which he claimed showed that the Union had not abided by the above rule or the 'Transport and General Workers Union Guidelines for Regions for the Conduct of Ballots to Elect Representatives.' The Applicant argued that these guidelines applied not only in the elections specified under Union rule 13, but were also the yardstick which applied in any Union election since the Union had not issued any other guidance to assist the membership in the matter of the correct conduct of Branch elections. The alleged irregularities were that:

- (1) The Applicant had not been given a list of electors but his opponent had one.
- (2) The ballot papers were unnumbered, were easily reproducible and were in unsealed plastic pouches.
- (3) The list used, to which the Applicant alleged he had no access, was not the Union official membership list. It appeared to be the employer's "checkoff" list with highlighted names and additions to it. The Applicant's view was that the Union's official membership list should have been used. He was not certain in what way these lists differed.

- (4) Neither the Applicant nor a representative of his was allowed to view the voting procedures whilst his opponent and opponent's supporters had the opportunity to view the balloting.
 - (5) Management was used to intimidate the Applicant and his supporters.
 - (6) The Applicant's opponent's supporters, in the presence of management, made several determined attempts to gain unsupervised access to the ballot box. Only the threat of police action stopped them.
 - (7) The Union refused an open and impartial count immediately balloting closed despite the Applicant agreeing to two reasonable proposals from Management.
22. The Applicant contends that had he been allowed to view the count at the time of the election, as he was allowed on Monday 3 December, he would have immediately agreed the count as conforming to rule and fair practice.
23. The Applicant further argued that the Metroline Convenor had acted outside his authority in becoming involved in the proceedings of this election.
- (8) The Branch election officials allegedly locked the unsealed ballot box in a manager's office over the weekend; the Applicant thought several people of their acquaintance had keys to this office.
 - (9) There were four more votes cast than the Secretary recorded in his list.
 - (10) The Applicant rejected the Convenor's view that the ballot count had for the last thirty years been conducted in a locked room without the candidates being present.

24. The Applicant acknowledged that the Union had conducted an enquiry (into his allegations of ballot irregularities) in which he had participated, and that the Union had produced a report entitled “Cricklewood Enquiry 13 February 2002.” However, the Applicant was not satisfied that the enquiry had dealt with his specific allegations and he therefore rejected the Regional Secretary’s findings that the Union had no case to answer.
25. The Applicant argued that the Union was in breach of Rule 11 clause 5, paragraph 2, in that the Union failed to ensure that “... a shop steward or equivalent representative shall be elected by the membership in a defined working area, or at a Branch meeting, by a show of hands or ballot as may from time to time be determined.” Although a ballot took place, in the Applicant’s opinion, it was not free and fair, and thus in effect, “no fair election took place.” The Applicant concluded that by definition, a (correct) ballot was assumed to be “free and fair” and in the absence of Union guidelines as to what satisfied this test, the Union must have recourse to the only known guidance on the conduct of ballots, the Transport and General Workers Union Guidelines for the conduct of ballots to elect representatives. To the Applicant, these guidelines supplemented the Rules, explained to the membership the correct balloting procedures and thus formed part of the Rules.
26. The Applicant did not accept the Union’s argument that the Guidelines were issued by the General Executive Council (GEC) specifically for the election of representatives to constitutional committees. As published, without qualification by the Union as to which group these guidelines were constructed for, the Applicant contended that the Guidelines could equally apply to “all representatives in all elections conducted by local branches.”
27. The Applicant could not accept that the Guidelines could apply only to one group and that by implication, the GEC or its subordinate Regional Committee would issue only less rigorous guidelines for Branch elections. Nor could the Applicant accept the Union’s view that the GEC had power to direct similar guidance be issued in ballots covered by Rule 11, clause 5 but had not done so and therefore that no formal guidelines of the type suggested by the Applicant had applied in this election. This was viewed by the Applicant

as tantamount to a situation where “no standards at all” applied in these elections. In the Applicant’s view, the guidelines set out the “level of fairness” required by the Union in all its elections.

28. In the Applicant’s view, in so far as the Regional Committee had the responsibility under Rule for the direction of Branch elections, it followed that if no free and fair election took place, by virtue of the alleged irregularities in balloting procedures cited, the Union must be in breach of its own rules, namely Rule 11 clause 5, paragraph 2. It was not the Applicant’s view that ballot- rigging had actually taken place, (he had no evidence on that) but that the Union’s poor balloting procedures provided ample opportunity for such a practice.
29. The Applicant requested that the Assistant Certification Officer declare the result of the 30 November 2001 election of Branch Officers for the Cricklewood 1/342 Branch null and void and order that the election be re-run.

