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**THE IMPACT OF THE LAW ON INDUSTRIAL DISPUTES  
IN THE 1980s: REPORT OF A SURVEY OF  
PUBLIC SECTOR TRANSPORT EMPLOYERS**

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## **ABSTRACT**

This paper reports the results of one part of a research project which investigated the nature and extent of the impact of the labour legislation enacted between 1980 and 1990 on the conduct of industrial relations and the processes by which this came about. Interviews were carried out with managers in three major public sector transport organisations. All three were subject to radical organisational change during the period under review and had quite extensive experience of disputes in this time. While they had made greater use of the law than employers in other sectors covered by the research project, there were mixed views on the results of this resort to the law. In general the law appeared to be a subsidiary part of, and influence on, the management of the process of change rather than an independent factor influencing management's relations with trade unions and the workforce.

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The second part of our research project on the impact of the law on industrial disputes in the 1980s focused on surveys of management and union negotiators. On the union side the survey was carried out by questionnaire. Managers were the subject of structured interviews. The aim of this part of the research was to provide a picture of the range of experience of those with responsibility for overseeing industrial relations in a selection of companies and public sector organisations. While the surveys of management do not claim to be representative of any industry or area of the public sector as a whole, they have highlighted a number of important issues relating to the role of the law in industrial relations in general and industrial disputes in particular.

This report presents the results of interviews with managers in British Rail (BR), London Underground (LUL) and London Buses. Within BR interviews were carried out with industrial relations managers at three different levels: at corporate level, in four of the five businesses into which BR was then divided, and in profit centres within three of the passenger businesses. There were two respondents at one of the interviews at business level giving a total of nine in all. Single interviews were carried out with employee relations managers in LUL and London Buses. The total number of respondents was therefore eleven.

## **1. The Changing Environment for Public Sector Transport Services**

The influence of government policy on developments in industrial relations was particularly marked in the area of public sector transport services. Consistent with its policies in the public sector generally, the government subjected all three organisations to considerable financial pressure through its control of funding. In BR the value of the government's direct contribution to both its capital investment and running costs was progressively reduced throughout the 1980s and this was a major contributory factor in crucial decisions on the closure of workshops. It was, moreover, a more or less explicit condition of continued funding that cost saving changes in working practices would be made (see Ferner, 1985). The capital investment programmes of both London Buses and LUL were also affected by reductions in projected funding in the early 1990s.<sup>1</sup> A prominent aspect of government policy after 1979 was to open up public sector transport services to competition and to transfer many of the organisations providing them to the private sector. Among our respondents this policy was most fully developed in relation to London Buses since it was easier for the government to pursue these objectives in relation to bus services than underground or rail services.<sup>2</sup> While the external influence of government pressure forced these organisations to make some changes against their wishes, they were also a catalyst for other developments which were seen by some respondents to have been long overdue.

There were radical changes in the internal organisation of all three services during the period under review. Up to 1984 the underground and bus services in London were both part of London Transport which was the responsibility of the

Greater London Council. The London Regional Transport Act 1984 transferred responsibility for them to London Regional Transport (LRT) and in 1985 London Buses and LUL were incorporated, thereby separating the bus and underground services for the first time. In 1988 ten separate line businesses were created in LUL, each with its own management structure, and in 1989 London Buses was reorganised into twelve (later reduced to eleven) subsidiary companies as a step towards both open competition in a deregulated market for London bus services and the transfer of London Buses to the private sector.

At the beginning of the 1980s, BR was run as it always had been as a single corporate business within which there were six regions and a management structure based on different production functions. The period from 1982 to 1992 was a transitional phase in the creation of a new structure based on five separate businesses within each of which were a number of profit centres. During this interim phase there was a complex relationship between the new business units and the functions based managers who still worked on behalf of all sectors. In the early 1990s trains, track, track maintenance responsibilities and all other facilities were progressively divided up between the businesses and by 1992 relations between them had become, in one sense, fully contractual. For the vast majority of staff their employer remained BR<sup>3</sup> and overall financial control and strategic management decisions remained at corporate level. But in BR, as in LUL and London Buses, there was a general trend towards devolution of management decision making, with the emphasis in BR at profit centre level.<sup>4</sup>

