"A history of land transport regulation in South Australia: the relevance of public choice theory"

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March, 1989

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Summary

This dissertation uses a history of land transport regulation in South Australia to test public choice interpretations of political behaviour. This model has individuals, whether as members of interest groups, politicians or bureaucrats, acting in their own individual self-interest, at the expense of the broader community interest. Those with a focussed economic stake will usually overcome the interests of consumers and the wider public, often in alliance with the regulatory agency.

The histories of taxi, truck and tram and bus regulation provide only patchy support for this view of politics. While the interest groups did act in the way expected of them, producers did not always have their way. The evidence provides little support for the public choice view of the bureaucrat, as the regulators are generally seen to implement the regulations as intended by the legislators in the interest of both the industry and the broader community. The politician is generally reactive, with party discipline preventing the expression of personal self-interest.

Failure of the public choice school to successfully predict political and administrative behaviour is largely ascribed to a simplistic view of human nature and the constraints on the exercise of personal self-interest imposed by South Australia's political and administrative institutions.

This thesis contains no material which has been accepted for the award of any other degree or diploma in any University and, to the best of my knowledge and belief, the thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

The author consents to the thesis being made available for photocopying and loan if it is accepted for the award of the degree.

Acknowledgements

This thesis has relied on information provided by a large number of officials in both the public and private sector, as well as the helpful assistance of people working in the South Australian Public Records Office and particularly the Adelaide City Council Archives. This information and assistance is gratefully acknowledged.

In particular, I wish to thank my superviser, Hugh Stretton, for trying to keep me in sight of the purposes of the research. The many hours that Jane Robbins has put into improving the clarity of my argument is also gratefully acknowledged.

ABBREVIATIONS USED:

ACC	Adelaide City Council
CCCA	Country Common Carriers Association
CPD	Commonwealth Parliamentary Debates
MTCB	Metropolitan Taxi Cab Board
MTT	Municipal Tramways Trust
SAPP	South Australian Parliamentary Papers
SAPD	South Australian Parliamentary Debates
SAR	South Australian Railways
STA	State Transport Authority
TCB	Transport Control Board

CHAPTER 1

INTRODUCTION

"...One of the finest problems in legislation", wrote Edmund Burke, is "what the State ought to take upon itself to direct by the public wisdom, and what it ought to leave, with as little interference as possible, to individual discretion." (Burke, 1884, p 107) Two centuries after this was first written the problem is still very much with us, which suggests that we have learnt little from our experience. In recent years members of the so-called "new right" have been aggressive in their calls for fewer government services and less government control. Proponents of collective action have been forced to take the unfamiliar stance of defending the status quo.

The debate has always been dominated by ideology and deductive reasoning. While values and deductive logic are obviously valid and important in such a debate, they should be supplemented where possible with historical evidence. The purpose of this study is to provide such a perspective by examining the history of land transport regulation in South Australia. While generalisations from any case study are risky, it is hoped that the history will aid the current debate about what the State should direct by public wisdom and what it should leave to individual discretion.

Introduction

The new right critique of government regulation has two parts. First, economic analysis is employed to argue that regulation does not make economic sense. Second, political analysis is used to explain why such activities come about and are maintained. This second form of analysis is the province of the public choice school.

The following history is not an economic analysis of regulation, though it is to be hoped that some insights about the value of regulation may be gained. The primary purpose is to provide a political and administrative history in order to test the view of politics and public administration advanced by the public choice school. In particular it is hoped that the history will provide insights into the nature of the political and administrative processes that have created and shaped the regulatory regimes. Along with the neo-classical school of economics, which has resurrected the wisdom of Adam Smith in order to prescribe free operation of the market place as the "natural" order, public choice has provided the intellectual infrastructure for calls for more "market" decisions and fewer collective decisions.

Although the thesis will not offer an economic analysis of the effects of the regulation, historical developments are in part determined by <u>perceptions</u> of the success or failure of regulated or unregulated activity, so it is

important that the perceptions of the time be noticed.

This introductory chapter will introduce those aspects of public choice theory that relate to the regulation of industries. However before undertaking this survey it is necessary to outline briefly the neo-classical economists' objections to government regulation in general.

THE CASE FOR REGULATION AND THE NEO-CLASSICAL CRITIQUE[1]

Most introductory discussion of industry regulation makes a distinction between economic and social regulation. The former is usually seen as the more traditional, commonly dating from the 1930s or earlier, and employing methods such as limits on entry into the industry, control of prices and/or quality and sometimes also controlof the quantity of output. "Social" regulation is seen as more modern, typically dating from the 1970s and designed to ensure that goods and practices are safe and non-exploitative and that pricing incorporates the social costs, or "externalities", that are involved in the productive process; (that is, where costs, e.g. pollution,

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1. As regulatory theory is not the essential focus of this research, the following outline will be as brief as possible, and will instead use footnotes to refer the interested reader to further literature.

are imposed that are external to the normal costs of production). Regulation of this type has extended in recent years and has been distinguished from "traditional" regulation because particular activities are being controlled (marketing, production, credit practices, and so on) rather than particular industries. (Yandle and Young, 1986). In each case the assumption is that the market is the natural means of allocating resources and the government intervention is justified as necessary to correct perceived market failure.

The distinction between social and economic regulation is fraught with difficulties, particularly in terms of chronology. One form of social regulation - pollution law - dates from medieval times. (Peacock (et al) 1984 p 10) Laws controlling labour conditions have a long history. As we shall see, economic controls are sometimes resorted to because "social" regulations have been ineffective.

Because of these difficulties the following discussion will abandon the distinction. Instead it will outline the arguments for regulation and the criticisms of these arguments in terms of the objectives sought: to encourage efficient utilisation, to protect the consumer, to protect labour, to protect the wider community from the problem of externalities and finally to provide services that would not normally be provided by the market.

Efficient utilisation

Intervention to bring about more effective use of resources has taken a variety of forms. Monopolies have been created and protected by governments because competition has been seen to have used capital resources inefficiently. Government regulation could create a more efficient supply than would be possible in a free market. It will be seen that this has been a particularly important argument in the case of transport regulation. Transport has been regulated to encourage one vehicle fully loaded rather than two loaded to only half capacity. This is not only because the vehicle is being wasted. The "extra" truck will cause unnecessary wear and tear on the road. As we shall see in the case of taxis, limitations on numbers is resorted to in a similar attempt to increase utilisation factors.

Advocates of the free market will play down concerns of inefficient utilisation, arguing that the benefits of "system wide" efficiencies need to be examined in the light of the inefficiencies fostered within organisations by a lack of competition. They argue that competitive practices that result in inefficient use of capital equipment will be temporary only; companies using such practices will not last. If the competitive practices damage the road, it is up to those supplying the road to see that costs are recovered through an efficient system of charging for road

use. (These issues will be discussed further in Chapter Three.)

Protection of the consumer

Consumer protection regulations deal with a large variety of issues. These can be categorised into those associated with monopoly conditions, exploitative trade practices and consumer ignorance.

Regulation to create a monopoly is normally accompanied by further controls to prevent the monopolist from exploiting the circumstances. This will also occur in cases in which there is a "natural monopoly" - where capital costs are so high compared to marginal costs that entry of competitors into the industry is prohibitive.[2]

The need for government intervention to either prevent monopolies or control their behaviour has traditionally been acknowledged by the economist; after all the monopolist threatens free competition. However this acceptance has been cautious, and attention is often drawn

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2. Of course regulation is not the only way to deal with monopolies. In fact most governments (including successive governments in South Australia) have concluded that it is simpler and more effective to simply nationalise the monopoly.

to four possibilities which may qualify the picture of a "natural" monopoly: (1) whether an industry is subject to monopoly or not may depend on how the industry is defined and so an apparent monopolist may face competition from goods or services that can be substituted; (2) changing technology can create or destroy monopolies; government regulation may retard adaption to changing technology; (3) demand for the product may be so elastic that buyer resistance would inhibit exploitation and (4) the existence of a single supplier in itself does not warrant government action if the market is "contestable"; that is, the sole supplier cannot exploit the situation because of potential competition. As we shall see below in the discussion of public choice, government regulation of monopolies has been interpreted as government protection of a monopoly from competition. (e.g. Anderson, 1980, Baumol, 1983 and Yamey, 1986.)

Trade practices regulation is designed to maintain competition against anti-competitive tendencies from within the private sector. The range and value of such regulation is indicated by Hugh Stretton:

> There are serious consequences for business itself if public neglect allows the rules to rust and leak too much. If malpractice can regularly outcompete honest practice, capitalism is in trouble. If managers can rob or cheat owners, or outsmart them with insider trading, or have them jailed for managers' offences, owners won't invest. If the

> employees can rob the firm it won't prosper. If business can't trust business in ordinary dealing with ordinary safeguards, many won't prosper. If false labelling and advertising regularly deceive the customers they may not stop buying, but they may stick to old-established firms they've learned to trust, and competition and open entry may wither accordingly. It may wither differently if newcomers can pirate the old-established firms' patents and brand-names and so on. In none of these areas can market forces replace regulation. In most of them the efficient operation of market forces depends on regulation, and on the continuous repair and amendment that keep the regulation effective. (Stretton, 1986, p 28)

While regulations dealing with trade practices will often be designed to prevent collusive practices between small numbers of sellers, they also are important in the opposite case; when competition is so fierce that honest standards of commercial behaviour threaten the viability of the firm, and so "short cuts" - sometimes threatening customer safety - are taken. There may also be cases in which competition among agencies will drive down the standards of service (including safety) to the level of the least scrupulous, or encourage jockeying for favoured customers at the expense of others. (Hood, 1986 p 118; Hood, 1976, p 19)

Such practices may also be proscribed because they endanger both service providers and third parties or because they produce "external" costs. An example we shall deal with later is the problem of overloading of trucks, thought to be exacerbated by highly competitive conditions.

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Overloading is not only dangerous but inefficient in the stress it puts on vehicles and roads which are not designed to take such strain.

Overloading is one aspect of the phenomenon known as "destructive competition". It is an example of the dangers to safety that can be caused by competitive pressure. Another aspect is market instability which can adversely affect consumers by disrupting continuity of supply. It can have other spin-off effects such as poor utilisation of capital equipment due to idle periods and enforced sales. Uncertainty will also adversely affect investment.

It is widely recognised that there are some matters on which the lack of consumer information or expertise prevents the reasoned decisions upon which the adequate functioning of the market relies. Government action may compel the provision of information or may go further and license the providers in order to control their behaviour. Regulation which ensures consumers have adequate information to make a rational choice can cover many aspects of market activity. Recent regulation extends beyond the concern for safety and is designed to prevent unfair exploitation.

Regulation to provide for safety is of course widely accepted in the community. For example, there are few, if

any, serious suggestions that medical practitioners should not be subject to some form of regulation - though problems of existing forms of regulation are raised and Friedman has gone so far as to say that unless there is a danger of epidemic there should be no intervention in the contractual relationship between the doctor and patient. (cited, Albon and Lindsay, 1984 p 5)

But while there are some areas in which regulation for safety's sake is uncontested, there are also plenty of grey areas in which regulation for this purpose is criticised as "paternalist"; the assumption being that the value of personal freedom outweighs the value of personal security. Regulations dealing with consumer concerns are often seen as resulting from middle class pressure which is not representative of the community as a whole. Consumer regulation has been described as providing insurance that the poor would not pay for if they were given a choice. (Stigler, 1970)

The requirement that consumers be given adequate information is widely accepted even among neo-classical economists. After all, it can be seen as enforcing and not diminishing competition. However they have come to take an increasingly cautious attitude toward the need for controls to protect the consumer. Posner argues that labelling requirements are favoured by big companies because anything

that raise marginal costs will disproportionately hurt their smaller competitors. (Posner, 1987) The Australian government's Business Regulation Review Unit has criticised the stringency of controls on food labelling, arguing in particular that such standards inhibit exports. (Australia, Business Regulation Review Unit, 1988, pp 34-35, 95; 1987, p 8)

Protection of labour

It can be readily seen that the problems outlined so far can also have implications for the safety and quality of life of the service providers themselves. Destructive competition will create economic hardship for producers. The person put in most danger by an overloaded truck is likely to be its driver.

Regulation to protect labour is normally designed for employees but sometimes also protects the self-employed. The most significant industrial laws of the nineteenth century were designed to prevent exploitation of labour, particularly that of children. Highly competitive situations in the twentieth century have also provoked demands for protection of those working in the industry. In recent years occupational health and safety legislation has been given increasing scope and in a number of

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Australian States has been tied to a compulsory compensation scheme. Regulation to prevent industrial exploitation has been seen as particularly necessary in industries characterised by small firms with non-unionised labour. A civilised community wishes to see that life is tolerable for those providing the goods and services it uses.

In industries such as transport, where exploitation is linked with the question of safety for the public at large, particularly where health and safety regulation is too costly, haphazard or inefficient, other expedients may be resorted to beside requiring minimum standards of working conditions. Regulations may limit competition or as a final resort the industry may be taken into public hands.

Regulation to protect labour is of course criticised by those who would prefer the employee and employer to be free to make a contract between themselves without hindrance from the State. If for some reason the employee is not happy with any aspect of his or her working conditions, the option to leave is always there. Furthermore, the opportunity for legal redress in the event of an accident or ill-health caused by employers should be enough to see that the employer maintains safe working conditions.[3]

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3. Smith, 1982. For Australian developments, see Plowman,

Regulation preventing "destructive" competition has also been attacked for guaranteeing "monopoly rent", at least part of which is creamed off by unions.[4] On the other hand, Hendricks argues that where prices are controlled, wages may in fact be lower, with employees trading off wages for security. (Hendricks, 1977) In either case employees are able to exploit the non-competitive situation.

Externalities

The market fails if it does not adequately incorporate the true costs of production. For the economist's "rational" allocation of resources to occur (that is, according to consumer preferences), the consumer should have to pay the full price, including the social costs such as environmental pollution and congestion.

Regarding a clean environment as a public good because it confers a benefit on a large number of individuals, economists will accept the need for government to "internalize" the externality. For example, a leading public choice theorist, Gordon Tullock, admits:

1987.

4. For an example of this in the bus and road freight industries, see Pinkston, 1984 and Rose, 1987 respectively.

> It is unfortunate that the market does not work well when there are large externalities and, unfortunately, there are many areas where the externalities are large. (Tullock, 1987, p 341)

How such intervention should be handled, however, is subject to debate. Simple prohibition of anti-social activity is distrusted because it relies on an arbitrary political decision exercised by individuals on behalf of those affected. To use an example from Alan Peacock, the smoke arising from a sugar-beet factory may be nauseating to some of those living nearby, but may be pleasant to others.[5]

Where there are externalities economists frequently recommend some sort of compromise with the market approach, such as charging for the right to pollute. This is thought to have the important advantage of providing incentives for firms to gain a competitive advantage by developing technological or managerial methods to avoid polluting. (Beckerman, 1975) Of course this still requires that an arbitrary price be put on pollution by political choice.

Provision of non-market services

There are many goods and services which will not be provided, either because they are "public goods" (where

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5. Peacock, (et al) 1984, p 2. See also Baumol and Oates, 1975, and Cheung, 1978.

benefits cannot be confined to those who pay, where provision must necessarily apply to many individuals, or where the enjoyment of the service by one individual does not diminish the enjoyment by others), or simply because there are not enough people with either the desire or capacity to pay for the service directly. In the latter case governments may still decide to ensure provision on grounds of equity, or for other reasons, such as to encourage a desired lifestyle.

In taking the decision to provide such services, a government has three options: provide the service itself, provide the beneficiaries with cash or "stamps" in order to purchase the service for themselves, or force organisations in the industry to provide the service as a condition of operating.

In the last case the government can either pay the organisation a subsidy to provide the service or force it to "cross-subsidize" from the more profitable sectors of the enterprise. Defence, decentralisation and the redistribution of income and wealth are all common objectives for which cross-subsidisation policies are designed.

Cross-subsidisation is most common in the case of monopoly providers and it may in turn necessitate government

protection from possible competition. If some goods and services are to be provided below cost, some will need to be provided at well above marginal cost. The latter (the "cream") will attract competitors who do not have the burden of the subsidised services - the so-called "cream skimmers". Governments have generally accepted the monopolist's view that cream skimming is unfair and should be prohibited.

