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The effects of the 1980s employment legislation in Britain on the protection of workers' rights: the case of the London dock-workers

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Introduction

The Conservative government, which replaced the Labour administration of James Callaghan in 1979, came to power following a period of prolonged industrial unrest–the so-called winter of discontent–when worker demands for substantial wage rises to protect them from the contemporary high levels of inflation led to highly publicised scenes of what was claimed by sections of the media as a breakdown of basic public services. The Conservatives and the Tory press were able to convince voters that the blame for Britain's woes could be laid squarely at the door of the trade unions, and that the overweening power of the so-called 'union barons' was destroying jobs and Britain's ability to compete in world markets. Mrs Thatcher's election campaign was largely constructed around the promise that a Conservative government would curb the trade unions and 'get Britain back to work'. The 17 years of Conservative rule that have followed stand as the longest period that any party has remained continuously in office since the almost unbroken spell of 45 years of Tory government finally came to its end in 1830. The 17 years, with first Mrs Thatcher and then John Major as Prime Minister, have enabled the Conservative government to pursue an exhaustive and sustained programme of policies designed to regulate ever more tightly the activities of the country's trade unions, while simultaneously taking steps to 'ease the burden' of regulation on employers, policies which it is claimed have made British industry more efficient and competitive and to have laid the foundations for jobs and wealth creation.

In order to examine the effects that implementation of these policies has had on trade unions and the protection of workers' rights and to examine whether the claims expressed by the Conservative government that closer regulation of the unions and deregulation of the activities of the employers would bring about an improvement in industrial efficiency and competitiveness, this paper has taken as a case study the example of the London dock-workers, who, when the National Dock Labour Scheme (NDLS, also 'the Scheme') was abolished in 1989, experienced the full impact of that power which employers now have available to them as a direct result of the government's industrial policies. By looking also at the manner in which the Commons was informed of the proposed legislation abolishing the NDLS, and

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at the statements of reassurance to MPs and the general public that the dockers had nothing to fear from the ending of the Scheme, it is hoped the paper will throw some light on whether Parliament and the public were misled.

The dock-workers in Britain's major ports have long held a reputation for militancy and solidarity, and for this reason any government wishing to confront them would be fully aware of the risks of a prolonged and bitter strike, with possible adverse economic consequences. Nevertheless, this is precisely what the Conservative government set out to do in 1989. For sake of brevity, I propose to forego any analysis of the history of turbulent industrial relations that characterised the docks' industry. Suffice to say that few today would dispute the view that the dockers' solidarity, militancy and 'restrictive practices' were grounded in a history of deprivation, poverty and conditions at work that in the worst examples could only be described as being the most hideous squalor. Dock work was also highly dangerous; indeed, the fatality rate in work related accidents in the docks was second only to that of the coal mining industry.[1]

The causes of dissension and the working conditions in the docks have been the subject of numerous government Inquiries and Royal Commissions, most notably the Shaw Inquiry of 1920, which acknowledged the appalling conditions and admonished employers for having done so little to improve matters. (*Transport Workers*, 1920). In World War II the importance of the dockers to the war effort brought about (1941) the introduction of a guaranteed minimum wage for men who reported for work for the full 11 'turns' a week.

With the restoration of peace, the Labour government of Clement Attlee determined that there should be no return to the insecurity and poverty of the pre-war years in the docks. Legislation was enacted and a new Scheme brought into effect in 1947 in which the minimum wage guarantee was reaffirmed. The post-war Scheme also gave workers' representatives a say in the administration of the industry through participation in the National and Local Dock Labour Boards.[2] The Scheme, at its inception, was applied to 84 out of 319 ports employing dockers in the British isles, but those docks brought into the Scheme comprised all the largest ports and the vast majority of dock-workers (Wilson 1972). However, by the 1960s a number of those ports considered in 1947 too small for incorporation had developed into major facilities, particularly as the trade between Britain and Europe expanded apace; for example, the Port of Felixstowe grew rapidly and, with its modern facilities and specialisation on container and roll-on/roll-off traffic, came to be seen as a serious competitor to the Port of London for the trade with the continent. Thus, whereas in 1947 there were in excess of 90 000 dock-workers in Britain, of whom only some 1200 or so found themselves outside the Scheme, by 1988, shortly before the abolition of the NDLS, the number of registered dock-workers, i.e. those within the Scheme, had reduced to 9649, while the number of the non-Scheme men had grown to 3963 (Turnbull *et al.*, 1992).