### **Numbers Employed**

A distinctive feature of employment in all transport organisations is that the workforce is widely dispersed over a number of depots, stations, operating bases, yards, terminals, offices etc. All three services in this survey were labour intensive. In response to particular pressures, they experienced a steady and significant decline in the numbers employed in the period under review. In BR this was part of a continuing process in which technological change and a shrinking railway network reduced the workforce from a high point of around 600,000 in 1950 to some 220,000 in the early 1980s and 130,000 by the early 1990s.<sup>5</sup> This trend was briefly reversed in the late 1980s and early 1990s when there was a small increase of 5,000 extra staff taken on in order to implement the recommendations of the Hidden Report into the Clapham rail crash of 1988. A similar pattern was followed in LUL. Numbers employed fell by ten per cent in the mid-1980s but then rose slightly as a result of the Fennell Report into the 1987 Kings Cross fire, to around 22-23,000 in 1992. They were projected to decline to 16,000 by 1995. In London Buses, factors contributing to a reduction over the 1980s of around ten per cent to a workforce of 18,300 in 1992 included a reduction in passenger traffic and loss of routes through the competitive tendering process.

### **Changes in working practices**

All respondents bar one reported significant productivity gains in the period under review. In BR these resulted both from significant capital investment and changes in working practices. Notable examples of the former were the introduction of high speed traction, electrification of the East Coast mainline, new rolling stock and new signalling equipment. Changes in working practices had traditionally only

been made by agreement with the unions and some respondents identified gains made in the 1980s through taking advantage for the first time of agreements made in the 1960s. Attempts to reach new agreements on issues identified by BR in *The Challenge of the 80s*<sup>6</sup> led to protracted negotiations, some disputes and, in some cases in the view of our respondents, questionable benefits. Flexible rostering and 'Driver only Operations' (DOO) were introduced on both freight and passenger services and some major 'restructuring' packages were negotiated. The most notable of these was the Traincrew Agreement of 1988 which paved the way for a number of innovations including the new grade of Senior Conductor on Inter City trains. Two of the other restructuring packages proposed, those for Signals and Telecommunications staff (S&T), and a small traffic grade package covering station staff and other support workers, were implemented in 1992. Restructuring packages for permanent way workers in 1989, civil engineering wages grades in 1991 and senior conductors in 1992 had to be withdrawn because they were rejected by the workforce. Other restructuring packages were proposed and progressed some way towards implementation, but these did not cover all staff. Restructuring was seen to be an ongoing development which would be easier to bring to fruition after the final establishment of separate businesses in 1992.<sup>7</sup> Additional initiatives included developing discreet payment systems within the different businesses and an attempt to break down the traditional 'links' system of rostering. Productivity gains also flowed from the closure of large numbers of small signal boxes, reduced staffing on stations, shorter opening hours for ticket offices and railmen/women selling tickets on some trains.

In London Buses significant changes flowed from the New Operating Agreement of 1987 which was said to be the main catalyst for increasing productive time from 35-36 to 41 hours per week. Other labour productivity gains were achieved by accelerating the introduction of one person operation so that by the end of the 1980s this covered 90 per cent of route mileage, and the introduction of multi-skilling and ending of demarcations in the workshops. Capital investment in more than 1,000 midi buses also increased productivity. The pressure of having to take part in competitive bidding for routes from the mid-1980s may explain why gains were achieved more rapidly in London Buses than in LUL. One person operation (OPO) of underground trains was introduced in 1983-4 and spread to a majority of lines. But the major programme for labour productivity gains, 'Action Stations' had to be withdrawn after the 1989 dispute. A revised version, the 1991 Company Plan, was implemented, after some difficulties in securing agreement, in 1992. It introduced flexible rostering, made provision for increased driving time per shift and provided a framework for local agreements.