However the practice of government-enforced cross-subsidisation is subject to criticism which applies whether the monopoly is privately or publicly owned. The "hidden" nature of the costs of production, the claim that essentially political decisions are left to unelected and ill-equipped individuals to make, the perceived tendency of the subsidy to inhibit the development of innovative services to meet demand, the fudging of economic outcomes which discourages assessment of performance and finally the view that when compared with the provision of cash benefits, cross-subsidisation is a blunt and ineffective way to redistribute income, are all criticisms that have been made of cross-subsidisation.[6]

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6. Cross-subsidisation is a common target of criticism by economists. The points made above were drawn from Ponsonby, 1969, pp 16-20. See also Posner, 1970 and Stanbury and Lermer, 1983.

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PUBLIC CHOICE

The public choice school of analysis is the economist's contribution to political "science". Most importantly, it adopts the tools and methods of the economist. It is extremely influential, underpinning the assumptions of much of the "new right" critique of government. Members have sought to explain and highlight their belief that "government failure" is a more serious problem than the "market failure" that government regulation attempts to redress. Its importance and value was recognised in 1986 when one of its leading authors, James Buchanan, was awarded a Nobel Prize for the development of public choice theory.

Any introductory exposition of the public choice approach faces the danger of falling between two stools. The essence of the approach is very simple, yet a thorough analysis of the literature would reveal the contradictory findings and qualifications that have emerged, even from within the School itself. The School contains many individual and creative thinkers, such as Gordon Tullock and Richard Posner, who have at times criticised popular stances held by proponents of public choice. (See for example, Posner, 1974)

The following account is an attempt to create a simplified model of public choice. In doing so it would be impossible

to go beyond the most basic consensus and still claim to put forward analyses and proposals held by all who would claim adherence to the public choice approach. Some of the contrary views and qualifications will be referred to in the concluding chapter.

For reasons which will be elaborated later, it is not necessary and probably not wise to give a complete account ofthe literature at this stage. What is necessary is a clear articulation of the essential ideas which animate the research and, more importantly, which underlie the assumptions and programs of politicians and others on the "new right".

Public choice adopts the methods and assumptions of the neo-classical economists. The style of argument of its leading authors is largely deductive, relying on accepted assumptions about human behaviour for its validity. These assumptions can be summarized in the well-known model of "homo economicus" - rational, self-interested (in terms of his narrowly defined interest in improving his net wealth) and armed with sufficient information to make "utility maximising" choices. Dunsire characterises the general tenor well when he describes the public choice tone as one of "world weary realism". (Dunsire, 1987 p 112) It was perhaps with his tongue in his cheek that Gordon Tullock once observed,

> As a result of empirical research, I once calculated

> that the average human being is about 95% selfish in the narrow meaning of the term.
> (Tullock, 1976, p 5)

A further necessary assumption is that the impetus for public policy can be disaggregated into the interests of individuals and the decisions made by them. The focus is on the individual. Collective action can only be explained in terms of the interests of the individuals who take part. Buchanan has written:

> There exists no purpose or objective over and beyond those of participating individuals. In the public choice perspective, properly understood, there simply are no such things as "social objectives", "national goals", or "social welfare functions".
> (Buchanan, 1986, p 87)

Armed with these assumptions, public choice theorists argue deductively to generalise about a great deal of political behaviour. Political activities will be similar to market activities in that in both cases the individual will be motivated by self-interest and will calculate the costs and benefits of actions in these terms. This has been taken so far as to suggest that tax evasion can be characterised merely as the product of efforts by those who are unsuccessful in the political struggle and who wish to escape its coercion. (Seldon, 1987, p 131)

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The public choice heritage

Buchanan dates the beginnings of the public choice school to the founding of the Public Choice Society (originally styled "Committee on Non-Market Decision-Making") in October 1963. (Buchanan, 1986, pp 13,19) However its heritage extends much further than this. The idea that politics can be seen in terms of political expedience has a very long history. Aristotle based most of his analysis on this viewpoint. Hobbes, standing at the beginning of modern political philosophy, is another obvious precursor. The materialist approach of Marx has important similarities to public choice.

Even the adoption of the market place analogy predates the "birth" of the public choice school. Schumpeter rejected the so-called "classical" model of democracy for one characterised by competition by political leaders for votes, in much the same way that companies vie for market share. (Schumpeter, 1943)

Anthony Downs took this an important step further in his An Economic Theory of Democracy (1957). His application of the market analogy to political behaviour saw Congressmen as representing aggregates of individual voters and forming coalitions with other congressmen, rather than being subject to any notion of a general "public interest". However Downs also argued that it was not rational for the

voter to go to the effort of becoming well-informed, because his or her vote counted for so little anyway. The packaging of party platforms and the development of party ideology were seen as ways of overcoming uncertainty brought about by lack of information.

This long heritage is accepted by public choice theorists. For example James Buchanan quotes with approval the eighteenth century philosopher, David Hume:

> In constraining any system of government, and fixing the several checks and controls of the constitution, every man ought to be supposed a knave, and to have no other end, in all his actions, than private interest. (quoted, Buchanan, 1982, p 116)

What is new about public choice is the deliberate adoption of an approach which is believed to be rational and objective while also consciously promoting the value of individual freedom. Furthermore this freedom is seen in the essentially negative sense of freedom <u>from collective control</u>, rather than the freedom to make real choices which may be enhanced by the provision of government services and cash transfers.[7]

As a consequence public choice has become identified with the movement to "roll back the state" - to encourage private enterprise wherever possible. Those who formed the public choice heritage did not necessarily draw the same conclusion.

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7. For a discussion of the two forms of liberty, see Berlin, 1969

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Hobbes saw man's salvation in a strong all-powerful monarch. Marx saw it in collective ownership. Even Downs deduced that the government budgets would be too small in a democracy (because voters will be more sensitive to taxes than to benefits) and that governments would take on a "Robin Hood" role (because the poor have more votes than the rich). (Downs, 1960, 1957)

The identification of public choice with the "new right" of politics has led to criticism from those who believe that collective action (usually through governments) is the only way in which justice and freedom can be maintained, equality encouraged, the environment protected. Public choice theorists will assert that, on the contrary, the political process merely reinforces privilege. For example Michael Porter (1987) sees himself and his colleagues going in to battle against the "powerful few" among whom he includes affluent and articulate bureaucrats, protected manufacturers and trade unionists who maintain their protected lifestyle at the expense of the typically younger, less skilled unemployed.

Public choice theorising has been used to explain four key aspects of the political process: the behaviour of voters, of politicians, of interest groups and of bureaucrats. The last three of these in particular have been used

by public choice theorists to explain the regulatory process and will be discussed further.

The behaviour of the general voter will not be the subject of close attention for two reasons. The first of these is that there is unfortunately little historical data on which to base analysis of public opinion beyond that provided by election results, and in any election specific attitudes on the issues under consideration cannot be separated from the broader issues of the day. The second point is related to the first; that is, public choice analysis of voting behaviour is in any case confined to discussion of one or two very broad indices, such as the overall level of government expenditure. It is not well suited to revealing the stance of voters on specific issues such as transport regulation. If there is to be a judgement based on the public choice approach, it would be that the individual member of the public has no concern in the matter unless he or she has a focussed economic stake.[8]

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8. Lipset and Schneider's survey of opinion poll findings regarding regulation in general showed that the US public have a fairly confused attitude to subject. It was clear, however that while the public do not want more regulation, they do not want less either. (Lipset and Schneider, 1979)

Interest group behaviour

The public choice model sees interest groups forming to engage in "rent seeking" activities - that is to extract "unearned" income from the government through lobbying to have the ability of government to take from some and give to others exercised in their favour.[9] However the willingness of individuals to form and participate in such groups, as well the group's effectiveness, is contingent on the motivations of the individuals.

The classic work in this case is Mancur Olson's The Logic of Collective Action. (1965) Olson's basic theme is that collective action will not take place unless the material rewards for the individuals involved are greater than the costs in terms of money, effort and so on. Organisations trying to achieve rewards for a large number of people through influencing government policy will always face the problem of free riders - those who would gain from the outcome even if they did not contribute to the campaign themselves. Where the numbers are few, or the gains can be made exclusive, collective action is much more feasible. The smaller the numbers involved the more an individual will gain from a contribution made. Also "shirking" will

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9. The idea of "rent seeking" was first developed by Gordon Tullock. For an overview of developments, see Rowley, 1987, Part IV

be more noticeable to others in the group. Organisations facing the free rider problem will need to attract support by either offering other services from which the population at large can be excluded - for example a consumers' lobbying organisation may offer a copyrighted magazine presenting results of tests on consumer items. A union will try to enforce a closed shop.

The outcome of all this for public policy in general is that those who have a direct focussed stake in a decision will exert more energy to influence that decision than those who do not. The strong interests of the minority will usually overcome the milder interests of the majority, even in cases where, using Bentham's "felicific calculus", the total interest of the majority outweighs that of the minority.

The effect of this for government regulation in particular is unfortunate. In general, policies will favour the few producers over the many consumers. "As a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit." (Stigler 1971 p 3) Downs has also argued the primacy of producer interests in the development of regulatory policy. This follows from a situation in which changes in the price and quality will not register in consumers minds as much as changes in income. (Downs, 1957, ch. 13 and p 297)

It also means that policy becomes very difficult to change once it is in place. The complaints of those with a loss in prospect will be louder than the cheers of those who stand to gain. "Economists to the contrary, opportunity losses are hardly recognised at all in psychological terms." (Stanbury and Lermer, 1983 p 398) Beer coined the term "pluralistic stagnation" to describe the resultant effect. (Beer 1982) Change that does occur will come in very small increments, or, if enough pressure builds up, suddenly and in a revolutionary manner. Olson also developed this theme in The and Rise and Decline of Nations (1982), a thesis which he subsequently claimed fitted Australia "like a glove".[10] Redistributive policies and industry restructuring policies (including those reliant on the market to restructure) will be very difficult, if not impossible, to achieve.

The effect of better organising ability is also thought to advantage big producers over small producers. There are fewer individual interests to coordinate. Each has a relatively large stake which makes collective action more logical. (Olson, 1965, p 143) This is particularly important for the regulations affecting oligopolies. (For an application of Olson's approach to regulation, see Stigler, 1971)

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10. Quoted, Gruen, 1986, p 186. See also Olson, 1984, and Marsh, 1983.

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Students of public choice have had to contend with the obvious contradiction that regulation, particularly that of a social nature, is often achieved even when benefits are more dispersed than the costs. Here public choice writers have resorted to the "entrepreneurial" model of the politician or political activist. (Wilson, 1980) The entrepreneur goes to the effort of combining and mobilising the diffuse support needed to overcome the concentrated interests. Using public choice assumptions of human behaviour, social activists such as Ralph Nader are classified as people who "derive private gains from supplying a public good." (Conybeare, 1982, p 40)

The politician's behaviour

It has been noted that attempts to draw an analogy between economic and political behaviour pre-date public choice theory. The politician is a key player in this, usually being cast in the role of an entrepreneur seeking support in terms of votes from voters and in particular from interest groups. Party ideologies are merely packages designed to aggregate voting support. Though Downs could not be called a member of the school, he expresses the essence of the public choice view of politicians:

> The politicians in our model never seek office as a means of carrying out particular policies; their only goal is to reap the rewards of holding office per se. (Downs, 1957, p 28)

Note that self-interest here means immediate self-interest. The public choice politician will see no value in a better society - unless grateful voters identify him with it. Policies are formulated to win elections. Elections are not won in order to implement policies.

Where references are made to actual political behaviour, public choice studies will normally have American politics in mind. Such accounts present the politician as looking first and foremost to securing support in his or her home State or Congressional district. Politicians will concentrate their efforts on lobbying the bureaucracy on behalf of their constituents, often using control over the bureaucrat's budget as a resource to be traded. Bureaucratic decisions will reflect such influence peddling. For example, Faith, Levins and Tollison (1987) found that a high proportion of cases dismissed by the Federal Trade Commission involved firms based in electorates of key figures in the House of Representatives who had control over the FTC's budget.

Bureaucratic behaviour [11]

The public choice view of bureaucratic behaviour has been popularised in the television series of the 1980s, "Yes Minister". One of the series' authors has noted that he explicitly used the public choice approach when writing scripts. (Borins, 1988) Once again the assumption is that an individual serving in a bureaucracy will behave in the same manner as he or she would in the market place - in self interest. At one point Tullock goes further and suggests that people involved in economic activity which approximates the model of perfect competition will be more moral than bureaucrats because their dishonesty is more likely to be found out, and that the higher up the bureaucratic hierarchy, the more likely one will find people who have sacrificed morality for the sake of their career. (Tullock, 1965, pp 22-23)

The bureaucrat has a vested interest in an expanded bureaucracy:

> As a general rule, a bureaucrat will find that his possibilities for promotion increase, his power, influence and public respect improve, and even the physical conditions of his office improve, if the bureaucracy in which he works expands.
> (Tullock, 1976, p 29)

11. The public choice literature on the bureaucracy is voluminous. Lovrich and Neiman's Public choice theory in public administration: an annotated bibliography (1984) is a guide.

Once again the predicted behaviour can be expressed simply though in the literature it is often accompanied by complicated mathematical models. The supply of services provided by bureaucrats will be greater than the demand would be if consumers had to pay for it directly. (Niskanen, 1971) The overall level of government activities will be too high:

> Given the demand for service represented by the collective organization, all bureaus are too large, that is, both budget and output of all bureaus will be larger than that which maximizes net value to the sponsor.
> (Niskanen, 1971, pp 49-50)

Niskanen's analysis for the most part assumes a single monopolistic agency operating outside of any broader institutional context. While occasionally acknowledging the existence of oversight and rival bodies, Niskanen suggests a paradigm in which bureaucrats are expected to ask for more in any negotiation over resources and in which incremental growth is assumed. (Niskanen, 1971, p 40)

Drawing from this approach, Lane has suggested the hypotheses that new bureaus will try to get bigger and that the older the bureau, the bigger it will be. Growth will be sought through a variety of expedients: encouraging use of services, diversifying services, or perhaps by amalgamation. (Lane, 1987, p 17) Service delivery that employs more staff will be preferred to alternatives such as cash payments. Similarly, an extension of regulations is assumed to

enlarge the influence and authority of regulators and so is desired by them.

An aspect of this tendency toward over-production by bureaucracies is the view that bureaucracies are simply not good at doing what they set out to do. The commonly-used rule of thumb is that private sector organisations carry out a given task twice as efficiently as a government organisation. (Tullock, 1983, p 5) In fact Tullock suggests that a lot of regulation may very well be worthwhile, it's just we should not expect it to be efficiently administered. (Tullock, 1983, pp 11-12)

The public choice bureaucrat will also desire autonomy from control by superiors. Niskanen later modified his argument to stress that that the bureaucrat will seek to expand his <u>discretionary</u> budget. (Niskanen, 1987, p 140.) In terms reminiscent of Weber, Tullock asserts that the motivation of the individuals within a bureaucracy will result in different goals being pursued from those desired by the political overlords:

> ...in a very large organization of this type, for the greater part of its specific activities, the bureaucracy will be "free" from whatever authority it is allegedly subordinate to. "It", the bureaucracy, will do things, will take actions, not because such actions are desired by the ultimate authority, the center of power, in the organization, but because such things, such actions, develop as an outgrowth of the bureaucracy's own processes.
> (Tullock, 1965, p 168)

Introduction

Once again the literature, whether empirical or deductive, is dominated by analyses of American regulatory agencies. These agencies are often vast bureaucracies, requiring many millions of dollars in direct costs to the government budget and in paperwork for those regulated. Tabb estimated in 1980 that the US federal budget allocated $US 5.789 billion for the running of its regulatory agencies. (Tabb, 1980) Vogel claims that the new "social" regulatory bureaus alone employed over 63 000 people in 1979. (Vogel, 1981, p 163)

Partly because of the litigious nature of American business, these bodies are usually heavily reliant on the judicial process to enforce their decisions, and hence on legal expertise. Lawyers employed by these regulatory authorities will have an interest in having the regulations as complex as possible, in order to enhance their indispensability.