[1] Bullock (1960), commenting on safety in the docks in the 1920s, claimed that 'safety regulations were inadequate and frequently ignored: the accident rate in dock work was exceeded only by that in the mines'. Even in the post-war years, there have been many fatal accidents. Figures published in the *Annual Abstract of Statistics* indicate that in the period from 1959 to 1977, there were some 470 fatal accidents in the docks in Britain.

[2] See Adams (1973), Chapters 15 and 16 for a description of the National Dock Labour Scheme.

The Scheme provided the dockers with a degree of security and a guarantee of a minimum wage for men who turned up to work regularly; it did nothing, however, to end casualism nor did it improve the bad industrial relations and the many strikes that plagued the industry. The employers complained of the high cost of the levy that they were obliged to pay to fund the Scheme and were unhappy at trade union participation on the National and Local Boards, which, they argued, allowed the unions to interfere in what they saw as managerial functions. As a direct result of a national wage claim, but also in an attempt to find a long-term solution to the frequent industrial disputes in the docks, the Labour government set up yet another Inquiry, in 1964, under Lord Devlin. Implementation of the recommendations of this committee finally brought about an end to casualism in the docks, as well as going some way towards persuading the dockers and their union representatives to accept the introduction of new technology. It was, however, the contentious issue of modernisation, and the dockers' role in a restructured industry, that was to prove the cause of renewed friction between the employers and the dock labour force.

Modernisation, in the 1960s, centred specifically around the pre-loading of sea cargo in boxes referred to as containers. Although the use of boxes for pre-loading had its origin long before World War II, the practice was systematised and standardised at the end of the 1950s by American shipping companies and then spread rapidly to other advanced trading nations. The advantages lay in the fact that cargoes could be moved quickly into and out of the ports, thereby shortening transit time, predations from theft were substantially reduced and the labour requirement was very considerably diminished (a survey commissioned by the British Transport Docks Board, and carried out by McKinsey & Company shortly before the implementation of Devlin Phase I, suggested that 'the rapid adoption of container technology' would involve large-scale redeployment of men: 'In the port industry the reduction in dock-workers handling general cargo could also be as high as 90% of the total employed using break bulk methods') (McKinsey & Co., 1967, p. 68). Predictions such as this were bound to reinforce fears of redundancy and encourage the men to take industrial action to defend their jobs.

Containers were driven to the docks on container lorries and either unloaded on the quay-side to be put aboard using straddle carriers operated by a single operator, usually with an observer to guide the correct placing of the container on the vessel, and then off-loaded at the arrival port onto lorries for onward departure to their destination, or they were driven direct onto the vessel at the departure port and then driven off at the destination port, requiring only guidance of the lorry to its parking position; this latter system was termed roll-on/roll-off, or ro-ro, and in Europe was used mainly for traffic between the continent and Britain, Norway and Sweden. For the new technology to be cost effective, the dock employers needed the size of the labour force to be drastically reduced, but for the dockers this meant that there was an immediate threat to their livelihood, and this was exacerbated by the fact that many shipping organisations arranged for their containers to be packed and unpacked (stuffed and unstuffed) at locations just outside the vicinity of the port, where the work could be performed by workers unconnected to the dock industry. The dockers fought for the exclusive right to handle these operations at such sites. It is important to note, given the accusation in the Tory press that dockers were

attempting to steal other workers' jobs, that they did not object to exporters or importers using their own personnel to stuff or unstuff containers at their factories or depots, the dockers' case being that where containers were brought to a depot to be loaded or unloaded with cargoes belonging to several owners, that work was dock work and should be theirs exclusively.