## **2. Negotiating Arrangements**

In all three services there were high levels of union membership, especially among manual workers and at the beginning of the 1980s well established bargaining arrangements were in place. In BR the closed shop agreement with Associated Society of Locomotive Engineers and Fireman (ASLEF), the National Union of Railwaymen (NUR) and Transport Salaried Staffs Association (TSSA) was terminated in 1985 but this had evidently not led to any dramatic fall in union membership. There were variations between different businesses in the estimates of membership

density provided by respondents but these were consistent with the figure of 87 per cent given for BR overall. The 1956 procedures provided for major negotiations for all groups to take place at national level in the Railway Staffs Joint Council, with sectional councils at regional level and Local Departmental Committees. The position of the sectional councils was undermined when BR removed the divisional tier of management in 1984.

An important objective of senior management in BR in the 1980s was to change the bargaining arrangements to match the increasing importance of the businesses within its overall organisation. The attempt to withdraw from the existing machinery in 1989 contributed to a major dispute and did not succeed, but changes did follow the final establishment of separate businesses in 1992 with pay determined at business level in Business Joint Councils within parameters determined at national level. The aim was for all issues to be dealt with at the lowest possible level<sup>8</sup>. An important feature of the new arrangements was the demise of the standing arbitration body, the Railway Staffs National Tribunal (RSNT). This had been well used and its decisions were generally respected. During the period under review, however, BR refused to implement a pay award made by the RSNT in 1981; in 1989 BR initially refused to refer the dispute to the RSNT; and in 1992, after senior conductors rejected BR's restructuring package it was withdrawn to prevent it being referred to the RSNT. Moreover the established procedures had become increasingly unpopular with local managers because they prevented decisions being taken at local level.

In LUL high levels of union membership were reported among the same unions as in BR: ASLEF for drivers, the NUR/RMT<sup>9</sup> for a few drivers and other manual operatives, TSSA for white collar and AEEU for maintenance staff. Although LUL and London Buses were both part of the same organisation up to 1984, separate negotiating arrangements had always existed for the two groups of workers. In LUL no formal bargaining machinery existed after the employer's side gave notice of withdrawal from the existing arrangements in 1985. Some issues were devolved to line business level after separate businesses were set up for each line in 1988, but major changes did not come about until agreement was finally reached on the Company Plan in 1992. This created single table bargaining in a central negotiating committee which included representatives of seven unions. These new arrangements retained a more limited role for the Wages Board, a standing arbitration body which management had come to dislike and which had been used far less frequently after the 1940s. LUL had come to prefer to take advantage of the services of ACAS when disputes arose.

No provision for arbitration existed in the new agreements made by each of the new subsidiary companies of London Buses in 1989. While the old procedures had provided for arbitration, this was rarely invoked; in the 1980s it was used only three times over minor issues. The main unions party to the new and old agreements were the Transport and General Workers Union (TGWU) with a estimated 90 per cent density among manual workers and its white collar section the Association of Clerical, Technical and Supervisory Staffs (ACTSS), estimated to have 30-40 per cent membership among staff. Both the TGWU and Amalgamated Engineering and Electrical Union (AEEU) had members on the engineering side.



### **3. Disputes and Industrial Action**

#### **Disputes Procedures**

As major providers of public passenger transport, these three services shared a long-standing concern to avoid conflict which led to disruption or loss of services. Each had well established disputes procedures, but all respondents reported some degree of dissatisfaction with these before they were replaced by new procedures as part of the radical reorganisations which took place in the late 1980s and early 1990s.

A distinctive feature of the 1956 procedure in BR was that not only did it cover both individual and collective issues, but they had to be couched in terms of a claim in order for the procedure to become operative. Issues were processed up through the procedure from local through sectional to national level. Since this could head off the possibility of industrial conflict, five of the seven respondents at business and profit centre level reported that it had been effective in avoiding industrial action. But there were negative aspects to this achievement. The tendency for all issues to be referred up through the procedure inhibited the development of management skills at local level. The procedure was also seen by some either to inhibit change through decisions which always supported the status quo, or to slow down the pace of change that occurred. One respondent, however, did say that key issues were always dealt with 'fast track'. It was nevertheless the case that some issues could become lost in the procedure for periods extending even to a few years.