An important feature of bureaucratic behaviour in the public choice literature is the notion that regulatory agencies become "captured" by the people they are supposed to be regulating. This is seen to be a logical outcome of factors discussed above; particularly the political power of the producer and the need for bureaucrats to gain political support.

The concept of capture predates the public choice school.

Introduction

It was an important theme in Bernstein's Regulating Business by Independent Commission, published in 1955. Bernstein presents a "life cycle" of the typical regulatory commission. Created to deal with a market failure which afflicts the consumer, the young agency will vigorously tackle its task of proscribing wrong-doing by producers. In doing so, it will increase in size and in status. Over the years, however, the ruling body and its employees will come to identify with the agency itself and not with its original objectives. Constant dealing with producers, plus producer pressure on politicians, will also lead the agency to pursue the objective of a "healthy" industry, which is assumed to mean one in which the producers have a stable existence free from "excessive" competition. The process of identification with industry is enhanced by appointments to the agency from producer interests - industry supplies at least some of the members of the controlling board; lawyers who have previously appeared for regulated companies are common recruits. (Kemp, 1983) Eventually the prevention of competition will result in such inefficiencies and stifling of innovation that politicians will begin to respond to consumer dissatisfaction. The declining agency will be preoccupied with defending itself and the regime it has created. (Bernstein, 1955, Chapter Three)

The classic case study dealing with the capture concerns

transport regulation. Samuel Huntingdon's "The Marasmus of the ICC: the Commission, the Railroads, and the Public Interest" (1966) is an indictment of the United States' Interstate Commerce Commission as a regulatory body set up to prevent railway company rapacity but in fact guaranteeing a comfortable existence for the companies by subverting the intent of the legislature in the execution of its duties. In Huntingdon's portrayal, the ICC is dependent on the railways for political support and together the two forces have fought to maintain themselves in the face of adverse technological (and hence economic) developments.

Although the ICC is often seen as a typical illustration of the life cycle thesis, it could be argued that its role was subverted at a very early stage, and with willing compliance from the politicians. Stone quotes an 1894 letter from the US Attorney General to a disgruntled president of the railway, who wanted the ICC abolished because of its uselessness:

> The Commission, as its functions have now been limited by courts, is, or can be made, of great use to the railroads. It satisfies the popular clamor for a government sponsored supervision of railroads, at the same time that the supervision is almost entirely nominal. Furthermore, the older such a Commission gets to be, the more inclined it will be to take the business and railroad view of things. It becomes a sort of barrier between the business corporations and the people and a sort of protection against hasty and crude legislation hostile to railroad interests...The part of wisdom is not to destroy the Commission but to utilize it.
> (quoted, Stone, 1963, p 3)

The foregoing quotation reinforces one criticism that has been made of the "life-cycle" theory; the anticipated pattern may be disrupted. Posner has pointed out that some regulatory agencies may start out dominated by producer interests but may be won over to "consumerism". (Posner, 1974. See also Berry, 1981)

Similarly the intuitive appeal of the capture thesis has diminished a little in the harsh light of empirical research, even within the public choice approach. Peltzman points out that government agencies cannot regulate exclusively in the interests of one party because of complaints from competing interests. Therefore, Peltzman argues, outcomes will reflect an equilibrium. Factors such as size and concentration of interests, the political sensitivity of the firm's geographic location and so on will all be important in the determination of this equilibrium. Peltzman also refines the model further by suggesting that regulatory agencies favour producer protection in hard times, but lean toward consumer protection in good times. (Peltzman, 1976, p 227)

PUBLIC CHOICE PRESCRIPTIONS

An outline of public choice theory would not be complete without some mention of the recommendations that flow from

the public choice analysis of politics. The following discussion will concentrate on those proposals that relate to government regulation so that the evidence of subsequent chapters can be used to test their efficacy.

The minimal state

The major prescription stemming from the public choice analysis is the minimal state. As Michael James has put it,

> ...such goals as sustained economic growth, equality of opportunity, individual growth, and relief from poverty and insecurity can all be realised, and realised more effectively, with considerably less state intervention than we have at the present.
> (James, 1987, p 8)

Human nature being self-interested, the best way to harness this is through competitive market conditions, with the role of the state being generally confined to seeing that the competition is free and fair. To give individuals power through the state apparatus would be to allow them to exploit others in pursuit of their self-interest. Publicly-provided services should be constrained as tightly as possible.

The earliest recommendations for minimising the state involved changing the rules. In their Calculus of Consent Buchanan and Tullock suggested constitutional amendments which among other things would have made budget deficits illegal and made more frequent use of a two thirds majority before action could be taken. (Buchanan and Tullock, 1962) Many

such proposals concern the level of goods and services by governments and have only peripheral relevance to a study of regulation. However one common rule change that has been proposed in relation to regulation has been the adoption of sunset legislation to limit the term of government controls.

As government intervention offers opportunities for some people to bend the rules to suit themselves, public choice theorists believe that a deregulated environment will almost always be superior to a regulated one. Perhaps the key feature of government regulation is the replacement of market determinations about the allocation of resources - that is, what and how much of anything is produced - with determination by the authority of the state. Common law remedies, such as suing for negligence or environmental damage, are put forward by some as an alternative to direct regulation. (Poole, 1982) Richard Posner, the leading advocate of this approach, sees the legal system as performing a function similar to that of the market:

> The rules assigning property rights and determining liability, the procedures for resolving legal disputes, the constraints on law enforcers, methods of computing damages and determining the availabilty of injunctive relief - these and other important elements of the legal system can best be understood as attempts, though rarely acknowledged as such, to promote an efficient allocation of resources.
> (Posner, 1975, p 764)

If collective, non-market activity is necessary, it needs to be structured to deny those granted political power the opportunity to abuse it.

> The problem is designing a set of public institutions so that, assuming the employees will take the public-choice approach, the outcome is truly to the public's advantage. The big problem, of course, is that for most of us individually, rent seeking is apt to pay off more highly than attempting to set up an organisation that will serve the public interest. Unfortunately, if we all engage in rent-seeking, we will all be worse off than if all of us pursued the public interest. It is the classic "prisoner's dilemma".
> (Tullock 1987, p 342)

One means of keeping the state small is to keep it firmly under the control of those it is supposed to be serving. A common recommendation is that government agencies be made as dependent as possible on their "consumers". In the words of Ostrom and Ostrom, they should be "highly dependent on mobilizing clientele support". (Ostrom and Ostrom, 1971 p 212) This proposition has in mind the provision of government services, as opposed to policing functions. Using public choice assumptions of personal behaviour, Self points out that while this may or may not be appropriate for service-delivery organisations, it would simply encourage the evils which have been outlined above in the case of government regulation. (Self, 1986, p 388)

Another interesting recommendation designed to give client control would ironically encourage the proliferation of

government services. Questioning the real benefits of coordination and economies of scale, Niskanen argues that a proliferation of agencies would naturally encourage competition. This would give the client choice and hence customer sovereignty as well as providing bases for comparison by program evaluators. (Niskanen, 1971, pp 757-782)

Local administration

The state apparatus is most likely to be used for the purpose for which it was intended if it is as close as possible to those affected. Therefore proponents of public choice favour local government over central government. The smaller scale it is, the more opportunity that those subject to it can exert control over it, and the more opportunity they have to "vote with their feet" if they do not like it. Attempting a revival of classical political theory similar to the revival of classical economics, Ostrom looks back to the Federalists' arguments. Over-lapping jurisdictions with an emphasis on locally financed, locally controlled administration may be the best way to secure government in the interests of the governed. (Ostrom, 1973, pp 121-2). Joint agencies are recommended when problems cross territorial boundaries. (e.g. Aranson, 1982)

User charges

In order to make the cost of collective activity as clear as possible, user charges should be employed. A locally-financed government operation will be least likely to be subjected to the politician's and the bureaucrat's penchant for waste and inefficiency. Earmarking of funds for particular government activities has a particular appeal for it introduces at least a quasi-private sector orientation with bureaucrats becoming dependent on the "market" for their funds.

Many of these prescriptions are at the forefront of debates about political and administrative reform today. Furthermore the deductive approach of public choice theory has been shared by a much broader variety of political analysts than those of the "new right". For example, Baran and Sweezy have provided a classic marxist analysis of the American political system that has a great deal in common with public choice analysis. (Baran and Sweezy, 1966. See also Roemer, 1986) Dunleavy has used public choice assumptions about bureaucrats from a left-wing perspective. (Dunleavy, 1985)

However the prescriptions advocated in these cases are usually different from those outlined above. It has been noted that a materialist perspective, combined with a dim view of human nature, has led philosophers in the past to advocate strong

government control. In more recent years Hardin's analogy of the medieval commons being depleted through the rational self-interest of the individual villager has been used to justify collective rules over the individual, and the collective supply of goods. (Hardin, 1968) The right wing alternative to the problem of depletion of the commons was of course the historical answer - privatisation through enclosures. This general approach has its advocates today. (e.g., Cheung, 1978, pp 83-89) Calls for bureaucratic reform from the Left tend to advocate an administration composed of officials more representative of the community, direct access by members of the community to the decision-making process, and so on.

THE THESIS

The foregoing outline of the regulatory debate and the public choice approach to it has been designed to provide a guide to the questions which should be asked in the following account of land transport regulation in South Australia. The particular focus of this study is the administrative behaviour revealed by the history, as well as the behaviour of interest groups.

Some students of public choice may feel that the foregoing account has over-simplified the approach, missing the

elaborations, refinements and qualifications that have been made by public choice authors, often on the basis of empirical observation. The response to this would be to point out that because of its deductive approach, public choice necessarily relies on simplicity. Despite their apparent complexity, deductive models rely on being able to compress social attitudes and behaviour under labels that are few in number, are easily expressed and easily measured, if necessary through proxy indices. This is particularly so where the relationships are expressed mathematically. "Other things being equal" will necessarily be the rule. Relationships will be simple - politicians and voters, bureaucrats and consumers, politicians and bureaucrats - but rarely will models be able to account for relationships between politicians, bureaucrats and elements of the broader community.

Since the individual is the basic unit of analysis, the assumptions made about individual behavior become critical in building a coherent theory. (Ostrom and Ostrom, 1971, p 205) The public choice approach as outlined presents a clear assumption that this behaviour will be selfish. Some students of public choice would protest against such a crude characterisation, arguing that the milder term that is often used - "self-interested" - does not equal "selfish" (though note Tullock's plain and simple comments above). They may refer to "psychic benefits" as well as material

benefits. But though such motivations may be admitted, they have to be ignored in any model-building, simply because they represent a "wild card" that can render the model meaningless. This will be discussed further in the concluding chapter.

Having said that, it would be precipitant to place too much emphasis on the assumptions at this stage. Niskanen argues that models should be tested by their ability to make accurate predictions rather than the accuracy of their assumptions. (Niskanen, 1971, p 38) Disbelief in the assumptions used should be suspended until the predictive power of the theory (or lack of it) has been demonstrated. If the model can be used successfully to predict outcomes, then any inaccuracies in the theory are not signifcant. Downs, for example, freely points out that not all individuals behave in the manner of his model, but that does not deny its overall use. (Downs, 1957, p 27)

It is hoped that the history will reveal something about the behaviour and attitudes of politicians, bureaucrats and members of interest groups. Discussion of assumptions about human nature and of the belief that policy can be seen in terms of the disaggregated interests of individuals can then proceed in the light of these findings. These are some of the questions that should be borne in mind:

Interest groups

Are interest groups dominated by those with a direct economic stake in the matter? What is the relevance of Olson's observations on the logic of collective action? Do producers win out over consumers? Are the regulations desired by producers, designed by producers and operated for the producers' benefit, as Stigler states?

Politicians

What is the impetus for policy development by politicians? Do they have goals and visions beyond merely winning office? Do the politicians heed the interests of the producers over those of the consumers?

What is the relationship between the parliamentarian and the bureaucrat? Do political representatives lobby the bureaucracy, using control over funding as leverage?

Bureaucrats

Have regulatory agencies continually grown? Have the regulations they administer grown in number and complexity? Have the regulatory agencies exercised

their powers free from political oversight? Is there evidence of bureaucratic growth by amalgamation?

Do the regulatory agencies come to identify with the industry rather than the consumers and the wider community? Do they lean more toward the producer in hard times and toward the consumer in better times, as Peltzman argues?

Are public bureaucracies too large and have the services been at a higher level than that which "maximizes net value to the sponsor"? How does their efficiency compare with that of the private sector?

Regulatory policies

What has been the nature of policy change? Are regulatory policies characterised by inertia? Is change incremental only? Have regulatory policies prevented necessary industry restructuring?

In addition the history may provide some evidence on the efficacy of the following prescriptions that have been put forward by public choice theorists:

- deregulation, encouragement of competition
- minimal public provision of services
- competition between agencies
- common law remedies
- local adminstration and local financing
- control in the hands of those subject to the agency
- ear-marking of revenue and preferably funding paid for by users
- charging for externalities (e.g. pollution charges)

THE HISTORY

The following history of land transport regulation in South Australia will explore these issues by examining the development of taxi, truck and tram and bus regulation.

Reference will be made to histories of the trams, trains and buses that have been sponsored by the South Australian Railways and the Municipal Tramways Trust or by enthusiasts of the technology concerned. However, although these are useful sources, the present study is the first attempt at a history of the regulatory regimes that have existed in South Australia. It is the first history of land transport in South Australia with a political focus. As a consequence there is a responsibility to tell the story in a reasonably complete

manner and for this reason the history will not take a narrow focus in presenting evidence relating to the questions posed above. There are two goals: to tell the story and to provide a case study which will illuminate the public choice analysis of political and administrative behaviour.

Because the focus is on the regulation of commercial activities, there will be no attempt to deal in any detail with regulations that are more broadly directed, such as technical requirements for non-commercial as well as commercial vehicles, general traffic rules and labour laws that apply to industry in general. This is not to dismiss the significance of such regulations; it is simply to accept that comparable coverage of them would unacceptably broaden the scope of the present study.

CHAPTER 2

TAXI REGULATION

THE DEBATE OVER THE REGULATION OF TAXIS

Before presenting this history a brief outline of the debate over taxi regulation will be provided. This is in order to explain the issues that have shaped the history of taxi regulation in South Australia.

The rationale for taxi regulation has been put forward by Shreiber. (1975) Taxis are different from other forms of public transport because of the random nature of operations. There are no schedules, no fixed routes and it is quite possible for users never to ride in the same cab twice. There are few economies of scale and so ownership tends to be atomised. (Beesley, 1973) Hailing a taxi in the street places the patron in a vulnerable position: it is unlikely that previous experience can be relied upon in judging the service offered, and in any case the choice may be one of taking the service offered or waiting in hope that another vacant cab will appear before too long. Regulatory controls on price and quality are needed because normal assumptions of consumer choice do not apply. (Shreiber, 1975)

Taxi regulation

The "jitney" period in the United States, when there was no control of any sort, shows just how vulnerable the patron was. There are records of taxis being used to lure rape and murder victims. (Eckert and Hilton, 1972, p 307) Also in Los Angeles in 1916, 25% of accidents involved the often under- or non-insured jitney. (Richards, 1976, p 149)

Shreiber's classic defence of taxi regulation outlined the economic justification for controls over entry into the industry. Limiting the number of taxis available should result in greater efficiency from higher utilization factors, the benefits of which can be passed onto consumers. He supported this argument with a brief history of taxis in New York, pointing out that in real terms, taxi fares halved between 1924 and 1964. This he attributes to the introduction of controls in 1937. (Shreiber, 1975, p 274) Other benefits cited by Shreiber and others are less congestion from "cruising" taxis and the encouragement of stability in the industry.

However higher utilization rates also mean longer waiting times for customers. Also, controls on entry into the industry, combined with a policy of allowing licences to be transferable, have resulted in the licences being bought and sold for very high prices. In Adelaide the price of a taxi "plate" (i.e., the right to operate a taxi service) is at the time of writing (March 1989) slightly over $100 000.

Interest on the price of a plate has to be accounted for in setting taxi fares.

