

B.R. STATEMENT

Transport  
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The Opposition, led by Albert Booth, with the support of Messrs Huckfield, Straw and Dubs, drew Mr Howell's attention to the proposal made by ASLEF on 30 June that the BRB should call off the imposition of flexible rostering, and allow the executive time to hold a conference to seek authority from their members to co-operate in an experiment on flexible rostering. This experiment would involve the acceptance of flexible rostering in part of the country, and the implementation of productivity measures suggested by ASLEF in other parts of the country. The Opposition painted this as a substantial concession by ASLEF, and asked why the Government was not prepared to encourage the BRB to negotiate on this basis. They claimed it was untrue that flexible rostering had been discussed ad nauseam: the BRB had only announced that it would impose flexible rostering on 26 June. ASLEF would be prepared to lift their strike threat to allow discussions on their experiment to proceed. Why was the Government ignoring ASLEF's proposal?

David Howell said that the BRB was ready to discuss how their new rosters should be introduced. The important thing was that the ASLEF executive should abandon their call for an all out strike, a decision that was taken by the executive with little reference to the union's membership or interests. The Opposition's claim that flexible rostering had only become an issue in the last week was nonsense; the subject had been discussed at length, and in every forum, since last August. The BRB's latest proposal had been for an experiment whereby the new rosters would only be introduced in Scotland, while an experiment on ASLEF proposals would be considered in England. ASLEF had simply met this with a call for an all out strike. He hoped that, with the help of ACAS, good sense would prevail.

On the Backbenches, Matthew Parris drew attention to the possibility that some branch lines would not survive the strike; Anthony Grant said that the public were prepared to suffer if it meant a better future for British Rail; John Major pointed out that flexible rostering was the practice in almost all the European countries,

and had been accepted by the NUR; and Shiela Faith emphasised that many members of ASLEF were opposed to the strike. This last point was taken up by David Owen who supported the Government's stance, but called for legislation to make postal ballots for the election of union executive officers compulsory.

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With the Government, the Liberals, and the SDP against them, the Opposition were an angry minority.

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2 July, 1982

STATEMENT ABOUT THREATENED INDUSTRIAL ACTION BY ASLEF

2 JULY 1982

With permission, Mr Speaker, I would like to make a statement about the further threatened strike on British Rail and Government measures to help rail users.

The House will have shared the general relief that the delegate conference of the NUR overturned the decision of their Executive to call strikes on both British Rail and London Underground.

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But this good sense has been overtaken by the decision of the Executive of ASLEF, the train drivers, to call an indefinite national strike from tomorrow night.

The ASLEF Executive's grounds for this action are that they refuse to operate BRB plans for more flexible working hours or rosters, on which there have been extensive consultations including a tribunal award which have been already accepted by railway guards and their union and implemented by four fifths of them.

Mr Speaker unless there are last minute wiser thoughts ASLEF is now embarking on the most pointless national strike called by a trade union in half a century.

Unless this strike is called off, it will again bleed away vital railway funds needed for modernisation, as it did in January/February of this year; and it will further worsen the pay prospects for all others in the industry. The railway system will be forced to contract. Many associated industries supplying equipment will be hurt. Many more railway jobs will be lost, as will many wage packets. A strike will also harm other industries and the jobs of those working in them.

The British Railways Board has done all that is reasonable, and more, to understand drivers' worries and to introduce new flexible hours with all necessary safeguards. But without consulting its members the ASLEF Executive responded by calling an all out strike.

Faced with this ugly prospect the Government will again take all possible measures to minimise the grievous difficulties for commuters and protect the public. The police will again make substantial extra car-parking spaces available, including 3000 extra spaces in Hyde Park and Regents Park.

Clearways will be kept free. Roadworks will be postponed wherever possible. However, as London Transport will be operating, normal parking restrictions will apply.

It will be vital for hours to be staggered and above all for cars and journeys to be shared. There are no legal or insurance obstacles to car-sharing. Let every car travel full.

Mr Speaker, it is not too late for the many engine drivers who normally serve the public well to see that they are being grievously misled by their Executive. They will do great harm to their own members' livelihoods, as well as to those of many others and to the railway itself. Much their wisest course is to call off the strike and accept the introduction of flexible rostering arrangements. This they should now do.

*Dr. Summerskill]*

*It being Eleven o'clock, MR. SPEAKER interrupted the proceedings, pursuant to Standing Order No. 5 (Friday Sittings).*

## ASLEF (Rail Dispute)

11 am

**The Secretary of State for Transport (Mr. David Howell):** With permission, Mr. Speaker, I should like to make a statement about the further threatened strike on British Rail and Government measures to help rail users.

The House will have shared the general relief that the delegate conference of the NUR overturned the decision of its executive to call strikes on both British Rail and London Underground. But this good sense has been overtaken by the decision of the executive of ASLEF, the train drivers, to call an indefinite national strike from tomorrow night.

The ASLEF executive's ground for this action is that it refuses to operate British Railways Board's plans for more flexible working hours or rosters, on which there have been extensive consultations, including a tribunal award, and which have already been accepted by railway guards and their union and implemented by four-fifths of them.

Unless there are last minute wiser thoughts, ASLEF is now embarking on the most pointless national strike called by a trade union in half a century. Unless the strike is called off, it will again bleed away vital railway funds needed for modernisation, as it did in January and February of this year, and it will further worsen the pay prospects for all others in the industry. The railway system will be forced to contract. Many associated industries supplying equipment will be hurt. Many more railway jobs will be lost, as will many wage packets. A strike will also harm other industries and the jobs of those working in them.

