

DECISION OF THE CERTIFICATION OFFICER ON A COMPLAINT MADE UNDER SECTION 4 OF THE
TRADE UNION (AMALGAMATIONS, ETC.) ACT 1964

T GORMLEY

AND

THE AMALGAMATED SOCIETY OF
BOILERMAKERS, SHIPWRIGHTS, BLACKSMITHS AND
STRUCTURAL WORKERS

DATE OF DECISION:

1 December 1982

1. Mr T Gormley, who is a member of the Amalgamated Society of Boilermakers, Shipwrights, Blacksmiths and Structural Workers ("the Union"), has complained to me under section 4(1) of the Trade Union (Amalgamations, etc.) Act 1964 ("the Act") about a ballot held by the Union during September and October 1982 on a resolution to approve an instrument of amalgamation between the Union and the National Union of General and Municipal Workers ("NUGMW"). Mr Gormley is the secretary of the Liverpool 2 branch of the Union and his complaint is supported by his branch committee.

2. Mr Gormley alleges that the Union did not follow the proper procedure which he says is laid down in its rule 35(4). Rule 35(4) reads:

"This Amalgamated Society may be dissolved by consent of four-fifths of the members who are in benefit at the time of taking the votes, and every member thus in benefit who votes for the dissolution of the Society shall sign a petition to that effect at the meeting when the votes are taken, and the petition containing the names shall be sent to the Head Office within six months after the meeting, when the Executive Council shall issue the result of the voting in the following Monthly Report and if the requisite number is obtained for the dissolution of the Society it shall be dissolved accordingly, when all the funds and property of the Society shall be equally divided amongst the members in benefit".

3. Mr Gormley has tried to base his complaint on one of the grounds on which complaints may be made to me under section 4(1) of the Act but in my view the matters which he has brought to my attention do not justify a complaint on any of those grounds.

4. Mr Gormley's complaint is, I am afraid, based on a misunderstanding of the statutory provisions governing amalgamations of trade unions. The 1964 Act requires that a resolution to approve an instrument of amalgamation must be passed on a vote, involving the marking of a voting paper, with every member of the union entitled to vote and allowed to do so without interference or constraint. The effect of section 2(3) of the Act is that a simple majority of the votes recorded is sufficient to pass such a resolution, whatever the union's rules might say (except in circumstances which do not apply in this case). Accordingly, the Union's rule 35(4) is not applicable to the vote on the amalgamation.

5. Mr Gormley also argued that the Union's arrangement with the NUGMW constituted a dissolution of the Union and not an amalgamation within the terms of the Act. That is not a complaint that can be made to me. Accordingly, however weak the argument may be, I have no jurisdiction to pronounce upon it. If Mr Gormley wishes to pursue it he must take the issue to the High Court.

6. For these reasons I dismiss the complaint.