Not surprisingly, controls on entry have been criticised. In Australia the attack has been led by Williams and Swan. (Williams, 1979, 1980 and Swan, 1979) Both concentrate on the way the costs of a taxi licence are passed onto the consumer rather than the supposed benefits of greater utilisation. Williams has broadened his attack on Shreiber's analysis by arguing that the assumption of random hailing is unrealistic. Williams calculated that in Melbourne in the mid-1970s only one sixth of taxi rides were the result of hailing.[1] (Williams, 1979, p 18. See also Williams, 1980) Taxi ranks, telephone booking and forming of companies to take advantage of radio communications have all served to give the consumer choice and render quality controls less necessary. Shreiber's rejoinder - pointing out that in New York the bulk of taxi trips are initiated by hailing - indicates the importance of specific conditions. (Shreiber, 1981, p 82) Shreiber also belittled the significance of ranks in promoting choice, given the convention (adopted in South Australia as well) of taking the first cab off the rank. One may also question the extent to which telephone booking and the formation of radio networks promote real choice, particularly as the industry is still

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1. In Adelaide, the figure is one fifth. (Interview, Mr Max Marker, Secretary of the Metropolitan Taxi Cab Board (MTCB), 10 July, 1984.)

atomised in terms of ownership and there is usually only one radio network in any case.

Other arguments in favour of such high entry costs are that the large capital outlay encourages the operator to keep the cab on the road as much as possible, so encouraging off-peak service and discouraging "fly-by- nighters" who are noted for their delinquency in paying taxes. (Zachar and Beimborn, 1974)

EARLY TAXI REGULATION IN SOUTH AUSTRALIA

The first legislation regulating commercial transport of any kind was the Public Conveyances Act. (no. 19 of 1853) This gave the Government the power to license vehicles plying for hire. The Bill was on substantially the same lines as a private member's bill which had failed to pass the Legislative Council in the previous year. Unfortunately the issue did not seem to arouse much interest in the local press at the time and because parliamentary debates were not regularly published before 1855, there is little but the legislation itself to indicate the concerns of the legislators. The legislation of 1853 (and the amendment of the following year) covered all vehicles plying for hire, including those

carrying freight only, but only within a radius of 30 miles from the city.

Under the legislation the Commissioner of Police was empowered to issue licences every six months which would specify both the driver and the vehicle, which would be subject to inspection. It was hoped that the licencees' behaviour could be controlled by the ability of customers to bring complaints to the police. To this end each vehicle had to have painted on it the name of the licencee and the number of passengers allowable. (The amendment of 1854 specified the dimensions of the vehicle and the minimum seating space.) The 1853 legislation also controlled the speed of the vehicle (9 mph) and the abuse of animals being used. Penalties appear harsh. For exceeding the speed limit, for example, drivers could be subject to an £11 fine or one month's imprisonment.

The Public Conveyences Act was also the first attempt to raise money to help pay for the cost of establishing and maintaining roads in the new colony. The cost recovery element is suggested by the fact that licence fees varied according to the number of wheels and the number of animals pulling the vehicle.

In 1861 the Municipal Corporations Act gave this power and more to the Adelaide City Council (ACC) and to other local

Councils as determined by the Executive Council. New powers allowed corporations to:

- fix the maximum fares to be taken and control the way the fares were to be computed,
- appoint stands to be used and make regulations covering their use,
- limit the number of passengers and baggage to be carried,
- ensure that the carriages were maintained in proper order,
- ensure that drivers did not drive carelessly or recklessly and were not abusive to passengers.

A year later, a further amendment gave the councils power to specify the fares to be charged.

Evidence explaining these developments is sparse. The measures passed through parliament as part of a larger package. They seem to have attracted little or no comment in parliamentary debate or in the press, which suggests that the measures were uncontroversial.

On the face of it, it would appear that the legislators were concerned about the quality of service given by hackney cabs. All the regulations (apart from one controlling passengers who sought to evade the fare) were designed to maintain standards

of service and fix fares. The licencing provisions can be seen as a means of ensuring the regulations were adhered to. The detail to which the regulations went in determining the quality of service (for example corpses of deceased persons over five years of age could not be carried in a cab) indicate that the legislators took the task of protecting passengers seriously. The requirement that fares had to be posted (in the absence of the fare being set by the local authority) was designed to protect passengers from exorbitant fares, though it may also have discouraged bargaining. Perhaps the guaranteed quality of service had the effect of raising average fares, but it appears that the legislators at least had the passengers' interests at heart.

Unfortunately, with powers being handed over to local government the matter ceased to be one of importance to either the South Australian Government or the Parliament. Early records of the twenty to thirty metropolitan and provincials Councils are usually not kept and in any case, are very difficult to cover. We do have glimpses. For example, Radcliffe and Steele uncovered the fact that fighting between cabbies hawking their services from Kensington to Adelaide was such that the Kensington and Norwood Council felt obliged to pay an Inspector of Licenced Vehicles to restore order. Radcliffe and Steel note that at least the intensity of the competition kept prices keen. (Radcliffe and Steele, 1974, p 7)

Taxi regulation

The most important licenser of taxis was the Adelaide City Council. Eighty to ninety per cent of taxi journeys have traditionally begun, ended, or both, in its area. The ACC was also the most zealous in its regulation. A 1983 Committee of Inquiry's claim that of all the metropolitan councils, only the ACC exercised its regulatory powers is only a slight exaggeration. (South Australia, Department of Transport, 1983, p 3)

In 1874 the ACC took advantage of new powers granted a year earlier by an amendment to the Municipal Corporations Act to modify and extend its regulations regarding taxis. These were contained in By-law no. 47, gazetted 2 February, 1874. Once again they dealt with quality issues, prohibiting overcrowding and asserting control over the quality of vehicle and the driver's behaviour. Some of the measures appear suprisingly intrusive, particularly given the common assumption that modern history has witnessed an inexorable increase in state control. Advertisements on vehicles were forbidden. So also was the carriage of known prostitutes.

Vehicles plying for hire, both for goods and passengers, had to be licensed by the City Inspector, who took into account the quality of the driver and the vehicle. Correspondence from would-be licencees and from licencees complaining about fellow licencees, held in the ACC

archive, indicate that the City Inspector took his job seriously. Each year throughout the latter part of the nineteenth century the Mayor's Report included comment on the general state of vehicles, with the occasional smug comparison with the situation in other capital cities.

The impact of the controls on the quality of vehicles was felt most in hard times. During the depression of the 1880's and early 1890's the Inspector noted the difficulties he had trying to have repairs done, or improving the appearance of vehicles. For example in 1889 he noted, "owing to the depressed time, I have not been able to secure the improvement to some of the passenger vehicles I had wished." (Mayor's Report 1888/89) (p 108) In better times it seems that as far as the quality of the vehicle was concerned, the Inspector was redundant. In 1880 the improvement noted was put down to increased competition among proprietors. (Mayor's Report, 1880/81, p 96) The quality of drivers appears to have been in less need of regulatory oversight, presumably because maintaining standards in this regard was not a financial burden. Nevertheless the Inspector felt the practice of police screening of applicants was useful and regretted the police decision to end the practice. (ACC, Annual Report, 1906, p 65)

The taxi industry is often seen as a magnet for the unemployed when times are difficult. (e.g. Shreiber, 1975) However the

depression of the 1880s did not bring about an influx of newcomers even though there were no formal entry barriers. In 1880 there were 420 cabs, in 1885 379, in 1890 404. One important factor inhibiting entry into the industry would have been the inspection standards of the Council. Proprietors often could not afford to maintain the vehicle to the required standard and so "old-fashioned" vehicles were taken off the road for this reason.

TAXI REGULATION IN THE TWENTIETH CENTURY

The first few years of the twentieth century saw the appearance of the technical innovations that were to change the taxi industry and profoundly affect the way it was regulated. These were the motor car, the taxi meter and the telephone.

The motor car

The motor car had little effect on the nature of taxi regulation itself, although its novelty spawned an unregulated industry for a few years. In 1910 the situation was so serious that the Mayor's Report put down

the decline in the number of registered cabs (from 365 in 1905 to 307 four years later) to competition from unregulated motor vehicles operating (quite legally) out of garages. (At this stage the ACC chose to exercise only those powers dealing with vehicles plying for hire on the streets.)

The blame may have been misplaced for at that stage local authorities were also responsible for the registration of private motor vehicles and in 1910 there were only 71 on the Adelaide City Council's books. However, the novelty and (in time) improved service provided by motor vehicles spelt the doom of horse-drawn cabs. Once the motorised vehicles became established the Inspector had difficulties getting proprietors of horse-drawn vehicles to maintain the necessary quality, and of course there was very little replacement by other than motorized cabs. (See Annual Report, 1913, p 60)

The taxi meter

The taxi meter was first tested by the ACC in 1913-14 and in 1920 an amendment was made by By-law 25 to make them compulsory. Yet it was not until 11 July 1950 that the Clerk could announce in The Advertiser that all taxis had meters. There were two reasons why the policy took so long to

implement. First, reliable meters were in short supply on those occasions when the ACC was enthusiastic about meters - the early twenties and late forties. (Digest, 1920/21, pp.123, 320; 1946/47, p 179; 1947/48, p 215) The second reason was the reluctance of most operators to use one.

In the period between the wars most operators were independent and assuming Shreiber's model of random hiring there was little incentive for them to install a meter, even though they were undoubtedly popular with users. The ACC had two rates of fare; one for cars with meters and one for those without. Prior to World War Two, for example, the by-law allowed 1/6d flagfall and 1/3 per mile while engaged for metered cabs. Unmetered cabs could charge one shilling a mile but this included the return journey. Under this arrangment an unmetered cab could charge almost twice as much for a trip of seven miles or more to the suburbs. Of course, the advantage diminished the shorter the journey and the formulae advantaged metered cabs for trips within the city. If one assumes the Council was neutral in its pricing policy then the obvious conclusion is that meters were unpopular because they discouraged cheating. This was a common problem before 1950. (For examples, see Advertiser, 28 April, 1949 and 3 August, 1949.) In fact an item in the News, 28 March, 1950 claimed that cab operators who had recently installed a meter noted a lift in takings because customers now felt

happier about paying.

The main industry force in favour of meters was the Yellow Cab company which first set up business in Adelaide in 1924. Its policy of all metered cabs made it popular with users, but becaus it felt that it was at a commercial disadvantage compared with non-metered cabs it continually pressed the ACC to enforce its policy. (e.g., Digest, 1949/50, p 63) Green Cabs, which also asked the Council to make meters compulsory, itself chose not to have meters in its cabs. (Digest,l 1940/41, p 77)

The telephone

It was the telephone (and later the two-way radio) which were to have the most profound effect on the taxi industry and its regulation, particularly on the use and control of stands (or ranks). The telephone freed the taxi operators from relying on stands to pick up business and perhaps even more importantly, encouraged the formation of multi-car taxi companies.

As early as 1909 the telephone had reduced the trade off the ranks and in 1915 By-law 25 which dealt with vehicles plying for hire was altered to cover all vehicles plying for hire whether they used stands or not. However, stands were still the dominant way to attract business and in

1919 the ACC adopted a "one owner one car one stand" policy to prevent arguments on the street, to enable drivers to build up a stable clientele and to mitigate the hazards to customers of random hailing.[2] Each cab would have its allotted piece of kerb space, from which no other vehicle could ply for hire. S.9(1) of the By-law prevented licences being issued in excess of the number of stands available.

There were two criticisms of such a policy. It was wasteful of kerb space, with 60% of spaces at peak hour being vacant and yet unavailable to anyone else. (memo to Clerk, 17 Nov. 1926, F103C) Second, it was iniquitous, with some spaces obviously able to generate more trade than others. In fact it created a black market in which some licences were worth up to £100. (letter to Clerk, 26 Feb. 1928, F103C) Yet at the time these problems were not serious. They should be seen in a context in which there was plenty of kerb space for all the motorised cabs in existence so that although some spaces were more lucrative than others there were enough good ones for everyone to make a reasonable living.

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2. Although it was a fundamental feature of the ACC's taxi regulation, explicit mention of the one owner, one car, one stand policy is very rare in public documents. Perhaps the most explicit reference to it was in a report by the Town Clerk, parts of which were printed in the Digest, 1926/27, p 94.

At first the telephone fitted in reasonably well with this arrangement with some owners paying for the installation of telephones next to their stands to attract further business. (There were inevitable disputes when nearby cabbies took calls and jobs from an absent owner). The real problems began when taxi companies began operating in Adelaide. Multi-car ownership with paid drivers had previously been discouraged by the ACC, which preferred taxis to be driven by responsible owners rather than "cheap and unreliable out of work not wanted elsewhere men." However, the telephone gave efficiency advantages to multi-car companies and the first of these, Yellow Cabs, applied to begin operations with fifty vehicles in 1924. The previous prejudice was overlooked for the latest American innovation, which was known to "select and control" its drivers. (memo to Clerk, 24 Sept. 1925, ACC, Archives, F122A) With a well-recognised corporate identity, a consistently good standard of service (including meters in all cars), aggressive marketing and a cheap and relatively sophisticated pricing structure, Yellow Cabs and its rival, Checker Cabs, promised to expand the taxi market.

Operating mainly off the telephone as they did, the companies' johnny-come-lately position was not supposed to be too much of a problem. They began by asking only for stands that had fallen into disuse but it soon became apparent that this was not enough. They requested the right to "cruise" and

when this was refused began flouting the by-law. (Digest, 1926-27, pp 125 and 395) They drove through streets while showing a vacant sign and solicited for custom in areas, such as the railway station, which were reserved for pre-existing operators. The ACC found it difficult to prevent this touting because drivers usually claimed they were there to meet a telephone booking. The By-law was also avoided by the employment of non-licencees to solicit custom for cabs that stood some way off.

The established operators looked to the regulations to protect them against the interlopers. They formed the Adelaide Motor and Taxi Drivers' Association in an effort to see that the by-laws were upheld. Its secretary wrote to the Council,

> My members are becoming impatient at the lack of energy on the City Council's part in bringing law-breakers who are by reason of such law-breaking, unfairly endeavouring to compete with us in a business that was very much overdone long before they came here, and I ask that greater promptitude be exercised ,in enforcing the by-laws, which are supposed to protect us as well as keep the whole business in proper order.
> (ACC Archives, F122A, 25 January 1926) (emphasis added)

The independents recognized the advantages of forming into companies (Register, 23 December 1925) but did not manage to achieve this. Rather, they retaliated by themselves employing touts on a kickback basis who "bawled out like fish hawkers." (memo to Clerk, 23 May, 1928, ACC Archives, F103C) They also

shadowed cruising company cars, offering to undercut fares. According to the local press "many amusing incidents" resulted. (Advertiser 20 July, 1926)

The ACC was not amused at the flouting of its by-laws. Its inspector was in favour of an open stands policy, "let dog eat dog, and there be a survival of the fittest". (memo to Clerk, 17 Nov. 1926, ACC Archives, F103C) He convinced the Clerk to recommend the policy to the Council's Parliamentary and By-Laws Committee. (Digest, 1926/27, p 94) The officials' argument was that this policy would result in more efficient use of kerb space, the shortage of which was becoming a problem. Companies would win the ensuing battle because with disciplined approach and a twenty-four hour service they would ensure that they occupied the best stands and would have replacements nearby when these were vacated.

The companies' rotational policies meant a much more efficient use of kerb space and led to the Council waiving the one cab one stand policy when granting them stands. However the Council refused to throw open the independent' stands, due to fear of congestion that would result from cabs failing to find a good stand and because of sympathy for the independents. Instead it gave the companies better stands and from the late 1920s, turned a blind eye to their cruising. (Digest, 1932/33, p 328)

Taxi regulation

Taxi regulation was not strongly affected by the Depression. The larger companies such as Yellow cabs survived competition from newcomers by adopting a policy of paying drivers on a commission basis. As Williams and Aitken point out, this had lasting affects as discouraged unionisation and the influence of central bodies for fixing wages and conditions. (Williams and Aitken, 1984, pp 178-179)

The Depression's lower general levels of activity eased pressure on the Council's stands policy temporarily. Because of quality controls and because the Council generally did not issue licences in excess of the number of stands, there was no influx of new operators, as had occurred in America. However, as economic growth resumed, pressure on kerb space convinced the ACC that it should encourage the formation of companies by former independents, such as occurred with the birth of the Black and White Taxi Company in 1940. (Report to Clerk, 29 Oct. 1940, ACC Archives, F228B) A wartime committee recommended that this policy be more vigorously promoted when the war was over, partly by granting exclusive use of stands to companies. (Digest, 1941/42, pp 189-190)

Instead the Council tried a different tactic when the war ended. It began creating stands that were open to all licencees. This was the situation until the State government took over in 1958. Some stands were open, some were for the exclusive use of companies (often because they had installed a

telephone) and some were still reserved for specific individuals.