During the period under review BR worked towards radically different procedures where issues were settled as close as possible to source at local, profit centre or business level. While not going so far as attempting to manage without unions, there was evidence of a more determined management approach to what were seen as key issues and this, arguably inevitably, led to confrontation and conflict. The 1982 dispute over the introduction of flexible rostering was an early example of this. Respondents gave a mixed response to the suggestion that over the 1980s, the traditional ethos of avoiding industrial action if at all possible was weakened. One felt the reverse was true; another said, however, that there was less concern to seek the support of senior managers before taking action that might provoke confrontation, while a third indicated that the nature of management's approach would vary according to the strategic power of the workforce in question. All eight respondents agreed that there was an emphasis on communicating with staff directly and six said that this was a change from previous practice. While there was a general awareness that in some circumstances bypassing established channels of communication through the unions could be counterproductive, major efforts were made in particular to secure acceptance of the various restructuring packages. To this end a variety of methods were employed including writing to each worker, open forums with staff and group briefings for managers.

Similar concerns and changes were evident in LUL. There was management dissatisfaction with the 1957 disputes procedure because it led to all issues being referred up to the top. Moreover, once it was activated the unions refused to consider initiatives taken outside the scope of the procedure. Under the 1992 Company Plan agreement local disputes would have to be resolved at the level of the line business director. New initiatives to provide for better communications with staff included the 'Centurion' idea, introduced as a result of the 1987 Kings Cross fire, which identified a named manager for each worker.

In London Buses the 1989 procedures also prevented disputes from being referred beyond the level of the managing director of each subsidiary company and so avoided the perceived fault of the previous procedures of too many disputes coming in at too high a level. But established practices for consultation with staff were unchanged. Management would, on occasion, write direct to each worker on key issues. An example was the changes in shift patterns envisaged in the tender for a particular route. But the experience of one Chairman of London Buses writing direct to all workers in disputes in the mid-1980s was seen to have been counterproductive.

### **General experience of disputes and industrial action**

Against this background of significant changes in procedures and important attempts to bring about changes in working practices which involved initiatives on communications with staff, all three services were involved in significant disputes during this time. These included both local and service-wide issues and many were closely related to management pressure for change. Industrial action, limited in some cases, extensive in others, occurred in a number of disputes.

In BR more working days were lost due to industrial action in 1982 than in the whole period from 1948 to 1981. Respondents provided valuable insights into the management perspective on the national disputes over flexible rostering in 1982, when industrial action was taken mainly by ASLEF members; DOO in 1985, which involved members of the NUR; and pay and procedures in 1989 where members of all three rail unions were in dispute but the main industrial action was organised by the NUR. Other service-wide industrial action included a series of 24 hour stoppages by overhead line workers over depot rationalisation proposals in 1988. Industrial action was also considered by the NUR in 1981 over BR's refusal to implement a RSNT pay award and in 1982 over workshop closures. In 1984 ASLEF and the NUR agreed on joint action against closures of lines, stations and depots. Both the Traincrew agreement in 1988 and S&T restructuring proposals in 1992 produced threats of industrial action.

Respondents at business and profit centre level also reported a number of local disputes which involved industrial action or the real possibility of industrial action. Several of these concerned rostering. Other issues included route allocation to drivers, rest day working by signal box staff, training aspects of the Traincrew agreement and disciplinary action. In these disputes any actual or possible action was invariably unofficial. Unofficial action after the NUR lost a ballot on industrial action over DOO in 1985 led to the dismissal of some workers; acceptance of BR's proposals was made a condition of their reinstatement. It should, however, be noted that the pattern of respondents' comments suggested that the overall extent of industrial action declined in the 1980s, relative to the 1970s.

In LUL as in BR, the main industrial action occurred in 1989 when disputes over pay, a new conditions of service package, the Action Stations proposals and a review of driver's pay in OPO operations came together and a total of fourteen one day stoppages, a mixture of official and unofficial action, occurred. The introduction of OPO in the mid-1980s had itself been a cause of dispute and some industrial action.<sup>10</sup> Agreement on proposals in the 1991 Company Plan only followed extended negotiations, with ASLEF, RMT and TSSA all balloting their members on whether to accept the proposals.