The Devlin reforms, while they had enabled modernisation agreements to be negotiated in the various ports, did not bring industrial peace, nor did they resolve the issue of who had the right to stuff and unstuff containers. Durcan has argued that 'reliance on the goodwill and common-sense of the parties' may have prevented the Devlin Committee from setting down clear guidelines (Durcan *et al.*, 1986). Connolly appears to support this view, claiming in the case of the Port of London that there had been so little change in the docks before Devlin that the industry was incapable of negotiating 'such a wide-ranging scheme'. The negotiations concentrated on achieving a satisfactory wage settlement which it was assumed would resolve all other problems of the Port. Issues such as mechanisation, incentives and work supervision were largely ignored (Connolly, 1972, p. 551).

It is particularly surprising that the immensely important question of ensuring a sound and comprehensive series of agreements for the restructuring of the docks' industry was not given far greater attention by the port authorities and employers, who cannot have been ignorant of the modernisation agreements that had been negotiated in other parts of the world such as the US west coast, nor could they have been unaware of the threat posed to British ports by the massive investment in modernisation and development at Rotterdam and Hamburg and elsewhere in Europe, where negotiations with the workforce had been generally handled in a most successful manner. As for the largest dock-workers' union in Britain, the Transport and General Workers' Union (T&GWU), they too were made aware of the negotiations that had taken place in California by an American trade union delegation, which came to London in 1963 to attend the International Transport Federation Congress. Leaders from that delegation described to the British union officials their own experiences of their negotiations for a mechanisation agreement.[1] The west coast longshoremen and their employers' association also published a book at the time, which makes clear their view that 'it would have been a serious mistake to call in an outside third party. The only bargain the parties could live with was one which they had made themselves. Anything less would have made a shambles of negotiations and inevitably led to the violent resumption of guerrilla warfare over work rules and practices' (Goldblatt, 1963).

The Devlin Commission succeeded in bringing about modernisation agreements between the employers and the unions, but the men were in many cases far from satisfied with these agreements. Fear of job losses and continuing mistrust of the employers eventually resulted in a national dock strike being called by the T&GWU. The seriousness of a national dock strike in turn forced the employers and the unions to come together, in the Port of London, to negotiate an agreement which it was hoped would persuade dockers to co-operate with modernisation, and at the same time persuade large numbers of men to take voluntary severance and leave the

[1] This information was provided to the author by Maurice Foley, a prominent London dockers' leader at this period (Field-notes).

docks. The committee set up in 1972 to produce this agreement was co-chaired by the chairman of the Port of London, Lord Aldington, and the General Secretary of the T&GWU, Jack Jones; the resulting settlement was referred to as the 'Aldington/ Jones' agreement', which many saw, paradoxically, as offering the men a job for life. No docker could be made forcibly redundant, but a series of voluntary severance schemes were established to encourage men to 'take the money' and go.

The employers had never shown any great enthusiasm for the Scheme, and following implementation of the Devlin recommendations and of the Aldington/ Jones' severance schemes, together with the high cost of funding a programme of capital investment and renewal,[1] their disenchantment was made all the greater. The sharply rising costs in the Port of London were largely the result of these structural changes exacerbated by rising interest rates on borrowing during the 1970s and early 1980s.[2] The media nonetheless continued to place the blame for the problems of the docks onto the dockers' laziness or intransigence, yet between 1965 and 1988 man/ton productivity increased 14-fold as also did the level of dockers' wages.[3] In real terms, however, the labour cost of handling a ton of cargo in the London docks in 1988 had fallen to one-seventh of the 1965 figure, and even in current prices was no higher than in 1965[4] Over this period, the number of registered dockers decreased by more than 75% nationally, and by 93% in the Port of London.[5] By the end of the 1970s strike activity in the docks had also reduced very sharply, and in the mid-1980s employers were professing themselves increasingly satisfied with the performance of the registered dock labour force.[6] Indeed, with the employers regularly praising the improvements in productivity and industrial relations in the docks, it is surely relevant to ask why they were so insistent on repeal of the Scheme. In an interview in January 1989, just 3 months before the decision to abolish the NDLS was announced, for example, the Managing Director of the Port of Tilbury, John McNab, was able to state that 'there was a better atmosphere in the port (of Tilbury) than ever before' and that 'our preoccupation with reducing manpower is now over'. New investment—amounting to some £8 million—was under way and McNab was 'confident enough about relations at Tilbury to bring the dockers and customers together at receptions and to 'invite journalists to go out and talk to the labour' (*Fairplay*, 1989a, p. 11). McNab also

[1] In 1965 the PLA's interest charges against borrowing amounted to less than £2 million, by 1975 they had risen to £5.3 million and in 1980 they reached £10.9 million. They remained around £10 million per year until 1984 but thereafter dropped sharply, falling to less than £500,000 in 1988 (Port of London Authority).