Limitations on entry to the industry

There were no limitations on the number of operators in the taxi industry before World War Two. Councils could use their controls over stands (now provided by the Local Government Act) as an (albeit blunt) instrument to control numbers, but there is no indication that this occurred. In 1938 and 1939 the Adelaide Motor and Taxi Drivers' Association made three attempts to have the ACC limit numbers to 100 but the Council was firmly resolved against the policy. (Digest, 1938/39, p 24 and 1939/40, p 181) It knew the problems that a limitation on licences would involve from experiences in other cities such as Sydney. (See a note for file, 20 September 1939, F228B) Green Cabs took up the cause in August 1940 with no greater success. (Digest, 1940-41, p 77)

The Council's resolve on the matter was broken by the Liquid Fuel Control Board. The Board was set up as a wartime measure to restrict fuel being used for non-essential services. It had the power to ration fuel and from 1940 it issued "clause 14" permits to hire car and taxi owners licenced prior to that date. Abnormal demand created by wartime

conditions (such as the quartering of troops around Adelaide), encouraged new entrants to the taxi cab industry, despite their being restricted to the small petrol ration allowed as private consumers. In the thirteen months to the end of July 1942, licences issued by the ACC had risen from 208 to 300. The chairman of the Liquid Fuel Control Board wrote to the Council, requesting that no further licences be issued and that those licences without special fuel permits not have their licences renewed so that the numbers could be brought down. He pointed out that South Australia was the only State not to limit licences. (26 June 1942, ACC Archives, F301A) The ACC acquiesced but inserted a new clause into By-law 25 to prevent trafficking in licences which was described as "negligible" before then. (Digest, 1942/43, pp 91 and 917, and 1943/44, p 96-7)

The change to the by-law needed parliamentary approval and this was granted with hire cars (i.e. cars rented for special occasions such as weddings) exempted on the grounds that their business generated goodwill which should be a legitimate part of the price of a business. (Digest, 1943/44, p 96-9, 107) However because of the delays in granting this approval, the new provision making licences non-transferrable was not gazetted until 24 August 1944 - two years after the number of licences were frozen, and time enough for a market to appear. Consequently, although a licence holder could not now realize

it through sale, a latent price for a licence existed. The new market value of licences encouraged the practice of leasing of licence to become widespread - licence holders would now lease the licence and engage in other business, making it difficult for the Council to control the quality of those who operated the taxis.

In October 1945 the Director of Emergency Road Transport wrote to the Council saying that although the Council was now free to issue licences,

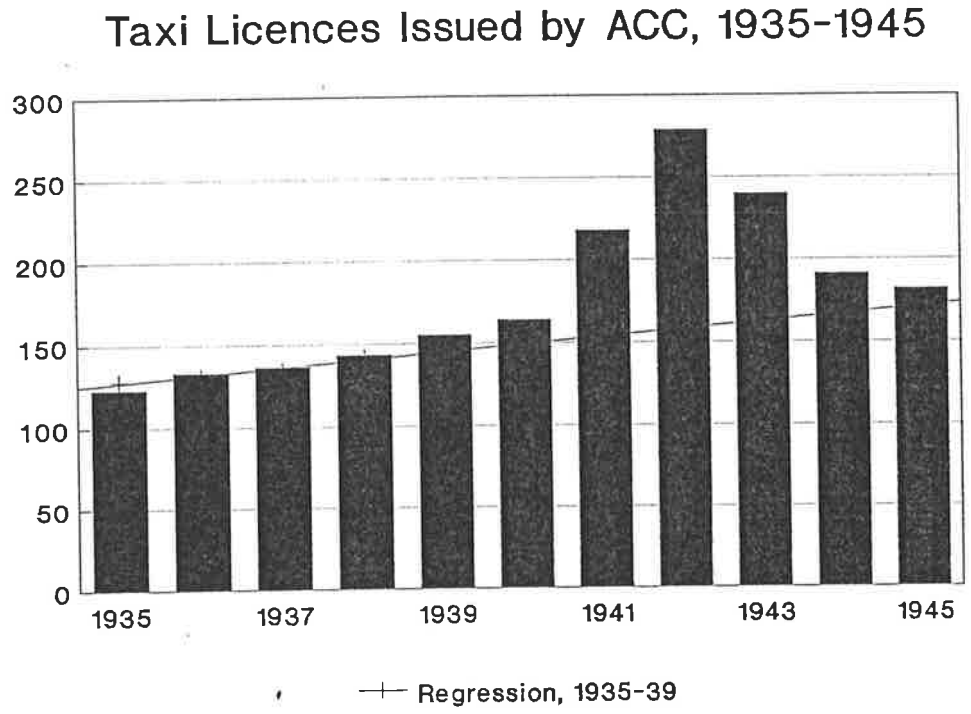
> so long as petrol rationing continues, it is unlikely that we would make a petrol ration available to licencees, except to returned servicemen who were hire or car taxi cab proprietors before enlistment...In my opinion, the number of persons now operating, namely 191, is if anything, more than sufficient for the business now offering. Many taxi cab proprietors are already complaining that their business is not a payable one. (ACC Archives, 5 Oct. 1945, F301A)

The fact that by February 1946, rates for leasing licences reflected a latent price of £500 suggests that the taxi industry was quite lucrative, though of course an industry may still attract entrants even if it is not viable as a whole. (Note to Clerk, ACC Archives, Feb. 1946, F307A) The number of licences issued before the restrictions were imposed tends to support the Director's view.

The following graph gives actual numbers of licences issued, 1935 to 1945 and also projects the number that

could have been expected in peacetime if restrictions were not imposed. The years 1941 and 1942 saw a massive increase in licences because of unusual wartime conditions - those figures cannot be used to predict the peacetime number of cabs. The 1945 figure was still greater than the (unrestricted) pre-war figure.

FIGURE 2-1



Source: Report to Clerk, 20 March 1946
ACC Archives, F307A

Nevertheless policy on whether to retain the restrictions caused a great deal of controversy within the Council. The restrictions had good and bad points, winners and losers. For the Council itself, it meant a lot more work. A special sub-committee was set up to handle licence transfers. Existing licencees acquired both a capital

asset and relative freedom from competition. On the other hand, some 300 applications to enter the industry were rejected during the war years, no doubt causing much resentment.

The effect on the consumer is confusing and double-edged. There were suggestions that it resulted in a decline in the quality of service. Several letters to the daily newspapers complained about the quality of service. A typical one was from a person named "Taxi Driver" of Adelaide, who felt that releasing more licences would force better service from operators and convince drivers that they may wish to be elsewhere besides the races or the trots on a Saturday. (Advertiser, 10 November 1949) On the other hand, restricting the number of licences may have enabled operators to keep their prices down. The confusion is well expressed in the following letter which appeared in The News:

> Bring on the new taxicab licences. Then we may get service in our suburbs, because you cannot get it now. Even if you do, you are robbed ... Perhaps we could operate on Sydney lines, seeing that R.E. Appelbee (News, 22/4/46) has quoted Sydney- 1/- flagfall and 6d a mile instead of paying 14/-from Prospect to Clarence Park as SI did, we would pay about 4/6. Good luck to the new operators. I sincerely hope they will give us a better and more honest service. - Glenelg (Ex. W.O.), L. James. (The News, 28 Feb. 1946)

The irony is that Appelbee was at the time leading the campaign against the increase in licence numbers, and used

Sydney as an example of the low fares that could be obtained if entry was restricted.

The Council was itself divided on the matter. The Parliamentary and By-Laws Committee at first rejected the advice of the Inspector that a return to the pre-war situation would encourage congestion (28 Feb. 1946, ACC Archives, F307A), and recommended to Council that limitations to entry be removed. This was rejected by Council. (Digest, 1946/47, pp 178 and 191) Ten of the thirty-five new licences were earmarked for Yellow Cabs, which was forced to relinquish twenty licences during the war due to lack of spare parts. The other twenty five went to ex-servicemen who had previously had a taxi licence. (Digest, 1946/47, p.291)

We have seen that the ACC recognised the dangers of allowing a market to develop in taxi licences. It is interesting to see how such a market developed.

Trafficking in licences (subject to Council veto) became possible because the Council came to allow a person surrendering a licence to nominate who should be issued with that licence. However the erosion of the policy against trafficking was a gradual process that first began in October 1946 with the approval of a licence transfer from a dead ex-serviceman to his brother, who was also an

ex-serviceman. (Digest, 1946/47, p 165) Licence transfers remained relatively rare and confined to ex-servicemen until 1949. In that year wider grounds were used, starting with transfers from father to son. (Digest, 1948/49, p 442)

Despite the 1947 increase in numbers, the situation was such that illegal "pirate" operators appeared on the streets in peak periods in the late 1940s. The shortage of cabs during peak periods prompted the director of the suburban council-licenced Suburban Taxi Service to suggest his company be allowed the right to operate in the city at such peak times. (ACC Archives, F307A, 17 May 1949) The classic argument against such "creamskimming" and in favour of restricted entry was expressed by W.L. Hanson of Yellow Cabs at a meeting held to discuss the peak period problem.

> If the Traffic Committee wants the residents and the citizens to be supplied with traffic conveniently for 24 hours a day, they have got to look after the people who provide it, and the people who provide it will not be pirates, it will not be the independent owners, it will be the organised companies - Greens, Silvertops and Yellows. If you are going to allow our peak period to be interfered with, that period when we can make a surplus, and allow it to be supplied with another 100 to 150 competing for it, what is more natural, in fact, we would be compelled to say, "Gentlemen, you had better look after the `dog' shift [1-6am] because it does not pay us to do it". In other words, directly this business ceases to pay, Yellow Cabs ... will go out of business.
> (meeting held 23 November 1949, ACC Archives, F307A)

Such arguments did not impress some councillors, particularly those concerned with the increase of administrative

fragmentation caused by councils protecting their licencees from competition from licencees of other councils. Councillor Rymill suggested that the problem of coordination and peak time service could be solved at one stroke by licencing all suburban taxis to operate in the city:

> I don't see why we should protect these men from competition. What will happen will be that we will have some other authority put over us and we will lose control of our streets.
> (Minutes of Parliamentary and By-Laws Committee, 24 Oct. 1949, ACC Archives, F307A).

Rymill's words were prophetic, though the factors which encouraged a State government takeover of taxi regulation were various.

Moves toward central control

The exercise of controls over the use of stands and the number of operators embroiled the ACC in the struggle for commercial advantage. Because some stands were far more lucrative than others in effect the Council could determine how much business an operator could have, although the use of telephones gradually diminished this power. The Council was constantly involved in decisions over rearrangements of stands, applications for new stands and so on, particularly as they were forced to move away from the one owner one car one stand policy. The sensitivity of the issue is indicated by the

Council's policy not to publicly announce who had what stand, and to downplay the fact that such a policy existed. Once it moved to limit licences, it also found itself having to make decisions on who should have new licences and whether transfers should be approved.

On the stands issue, most decisions (but by no means all) favoured the companies because of the Council's policy of encouraging the company arrangements on grounds of efficiency and ease of regulation. The preference for ex-servicemen in the issuance of new licences and the transfer of old ones was an attempt to use some sort of criterion based on public interest. Unfortunately not all ex-servicemen were deserving cases, and it was perhaps inevitable that some would unfairly exploit their advantage by leasing their licences rather than operating them themselves. (for an example, Digest, 1947/48, p 350)

With all the sensitive decisions that needed to be made, it is perhaps also not surprising that the administration of the regulations would attract allegations of maladministration, even corruption. Such claims were made in parliament and in the Council itself. (SAPD, 28 September, 1954, p 770 and 773-4, 3 November, 1954, pp 1282-3; Digest, 1954/55, pp 253-4) In each case the allegations were made by Labor representatives, though in some cases their concern was shared by more conservative members of both Council and

parliament.

Most of the grievances resulted from the unfortunate decision by Council to allow leasing of licences. This opened the door for individuals with little concern for the taxi business to buy up the licences and then lease them at what were often considered exorbitant rates to other individuals. Perhaps belatedly, Council moved to prevent this in 1955 by passing a motion that licences would only be granted to persons and companies whose principal occupation was taxi operating. (Digest, 1954/55, pp 543 and 561)

However maladministration was not the crucial factor behind the eventual takeover of taxi regulation by the State government. The main motivation was concern over the inherent problems of administrative fragmentation involved in trying to regulate a mobile industry through local councils. We have noted that the vast bulk of the taxi trade used the ACC area and that the ACC was by far the most serious in its regulatory activities. For ten of the twenty one metropolitan councils, the only attempts to regulate the industry were by-laws designating taxi stands. (SAPP no 30 of 1953, para 14) A few other councils, such as Mitcham, Burnside and Woodville, issued licences and Port Adelaide and Glenelg also gave exclusive use of some stands to certain licence holders but generally, in the words of Sir Arthur Rymill, councils "were simply not interested in

licencing taxis". (SAPD, 7 November, 1956, p 1457)

The situation was unsatisfactory. Because of lax regulation by suburban councils, there were frequent references in parliament and in letters to newspapers of rude, exploitative, ignorant and even dangerous behaviour by taxi drivers. However it was only because of little or no enforcement of regulations and widespread evasion that the obvious inefficiencies of the regulatory regime could be tolerable. The major problem was the inability of suburban licencees to operate in the city. While the ACC issued "C" class licences to allow such operators to drop off passengers, they had to return to the suburbs empty unless they had arranged a prior booking. When tensions arose between suburban councils and the ACC over the policy some councils attempted to retaliate by trying to ban ACC licence holders from operating in their areas.

The growth of radio networks encouraged the movement of taxis beyond their traditional territory and so exacerbated the problem. There were a series of conferences between councils on the matter from 1946 onwards but these had little effect. (Digest, 1947/48, pp 19 and 150 and 1949/50, p 282) By 1952 the Playford government felt compelled to appoint a committee to look into the matter. Under its terms of reference the committee could only look at solutions that retained control at the local level, and so

despite the minority position of the two local government members on the committee, and despite the fact that Adelaide was the only capital in Australia that still had taxi regulation in the hands of local authorities, the committee was forced to find a solution that excluded the State government. It concluded that the ACC be empowered to licence taxis for the whole metropolitan area. ("Report of the committee on the Licencing of Taxi Cabs", SAPP no. 30 of 1953)

The Metropolitan Taxi Cab Bill was designed to give effect to this recommendation. It was introduced into parliament in 1954 but lapsed due to misgivings over the previously mentioned allegations of ACC maladministration but more importantly over the principle that a local council should not be given authority beyond its territorial boundaries.

A private member's bill was introduced by J.J Jennings, MLA, in October 1955. The Metropolitan Taxi Cab Bill was similar to that of the previous year, but used the Police Commissioner as a regulatory authority. With opposition on the government side of the House to the idea of removing control from the local councils, the Bill was defeated on the second reading. The Government established a second Advisory Committee composed entirely of local government and industry representatives.

The 1956 Metropolitan Taxi Cab Bill was the result of its deliberations. When introducing the Bill the Chief Secretary stressed that it was really a product of local government and the industry. "This is not a government creation", he said, "but something which has been unanimously agreed to by those interested. We have offered to cooperate by making a representative of the Commissioner of Police available." (SAPD, 7 November, 1956, pp 1461-2)

This attempt to distance the Government from the Bill is understandable, given the marked lack of enthusiasm with which the Bill was greeted. Apart from the Chief Secretary himself, every speaker in the Legislative Council said he would only support the Bill with reluctance.

Once again the principal objection concerned the nature of the licensing authority. The Bill proposed a single licencing authority, the Metropolitan Taxi Cab Board. Many speakers criticized the size of the proposed Board - twelve members. Four were to be members of suburban councils, elected by the Municipal Association. Four, including the chairman, were to be nominated by the ACC. The industry was to be represented by two nominees of the Taxi Cab Operators Association (employers) and one from the Taxi Owner-Drivers Section of the Transport Workers Union. The final member was to be the Commissioner of the Police or a representative employed by him. No local government representative could

have an pecuniary interest in the industry.