In London Buses in the mid-1980s some fleet wide industrial action occurred in protest against the changes that were taking place, but once the process of competitive tendering for routes was under way, action became more localised over proposed changes to terms and conditions of employment associated with tenders submitted by London Buses. Stoppages occurred at two garages, in one case over changes to terms and conditions (and this attracted some sympathetic action elsewhere) and in the other a strike over the terms and conditions of employment attached to a new tender. In addition there were a number of 'run ins' where drivers returned to their depots for union meetings. In 1989 fleet wide action took place in the dispute over pay, sometimes on the same days as there were strikes on BR and LUL.

#### **4. Disputes and the Law**

##### **Industrial action ballots**

All respondents reported that unions had held a number of ballots in the period from the mid-1980s up to 1992 although four respondents in BR observed that the use of ballots by the rail unions to consult their members was exceptional. By the mid-1980s the NUR and ASLEF had accepted the need to ballot before industrial action. In both BR and LUL a variety of different forms of ballot were used: some on acceptance or rejection of employers' offers, some combining this with a vote on industrial action and others on industrial action alone. Respondents in BR expressed the view that the wording of ballots held by the NUR/RMT was often such as to make it appear that the real issue was loyalty to the union. It was, nevertheless, clear that from a union perspective, balloting did not always produce positive results. The NUR lost important ballots on industrial action in both BR and LUL in 1985.

While a majority of all respondents said that they would monitor ballots, and one BR respondent expressed some scepticism over whether the results of some NUR ballots truly reflected members' views, the general attitude was that they would not be looking to fault the unions on a technicality. In BR, in part this undoubtedly reflected the failure, from both a legal and an industrial relations perspective, of what was seen to be an attempt to do just that over national action by the NUR in 1989. While what appeared to be a similarly rather technical challenge to an NUR ballot by LUL succeeded in 1989, the industrial relations benefits this secured were more questionable. In LUL, as in BR generally, a distinctive feature of the major disputes in 1989 and 1992 was the uncoordinated response of the three unions in holding ballots. Thus in 1992 although a ballot of RMT members produced a majority in favour of industrial action over the Company Plan, a settlement was reached and the proposed action called off before the results of the ASLEF ballot was known. More generally there was less experience of ballots in LUL. A major factor in explaining this was that LUL's annual pay offers were always close to the increase in the Retail Price Index.

Union ballots on the restructuring packages put forward by BR at the end of the 1980s and in the early 1990s produced mixed results from a management perspective. In the case of the traffic grade workers the vote was in favour of the package and although the signals and telecommunications vote was narrowly against the package it was implemented after securing individual agreement to accept it. In

other cases - permanent way staff, civil engineering wages grades and senior conductors - the package was withdrawn after a vote against it.

In 1985 there was unballoted national action by ASLEF and NUR members in BR in support of the miners. There were also other occasions when unballoted local action took place in BR, but this was always unofficial and there were at least two other local disputes in which ballots on industrial action were held. There was some uncertainty over whether some forms of local action, for example withdrawal of overtime and rest day working, need to be preceded by a ballot.<sup>11</sup>

In London Buses the TGWU held a number of ballots on industrial action from 1986 onwards. These were usually confined to a particular garage, notably in the two disputes which led to industrial action referred to in Section 3 above. In one of these there was also unballoted action elsewhere in solidarity with the workers involved. In 1989 fleet wide ballots produced large majorities in favour of industrial action. When management challenged the validity of ballots, the industrial action was called off, but further ballots were then held which produced bigger majorities in favour of industrial action. While balloting before industrial action had become normal, the TGWU also maintained traditional methods of consultation with members through conferences of garage delegates and garage meetings.