[2] Dimsdale (1991), provides detailed discussion of minimum lending rates in this period.

[3] *Port Statistics* and National Dock Labour Board.

[4] *Port Statistics*, National Dock Labour Board and the Port of London Authority. In 1965 22.2 million tons of cargo were handled at Tilbury, and the average weekly average labour cost was just under £600,000; in 1988 some 23.5 million tons of non-fuel cargo passed through the port, and the weekly average labour cost stood at about £625.000.

[5] National Dock Labour Board.

[6] For example, the chairman of the National Association of Port Employers, reviewing results of the ports' industry for 1986 declared: 'the dockers and their masters have changed their spots . . . British ports show soaring productivity, good industrial relations and a return of profitability. Dock strikes in Britain are at the lowest-ever level', while on Merseyside the chairman of the Mersey Docks and Harbour Board announced that 'productivity [had] doubled in five years . . . Our record of industrial relations proves Mersey Docks to be one of the most stable ports in Europe . . . so much so that private investors have put £120 million of their own money into facilities within the docks' (*Daily Telegraph*, 1987).

announced in the PLA Annual Report that a 'stable industrial situation prevailed [at Tilbury] and the year [1988] was free from any significant disruption'.[1] At the same time, the chairman of the National Association of Port Employers (NAPE), Nicholas Finney, admitted that major investments were planned for the ports and that many port employers had achieved 'good local agreements with labour' (*Fairplay*, 1989b, p. 9). With so much evidence of a new spirit in the Scheme ports, it is reasonable to conclude that abolition was not the only way forward. It now seems much more likely that the employers chose to pursue abolition either because they wished to be free of any restraints on their right to manage, and to be able to impose whatever terms and conditions of employment they wished, or were perhaps pressured by the government into pushing for abolition in support of its own stated objective of taming the unions, the docks being the last of the great fortresses of union solidarity.

Whatever the employers' motivations and despite the clear evidence of greatly improved industrial relations and productivity in the docks, government legislation, enacted in the 1980s and unfavourable to the workers and the trade unions alike, tilted the balance of the power relationship sharply in favour of the employers and gave them the confidence to mount an all-out campaign for the total abolition of the National Dock Labour Scheme.[2] On the 6 April 1989 the then Minister of Transport, Norman Fowler, announced government plans to end the National Dock Labour Scheme, and in doing so he assured the House that 'the general framework [applicable] to employment in Britain [was] sufficient on its own to protect the rights of dock-workers'. The Commons was also informed that there was 'neither the scope nor the incentive for a widespread return to casual work in our ports' (*Employment in the Ports*, 1989). It is these claims which this paper seeks to examine, in relation to the manner in which the employment Acts of 1980, 1982 and 1988, and the Trade Union Act of 1984, enabled port employers to rid themselves of large numbers of dockers in the knowledge that, although their actions amounted to unfair dismissal, it would be impossible for the wrongfully dismissed workers to win back their jobs in the docks. At Tilbury, the London dockers, once so powerful, found themselves powerless to prevent the sacking of every one of their shop stewards—as well as many of their co-workers—and the derecognition of their union, the T&GWU.

As has been noted above, the employers' campaign to eliminate trade union power, or even a trade union representation in the docks, was climaxed by the announcement in Parliament that the Scheme was to be repealed. It is appropriate to look at whether in fact the employers and the government worked together to achieve abolition, which had the benefit for the employers of eliminating the Dock Labour Boards and thus removing the unions from day-to-day participation in managerial decisions in the ports, and, for the government, in achieving yet another success in its campaign to destroy what it argued was the ability of certain trade

[1] Port of London Authority, *Report and Accounts*, 1988.