The government still wanted a mixture of local government and industry self-regulation. Police involvement was to ensure that licencees were fit and proper persons.

The large size of the Board was the result of a compromise. All interests were represented (except, as one member noted, the travelling public. (SAPD, 7 November 1956, pp 1459-60) Many members preferred a smaller, government-appointed body such as the Transport Control Board (discussed below, see Chapters Three and Four) or the Police Commissioner to regulate the industry. Beside being less cumbersome, it would also not be tainted with the stigma of allegations of previous maladministration.

It is interesting that no members questioned the control of stands or barriers to entry. They did not question the central object of the Bill, which was to "regularize" the regulations that then existed. As the Chief Secretary noted, "if we are to have a limitation of licences, we must see that it is properly enforced". (SAPD, 7 November, 1956, pp 1459) The new Board would more effectively rid the streets of "pirate" operators and the problems of administrative fragmentation. And so, despite the misgivings, the Bill was passed.

REGULATION BY THE METROPOLITAN CAB BOARD (MTCB)

The Metropolitan Taxi Cab Act came into force in 1957, but it was not until the next year that the Metropolitan Taxi Cab Board was in a position to take over the complete regulation of the industry. The history of administration by the MTCB can be seen in terms of the three major issues it has faced: the use of taxi stands, the number of licences available and the composition and control of the Board itself.

Stands

Easily the most controversial aspect of the Board's operations has been its policies on the use of stands. Surprisingly, the matter was overlooked in the 1956 Act, and an amendment was needed in 1957 to assert the authority of the MTCB in the matter. Local councils' powers were restricted to designating the size and location of stands. The amendment was also explicitly designed to remove the practice of allocating particular stands to particular vehicles. It was supported unequivocally by the Opposition as a means of eliminating trafficking in valuable stands (SAPD, 2 October, 1957, p 914)

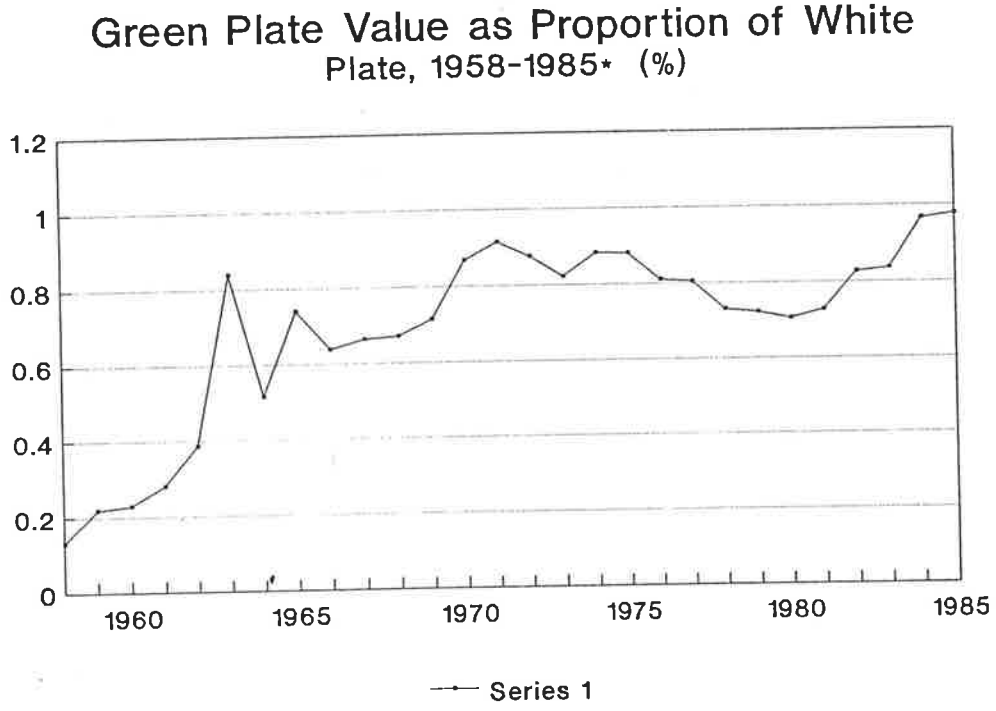
Although the Board moved firmly against individuals and

companies seeking exclusive use of stands, it retained the former ACC licencees' exclusive use of city stands. When licencees who had had exclusive use of Glenelg and Port Adelaide stands saw how the Board had given way on the issue, they too successfully pressured the Board into safeguarding their special position. The former ACC licencees became known as white plate operators and were very much the elite of the taxi industry. The suburban (green plate) operators resented this position, particularly as by the early 1960s there was evidence of unmet demand in the city. Rather than create a one-plate system to meet this demand, the Board chose instead to allow open hailing in the city, at least while green plate taxis were leaving the city after dropping off a passenger. (SAPP no 12 of 1963/64, p 2)

Despite the almost sacred status of the white plate operators, their special advantages were gradually eroded during the 1960s. The growth of suburban shopping centres meant more taxi business in the suburbs. More importantly an increasing proportion of taxi business was picked up off the radio and so stands became less important, even to many white plate operators. The Board played its part too, by reducing the size of the restricted area in two stages, so that by 1968 it consisted of only the stands adjacent to Rundle Street, those along and adjacent to King William Street and that in front of the Adelaide Railway Station; a

total of 48 places for the 250 taxis concerned. In 1966 further deregulation allowed green plate operators to occupy an unoccupied "white" stand, though in return white plate operators were now allowed to pick up fares on their way back to the city. For all of these reasons the gap between the value of white plates and green plates gradually declined so that by 1977 a green plate was worth eighty per cent of a white plate. (See Figure 2-2)

FIGURE 2-2



Source: Compiled from MTCB records of Transfers

*Until 1984 the value in each case is the average price paid during the last quarter of the financial year.

In 1977 the Board gave an advantage to the white plate operators by allowing them to stand on occupied green stands. (Previously this was allowed only when the stand had no green plates on it.) This was accepted by the suburban taxis in the expectation that it was merely a further step toward a one plate system. It was also welcomed by the radio networks, for it enabled them to more easily use a "stand call" system, whereby cabs waiting for a fare over the radio would wait at a stand. This system reduced wasted petrol in "cruising" and prevented disputes between taxis over who should pick up a fare.

Green plate operators became restless by 1980 when no further steps had been taken toward a one-plate system and the gap in value between the two plates had yawned to such an extent that a green plate was only worth 70% of a white one. They put pressure on the Minister of Transport to move the Board towards a one plate system and he obliged by putting informal pressure on the Board to do so. However, no action eventuated until 1983 when the new Labor government announced a three stage program to unify the system. A green plate cab would be able to move onto a vacant white stand and not be "tooted off" by an arriving white plate. Restricted suburban stands would be abolished from 1 April 1984 and finally the Adelaide restricted area would be abolished on 1 April 1985.

The changes would remove the premium for which almost all white plate operators had paid when they first obtained the licence. (In fact the very act of announcing government intentions had this effect. The differential all but disappeared - mainly by an increase in green plate values - when the Government's firm intentions were revealed.)

The Government's dates were destined not to be confirmed by Parliament. Although Parliament's Subordinate Legislation Committee voted to approve the changes, the Legislative Council (in which the Australian Democrats held the balance of power) voted instead to refer the matter to a select committee. There were several arguments presented to the Subordinate Legislation Committee that convinced the Council that the matter shoud be looked into further. The position of the MTCB, the Taxi Cab Operators Association and the Transport Workers' Union was that removing privileged access to the city stands would encourage efficiency by forcing the white plate operators onto radio networks.[3] However the Committee was influenced by arguments that this would disadvantage "about ninety five percent" of white platers who were "ethnics" and could not cope with radio communication. (Although the impression was conveyed that all white plate operators were in this

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3. The MTCB had earlier unsuccessfully tried to make two-way radios compulsory in 1977. See petition, SAPD, 13 April, 1977, p 3290)

position, in fact 189 of the 250 were already members of a radio network.) Other arguments against a single plate system were that forcing operators to use the radio would encourage domination of the industry by the larger taxi companies and that allowing all taxis to use city stands would encourage congestion in the city and the poor servicing of outer metropolitan areas.

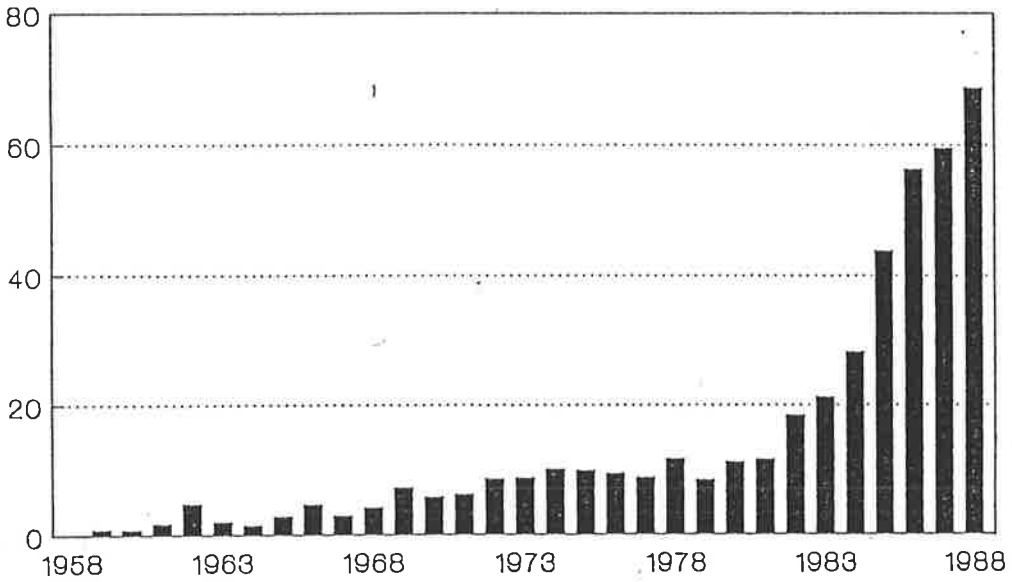
The Taxi Cab Operators Association, representing the suburban licencees, painted a picture of cosseted white plate operators who did not need to be efficient and often put the vehicle on the road only during office hours. They were content to deliver a passenger into the suburbs and drive back empty, so increasing "dead" travelling time. A one plate system would also serve efficiency by allowing green plate operators complete freedom to pick up passengers in the city once they had dropped a passenger off. It would also remove the disharmony in the industry, typified at street level by resentment at being "tooted off" a stand by a white plate cab. (The white plate retort to this was a suggestion to return to the pre-1977 situation, when neither sector could use the stands of the other, even if the stands were unoccupied.) (These arguments are contained in the Joint Committee on Subordinate Legislation, Minutes of Evidence on the Metropolitan Taxi Cab Act, 1956 tabled 29 March, 1984)

Abolition of white plate privileges aroused a great deal of public dispute, including demonstrations in front of Parliament House. Despite the Subordinate Legislation Committee's recommendations that the one plate system be instituted, the Legislative Council voted instead to create a Select Committee to look at the question again. (SAPD 28 March, 1984, p 2917) The new committee came to the same

FIGURE 2-3

Adelaide Taxi Plate Values, 1958-1988*

Average price $000



* 1988 figure for first three months only

Source: Travers Morgan and Associates(1988) Review of the Economic Regulation of the Taxi Industry in Adelaide Adelaide, figure 2-4

conclusion as the first, though its broader terms of reference allowed it to make forty other recommendations regarding control of the industry. (SAPP no 177 of 1984-54) The distinction between white and green plates disappeared at the beginning of September, 1985.

Limits to entry

The question of stand use was controversial because it was a matter in which interests in the industry were divided. Although limitation to entry into the industry is the main issue of concern for academics studying the taxi industry the matter has not been a problem for regulators because here the industry is united. Official efforts to increase the numbers have become more difficult as the price of the licence has increased.

In 1957 the Board issued 810 licences to those claiming to be operators. With very few exceptions no new licences have been issued since then unless a new area was added to the Board's control, in which case existing operators in that area were given a licence. In the first few years the number of licences declined as licences lapsed. The Board stated at the time that it was encouraging more efficient use of the remainder. This referred to the policy of allowing any cabs to pick up at an unoccupied stand when passengers were

waiting and the fact that reducing numbers meant less "dead" time for remaining taxis. (SAPP no 12 of 1959/60, p 2) The unmet demand for taxis in the city has already been referred to.

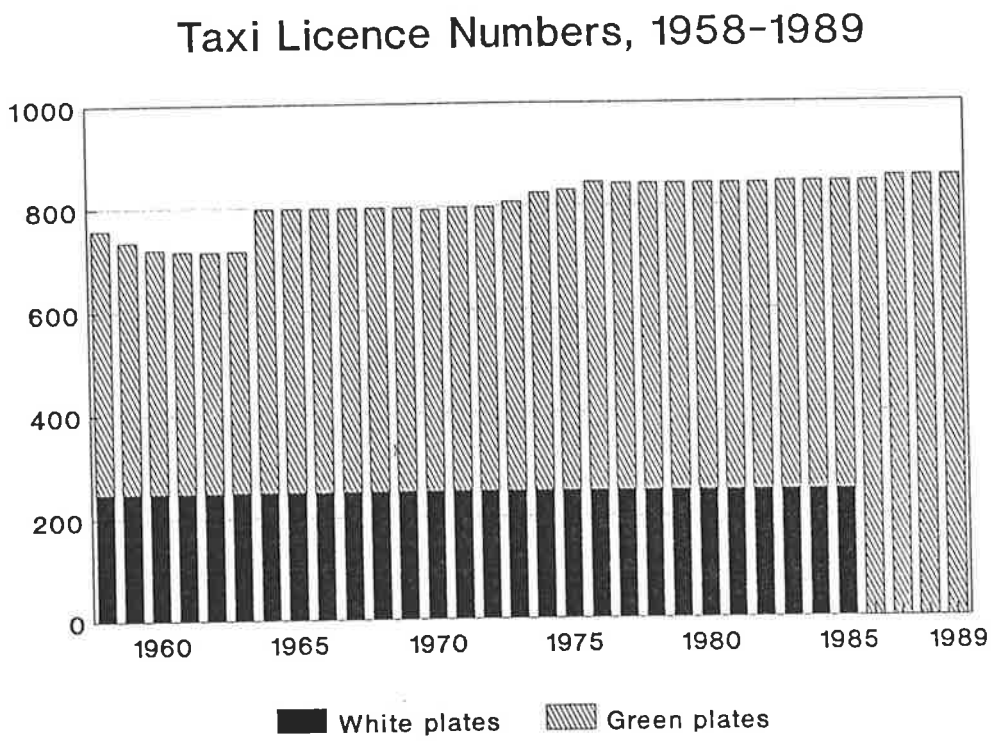
Taxi numbers were increased by fifty in 1964 to cover the numbers surrendered in the first years of the MTCB. The new licences were all green plates. The number of white plates remained almost the same from 1957 to 1985, when the distinction between plates was abolished. (See Figure 2-4)

The fifty new licences issued in 1964 were non-transferable and so did not develop a market price. In 1970 the Board decided that "new" licences could be sold if they had been held for at least five years. A fee of 50% of the market value would be payable to the Board for a licence sold five years from the date of issue. This fee would gradually reduce to nothing after sixteen years of ownership. That is, a recipient of a licence from the Board would be getting a free gift worth over $100 000 (in 1989) if he or she stayed in the business for sixteen years. The relaxation of the non-transferable rule was mainly due to pressure from licence holders, though the changed policy also provided revenue for the Board. (Interview, Mr Max Marker, Secretary of the MTCB 10 July, 1984.)

The only other significant increase was the addition of ten new

licences in 1987. These were specifically for cars designed to transport the disabled and were non-transferable. Temporary permits have been issued to cope with short term difficulties most notably for the Grand Prix which was first held in 1985.