The British Railways Board has done all that is reasonable, and more, to understand drivers' worries and to introduce new flexible hours with all necessary safeguards, but without consulting its members the ASLEF executive responded by calling an all-out strike.

Faced with that ugly prospect the Government will again take all possible measures to minimise the grievous difficulties for commuters and to protect the public. The police will again make substantial extra car parking spaces available, including 3,000 extra spaces in Hyde park and Regents park. Clearways will be kept free. Roadworks will be postponed wherever possible. However, as London Transport will be operating, normal parking restrictions will apply. It will be vital for hours to be staggered and, above all, for cars and journeys to be shared. There are no legal or insurance obstacles to car-sharing, so let every car travel full.

It is not too late for the many engine drivers who normally serve the public well to see that they are being grievously misled by their executive. They will do great harm to their own members' livelihoods, as well as to those of many others and to the railway itself. Much their wisest course is to call off the strike and accept the introduction of flexible rostering arrangements. This they should now do.

**Mr. Albert Booth (Barrow-in-Furness):** Is the Secretary of State aware that on 30 June ASLEF made a proposal to the BRB that if the board would call off its unilateral implementation of flexible rosters on Sunday night, the union executive would recall its conference as

10.45 am

I do not for the purpose of this speech oppose sex shops on the grounds of the rather sleazy and unwholesome background of some of the people concerned, and the vigilance that people would need to show to keep them at bay. As has been stated by other hon. Members, it is our view that it is essentially a matter for local decision by the locally elected representatives who can best express the collective view of their electorate. Although the House will be slow to refuse a right of appeal, this is one case where such a right should not be allowed.

As to whether a local authority can have a general policy to exclude sex establishments completely from its area, I should be grateful if the Minister will clarify the points raised by both the hon. Member for Islington, South and Finsbury and the hon. and learned Member for Thanet, West relating to a local authority's ability to decide upon a complete ban. I understand that it would be improper on the basis of the relevant part of the clause for a local authority to determine that, come what may, it would give a complete ban in the area that it covered. If the local authority goes through the proper forms, that end can be achieved by other means. If the local authority regarded each locality separately, that could be achieved. I seek the Minister's guidance on the definition of a locality for those purposes.

If a local authority were, for each locality within its area, having examined applications on their merits, to decide that it would not allow that particular sex shop, or sex shops in general, in that locality, it could reach a complete ban. Will the Minister confirm that that is the Home Office interpretation?

**Dr. Summerskill:** I congratulate the Minister on agreeing that the words "violence or cruelty" should be deleted. On Report he said that to exclude the words would be illogical, that they were needed for technical reasons and that they filled in the picture and gave detail that was necessary if the provision were to work effectively. I am glad that he has now decided to the contrary. I am sure that the vast majority of the House will support that. By licensing articles associated with or intended for violence or cruelty, the House would be condoning and legitimising their sale. In an Act of Parliament we should not encourage violence or cruelty.

Amendment No. 159 has led to anxiety. The hon. Member for Islington, South and Finsbury (Mr. Cunningham), their Lordships and others have asked for further clarification. It is a general wish that a local authority can say that it will have no sex establishments in its area. If it has one or two it should be able to say that it wants no more; if it has none, to continue to have none.

I am sorry to keep harking back to what the Minister has said, but we do not know what he might say. On Report he said that the licensing scheme was deliberately directed at the suitability of applicants and premises. He accused those of us who were trying to include the provision in the Bill of tackling the problem by the back door.

In another place an amendment was tabled to permit a local authority to resolve that sex establishments should not be permitted in its area. The Government opposed that. They did not like the amendment. The Government amendment refers to "locality" and not "area". The term means the locality in which the premises are situated. Does "locality" mean the same as a local authority's total area?

The Government said in the other place that the amendment would enable licensing authorities to reach the same conclusion in the end as a total veto. Why did they not accept the amendment referring to a local authority's total area? "The relevant locality" implies the neighbourhood immediately around the premises of a sex establishment and not the whole local authority area. The House would like to enable a local authority to say that there should be no sex establishments in its whole area. There is ambiguity about the Government amendment. Their Lordships believe that it still does not express what is generally wanted.

**Mr. George Cunningham:** In so far as the hon. Lady is going after the definition of "relevant locality" as against a number, is it not clear that if a local authority were defining a relevant locality for the purposes of clause 11(3)(d) it might have to establish that there was some common characteristic about the relevant locality and that might mean that it could not regard the whole of its area as the relevant locality for clause 11(3)(d)? But for clause 11(3)(c) there is no reason at all why it should not regard the whole of its area as the relevant locality, because there is no characteristic built into clause 11(3)(c) which the area has to have in common.

**Dr. Summerskill:** I agree with the hon. Gentleman.

It is for the Minister to explain what the Lords amendment will mean in practice. I hope that he will explain why the term "area" was rejected and "locality" was preferred, with the much more restricted meaning that it appears to have. It is important that what the term is intended to mean is what the House wishes—that a local authority can say that in the whole of its area it can veto the establishment of sex shops.

**Mr. Rees-Davies:** Under the Act, assuming there are four major localities—Margate, Broadstairs, Ramsgate and one other—the authority would have to state each in turn as being a locality that should not have sex shops. Is that not preferable? The term "local authority area" may mean that local representatives do not give the matter the same consideration.