### **Employers' use of the law**

All three services had initiated legal proceedings against trade unions in major disputes and on all occasions the decision to do this had involved senior management. In BR the decision to contest the validity of the strike ballot held by the NUR in the 1989 dispute was the product of a number of different strands of thinking. In the first place it was indicative of an attempt to make a radical break with the established pattern of relations with the unions and impose a new ethos on the organisation. It could also be seen to reflect the view of some managers that NUR ballots did not produce a true picture of members' views. Furthermore, at that time the law was perceived to be moving towards a position in which it would be virtually impossible for a union to organise industrial action lawfully.<sup>12</sup> These factors plus the customary pressure on BR to avoid any disruption of services prompted a move which, as it turned out, respondents generally perceived to have been counterproductive, not least because it took the initiative away from management and rallied the membership behind the union. Respondents in BR informed us of two further threats of initiate legal proceedings against unions<sup>13</sup> and of other occasions when unions were required to repudiate unofficial action.<sup>14</sup>

LUL similarly reported that the NUR and ASLEF complied with requests to repudiate the unofficial action in the 1989 dispute. LUL's successful application for a labour injunction against the NUR in that dispute only bought some time and after a further ballot strike action did take place. LUL also sought an injunction over balloting on one other occasion in 1985. London Buses had been involved in litigation in two cases, one in 1986 over balloting and the other in 1987 in a dispute over whether the new bus companies could alter the terms and conditions of employment of their workforce, as they wished to do as part of the preparation for competitive tendering to run bus routes. Both LUL and London Buses made extensive use of in-house legal advice from LRT's lawyers. While this was for the most part over individual contractual matters, these could be the issues at the heart of a collective dispute.

Respondents in BR provided a range of responses on whether they took legal advice and if they did, the value of acting on it in a dispute. A clearer line was evident among BR respondents on the targeting of management responses to industrial action at the level of the individual worker. This became increasingly sophisticated throughout the 1980s and early 1990s. The first threats of dismissal against workers taking industrial action were made against drivers in the flexible rostering dispute in 1982. This was a significant departure from previous practice, but the dispute was settled before management were put in the position of having to decide whether or not to carry them out. Threats of dismissal were carried out in the 1985 dispute over DOO and this gave BR a strong bargaining counter to secure the NUR's agreement to DOO as a condition of their reinstatement. Dismissals were also carried out in a dispute in Scotrail. By 1992, in the overhead line supervisors dispute BR indicated that it was considering both the dismissal of workers and legal action against the NUR and TSSA. The threat of dismissal was used more widely against unofficial action and in local disputes. Other sanctions against individuals including suspension, and other forms of pressure including for example threats to career prospects, were also said to have been considered by BR. In some cases to which respondents referred, targeting individual workers was clearly a key part of management strategy in handling what were complex situations.

In LUL, after the main 1989 dispute was settled, management took a harder line against the continuing occurrence of unofficial action over OPO, threatening both to suspend workers and take disciplinary action leading to possible dismissal. A similar line was taken against individuals in 1992. Workers who refused to operate new machinery had also been disciplined. In London Buses it had not been the practice to dismiss workers who were involved in industrial action, but pay deductions were made from workers who took part in 'run ins'.

## **5. Perceptions of the 1980s**

In addition to questions focused on use of the law (if any) in relation to particular events, respondents were asked some more general questions on their perception of the climate of industrial relations in the 1980s and early 1990s and the role of the law in this context.

Nine of the ten respondents agreed that employers had become more hardline in their dealings with trade unions. The one who disagreed did so on the basis of his own experience which was that the organisation had not changed its way of dealing with issues which was still based on consultation with unions.

Five respondents disagreed, two of them strongly, with the suggestion that personnel specialists were less important than they used to be. Two of the remainder expressed no view on this point. There was wide agreement that the role of personnel had changed with less emphasis on industrial relations issues and more on providing specialist advice to line managers.

Opinion was evenly divided on whether the law had been the most important factor affecting industrial action. Comments on this issue ranged over a broad spectrum. At one end was the view that there would be more industrial action if there were greater freedom to do so within the law. Two respondents emphasised the costs involved for trade unions in organising industrial action. Two thought that it was difficult to separate the influence of the law from economic factors among

which unemployment was specifically mentioned. At the other end of the spectrum three respondents commented that the law did not govern people's behaviour and they did not look to the law first in deciding whether or not to take industrial action.

Respondents also had different views on the importance of the law as a factor favouring employers in their own experience. Two said that it had not been at all important, six that it had been fairly important and two important. Comments on this point disclosed opposed opinions on whether the law had had any effect on the incidence of unofficial action. Whilst respondents believed that the law had had an impact not only on trade union behaviour but that it had also been a factor making management more determined or hardline, there was no response suggesting that management was using the law in a more strategic way to promote new initiatives.