FIGURE 2-4



Source: MTCB Annual Reports

Notes on changes

1957-1962	Licences surrended not reissued
1965	New licences issued to existing operators in annexed Tea Tree Gully area
1970	Three non-transferable licences withheld pending policy change
1974	Ten issued for Salisbury Elizabeth restricted area
1975	Four issued for Glenelg restricted area
1976	New licences issued to existing operators in annexed Christies Beach area
1987	Ten Access cab licences issued

The number of licences has obviously been a matter of concern for the Government, particularly given the dramatic increase in plate values in recent years. (See Figure 2-4) In August 1988 the Government released a report by the consultants Travers Morgan which pointed to the low rate of increase compared to population growth. (Travers-Morgan, 1988) A newspaper report quoted the Chairman of the MTCB suggesting that in his view there should be between five and twenty extra licences issued for a period "of some years." (Advertiser 19 August, 1988, p 5) The Minister indicated his agreement on the need for more licences, but cautiously suggested a total of fifteen to twenty. The industry response was vigorous, with convoys and demonstrations in protest and letters to the Editor of the Advertiser asking that the industry be "left alone" (Advertiser, 7 September, 1988, p 10)

To the time of writing, numbers have not increased. In its 1988 report the MTCB attempted to soothe concern by stating that in any decision on the numbers in the industry:

> the number should not have an economic impact upon the industry. That is, the number of licences issued, should be kept to the lowest possible number required. (SAPP no. 12 of 1988, p 6)

Other issues faced by the Board

In general, the MTCB has gradually relaxed controls on the industry. Provisions were changed to make leasing of licences easier, largely to encourage greater use of the cab. Previously leasing was possible only after the licencee had been in the industry continuously for fifteen years and had attained the age of sixty years. From 1984 leasing on "compassionate" grounds was permitted to sick or disabled taxi operators and to a surviving spouse who is not qualified or available to operate it personally. From 1986 there was no age provision and only ten years' continuous service was required. In the same year "standby" vehicles were permitted while the normal vehicle was off the road for repairs. The Board has recommended that in future its control over who should have newly issued licences be removed in favour of a tender system. (SAPP no 12 of 1987) "Multiple hiring" (allowing customers to share a ride), a popular recommendation of economists, is now allowed subject to the approval of the first customer in cases of trips originating at ranks. Although it has been possible since 1985, it appears that the taxi-travelling population of Adelaide has not warmed to the idea. (Mr Chris Casey, Secretary, MTCB, personal communication, 31 January, 1989) From December 1988 the maximum age of vehicles was raised from eight to ten years.

Changes to the Metropolitan Taxi Cab Board

We have seen that the Board as originally constituted reflected the professed desire of the Government to stay out of taxi regulation; to leave it to local government and the industry. The change in attitude by successive governments is revealed in legislative amendments and decisions on appointments which have affected the composition of the Board.

The MTCB as created under the original legislation was an unhappy compromise, limited in the action it could take by its unwieldy size and the requirement that a clear majority of members (variously interpreted as two thirds and three quarters) should be in favour of any decision before it was adopted.

In 1973 the Board was reconstituted under an amendment to the Act which was passed in the previous year. Its size was reduced from twelve to eight. Local government representation was reduced from eight to four and one of these was to be a nominee of the Minister. The Minister was also given power to direct the Board. In defending this move, the Minister stressed that he had no complaints about the operations of the Board; the legislation was simply part of an overall move to bring transport activities under firmer ministerial control and that

similar legislation had just been passed for the South Australian Railways, the Municipal Tramways Trust and the Transport Control Board. (SAPD 23 March, 1972, p 4233-34) The fact that successive ministers have made little use of their power to direct the Board suggests that this argument was not disingenuous.

It is interesting to note that under the 1972 changes industry representation was increased at the expense of local government representation. Industry representatives were now three of eight members rather that three of twelve. Local government representation was reduced from eight to four.

The Legislative Council Select Committee referred to earlier also recommended changes to the composition of the Board, suggesting an eleven member board, the increase designed in part to provide a more adequate representation of the industry. Recalling the problems caused by the large size of the Board in the past, the Government went in the other direction in an amendment passed in 1986. From April 1987 the Board has consisted of seven members: one represents the ACC, one the suburban councils, two represent the taxi industry and there are three ministerial nominees. The Minister's choice is constrained by the requirement that one appointee must be knowledgable in the transport industry, one knowledgable in the tourism

industry (so providing a consumer element) and one drawn from an industrial relations body involved in the taxi industry (in practice, the Transport Workers Union).

The amendment also gave the Minister power to nominate the Chairman of the Board. The Chairman was no longer to be a representative of the ACC. The first Chairman nominated by the Minister reflected the cross-party consensus about taxi regulation that has emerged over the past decade, as the Labor Minister appointed the Transport Minister of the previous Liberal Government.

DISCUSSION

No attempt will be made to assess the benefits or otherwise of taxi regulation in Adelaide. Even the relatively easily quantified factor of price is confusing. The fare for a typical seven kilometre trip rose about 75% in real terms after restrictions were introduced throughout the metropolitan area in 1957. However the figure is not particularly meaningful, given that real labour costs (up to half of total costs) rose about 150% in that time. Comparison is also difficult because of differences in computation of factors such as waiting time and extra charges that were applicable in 1957 but are now no longer.

No clearer picture can be gained by comparing Adelaide with the other capitals. Factors such as the size of the city, topography, parking availability and quality of public transport all make comparisons hazardous. It is also claimed that the populations of some cities are more "cab-conscious" than others (though of course this may be the result of more efficient regulatory policies). Certainly there is no strong case for the removal of restrictions on entry, particularly given the generally disappointing experience of deregulation in the United States. (Teal and Bergland, 1987; Coe and Jackson, 1983; Gelb, 1981)

Having questioned the possibility of making any evaluative statements with confidence, it is clear that the history of taxi regulation in South Australia is notable for two big mistakes. The first of these was the original 1861 decision to give the job to local authorities. The problems of fragmented administration became more apparent as taxi mobility increased and were tolerable only because the ACC was practically alone in exercising its powers. The problem of a two plate system which lasted until 1985 was a legacy of previous local government control.

A bigger mistake was to allow a market to develop in licences. Limits on entry were imposed on a reluctant regulatory body by the exigencies of war. When that body missed the opportunity to reverse the policy in the late 1940s it became practically impossible to change and the pressures to allow transferability proved overwhelming. Whatever the merits and demerits of the policy of restricting entry, the MTCB's experience in trying to bring in a one plate system indicates just how difficult it would be to repeal a policy which has the united and vehement support of the industry. There is no easy solution to this issue. After outlining the problem, Tullock has concluded:

> The moral of this, on the whole, depressing tale is that we should try to avoid getting into this trap in the future. Our predecessors have made bad mistakes and we are stuck with them, but we can at least make efforts to prevent our descendants from having even more such dead-weight losses inflicted on them. (Tullock, 1975, p 678)

Interest group behaviour

A consistent feature has been the pressure placed upon regulatory authorities by interest groups, as public choice theorists predict. However the policy directions pushed by the interest groups were sometimes for more regulation and sometimes for less.

In the period between the wars the industry - particularly the independents - pressured the ACC first for exclusive rights to stands and later to introduce controls on entry. The companies, on the other hand, pushed for less regulation in that they wanted to have the restrictions on taxi usage of stands removed. A similar divergence, this time between city and suburban licencees, is seen in the MTCB era over the question of restricted stands. Another area in which industry pressure has been in favour of less regulation has concerned the leasing of licences. While the taxi operators have been vehemently in favour of regulations restricting entry into industry, they have been against regulations preventing leasing.

The only consistent feature of these policy directions is that they have been motivated by self-interest. Normally this has been against the community interest. However the industry has been marked by divisions in both interests and opinions. At the height of the stands dispute there were the Committee

for Equality, the White Plate Operators Association, the Green Plate Operators Association, the Restricted Green Plate Operators Association, the Transport Workers Union and the Taxi Cab Operators Association, all pushing differing points of view. (SAPD 4 April 1984, p 3167) There are still at least four groups claiming to speak for the industry. While the Government has a problem finding a body that can legitimately claim to represent the industry, such divisions do present opportunities for those seeking to pursue an overall community interest, in that reforms will often have the support of one of the competing groups. The divisions also ameliorated the pernicious effect of self-interest within official decision-making forums.

What has been the record of the regulatory authorities in the face of industry pressure? It has generally been one of trying to maintain and introduce policies that it believed to be in the wider community interest, but often succumbing to contrary pressures. In the twenties and thirties the ACC was torn between sympathy for the independents and belief in the efficiency of the new companies. The legacy of the one owner, one stand policy left the Council buffeted by sectional interests. It tried to phase out the policy to encourage efficiency and to make regulation easier but it took over twenty years and was still not completed when the MTCB took over.

It has been observed that the ACC was most reluctant to introduce restrictions on entry and for a number of years withstood pressure not only from industry but also from a Federal government which believed restrictions would save petrol and whose representative in South Australia was sympathetic to the demands of the industry. It also knew that if there were to be such restrictions the best way to handle them would be to control tightly both the use and the transfer of licences. It withstood pressure to allow leasing, but acquiesced over the issue of transferability.

In the light of public choice analysis, it is interesting to note the attitudes of State and Local government to the whole question of regulation. Neither level of government wanted to regulate. Councils were given the power in 1861, but for over eighty years only one council (the ACC) did much more than designate stands. Curiously, however, pressure from local government favoured the retention of regulatory powers at local level even after the problems of this became manifest. Although it is understandable that they should want to determine the size and location of stands, a desire to retain licencing powers is difficult to understand given the initial apathy and subsequent difficulties.

Bureaucratic behaviour

Explanations for the reluctance to shed these powers are speculative. Perhaps there was pressure from inspectorial staff fearful of losing their jobs. However this is doubtful. Only the ACC employed any full-time inspectors. It was widely expected that if regulation was centralised they would be transferred to the new body, but because of the allegations of corruption and incompetence which tainted the ACC in the early 1950s, this was not certain.[4]

For most of the time it was an issue, the ACC Chief Inspector Good pressed for less regulation, though he also exhibited sympathy for independents. He wanted an open stands policy. At one stage he had the Town Clerk tell the Council

> ...the sole reason for setting aside any part of a public street for this purpose should be the convenience of the public, not merely to facilitate the business of the owners of the vehicles concerned.
> (Digest, 1926/27, p 94)

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4. A A Edwards the "king" of Adelaide and member of the ACC, was to write to the Premier,

> I earnestly ask you to consider placing the control of taxi cabs under the control of the Transport [Control] Board, the Police Department, the Advisory Board on Transport, or any other body than the City Council...
> (9 February, 1954, Public Records Office, CSO 925/52)

From debates of the time it is clear that some of the criticism was directed at the way the regulations were administered by Council staff.

Good was also against the introduction of controls on entry. However Good retired during the War and his replacement, Hughes, appears to have been more in favour of regulation, particularly the restriction on numbers. As we have seen he professed concern about the problem of congestion. He also favoured the companies on the grounds that they were much easier to control than the independents.

Sir Arthur Rymill, who was the Government's Chief Secretary when the MTCB was legislated, described the Board in the following terms:

> This is an industry board. It was appointed to give representation to all sections of the industry, enabling them to solve their own difficulties and secure their rights and duties in relation to control of the industry ... It is not a board dedicated to the general weal, as possibly some other boards are. When Sir Thomas Playford introduced the original bill I thought he was putting the warring factions together to sort out their problems.
> (SAPD, 29 March, 1972, pp 4470-71)

As such, the Board could be seen as an attempt to bring harmony to the industry by imposing a quasi-corporatist structure which would not be expected to give priority to the needs of the consumer.

We have noted that the composition of the Board has changed. Industry representation on the Board seems not to have been an issue and in fact after 1972 the proportion

representing industry increased at the expense of local government representation. However the effect of this should be seen in the light of increasing ministerial influence, particularly in terms of appointments, and ministerial influence has been consistently in favour of a relaxation of regulations.

The numerical representation of interests on the Board needs to be discussed in the light of the consensus style of decision-making adopted. The effect of this style is that regulations have not changed very often. The status quo is protected. The status quo in 1957 was highly favourable to the white plate operators and needed a determined government to force its amendment. As we have seen, it was not until the Minister informally intervened in 1980 that the privileged position of the white plate operators was challenged. Even more determination would be needed to relax entry controls.

The resolve of regulators to take such measures is also weakened by relations formed between them and the industry. Apart from the possible example of the period around 1950, it would be fair to say that the regulators have never lost sight of their responsibilities to the community as a whole, and yet they were also strongly influenced by their sympathetic, almost paternal attitudes toward the industry. There is little hard evidence that they were unduly

influenced by the large taxi companies. On the contrary, it has been the small independent operator whose interests have been protected, often against the interests of the companies and the dictates of economic rationality.

Nevertheless, although it has been vulnerable to pressure the history of the MTCB shows that it has moved cautiously toward less, not more, regulation. As we have seen, sometimes the push for deregulation has been from some sections of industry. However at other times the Board has moved against industry desires. The special status of the white plate operators was weakened incrementally. In 1973 the Taxi Industry Association of South Australia (which represented most taxi operators) was to claim

> The Industry as a whole does not accept in any way that the MTCB is constituted or [is] acting in a manner so as to be working in the best interests of the industry.

A number of Board members, it claimed, were "anti-taxi." (Taxi Industry Association of South Australia, 1973, p 4)

The history of the MTCB shows it to be honest in its regulation of the taxi industry. If it has been conservative, it is probably no more so than the travelling public. Like the ACC, the Board has been sympathetic to the long-standing independent operator, even when the standard of service he offered was poor. It has tried to steer a course between various factions of the industry

while trying to keep in sight its obligation to the community. (This objective was written into the Act in the 1986 Amendment.) The obligation to the customer has been viewed within a paradigm set by the previous regulatory era.

The administration of the policies appears to be efficient, with staff numbers held constant and fees lower in real terms than they were in 1958. (This is as it should be, given that the numbers of taxis licensed has not increased much, and the regulations are slightly less.) Interviews with senior staff indicate that they believe in the need for both quality control and restrictions on numbers. The long-time Secretary, Max Marker, has argued that the two forms of control are linked, and increased competitive pressure forces compromises on safety and quality standards. He cites the case of Indianapolis, where he observed "the dents and rust and missing hubcaps began to appear" within eighteen months of entry restrictions being lifted. (Marker and Tiernan, 1980, p 18)

The MTCB employs traffic inspectors and vehicle inspectors. The latter check each taxi twice a year for general roadworthiness, also testing and sealing the meter. Brakes are tested at least four times a year. Perhaps standards of inspection are higher than the free marketeers would want. Criticism from the industry has been that they had

been too low. (Taxi Industry Association of South Australia, 1973, p 7)

In his criticism of controls on entry, Swan explains the opposition of the taxi regulators to open entry as due to the fact that open entry "would leave the regulators with nothing left to regulate". (Swan, 1979, p 13) In fact if we assume quality controls would remain, open entry would have the opposite effect - it would expand the "empire". Five of the nine MTCB staff are inspectors. A relaxation of entry controls would mean more vehicles to inspect and so more inspectors would be required. It is ironical (but, as we shall see, not uncommon) that a major step toward deregulation would result in more bureaucrats, not less.

The fact that de-regulation can result in more regulatory officials is just one illustration of the way in which the complexities of the policy environment can defeat attempts at model-building. The overall picture presented by the history of taxi regulation is complex, not least in terms of the motivations and concerns of those involved. For example, the industry cannot be divided into a couple of simple categories such as big and small producers. Operators might identify as city or suburban based, on a network or not on one, part of a company or an independent, a new operator or an old one. Similarly politicians and bureaucrats have had to juggle concerns such as efficiency

of operation, the rights of prior position, merits and demerits of companies and independents, consumer satisfaction, and the need to "do the right thing" for ex-servicemen and migrants.

Eckert has tried to deal with at least some of the complexity when he looked at the behaviour of regulatory officials from a public choice perspective. (Eckert, 1973) He recognised a distinction between regulatory agencies controlled by a part-time commission and those that formed part of a bureaucratic department. Eckert hypothesised that commissions would have tighter, monopolistic control because this would give them a quiet life, whereas bureaucrats would come to desire a relaxation of entry and rules as they realised that such a course would mean more disputes, more inspections and so on, and therefore require more staff. A survey of 36 cities provided tentative support. This represents a more sophisticated approach than usual public choice assumptions allow, though it cannot account for the variations in the relative influence of bureaucrats and commission members. Our history also suggests another explanation; that commissions will be more likely to restrict entry and have less flexible standards not because members want a quiet life, but because the commission is more likely to be subject to the influence of industry interests.