**Dr. Summerskill:** There is an argument for each little area to be considered separately, but on Report the House took the view that the whole local authority area should be considered as one by the elected councillors.

I doubt whether we shall vote on the issue. The term "locality" will be used. But I wish to know how the Government see the term operating and whether it will meet the wishes of the House, which were repeated forcibly on Report, and which the other place endorsed.

I welcome the fact that the fine has been raised to £10,000 and that it is now considered appropriate to deal with the cases in magistrates courts. However, I do not believe that the fine is sufficient to deter sex establishment operators. The report by Mr. Patrick Sergeant, the city editor of the *Daily Mail*, quoted a man described as the highest paid company chairman in Britain, who drew £325,000 salary last year from a chain of sex shops which earned £2 million. Someone like that would be prepared to pay £10,000 fine in order to continue his lucrative trade, and such a fine would not deter others from starting up in the trade.

The appeal procedure has been fully debated and I agree with the several hon. Members who have pointed out that the legislation is new—

speedily possible and seek from it authority to co-operate in experiments on productivity improvements and flexible rostering which would be carried out on the basis of experiments in a substantial geographical area proposed by ASLEF to review work allocation, to concentrate more work into programmes, to link rosters so that savings could be achieved to cover the introduction of the 39-hour week at a minimal cost and to produce productivity improvements that would match the board's own flexible rostering proposals?

ASLEF also proposed that, concurrently with that, it would go along with the board's proposal to cover a substantial geographical area on the basis of the board's interpretation of the rostering proposals of the Railway Staff National Tribunal's decision No. 77 and would agree with the board that both parties should give a fair and reasonable trial to the experiments, without prejudice to any existing agreements.

Is the right hon. Gentleman aware that his statement appears to take no account of that very substantial and significant move, which offers an opportunity to resolve, by a desirable agreement, what has undoubtedly been an extremely difficult industrial relations issue for the board?

Why does the right hon. Gentleman appear to be encouraging the board in refusing to negotiate with ASLEF on that basis, while the strike threat is on, when he knows that the Railway Staff National Council met last week to discuss the NUR position when that union had a strike threat on? Does that not suggest that there is more than a hint of dual standards being applied in the Secretary of State's approach? For example, why is the right hon. Gentleman talking to the chairman of the board about the dispute, but not talking to ASLEF? A degree of even-handedness would not come amiss.

Will the right hon. Gentleman undertake, as a matter of extreme urgency, to urge the board to take up ASLEF's offer and to put it to the test, because I believe that that would lead to the calling off of the strike and the averting of massive inconvenience to thousands of passengers?

**Mr. Howell:** The significant event that the right hon. Gentleman forgot to mention was ASLEF executive's decision on Tuesday night to call an all-out national strike. The most significant event that is needed now, and I hope that the right hon. Gentleman will use his influence to try to bring it about, even at this late stage, is for the ASLEF executive to call off the strike and to agree to the introduction of flexible rosters.

I am sure that the right hon. Gentleman recognises that the board has been ready to discuss how the flexible rosters should be introduced, but the first requirement is for the ASLEF executive to call off the strike and to agree to the introduction of flexible rosters. If the right hon. Gentleman is saying that further discussions are needed on whether those rosters should be introduced, I have to remind him that promises were made last August that they would be brought in, there was a target date in October, an inquiry in February, a tribunal award for the board in May, and notice was given to the union in June for introduction in July. No one can say that there has been a lack of time for the introduction of flexible rosters or for discussions on how they should be introduced.

All that the ASLEF executive has to do now is to reverse the strike call of Tuesday 29 June and agree to the

introduction of flexible rosters. The board has made it absolutely clear that if the union will do that it will be ready to discuss details of how it should be done.

I understand that ACAS is still in touch with the parties, and if ASLEF will follow the course which I believe would be wise for all its members the opportunities for discussing how flexible rosters should be introduced are open to it. But the first requirement is to call off the strike.

**Several Hon. Members rose—**

**Mr. Speaker:** Order. I propose to allow questions until 11.30 am.

**Mr. Matthew Parris** (Derbyshire, West): Does my right hon. Friend share my anxiety that there are many marginal branch lines in our constituencies—the Matlock to Derby line is only one example—which, I greatly fear, will never re-open if they shut on Sunday? Will he join me in urging railwaymen on those branch lines to ignore the strike?

**Mr. Howell:** I certainly join my hon. Friend in that. It is the Government's view, and my view, that there is no wish to see any substantial reduction on the nation's railway network. It would be a tragedy if, as a result of the sort of action that is threatened, decisions were forced which could lead to the outcome that my hon. Friend fears.

**Mr. Les Huckfield** (Nuneaton): Is the right hon. Gentleman aware that, following Sir Peter Parker's exhortations to railwaymen to give flexible rostering a try, the ASLEF executive has now agreed to seek authority to participate in precisely such an experiment? Is he aware that, despite that major concession on the part of ASLEF, the BRB has already sent out notices to at least 30 major depots throughout the country stating that from 4 July it will impose flexible rostering on train crews? Is he aware that ASLEF has said that if that imposition is withdrawn, the strike can also be withdrawn?

When so much is being offered by ASLEF in the dispute—more than has been offered by other unions in similar disputes—why do the BRB and the Government persist in the deliberate intention to take on ASLEF and provoke a bitter industrial conflict? Will the Secretary of State, even now, see Sir Peter Parker once more and urge him to take up ASLEF's genuine offer?