[2] At the Industrial Tribunal enquiring into the unfair dismissal of 19 shop stewards at the Port of Tilbury, the Tribunal noted that NAPE had launched a major press campaign for repeal of the Dock Labour Scheme on the 17 November 1988, which had been described as 'wide-ranging and effective in influencing public opinion' (*Decision of the Industrial Tribunal*, 1991).

unions to hold the country to ransom. Any suggestion of collusion has been vigorously denied by the then chairman of NAPE. The government had also stated in 1987 that it had no intention of bringing an end to the NDLS during the life of that Parliament.[1] There is, however, considerable circumstantial evidence to suggest that the employers and government may well have colluded in preparing the way for abolition.[2] This then is the background to the issues that this paper addresses.

Very shortly after the government's announcement of its plans to abolish the Scheme, the general secretary of the T&GWU, Ron Todd, met NAPE to put a case for a new national negotiating agreement to replace the Scheme. The employers rejected any idea of national bargaining, arguing that this would merely become the Scheme under another name. A firm assurance was, however, given that there was no intention to bring back casual employment into the industry. The government proceeded with its Dock Work Act and the union balloted for a national dock strike, but legal action by the employers successfully forced delays and necessitated a second ballot. The government, for its part, brought forward the date for receiving the Royal Assent to the Dock Work Act (1989), thereby ensuring that the Lords would not be able to hear the union's appeal before the Act became law. As a result the striking dockers were denied the Scheme's protection against dismissals, and the employers' success was virtually assured. The use of the employment and trade union legislation of the 1980s had made certain that the employer's hand was immeasurably strengthened, while the non-Scheme docks were precluded from joining the strike, because to do so would have been illegal under the new laws, even if they had been willing to stand by their Scheme colleagues.

By the time the strike was over, the employers had reduced the number of dockers at Scheme ports from 9319 to 4830, and in the Port of London from 1753 to 999 (Turnbull, 1991, p. 19). Many employers wasted no time in introducing casuals to replace dismissed permanent workers,[3] although in London this practice was largely, but not totally, avoided. The Port of London Authority (PLA) did, however, unfairly dismiss all 19 shop stewards as well as getting rid of approximately 130 other workers at Tilbury, and it is the evidence before the Industrial Tribunal in the case of the dismissed shop stewards which is used here to demonstrate that, as a direct result of government legislation, employers have gained something akin to absolute power, while the protection and redress available to working people have been diminished and are today totally inadequate.

At Tilbury, about 600 men took voluntary redundancy, in addition to the shop stewards and other dockers made compulsorily redundant. A Tilbury executive

[1] A Cabinet Minister responded to a Motion in the Commons calling for abolition of the Scheme by stating that 'abolition was not envisaged within the lifetime of the Parliament'; as the new Parliament had only begun its life in June of that year, the inference was that abolition was unlikely before 1992 at the earliest. See *The Port* (1988) and *Lloyds List* (1988) p. 3, cited in Turnbull *et al.*, (1992).

[2] See Mankelow (1994) for a discussion on circumstantial support for the collusion theory.

[3] John McNab, the chairman of the Port of Tilbury, in a letter of 10 December 1993 to all dock employees at Tilbury, stated 'We have tried to maintain full time employment and high wage levels when *many ports turned to casual employment systems with reduced wages at the time of the repeal of the Dock Labour Scheme in 1989*' (italics added for emphasis). See also Southwood (1992), pp. 62–67 for a discussion on employers' actions at various ports in employing casual labour immediately after the ending of the Scheme.