The Union’s Response

30. The Union contended that no breach of Rule 11, clause 5 had taken place. It argued that the Union was empowered by Rule 11 clause 2 to “oversee the operation of each branch.” This included “the responsibility to see that a branch fulfils its obligation under Rule.” The complaint by the Applicant concerned branch elections, the relevant Union rule for which was rule 11 clause 5 which dealt with workplace representatives.
31. In the Union’s view, the Guidelines referred to by the Applicant were issued by the GEC in ballots to elect representatives to constitutional committees, i.e. Regional, Trade Group and District Committees under Authority vested in them by Rule 9, clause 8. Thus, the Union contended that the “Transport and General Workers Union Guidelines for the conduct of ballots to elect representatives” did not apply to branch elections.

32. According to the Union, the Regional Committee or the GEC could direct, under Rule 13, that similar guidelines be issued for those ballots covered by Rule 11 clause 5. This was where a Branch failed or was unwilling to comply with the requirements of Rule 11 in general and clause 5 in particular. Rule 11.5 requires that a shop steward or Branch representative shall be elected in a defined working area or at a Branch meeting, by a ballot or a show of hands. Thus, although there was no obligation under Rule to hold a ballot the Branch chose to do so.
33. However, in the ballot referred to by the Applicant, no guidance had been issued by the Union and thus the Branch was empowered to “determine the appropriate constituency for elections of workplace representatives” and had the responsibility for the conduct of the ballot. The Union argued, that the Branch could decide on the most appropriate balloting procedures to suit its needs, given the diversity of circumstances at branch level. The Union did not accept that the Branch could conduct an election without regard to its responsibilities under Rule, as suggested by the Applicant.
34. The Union, it stated, required branches to conduct their elections ‘in a fair and proper manner under the overall authority of the Regional Committee’. In response to the complaints by the Applicant to the Union regarding the conduct of the Cricklewood 1/342 Branch elections, the Union had conducted a Regional enquiry. This was under the powers vested in it by Rule 11 clause 2. The enquiry satisfied itself that none of the irregularities complained of by the Applicant in relation to these elections had taken place.
35. The Regional Industrial Organiser Mr Scanlon, who was responsible for the organisation of this branch, gave evidence that the Union was aware of the personal animosities at the Branch which involved the Applicant and others, and which was the cause of the disruption of the voting procedures on 30 November 2001. In view of the potential interference in balloting procedures occasioned by the proximity of the Applicant to the ballot box and the disagreement’s about the scrutiny of the voting procedures and the count, the Branch Secretary decided to remove the ballot box to another room to ensure

uninterrupted balloting, and then to secure the ballot box and votes in a locked room (the Manager's office) over that weekend and conduct the count on Monday 3 December, when Mr Scanlon could supervise the count and all could be present with equanimity. The Union was satisfied with the security of the votes over the weekend and argued that no evidence had been produced by the Applicant to show that anyone had tampered with the ballot box. Moreover, the Union argued, the Applicant himself had not accused the Union of malpractice as such, but had claimed there was scope for malpractice as a result of the Union's procedures and the insecurity of the ballot box in the period before the count.

36. In evidence, Mr Jackson stated that the original voting procedures had not been at fault and were the same as had always been used at the Branch, with the exception of the apparent wish of the Applicant to act as an unofficial scrutineer of the voting and counting procedures. The changes to procedure were made by branch officials on the day in the difficult circumstances for which the Applicant was partly to blame. As the Senior Regional Industrial Organiser, who had conducted the Cricklewood enquiry in response to the Applicant's complaints about balloting irregularities at the Ballot and count, he was satisfied no irregularities had occurred and that the actions taken by the Branch Secretary and the Regional Industrial Organiser had ensured that a fair ballot and count had taken place.
37. The Union was also satisfied as to the independence and integrity of its scrutineers, despite their differences with the Applicant. Further, the Union believed that the list it used to check the legitimacy of voters in the branch ballot was accurate and that the Applicant may have had suspicions but had supplied no proof that it was an invalid or inaccurate list.
38. In evidence, the Regional Secretary Mr McDermott, who had ordered the Cricklewood enquiry, stated that he was satisfied that no irregularities had been revealed and there had been no need to annul the ballot. He emphasised that Union's rule allowed branch ballots to be arranged by branch officials to take account of the diversity of industries and

circumstances across the Union. He added, that there were 600 branches embracing a variety of trades and skills in the London Region alone. Whilst Cricklewood branch had chosen to ballot on a particular day, it was not unusual and quite in order for Officer's elections to be held at branch meetings. Though in total, the Union was satisfied that the branch had conducted a fair and open ballot and that no breach of rule 11.5 had occurred, in retrospect, the Union were prepared to acknowledge that certain procedures could be tightened, for example the appointment of scrutineers at branch meetings and sealing the ballot box until the count could take place. Otherwise, the branch secretary, in the Union's view, had taken all reasonable steps to prevent interference with due process in the difficult circumstances prevailing at the Cricklewood branch.

