



OPINION

LONDON TRANSPORT FARES

A-G on
MAP
London Transport

1. The House of Lords Judgment

1.1. The case concerned the validity of a supplementary precept issued by the G.L.C. to the London Borough of Bromley to enable the G.L.C. to finance by grant to the L.T.E. the cost of reducing fares overall by 25% and of introducing a simplified zone system. Put simply, as an objective of social policy London Transport was being run at a loss to be made good by the ratepayer. The House of Lords decided that:-

- (a) L.T.E. are under a duty to do their best to break even so far as practicable and that the G.L.C. power to pay grant for any purpose must be construed as enabling them to give revenue support only to the extent that it is not practicable for L.T.E. to avoid a deficit, and
- (b) that in considering the use of their grant-making power G.L.C. must have regard to their fiduciary duty to hold a fair balance between ratepayer and user.

2. Implications for L.T.E. and the G.L.C.

2.1. I have had the advantage of reading the Opinion of Counsel for the G.L.C. and the joint Opinion of Counsel for the G.L.C. and L.T.E. In my opinion Counsel for the G.L.C. place an unduly restrictive interpretation on the House of Lords Judgment. I do not consider that any court would upset the L.T.E. 1982 Revised Budget on either of the two grounds referred to in paragraph 1.1. above. I assume here that the Government will legislate to provide for the temporary borrowing requirement and concessionary fares for the elderly.



- 2.2. The G.L.C. approval of the Revised Budget need not be conditional upon any further increase of fares this year. It has been suggested that the G.L.C. would be in breach of their fiduciary duty to their ratepayers if they allowed expenditure on revenue support to L.T.E. to lead to loss of block grant and did not increase fares beyond the 100% increase proposed to a level which maximises revenue. I cannot accept this argument. The fiduciary duty requires that the authority must do its best to reduce the burden falling upon the ratepayers. It does not require the authority to relieve the ratepayer from all of the burden. A fair balance must be struck. To quote Lord Scarman, "loss may have to be accepted as a necessity, but may not be sought as an object of policy."
3. In my opinion the 1982 Revised Budget complies with the House of Lords Judgment and that the G.L.C. would not be in breach of their fiduciary duty to the ratepayers if they approved it.

3 February 1982

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