explained that 'the people we've got here now, we would argue, were hand picked'.[1] The offers of contracts to those men to be retained were made on the basis that anyone refusing to sign was taken as having dismissed himself. There was no negotiation. The Tilbury example is not an isolated case; at Aberdeen, 174 dockers and fish porters were made redundant within hours of the Dock Work Act becoming law, and casuals were employed immediately to replace them. Likewise at Great Yarmouth, Hartlepool, Hunterston, Dundee and Ardrossan, all the registered dockers received redundancy letters immediately following abolition (Turnbull, 1992). At Tilbury, in what appears to have been a demonstration to the workforce of the management's newly won power, furniture, files, report books and other papers were removed from the shop stewards' office during the abolition strike, without the stewards' knowledge. The shop stewards protested to management about the incident, but in keeping with normal practice at Tilbury, where the stewards enjoyed a considerable degree of autonomy, the matter was handled by the stewards and not referred by them to the union to be taken up officially.[2] Nevertheless, while noting that the union had made no formal protest at the time, the Industrial Tribunal rejected management's suggestion that this had been done to facilitate redecoration. The documents removed have not been recovered (*Decision of the Industrial Tribunal*, 1991, p. 154; hereafter referred to as the '*Industrial Tribunal*'). These actions and others described below demonstrate that the industrial legislation of the 1980s put the employers in a position of such strength that they were able to act almost with impunity against both the workers and their union.

In Tilbury, the employment laws have failed to protect workers against an employer determined to introduce wide-ranging changes, and to do so without any consultation or negotiation. These changes included multitask flexible working, redundancies, including unfair dismissals, increased hours of work, compulsory overtime, changes to remuneration terms and derecognition of the union for all purposes except representation at disciplinary hearings.

As important as the extent of the changes that have been unliterally imposed on London dockers is the *manner* in which the PLA acted. A document prepared by the management at Tilbury in February or March 1989, i.e. just before the abolition date of which the employers were supposedly in ignorance, notes the personnel director's concern that a quick return to work in the event of an abolition strike might not meet the employer's objective: 'the strike might not have lasted long enough to "drain the fight out of many of the dockers"'. Later in the same document, it is observed that the desirable objective of getting rid of 'the shop stewards and medically restricted men' was not lawful; nonetheless, for the purpose of the paper it was 'accepted that it would be practical to achieve selective dismissals' (*Industrial Tribunal*, pp. 105–106). The Tribunal Chairperson also expressed the opinion that 'it was the PLA's strategy to make sure that the legal proceedings (see above) over-ran the ballot mandate' (*Industrial Tribunal*, p. 141).

The evidence produced at the tribunal makes clear that the management strategy in going to court was not intended to prevent a strike; rather, it suggests that the

[1] Interview with a senior port official at Tilbury, held on 27 April 1992.

[2] Information provided by one of the shop stewards involved in this incident.

employers would be happy to take the dockers on in a full-scale strike, and intended to use it as a pretext to dismiss shop stewards and other unwanted workers while at the same time bringing in individual contracts and thereby breaking the influence of the union in the port. Following the strike and the dismissals of the shop stewards and others, the PLA management decided to issue a press statement explaining that the stewards had been made 'compulsorily redundant' and not sacked. On 31 July 1989 the personnel director reported to the Tilbury Management Board that 'it was known that claims could be faced for dismissal based on unfair selection procedures'. The Tribunal noted this and commented 'So management's eyes were open and so were those of the Board' (*Industrial Tribunal*, pp. 154–155).

With regard to the conduct of the management in the course of giving evidence, the tribunal complained that, with two exceptions, no-one had told the whole truth. In particular, certain senior managers were considered to have been untruthful, and the Tribunal also listed many references to unreliable submissions made by the PLA both in respect of statements in evidence and in press releases.[1] Of the long list of allegations made by the PLA against the shop stewards, the Tribunal dismissed many of them as inaccurate, exaggerated or simply untrue. The Tribunal, in a highly critical rejection of many of the claims made in the general allegations, used terms such as, 'the PLA's allegations . . . are not true'; 'That allegation is a travesty of the facts'; 'we find the PLA criticism is unfounded'; 'the Tribunal does not accept the PLA's allegations about this matter as being true'; 'we find on the facts that the PLA is wrong in each of these specific assertions of fact'; 'that allegation is wholly without foundation'. The Tribunal also exonerated the stewards from certain of the PLA's allegations, for example 'The shop stewards are not to be criticised in this regard'; 'we do not accept that this was the fault of the shop stewards'.[2] In fact, the Tribunal pronounced that much of the PLA's case 'seemed to have been put together as a package of justification after the event of the dismissals' (*Industrial Tribunal*, p. 11). The evidence shows that misleading statements were not restricted to evidence submitted to the Tribunal; at a meeting of the Board held on 1 June 1989, the chief executive of the Port of London had suggested *inter alia* that in the 'Conventional Department' (i.e. the dock section handling non-containerised cargo) the shop stewards had worked to undermine the management's achievements at Tilbury 'so that the wages of the men will be reduced and the shop stewards can establish greater control over them'. The Tribunal described this statement as being 'designed to win approval of the Board for management's decision and is not an accurate reflection of the facts' (*Industrial Tribunal*, pp. 132–133). These points are stressed not merely to show the difficulties facing workers when they seek justice through the Industrial Tribunals against employers who are ready to use any means necessary, including resorting to falsehoods, to achieve their aims, but also to demonstrate that workers require far greater protection under the law than exists at