**Mr. Howell:** The hon. Member mentions what other unions have offered in disputes. What other unions have done—including the major railway union, the NUR—is to lift their strike threat. As the hon. Member has influence in this area, would he not be more wisely employed in seeking to persuade the ASLEF executive, first and foremost, to withdraw the all-out strike decision that it made on Tuesday night and to accept the introduction of flexible rosters? It is not a matter that can be said to have been rushed prematurely, because it has been discussed for an interminable period. The method of introducing the rosters could then be discussed between ASLEF and the BRB. That is the course that the ASLEF executive would be wise to pursue. It would be in line with the wisdom shown by other unions in similar circumstances. I hope that the hon. Member will recommend that course to the ASLEF executive.

**Mr. Anthony Grant** (Harrow, Central): Is my right hon. Friend aware that the travelling public are absolutely exasperated with ASLEF and all its works—perhaps I



[Mr. Anthony Grant]

should say "non-works"—but that the public will probably stick it out if they have a reasonable belief that their miseries will lead to a better train system in the future?

As certain ASLEF members are involved in the London Transport system, can my right hon. Friend say what the effect might be on London Transport, which has already suffered enormously through the incompetence of the GLC?

**Mr. Howell:** My hon. Friend is correct in what he says. It can also be said that there will be no better railway if the work practices of 1919 are persisted with and if there is a failure to accept the introduction, one way or another, of flexible rosters. That must be accepted, and I believe that the ASLEF executive would be wise to recognise it and to lift its strike threat.

There is no prospect at present of a renewal of the industrial relations problems that were experienced last week on London Transport. I understand that London Transport is working normally and is likely to continue to do so.

**Dr. David Owen** (Plymouth, Devonport): Is the Secretary of State aware that many people think that the Government are right not to intervene and that it is reasonable for the BRB to insist that ASLEF withdraws its strike threat? There have been too many cases recently in which progress has been blocked because of the persistent use of the threat of strike action.

Will the Secretary of State consult his right hon. Friend the Secretary of State for Employment about the introduction of postal ballots for the election of union executive officers? Can there be any doubt that if the ASLEF executive had been elected by the members on a secret ballot it would not be acting in this utterly irresponsible way?

**Mr. Howell:** I am grateful for the right hon. Gentleman's support, as the BRB will be. I believe that the board is pursuing sensible and reasonable paths in order to get the productivity that is needed, and that it deserves the support of all those who want to see a better railway.

The ASLEF executive now has the power—and, indeed, the facilities—to conduct a ballot and can do so at public expense, but it has chosen not to do so. One has to make the necessary deduction from that decision. The ASLEF executive decided to call the strike without a ballot and without checking with the members.

**Mr. John Major** (Huntingdonshire): Can my right hon. Friend confirm that flexible rostering is the common practice in most European railway networks and that it has already been accepted in Britain by the NUR?

If the strike takes place, will it not cost many railwaymen—and possibly many people in industry—their jobs? In those circumstances, should not ASLEF withdraw its strike threat immediately? Would it not help if, just for once, Her Majesty's Opposition offered their support to the railway network and the travelling public rather than to people taking militant action?

**Mr. Howell:** My hon. Friend is correct in saying that flexible rostering and variable hours are now operated on every European railway network except one. The NUR has accepted the principle and, indeed, the practice of flexible

rosters. Four-fifths of the NUR guards are either operating or are ready to operate flexible rosters and that has produced extra pay for them. I understand that there is a more satisfactory working pattern, to the benefit of the railways and the railwaymen. ASLEF would do well to follow that lesson.

**Mr. Donald Anderson** (Swansea, East): The Minister began his statement by complimenting the NUR conference on its good sense earlier this week and the NUR on its position concerning flexible rostering. What can he say about rewarding that good sense and safeguarding the bulk of the industry in the current troubles?

**Mr. Howell:** As I mentioned in my last reply, the NUR guards received extra pay for working the flexible rosters. That is on top of the extra 3 per cent. that they received for undertaking to implement a wide range of productivity agreements. One has been implemented, but the others have not yet been implemented. I understand that they are to be the subject of further discussion. There has been a reference to the Railway Staff National Tribunal, and it will be for the NUR to see how it can implement its productivity promises of last year, for which it received the two layers of extra pay that I have described.

**Mrs. Sheila Faith** (Belper): Is my right hon. Friend aware that the Matlock to Derby line, already mentioned by my hon. Friend the Member for Derbyshire, West (Mr. Parris), was running throughout the NUR strike last week, and that it is very sad that the jobs of sound and sensible people such as these should be threatened by the narrow-mindedness and rigidity of ASLEF?

**Mr. Howell:** I note and agree with what my hon. Friend says about the ASLEF executive, because I happen to believe that there are a great many dedicated engine drivers and railwaymen in ASLEF and the NUR who are appalled at the course on which the ASLEF executive is now set.

**Mr. Clement Freud** (Isle of Ely): Will the Secretary of State accept that the House—and, indeed, my constituency and the railway yards at March—will be grateful to him for mentioning that the vast majority of honourable members of ASLEF are violently opposed to the strike?

Will the Secretary of State spell out even more clearly the long-term danger to the branch lines in East Anglia, in Northern Scotland and in other parts of Britain?

Will the Secretary of State consider bringing in some interim legislation so that when we have another rail strike people will not spend the whole day telling each other how they got to work?