All respondents agreed, two strongly, that industrial action ballots had been a good thing for trade unions. Ballots were felt to have helped trade unions' image, enabled members to express their views and, perhaps most important, to bring back power within unions from shop stewards to full time officers. This last point related to the view that sporadic local industrial action in the 1970s was a reflection of unions' losing control over local organisation. Commenting on the impact of ballots, no respondent felt that ballots were a powerful weapon in the hands of unions. In general they were felt to have helped both sides to focus their minds and be more careful in their actions.

Seven respondents agreed, one strongly, that trade union officials were now more accountable to their members. Two disagreed and one said that he did not know whether or not this was so.

## **6. Conclusions**

The period of the 1980s and early 1990s was a time of radical organisational change in BR, LUL and London Buses. In large part this change was made necessary by external factors most of which reflected the development of government policy towards public sector transport services. All the services were subject to financial constraints and London Buses was exposed to the pressures of competitive tendering for the right to provide services. As senior managers, respondents were therefore involved in attempts to square the circle of providing a modern, safe and efficient rail, underground or bus service, while reducing the service's call on government funding. In pursuit of this goal management in all three services achieved extensive changes. These involved reductions in the size of the workforce, in working practices, modification of terms and conditions of employment and, in some respects, a new management style. While the existence of well-established industrial relations structures in all three organisations was seen as having contribution to a history of fairly good industrial relations, the scale and pace of change made it difficult to achieve consensually and increased the likelihood of disputes and conflict. This inevitably placed considerable strain on the traditional concern of managers in these important public sector transport services to strive to maintain continuity of service at all times.

It is, therefore, perhaps not surprising that all three services had quite extensive experience of disputes over the period under review. This was greatest in BR where respondents reported a significant number at both national and local level. Many of these disputes related to management proposals for change, but there were

also important disputes over pay. The industrial action in the summer of 1989 in all three services pointed up these issues quite dramatically.

Within BR an important and complex feature of the experience of disputes was the involvement of, and relationship between, different levels of management. A common criticism of the 1956 disputes procedure made by respondents was that it meant that issues which should have been settled at local level were frequently processed up through the procedure to a higher level. This both undermined local management and inhibited the development of expertise in settling disputes at local level. One aspect of management policy in the 1980s was to increase the authority of local management. There was, however, evidence from our interviews that this was not a consistent process. On occasion during a dispute local management had been overruled by more senior managers. In addition, it was felt that greater involvement of operations managers in preparing some of the restructuring packages would have improved the chances of their being acceptable to the unions and the workforce. Attempts to develop methods of communication with the workforce outside the traditional channels of trade unions were also rather uneven. It appeared, therefore, that crucial changes in management organisation, responsibility and style which were involved in the reorganisation of BR into businesses and profit centres, were not always consistent. As a result there was an element of uncertainty in how management responded to disputes and actual or threatened industrial action. This was reflected in different attitudes towards resort to the law whether by way of litigation or threats of legal proceedings against trade unions, or by asserting legal rights against individual workers who took part in any action. Respondents' comments on the use of the law in the 1989 disputes were, perhaps, the clearest demonstration of these differences.

All three services had made greater use of the law in disputes than any of the other sectors, private or public, covered in our survey. This was noticeably the case where industrial action was taken by way of protest against or resistance to organisational change - workplace closures, new working practices, changes necessitated by the introduction of competitive tendering for bus routes etc. In BR and LUL this appeared to reflect, inter alia, difficult relations with one or more of the rail unions at different times during the period under review. More important, it could also be seen as evidence of a new management approach to disputes which was part of the strategy to implement change. The willingness of BR and LUL to threaten and implement sanctions against individual workers - a development found elsewhere in our survey - together with initiatives on direct communications with the workforce, provide support for this view.