[1] For example, the tribunal stated 'we consider that neither Mr McNab nor Mr Farrow were truthful', and 'Both Mr McNab and Mr Farrow were evasive in giving evidence under cross-examination.' Some of the PLA's press releases were described as 'untruthful, misleading and on no account to be relied on' (*Industrial Tribunal*, pp. 9–12).

[2] The PLA's general allegations, Part 12 of *ibid*, pp. 157–186.

present if they are not to suffer exploitation by the unrestrained power of their employers.

The record of the Tilbury unfair dismissals Tribunal makes clear that he employers set out on a deliberate campaign to denigrate both the Scheme and registered dockers.[1] The record also demonstrates that a number of the actions complained of by the Tilbury management reflected managerial shortcomings rather than deficiencies in the labour force. For example, the manipulation of the bonus system to improve incentives, included in the PLA's general allegations, was found to involve management as much as the men: where men had been allocated to Tilbury from other firms that had closed down, the management had taken no action to eliminate any bad working practices that these men had brought with them; the reliance on the stewards to carry out management functions; failure to set up a monitoring system to discover the cause of damage to newsprint (preferring merely to blame the workforce); and failure to use established complaints' procedures against alleged unsatisfactory behaviour by the stewards (*Industrial Tribunal*, pp. 157–186). The employers had launched a successful publicity campaign against the dockers and the Scheme, thereby ensuring public support for abolition and for the draconian measures of wholesale redundancies and employment of casual labour that followed. It is thus clear that the PLA was able not only to dismiss men arbitrarily but also to influence the public's response to their actions by sometimes misleading or untruthful press releases.

It is true that, under the law, employers have in many instances been obliged to face Industrial Tribunals and pay compensation for unfair dismissal. However, with the maximum penalty payable for wrongful dismissal set at about £9000 (in 1989)—with the exception of cases involving dismissals for trade union activity or for sexual or racial discrimination—there was little disincentive to employers to act illegally. Employers are also secure in the knowledge that the number of instances on which tribunals have successfully enforced their demands for reinstatement is extremely small.[2]

That the docks have suffered from a disastrous history in their industrial relations is beyond dispute. It is also evident that changes involving new technology and requiring far fewer men were inevitable; however, the arrangements put in place following the Aldington/Jones Committee report had brought about a steady reduction in the dock labour force: in 1972, when the Committee began its work, the average number of registered dock workers in Britain was 41,247; by 1989, when abolition took place, that number had fallen to 9389 (National Dock Labour Board). In their campaign to justify the ending of the NDLS, the government, and the employers, had insisted that abolition would create a very substantial number of new jobs, both in the ports, in new factories in port areas and in industry generally, by reducing the transport costs of imported materials and of exports, thereby

[1] The Tribunal described the NAPE press campaign launched on 17 November 1988 as 'wide ranging and effective in influencing public opinion. It was not calculated to improve relations in the dock and we think it must have done considerable harm' (*ibid*, p. 94).