**Mr. Howell:** I think that I shall need time for further reflection on the hon. Gentleman's last remark, but he is right to emphasise the very heavy cost that will fall on the railway industry as a result of further and prolonged strike action. We have seen what happened earlier in the year, when over £80 million, which could have been used for much better things for the railway industry and its customers, went down the drain as a result of protracted and unnecessary strikes over the same issue. That is now threatened again. I repeat that this will be one of the most pointless strikes in living memory, and I urge anyone with

an influence on the ASLEF executive to bring it to bear before that executive inflicts permanent damage on its members and many others on the railways.

**Miss Janet Fookes** (Plymouth, Drake): Is there any good reason why women should not be trained as train drivers? It seems to me that they would not be as stupid as the men.

**Mr. Howell:** I understand that there are 12,000 women in the employ of British Rail, and I believe that there could well be good reasons why women should be trained as train drivers. It is a point worth considering.

**Mr. Jack Straw** (Blackburn): Is the Secretary of State aware that, from all the contact that Opposition Members have had with working train drivers in depots, there is no question but that the anxieties and fears about flexible rostering which the ASLEF executive articulates are shared by drivers on the ground and that, notwithstanding those anxieties and fears, the decision of the ASLEF executive yesterday represents a major shift in its position towards reaching an accommodation with the British Railways Board and towards meeting the offer which the board made to it on 26 June to accept dual experimentation? In view of that, is it not plain that even at this late stage the Secretary of State ought to urge both sides in the dispute to seek to reach an agreement on the basis of what the board offered on 26 June and what the ASLEF executive sensibly responded to yesterday?

**Mr. Howell:** Of course there are anxieties, as there are in any industry about changes in work practices, but what has occurred with National Union of Railwaymen guards, namely, that they have found the new practices acceptable and a positive benefit, is news that has spread and could be spread further to many ASLEF drivers. They will discover that some of their fears about the unacceptability of moving from the sacrosanct 8-hour day are completely unfounded.

The British Railways Board has gone to considerable lengths to propose safeguards and to introduce the flexible rosters sensitively. The hon. Member for Blackburn (Mr. Straw) says that there has been a major shift in the ASLEF position. The best reflection of that major shift would be to lift the all-out national strike call that was imposed, without consulting its members, on Tuesday night, to agree to the introduction of flexible rosters—that would reflect the major shift which the hon. Gentleman says has taken place—and for the railways to proceed on a happier path.

**Mr. Neil Thorne** (Ilford, South): Notwithstanding what the Opposition have said this morning, does my right hon. Friend accept that the travelling public are heartily sick of the attitude of ASLEF in this matter, believing it to have had ample time to come to a sensible solution long before now? If hon. Members on both sides of the House are correct in their assumption that the vast majority of railwaymen do not want this strike, can my right hon. Friend confirm that the jobs of those who are prepared to put the transport network in jeopardy could easily be filled by people with no more than six weeks' training—which might give us an opportunity to introduce some of the ladies mentioned by my hon. Friend the Member for Plymouth, Drake (Miss Fookes)?

**Mr. Howell:** There is no doubt that the public have shown great patience and fortitude, especially in the face

of the strikes in January and February on the same issue. They rightly feel that this misery and inconvenience is being imposed on them for no good reason, that the ASLEF strike should be called off, and that the flexible rosters which have been discussed for many months and agreed by the machinery of the industry should now be introduced.

I believe that the right approach is for the board and for all those with influence on the ASLEF to say, as was said by the country to the NUR, that the sensible course is to go back to work, to operate the railway system and to let the board and the unions concerned discuss how to introduce the new rosters which have been recommended by the tribunal. I think that that is the sensible way to handle the matter.

**Mr. Alfred Dubs** (Battersea, South): Does the Secretary of State agree that the decision by the ASLEF leadership reflects a decision by the ASLEF conference and, therefore, by ASLEF members? Does he also agree that if the British Rail proposals are forced through, we are talking about a maximum saving of £9 million a year, which is pretty small compared with the total British Rail budget? Above all, is not the ASLEF suggestion of experiments in a couple of areas the best way forward? If the Secretary of State really wants to avert the strike, why does he not bring his pressure to bear on the British Rail management to agree with the ASLEF suggestion?

**Mr. Howell:** I am sure that the hon. Gentleman accepts that the first requirement must be for the strike decision taken by the ASLEF executive to be lifted. The British Railways Board has made it quite clear that if the strike threat is lifted and agreement is reached about the introduction of flexible rosters, the board is ready to discuss how they should be introduced. Obviously it is better that they be introduced by mutual agreement rather than the board being in a position, as it is now, where it has warned that it will impose them on 4 July and intends to do so.

I cannot believe that the hon. Gentleman is seriously arguing that the discussion of how flexible rosters should be introduced should proceed under the threat of a national strike called by the ASLEF executive, apparently without consulting its members. He says that the executive's decision reflects the view of ASLEF members. I do not see how it can know that it does, because apparently it has not taken any soundings on the desirability of the strike. I believe that if the executive consulted its members it would find enthusiasm for the strike, with the consequences that would follow, very much more muted than some hon. Members suggest.

**Mr. Nicholas Lyell** (Hemel Hempstead): Does not my right hon. Friend put his finger on the problem when he points out that the members of ASLEF have not been consulted? Did not last year's ASLEF strike cost £100 million in revenues to the railways? Before the executive goes ahead with this strike, which in my view it should call off at once, should it not consult its members by secret ballot so that that very sensible body of men—the individual train drivers—can express their view on this strike, which will be so damaging to their industry?