39. In summary, the Union rejected the Applicant's argument that it had breached Rule 11 clause 5. The Cricklewood enquiry had not revealed either malpractice or irregularity in the election, but any departure from normal procedures had been occasioned by the behaviour of individuals which, but for the timely action of the Branch Secretary, could have resulted in a voided ballot result.

Reasons for my Decision

40. The Applicant has argued before me that the election for branch officers at the Cricklewood 1/342 branch on 30 November 2001 and the count on 3 December was not a free and fair election by virtue of the irregularities alleged above and that, as a consequence, rule 11.5 was breached. He further contended that the conduct of these elections should have been governed, or up to the standards required, by the Transport and General Workers Union Guidelines for the conduct of ballots to elect representatives. He argued that these elections should be declared null and void and the ballot re-run.
41. The Union has denied that any such irregularities took place in that election and that the result had been reached through fair and correct procedures and thus there had, in the Union's view, been no breach of union rule 11.5 as alleged by the Applicant. The Union has argued that the conduct of elections for branch officers is the branch's responsibility

and that the Union may or may not issue guidelines in the matter. In this case it chose not to and such a decision was in accordance with its authority under rule. Having heard the views of both parties, I prefer the case presented by the Union.

42. Rule 11.5 requires that:

“For the purpose of representing membership on matters affecting their employment, a shop steward or equivalent representative shall be elected by the membership in a defined working area, or at a Branch meeting, by a show of hands or ballot as may from time to time be determined.”

Thus the branch could choose whether to hold a ballot by a show of hands or by a branch election and in this case they chose to ballot the branch membership. I accept the Union’s view that the “Guidelines” did not specifically apply to elections at branch level and that they could be so applied at the Union’s discretion. However, while the Union is free to choose not to supervise too closely, the way branch posts are filled, where there is an election, I consider it can be legitimately implied that for it to count as an election the rules require it to be carried out fairly including, at least, some procedural standards.

43. The Applicant believes that the irregularities he has detailed above were such that this branch election was fundamentally flawed because a fair and free election could not have taken place in these circumstances. He argued not that there had been malpractice, but that there had been ample scope for interference with votes such as to call the validity of the election into question. The union contended that though in some respects the procedures at this election were far from being perfect (e.g., the appointment of scrutineers and the security arrangements for the votes once the ballot had been taken left some cause for concern) the outcome of the election was a fair representation of the wishes of the members in respect of the election to these branch officer posts. Thus, the Union felt it had fulfilled its duty under rule 11.2 to ensure that the branch fulfilled its obligations under rule 11.5 to hold elections for its officers as prescribed.

44. Moreover there was no evidence of actual malpractice giving rise to a real doubt about

whether or not the ballot result was the correct one. I find that, though the branch's procedures and proposals pursued on the day of the ballot gave scope for improper practice, the Union did its best under difficult circumstances to ensure that a fair ballot and count took place. Voting by the members was not impeded through the removal of the ballot box to prevent interference and the count was supervised by the Regional Industrial Organiser in such a way as to allow the candidates to observe but not interfere with these proceedings. I am satisfied that though some of the balloting arrangements left room for improvement (which the Union has acknowledged above) the arrangements for the ballot and count was not so fundamentally flawed as to render the whole procedure invalid. Therefore, I find, that a ballot in a defined working area, as required by rule 11.5, did take place. As such I find that rule 11.5 was not breached by the Union.

45. In my view the intervention of the Regional Industrial Organiser to supervise the count, with the candidates free to be present, removed what I would have regarded as a fatal flaw in the procedures had the count gone ahead as proposed by the branch officers and the Metroline Convenor on the Friday evening. In all these circumstances I do not consider it would be justifiable to overturn the result of this ballot. It is for these reasons that I refuse the declaration sought by the applicant.
46. Had I found that the Union had breached its rule 11.5 I should have directed the Union to carry out its next branch elections at Cricklewood under the strict supervision of the Regional Office. I am pleased to note that the Union has acknowledged the need for tighter regulation of some of its local election procedures.

E G Whybrew
Assistant Certification Officer