[2] P. Statham, a soliciter who acted for the dismissed shop stewards at Tilbury, has stated that 'at the present time the Industrial Tribunals statistics show that only 0.3% of applications result in Orders for re-instatement or re-engagement and this is unlikely to improve unless the law is changed' (*Tideway*, 1994, p. 2).

making British products more competitive, the inference being that, even if some jobs were lost, there would be many work opportunities to provide new jobs for those men forced out of dock work, and indeed for other unemployed people. The government White Paper cited a study commissioned by the employers' organisation and carried out by the Wharton Economic Forecasting Associates' Group, which forecast that nearly 50,000 jobs might be created 'in Scheme areas without the Scheme's restrictions' (Wharton Economic-Forecasting Associates Group 1988).[1] The same study estimated that abolition would generate 4180 jobs within 5 years, mainly within the ports and in import and export industries. (Davis, 1988, p. 31) The result of abolition was, however, an immediate and large fall in numbers employed in the Scheme ports, quite unrelated to the oncoming recession. The number of men employed in former Scheme ports declined by 5500 between 1988 and 1992 (a reduction of 43.7%). The labour force employed in the non-Scheme ports also declined, but there the percentage was only 12% down (Evans *et al.*, 1993, p. 18). Of course, abolition coincided with the onset of the deep economic recession of 1989–1992 in Britain, which resulted in a large rise in unemployment nationwide. However, even with the passing of the recession, the number of jobs in the docks has continued to fall, and there is little evidence of any significant increase in work opportunities in the Tilbury district. Recent figures indicate that the number of cargo handlers working at Tilbury had declined to about 300 in 1995 compared to some 800 following the 1989 dock strike (Pentelow, 1995, p. 17). It thus seems clear that, far from providing more jobs, abolition was a disaster for dock employment. In both 1993 and 1994 compulsory redundancies were announced at Tilbury, although some men were re-employed as 'sessional workers', a euphemism for casual labour. As regards the benefits to industry which government had assured the House would follow from abolition, a study commissioned by the Departments of Employment and Transport makes clear that the savings resulting from increased efficiency:

> are not necessarily passed onto port users in the form of lower charges. Where price reductions have been made, the benefits appear to have accrued to the ship owner/operator or the cargo controller . . . There is little evidence to suggest that substantial benefits have trickled down to end users . . . (Evans *et al.*, 1993, p. 66).

The report also states:

> Our study does not suggest that abolition has yet had any appreciable impact on British output, either through stimulating extra trade (through reduced transport costs) or through enabling British ports to take market share from continental ports . . . such a result should not have been anticipated (Evans *et al.*, 1993, p. 61).

The dockers at Tilbury and elsewhere will have taken little comfort from the knowledge that their jobs were sacrificed to boost shipowners' profits, nor will they have been impressed by the assurances given in 1989 by the government minister in his White Paper, which promised, 'As soon as the Bill is enacted, every dock worker will acquire all the normal employment protection rights, such as the right not to be

[1] Cited in *Employment in the Ports*, p. 26.

unfairly dismissed, which are available to other workers' (*Employment in the Ports*, 1989). The shop stewards, with the aid of their union, were forced into a struggle through the longest Industrial Tribunal in British history, as well as a battle in the Courts, in order to obtain redress for their unfair dismissal, and at the end of it all, despite the fact that unfair dismissal had been unequivocally proven, none of the stewards was able to reclaim his job.

The PLA has traditionally been seen as a 'fair' employer and was noted for its policy of employing a high percentage of permanent labour rather than operating the predominantly casual labour system that was general practice in the docks' industry. Trade union officials and PLA dockers have acknowledged that industrial relations with the PLA were better than with most firms in the London docks. That this record should be tarnished by the manner in which Tilbury shop stewards and other workers of whom the port wished to be rid were dismissed leads to the conclusion that the action was a concerted plan to eliminate the trade unions from Britain's largest port, and carried out in knowledge that the government, or rather the taxpayer, would pay the bill, however much the final cost might be. The sobering conclusion to be drawn from the case of the Tilbury shop stewards is thus that it has provided us with an unambiguous example of the determination with which the government is prepared to act in order to undermine the ability of trade unions to protect their members and of the real value of so-called employment protection rights in Britain in the 1990s.

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