**Mr. Howell:** I believe that it would be wise for the ASLEF executive to follow that course. I also believe that it was profoundly unwise of it to call the strike that it did

[Mr. Howell]

on Tuesday night. Therefore, the hopes for wise action following that unwisdom must be limited. But I believe that even at this late stage the executive should follow the course suggested by my hon. and learned Friend. It would be even better if it reversed that intemperate decision to call a national strike, because that is in no one's interests, least of all those of its members.

**Mr. Bowen Wells** (Hertford and Stevenage): Can my right hon. Friend confirm that of the eight hours that rail drivers work, only two are spent actually driving trains?

**Mr. Les Huckfield:** Absolute nonsense.

**Mr. Bowen Wells:** Will my right hon. Friend also confirm that the rigidities of the present system make rail drivers travel long distances to sign on, thus inconveniencing the drivers themselves?

**Mr. Howell:** It is true that it is a very old-fashioned system and that the actual driving time is on average about 3 hours 20 minutes, although obviously other time is required to prepare for the driving, and occasional breaks are also needed. Nevertheless, the actual driving time is very much less than eight hours—I believe that it is about five hours in all. It is a very rigid system. It has been abandoned by almost every modern railway system in the world. The system of more flexible hours has great benefits and will bring a shorter working week of 39 hours to the drivers. It is in their interests in every way to co-operate in the introduction of flexible rosters.

**Mr. Richard Alexander** (Newark): As the ASLEF executive has had several months in which to engage in constructive talks about productivity, is it not a hollow offer that it makes now to engage in an experiment? Since there has been no consultation with the union's members, does it not follow that this industry is being harmed beyond belief by people who have no mandate for their action?

**Mr. Howell:** It is very late in the day to talk about and to propose a major shift of attitude. But if there has been a major shift—and I shall welcome it if there has been—the best way for that to manifest itself is for the ASLEF executive to lift its strike threat, to agree to the introduction of flexible rosters and to show that its attitude has changed and that this major shift has occurred.

**Mr. Roger Moate** (Faversham): Should we not remind the Opposition of something about which the public are quite clear, namely that flexible rostering has been discussed and negotiated ad nauseam and that even the McCarthy tribunal said that the introduction of flexible rostering was essential to the future of the railways? Does not the threatened loss of revenue to British Rail clearly show that the ASLEF executive is threatening its members' jobs, the future of many branch lines and the railway industry's future investment programme?

**Mr. Howell:** I hope that the right hon. Member for Barrow-in-Furness (Mr. Booth) will use his authority and that of his colleagues to bring home to the ASLEF executive the message that my hon. Friend has put so clearly. There is no reason why anyone who is genuinely concerned about the health of our railway system and the workers in the industry should hesitate or hang back from clearly telling the ASLEF executive that it is set on a

catastrophic course that will damage the whole railway and that it should reverse that course by calling off the strike action and accepting the introduction of flexible rosters.

**Mr. Booth:** When the Secretary of State said that it would be wrong to go ahead with negotiations on the experiments under the threat of a strike, did he not reveal his complete misunderstanding of ASLEF's proposal? The right hon. Gentleman should be able to understand that ASLEF proposes that the threat of the strike should be lifted while negotiations take place on the proposal by the BRB that two experiments should be conducted concurrently. Is it not silly for the right hon. Gentleman to talk of the "interminable" length of negotiations when the board's proposal to deal with the matter in that way was made to the three union general secretaries only on 26 June? ASLEF's response was made on 30 June, only four days later. That is not an "interminable" length of time and the right hon. Gentleman should adopt a different word.

If the Secretary of State approved of the decision taken this week by the NUR conference and believed it to be correct, should he not at least open his mind to the idea that ASLEF should be allowed to put the proposition made by the president and the general secretary to the conference as soon as it can be reconvened? The right hon. Gentleman will then have a clearer understanding of ASLEF's views and of its members' willingness to co-operate in sensible arrangements for the introduction of rostering. The issue is extremely difficult and complex and rostering requires men to start at all hours of the day. The right hon. Gentleman should understand ASLEF's members' reluctance to give up their guarantee of an eight-hour-day.

**Mr. Howell:** I have always made it clear that both the Government and the board fully understand the problems and the sensitivities involved in changing working practices, despite the fact that those changes are desirable and have been made by almost every other railway system in the world. The proposals that I understand that British Rail made on 26 June were met not by the response that the right hon. Gentleman described, but by the threat last Tuesday night of an all-out strike. That was the ASLEF executive's response. It is in the hands of the ASLEF executive to reverse the brutal response that it made on Tuesday night for an all-out national strike.

Let ASLEF reverse that brutal response, call off the strike and agree to the introduction of flexible rosters. If it were to do that, it might well provide the basis upon which the British Railways Board can work out with the executive exactly how the rosters should be introduced, in line with last August's promises, the inquiry in February, the railway tribunal's award to the board in May and the notice given in June that the rosters would be introduced in July. This is the opportunity that the ASLEF executive has to make a better response than the one it gave to British Rail's very constructive proposals.

**Mr. Speaker:** We now return to the consideration of Lords amendments.

**Mr. Harry Greenway** (Ealing, North): On a point of order, Mr. Speaker. When we reach the end of the time limit on a statement and only one or two hon. Members are still rising in their places, could you not be flexible? I represent many commuters who will have to get up from 4 am onwards to travel to London and elsewhere as a result of the strike. So far, I have been unable to represent the great anger and distress that they feel about the strike.