There were, nevertheless, mixed and less certain opinions among respondents on the results of resort to the law. In London Buses, challenges to the validity of strike ballots had led to fresh ballots and larger majorities for industrial action. In LUL, the labour injunctions secured in the 1989 dispute bought management some time but did not in the event prevent extensive industrial action occurring. For BR the picture painted by respondents was complex. While the 1989 litigation may have had a valuable educative effect on the risks involved in court actions against trade unions, positive benefits were seen to have followed from other use of the law, notably the dismissal of unofficial strikers in the DOO dispute in 1985.

While the picture of gains and losses may be a mixed one, it was clear that over the period under review, the law was always on the agenda as one among a

range of possible responses to actual or threatened industrial action. In BR and LUL this can be seen as part of the changing nature of relations between management and unions with a less corporate approach, reduced commitment to working with and through unions and a greater willingness to use a 'carrot and stick' strategy to secure the cooperation of individual workers. A rather different picture emerges from London Buses where developments after 1984 were part of what was, in a sense, a rather bigger transformation than that experienced by BR and LUL: fragmentation into eleven companies each providing possibly only a small fraction of the routes formerly provided by London Transport and which would ultimately be transformed into private sector organisations. In the disputes which occurred as part of this transition, while the law was far from absent, its role appeared to be a less significant one. Overall in these three services, it seemed that the law was a subsidiary part of, and influence on, the management of the process of change rather than an independent factor having a separate effect on management's relations with trade unions and the workforce. It may have been the case, however, that the law was a more central influence on decision making at top management level where political pressures would have been more directly felt.



## ENDNOTES

- \* Jane Elgar was a Research Officer in the Centre for Economic Performance 1990-93 and Bob Simpson is Senior Lecturer in Law and a member of the Centre for Economic Performance at the London School of Economics and Political Science.
1. Up to 1984, London Transport's bus and underground services were funded through the Greater London Council. From 1985, the government was empowered to make grants to London Regional Transport (LRT) for capital or operating expenditure and LRT was only able to borrow money for capital expenditure with government consent.
  2. Municipal bus services in other towns and cities had a similar experience.
  3. The relatively small numbers working in BR Telecommunications, European Passenger Services and BR Property had already become employees of these three legally separate entities.
  4. There were differences between the businesses. For example while each of the nine profit centres or divisions within Network South East was autonomous with its own director, in Trainload Freight there were no administrative or personnel staff within the profit centres, which were based on the four principal commodities carried, and operations were serviced entirely from business headquarters.
  5. The numbers employed in each of the four businesses interviewed were as follows: Inter City 29,638; Regional Railways 36,323; Network South East 34,500; Trainload Freight 13,627.
  6. Published in 1979, this set out a wide range of proposals for changes in working practices. The NUR responded with *The Railwayman's Charter*.
  7. The process continued after the start of the transfer of rail services to the private sector in April 1994. The proposed restructuring for signalling staff was a central issue in the dispute between these workers and their new employer Railtrack in the summer of 1994.
  8. The 1992 changes were shortlived. New structures had to be devised to accommodate the progressive transfer of rail services to the private sector from April 1994.
  9. The NUR amalgamated with the National Union of Seamen to form the National Union of Rail Maritime and Transport Workers (RMT) in 1990.

10. An indefinite strike organised by the NUR was called off after one day. Before the strike began, LUL had secured a labour injunction against the NUR on the ground that it had called on its members to go on strike without holding a ballot as required by the Trade Union Act 1984 ss. 10 and 11.
11. On whether these particular forms of industrial action are in breach of the workers' contracts of employment see Secretary of State for Employment v ASLEF (No 2) [1972] ICR 19, C.A. and Napier, 1972.
12. This view was succinctly expressed by the general secretary of the NUR Jimmy Knapp after the High Court decision in LUL v NUR: 'we are rapidly reaching the position in this country where it is not possible to call a strike and remain within the law' quoted in the Financial Times, 6 May 1989.
13. We are aware of a number of other occasions when legal proceedings were either threatened or actually initiated. These included a claim for damages from the NUR and ASLEF for losses caused by the unballoted action called for in support of the miners in 1985.
14. It was not clear whether or not these repudiations were in accordance with the legal requirements as they were either up to 1990 or from 1991 onwards.

## REFERENCES

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