**Mr. Speaker:** I am sorry for those hon. Members who have not been called and I appreciate the hon. Gentleman's request for more flexibility. However, if I am too flexible we shall not return to the main business before the House. I have to try to hold the balance and the Minister has been asked a fair number of questions today.

## Local Government (Miscellaneous Provisions) Bill

*Question again proposed,* That the amendment be made.

**Dr. Summerskill:** Before the statement, I was referring to Lords amendments Nos. 187 and 189, which relate to the right of appeal. As has been said, the Bill deals with a new situation and with the licensing of a unique type of shop. It cannot be compared with any other licensing, such as the licensing of betting shops, or with planning permission or improvement grants. Therefore, this issue must be considered quite separately.

I am concerned more with the right of appeal by a shop in existence than with the refusal to create a shop. In the case of a shop that exists, I am not very worried about its owner. He is in a lucrative business and could no doubt move to another area in which the local authority was willing to allow him to set up shop. The owner could easily find some authority to give him a licence. However, I am worried about those who work in the shop and who are not getting a proportion of the owner's profits. The worker would be earning an ordinary wage.

A point of principle is also involved. The House should not take away a right of appeal without giving the matter careful consideration. However, we are clearly dealing with people who will be vigilant over their right of appeal. Conegate Limited sent a letter to its staff saying:

"all is not lost—we can appeal to the Magistrates Court, and if we lose there, to the Crown Court—and all this time, an existing shop can continue to trade."

Obviously, the company will use the power of delay in the appeal system and the shop will continue to operate, possibly against the local authority's wishes. The local authority may say that it does not want any such establishment in the area, yet the shop will continue to trade while the appeal procedure takes place.

**Mr. Anderson:** Was my hon. Friend impressed by the passage in the letter which, in an attempt to reassure retailers, stated that their licence applications would be "works of art—drafted by the finest brains in the country and presented by the best solicitors"?

**Dr. Summerskill:** I hope that the Minister has seen the document, because it shows the determination of sex shop owners to continue in their highly lucrative trade. They are trading not to provide a public service, but to make money. As has been said, Earl Grey has been appointed. There was some shyness about giving the Earl's name, but I am sure that he would not be ashamed of everyone knowing that he is the chairman of the board. The document states: "soon we hope to appoint a doctor and a former prison governor. These moves improve the public image of the company, and enhance our standing with councils—so we will look (and in reality be) the ideal company to be allocated licences in all towns/cities where we have shops".

It is clear from that that there will be a concerted effort to use the appeal procedure in the most ruthless way to keep sex shops in an area where a local authority may have said emphatically, "We do not want any at all".

On balance, I believe that we should agree to the amendment, subject to careful review of how it operates. Taking away the right of appeal is a serious step. I hope that the Minister will undertake that the Home Office will keep the matter under review. Legislation such as this, the Cinematograph Bill and the Indecent Displays (Control)

[Dr. Summerskill]

Bill, takes us into a new sphere. We do not know how it will operate, so it is important to keep it under constant and vigilant review.

**Mr. Raison:** I wish to clear up an issue relating to the previous debate on pop festivals. I referred to a recent pop festival at Pilton. There is some uncertainty about what I said. I intended to say that in the light of what I heard about that festival I believed that it would have been subject to licence. It would have been covered by the provisions.

The debate on sex establishments is important because essentially it is about justice. It is right to devote a little time to thinking carefully about the provision. The House will be grateful to my hon. Friend the Member for Newark (Mr. Alexander) for raising the issue. We might have preferred to gallop on and get through our business rapidly, but that is not the way that the House should conduct itself. It is proper that such a matter be aired. We have had an interesting debate.

Although my hon. Friend the Member for Newark explained his view clearly, I can claim that the general view on both sides of the House is in support of the Government's position. The hon. Member for Croydon, North-West (Mr. Pitt), my hon. and learned Friend the Member for Thanet, West (Mr. Rees-Davies), my hon. Friend the Member for Portsmouth, North (Mr. Griffiths), and the hon. Members for Swansea, East (Mr. Anderson) and for Halifax (Dr. Summerskill) have come to the view that the Lords' amendments are right. That is important.

The ways in which hon. Members have expressed their views are valuable. My hon. Friend the Member for Portsmouth, North gave an account, which has been reiterated, of the way in which sex shop owners would have been prepared to use an appeals system to frustrate the intentions of the legislation. It has done no harm to have a clear picture of that.

Contributions from hon. Members with legal qualifications have added to the value of the debate. I left out of the list of hon. Members who contributed the hon. Member for Islington, South and Finsbury (Mr. Cunningham).

The essence of the argument by my hon. Friend the Member for Newark was that the proposition is against natural justice and that there should always be a right of appeal. I do not think that there is such a right in all other circumstances, but I understand why my hon. Friend argues in that fashion. I accept that we should be careful about forgoing an appeal right. Like the hon. Members for Islington, South and Finsbury and for Halifax, I believe that the Government should think about it again from time to time. We should take care to ensure that the results of our handiwork are examined to ensure that the system is working in an effective and just manner.

The issue hinges on the question who can best judge what is right in a locality. It boils down to the question whether local authorities or the courts are best equipped to make the judgment.

11.45 am

Magistrates usually have the first bite at the appeal cherry. A case could end up at the Crown court, if the appeal process were fully operated. One cannot say that the Crown court has the best knowledge of local conditions. The Crown court is concerned with the operation of justice.

As the hon. Member for Islington, South and Finsbury said, the criteria are discretionary and involve judgment. They are almost subjective in their nature. The criteria involve assessments of an area and of whether a sex shop is suitable in that area. Local feelings should be taken into account. After all, local people have to walk past sex establishments and they see the impact that they have on the community.

The tenor of today's debate is that the decision-making power should lie with the local authority as the representative and guardian of the locality. In the last resort there is a possibility of judicial review. My hon. Friend the Member for Newark perhaps underrated the power of the High Court to review a refusal by a local authority. The matter is not complicated. If it is thought, for example, that the council has acted out of mere prejudice, saying simply, "We do not like sex shops", it is likely to be found to have acted ultra vires and the High Court will overturn that decision if asked to do so.

The council must act within the framework of the law. It cannot act in a wilful and prejudiced way. It must have regard to the criteria in the Bill and make its judgment lawfully. The High Court being in the background is a real safeguard and should not be underrated.

The hon. Member for Islington, South and Finsbury and others referred to the nil provision. There has been a little uncertainty about it. The hon. Member said that a nice distinction was entailed. The crucial point to understand is that the local authority making the decision must meet the Bill's criteria for refusal and licensing. That means that it must apply its mind to the circumstances at the time that the application is made. If a local authority has a closed mind, it could be involved in a judicial review.

The nil provision is not a blanket provision that can be decided in advance. I say to my hon. and learned Friend the Member for Thanet, West (Mr. Rees-Davies) that the local authority would be unwise to pass a general resolution stating that there should be no sex shops in Broadstairs or anywhere else. The local authority must consider each application on its merits. If it does not, its decision will be overturned by judicial review, for example because the authority had not considered whether there was a change of circumstances since passing the resolution and also because it is unsafe to define the relevant locality until an application is made. It is important to understand that. It is a reiteration of the principle that we have been trying to advance. Each case must be considered carefully and in the light of the criteria.

**Mr. Anderson:** Clearly the local authority must consider each application on its merits, although its consideration would be within the framework of a policy that evolves in relation to a defined area. What is more puzzling is whether the general framework should be in respect of a small area or the entire local authority area. The word "locality" is not defined and there may be different interpretations of it.

**Mr. Raison:** I shall deal with that point in a moment. Provided that the local authority considers each application on its merits and does not take an unreasonable view of the locality in each instance, it could come about that no sex establishments would be allowed in the entire local authority area. The nil provision makes it clear that



pa. *Press Office*

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*1 Mr Secretary* <sup>MUS</sup> (1)  
*2 Prime Minister*

Willie Rickett Esq  
Private Secretary to  
the Prime Minister  
10 Downing Street  
LONDON  
SW1

*Yes - unless content?*  
*matter change* *WH*  
*not* *1/7*  
1 July 1982

*Dear Willie,*

It was agreed at Cabinet this morning that my Secretary of State should make an oral statement in the House tomorrow on the threatened strike by ASLEF. I attach a copy of the proposed statement. It may have to be revised if there are developments overnight.

I am copying this to the Private Secretary to the Chancellor of the Exchequer and other members of MISC 80, the Private Secretary to the Lord President and to the Private Secretary to the Chief Whip.

*Yours,*

*Anthony Mayer*

R A J MAYER  
Private Secretary

DRAFT STATEMENT ABOUT THREATENED INDUSTRIAL ACTION BY ASLEF

1 JULY 1982

With permission, Mr Speaker, I would like to make a statement about the further threatened strike on British Rail.

The House will have shared the general relief that the delegate conference of the NUR overturned the decision of their Executive to call strikes on both British Rail and London Underground.

But this good sense has been overtaken by the decision of the Executive of ASLEF, the train drivers, to call an indefinite national strike from tomorrow night.

The ASLEF Executive's grounds for this interperate action are that they refuse to operate BRB plans for more flexible working hours or rosters, on which there have been extensive consultations including a tribunal award which have been already accepted <sup>by railway guards & their union</sup> and implemented by four fifths of <sup>them</sup> ~~railway guards~~.

In rejecting these plans and calling a strike the ASLEF Executive are going not only against the British Railway Board's sensible drive for modern work methods - of the kind operated by almost every other European railway system They are going against their own promises made almost a year ago for which pay

increases have been already given. And they are going against the clear recommendations of the railway industry's own tribunal, under Lord McCarthy.

This intransigence will again bleed away vital railway funds needed for modernisation, as it did in January/February of this year; and it will further worsen the pay prospects for all others in the industry. The railway system will be forced to contract. Many associated industries supplying equipment will be hurt. Many more railway jobs will be lost, as will many wage packets. A strike will also harm other industries and the jobs of those working in them.

The British Railways Board has done all that is reasonable, and more, to understand drivers' worries and to introduce new methods sensibly. But without consulting its members the ASLEF Executive have rejected these moves out of hand and seem hell-bent on a strike.

Faced with this ugly prospect the Government will again take all possible measures to minimise the grievous difficulties for commuters and protect the public. The police will again make extra car-parking space available. Clearways will be kept free. Roadworks will be wherever possible postponed.

It will be vital for hours to be staggered and above all for cars and journeys to be shared. There are no legal or insurance obstacles to car-sharing. Let every car travel full.



Mr Speaker, it is not too late for the many engine drivers who normally serve the public well to see that they are being grievously misled by their Executive. They will do great damage to their own members' livelihoods, as well as to those of many others and to the railway itself. Much their wisest course is to call off the strike and this they should now do.