CHAPTER 3

ROAD FREIGHT REGULATION

INTRODUCTION

The history of road freight regulation has been dominated by two major issues. The first has been a desire to ensure that road vehicles pay for the perceived costs they impose on the community. The motor truck in the early twentieth century heightened this imperative and added another concern - to see that the railways were protected from ruinous competition. Safety and efficiency are also matters for public concern but for most of our history they have been overshadowed by the issues of cost recovery and railway protection.

Cost recovery has traditionally been seen by governments in terms of raising sufficient revenue from road users to cover expenditure on roads. Though to government officials this has traditionally been a financial concern only, attempts to cover costs in this way have in more recent years been supported by economists concerned to see that resources are efficiently allocated between competing needs and in particular between the needs of competing modes of transport. The favoured method is usually some form of pricing system for the goods and services publicly provided rather than a legal or administrative restriction of

activities that make undue demands on the public in some way. Kolsen, for example, argues that an adequate road pricing system, whereby the costs incurred are paid for by those who incur the costs, would result in a much more accurate allocation of resources than a restriction of competition by "naive rules of thumb about what goods should travel what distance by what medium". (Kolsen, 1968 p 176)

An adequate pricing system is not easily achieved. A major difficulty concerns the measurement of the costs imposed. Even the direct costs of the provision of roadway are disputed because of uncertainty about how much damage is actually done by road freight vehicles. The "fourth power rule" - that the level of damage increases by a ratio of the fourth power when compared with an increase in axle loadings - is widely used. But it is not without its critics, particularly in the road transport industry itself. (For evidence of this, see Chudleigh, 1983, p 254.) The important point to note is that, even if the fourth power rule is exaggerated, broadly-based taxation determined by engine size or fuel consumption would be unlikely to generate adequate revenue to cover road costs. The private motorist would be subsidising the freight carrier unless special measures were taken to tax the latter.

A more difficult issue in the development of an adequate pricing policy has been the measurement of social costs. The perception of costs has become broader in more recent years and regulation has been justified as a means of avoiding environmental costs. For example, Laird regards the deregulation of road freight in NSW as "a complete and costly disaster", citing the over-representation of large vehicles in fatal accidents, their environmental damage and road congestion as well as the under-recovery of costs, which he believes amounts to substantially more than the rail deficit, their relative fuel inefficiency and the wasting of rail assets. (Laird, 1983, p 17)

REGULATION IN THE NINETEENTH CENTURY

The earliest attention paid by governments to road vehicles - in South Australia and elsewhere - was concerned with the damage that these vehicles did to the roads. In later years this concern was extended to ensure that vehicles were kept off roads that were not capable of taking them. An alternative or supplementary approach tried to ensure that the vehicles were designed not to unduly damage the road by means of the imposition of limits on axle loadings and specification of numbers and types of wheels.

In Europe and to a lesser extent in North America private toll roads were resorted to in the eighteenth and nine-

teenth centuries. These were far less expedient in Australia, where bush tracks circumventing toll houses would soon appear as a means of avoiding payment. In South Australia two shortlived attempts were made to provide for toll roads. A toll on the road from the city to Port Adelaide was soon found to be impracticable through such circumventions. The responsibility for a route through the Adelaide hills beginning at Glen Osmond was given to a private concern in 1841 when the Government faced a financial crisis. The completion of alternative routes in 1847 rendered this early private initiative unprofitable. (Fleming, 1936, p 203)

The alternative to tolls was taxation of road vehicles. In 1849 an Ordinance was passed which provided for the creation of Central and District Boards of Roads to create and maintain roads. (no. 14, 1849) At the same time the Commission responsible for the City of Adelaide was given power to levy rates in order to pay for roads. (Ordinance no. 11, 1849.) The Central Board's revenue was to come from annual licence fees on both private road vehicles and those plying for hire.

The rate of fee reflected a crude user pays approach. Narrow-wheeled vehicles had to pay more as they cut up the road more. However no account was taken of how much the roads were used, and so commercial vehicles and

particularly those plying for hire would have been lightly taxed given the use they made of the roads. The District Boards (soon to be replaced by general purpose district councils) were to levy property rates. Both levels of government could also impose tolls, though the legislation provided for a range of exempt vehicles.

In fact the opportunity to use tolls was never taken up and the fees were so unpopular that after only one year the system of licence fees was scrapped and revenue collected was returned. Under replacement legislation the District Councils relied on rates and the Central Board used allocations from general revenue to build and maintain roads. (Act no. 17, 1853) This Act also introduced two safety measures. No vehicle could be left under the sole control of children under thirteen years and vehicles were constrained to keep to the left hand side of the road.

Although they were primarily intended to regulate passenger vehicles, the Public Conveyances Act of 1853 and the amendment a year later (discussed in the previous chapter) applied to all vehicles plying for hire. Most importantly, the legislation reintroduced fees to cover road damage at least for those vehicles plying for hire. Fees for the six month licence varied from ten shillings to one pound, dependent on the number of animals drawing the vehicle and the number of wheels. The ownership of private vehicles

remained untaxed for the rest of the century.

The other significant development in the regulation of road freight was the transfer of regulatory powers to municipal corporations. (Municipal Corporations Act, 1861 and amendments, 1862 and 1873) This was part of a transfer of overall responsibility for public conveyances which was discussed in the previous chapter.

As we have seen when looking at taxi regulation, the effect of this transfer was to make the implementation of regulations rather haphazard. Also, attempts to use the regulations to recover road costs were impractical without uniformity across the metropolitan area. As we have seen with taxis, councils with jurisidiction over a small area are generally not appropriate bodies to deal with a mobile industry.

In 1867 a further measure to minimize damage to the roads was passed. This was the Width of Tyres Act which provided a maximum of eight hundredweight (amended to nine in the following year) for every inch of total tyre width. It also required that all tyres have a smooth, level surface.

To conclude then, nineteenth century regulation of freight transport was concerned to cover the costs of damage to public roads, but only in a crude and rather half-hearted

sense. Once the function was transferred to local government, the concern all but disappeared due to the impracticability of enforcement. Other measures dealing with safety and reliability appeared in the legislation principally because that legislation also covered passenger transport. The South Australian Government paid little attention to the issue of cost recovery because it had responsibility for arterial roads only. It did not see arterial roads as particularly important because of the dominance of the largely government-owned railways. Concerns about the mounting cost of road maintenance were met with the confident assertion that the situation would be temporary, as the railways were the main roads of the future. (e.g. SAPD 22 February, 1884, c. 2128) In fact the Government tried to relieve itself of the road funding burden by placing legal responsibility for all roads in the hands of local government through the Local Government Act of 1887. State government grants to councils for roads dropped dramatically as a result of this in the short term, but soon began to rise again thereafter.

The internal combustion engine was to change the expectation that in the long term road funding would be confined to local roads only and that these would supplement the railways. Before discussing the challenge posed by the motor vehicle, some background information is necessary, tracing the development of the railways and

explaining their importance to South Australia.

Railways in the nineteenth century

The colony was almost two decades old before the first railway began its operations - if a horse-drawn carriage along a set of tracks can be called a railway. The first railway in Australia was a government initiative designed to provide a route for River Murray traffic needing access to a port. It ran from Goolwa to Pt Elliot and was opened in 1854. (Strempel, 1954)

There were objections to public money being used for an activity that throughout the world was considered more appropriate for private enterprise. A Legislative Council committee expressed its doubt about the ability of railways to generate development in a country such as South Australia and recommended that government money not be used on such ventures. (SAPP no 104 of 1857/58) However this was very much the minority view and the Goolwa to Port Elliot exercise indicates the early willingness of government to take the initiative for the sake of state development. The Commissioners of Railways in Britain appreciated the role played by railways in colonial development, writing in the early 1850s;

> According to the system hitherto adopted in this

> country ... the construction of railways has been left entirely to private enterprise... On the other hand, the construction of the railways in a colony carried on immediately under the directions of the local Government would, there is reason to think, form a most important instrument in promoting the improvement of the colony. The power of laying out on a comprehensive plan the main lines of communication through the colony, of opening the access to particular districts in such order as may be most conducive to the interests of the colony generally...is, it is evident, a power which could be employed with much greater effect and more extensive influence in a newly-settled colony than in the Mother-country, where the railway is merely the last step in social progress, and accommodates itself necessarily to centres of traffic and masses of population that already exist.
> (quoted, Anderson, 1936, p 212-213)

This is not to say that private ventures were not encouraged in South Australia. Certainly the Government was keen to encourage private initiatives by paving the way with enabling legislation in anticipation. (e.g. see s107 of the 1849 Ordinance) During the province's first decade there were several private attempts to fund the construction of a railway from the city to its port. While such a project was keenly anticipated, there was also a recognition that the public interest needed to be protected. In 1847 the Legislative Assembly passed the Railway Clauses (Consolidation) Act, which provided general rules to be complied with by investors. The clauses of the Act dealt with matters such as the need for government (and at times, Legislative Council) approval for obstructions created, controls over smoke produced, the obligation to carry the

military and the post, as well as the granting the railway company power to make by-laws. One interesting clause (CXLIV) specified that any company intending to establish a service would need to provide one cheap return trip a day on its line, in order

> to secure to the poorer class of travellers the means of travelling by Railway at moderate fares and in carriages in which they may be protected from the weather.

The minimum fare for this trip was to be no more than one penny a mile.

A consortium of British investors was formed several years later to build the railway between Adelaide and its port. The Adelaide City and Port Railway Act (1850) was privately sponsored and specified matters such as the date of completion, the gauge and quality of track laid, maximum freight rates and fares, the route to be taken, including the siting of crossings and stations, as well as provisions dealing with financial reporting.

However when it became obvious that the company was not going to fulfill its statutory obligation to complete at least five miles within eighteen months, a new act was passed giving power to the Governor in Council to appoint undertakers and provide the necessary capital for its completion (Act no. 1 of 1851)[1].

Freight regulation

The general requirements of the 1847 and 1850 Acts remained in force despite the railway becoming a public undertaking. The 1850 Act became a model for numerous other enabling acts for individual routes that were passed in the next few decades. For each of these acts the authority concerned was a board of South Australian Railways Commissioners. These positions were originally created in 1856 under the South Australian Railways Act, 1855-56, as a measure designed to combine management and responsibility for the two railways which were then being built (that is, the Port Adelaide line and a railway to Gawler, which had been approved in 1854). A couple of years after the initial appointment the Commissioners were brought under ministerial control. (Acts no. 12, 1858 and no. 11, 1859) This move was part of a trend towards greater ministerial responsibility that followed the granting of Responsible Government to the colony in 1857. (O'Donoghue, 1950)

Apart from a handful of suburban lines that were constructed and run by private enterprise (see Chapter Four), the South Australian railways were developed as a public enterprise under the authority of the Commissioners. From 1870 the network grew rapidly. The modern locomotive faced

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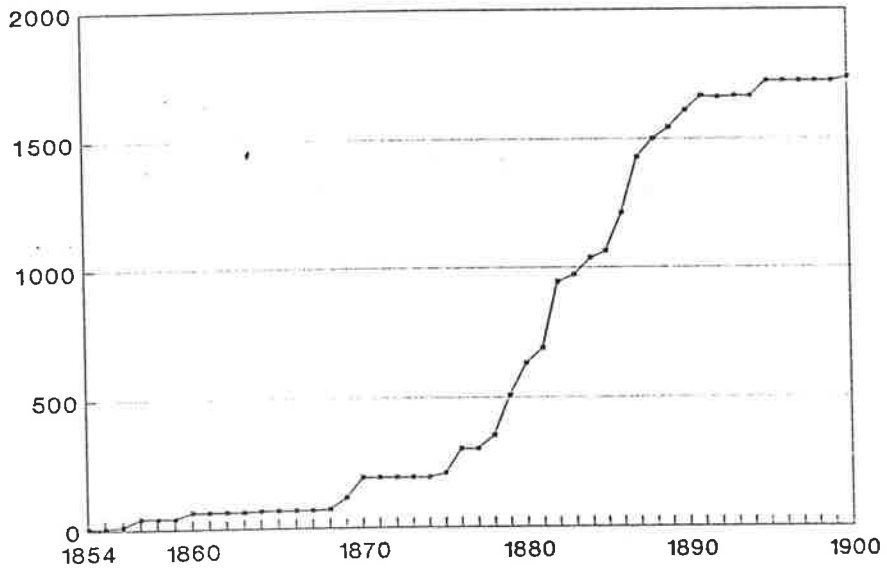
1. The Resident Director of the consortium blamed the regulations as well as the lack of traffic. "No railway in the world would pay under that Ordinance", he wrote. (Cited, Anderson, 1936, p 211-212)

no competition from carts pulled by horse or cattle over almost non-existent roads. The service offered by the railways was faster, more reliable, cheaper and smoother.

Figures 3-1 and 3-2 chart the growth of the South Australian railways in the nineteenth century.

FIGURE 3-1

SAR Network, 1853-1900
(miles)

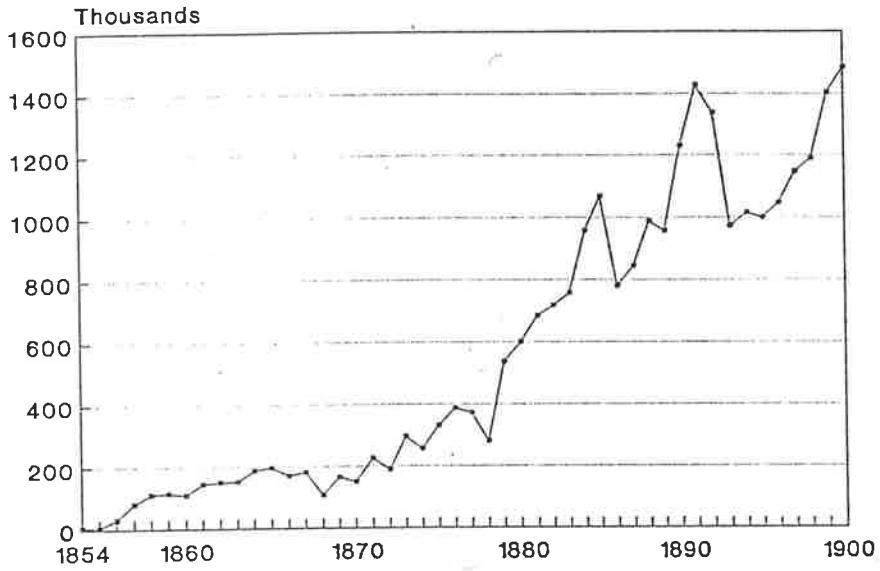


Source: Vamplew (et al) (nd) table 11-16

Most importantly, the railways were seen as the major means of State development. "Developmental" railway lines opened up new areas and while unprofitable in the short term, were confidently believed to be a paying proposition once the area they served became settled and prosperous.

FIGURE 3.2

SAR Tonnage, 1853-1900
(tons)



Source: Vamplew (et al) (nd) table 11-16

The railways were essential to the vital task of carrying the State's harvest to the coast. The close relationship between the railways and agriculture is demonstrated in the way in which tonnages rose and fell in response to growing conditions.

THE IMPACT OF THE MOTOR VEHICLE

Jennings estimates that the number of motor vehicles in South Australia rose from 600 to 24 000 in the years 1903 to 1922. (Jennings, 1973 pp 38-39) The problems caused by the growth of motor vehicles can be grouped under four headings: (1) the dangers and congestion caused by the

growth and speed of motorised traffic, (2) the burden on State Government finances posed by the damage to roads caused by motor vehicles, (3) the impact on South Australian Railway (SAR) finances and (4) the perceived costs to the industry caused by the duplication of transport services.

Traffic safety and congestion

Early measures to deal with traffic problems normally had the private motorist in mind and so are generally not a specific concern of this history. Suffice to say that traffic control measures grew haphazardly from 1907, when the first Act dealing specifically with motorized transport was passed. This was the Motor Vehicles Act of 1907 (which incorporated traffic regulations enacted in 1904). A Royal Commission on Traffic Control recommended in 1928 that such measures be consolidated and coordinated under a single act. (This was eventually achieved under the Road Traffic Act of 1934.) It also recommended slightly stricter traffic laws on matters such as speeding for commercial vehicles, both passenger and freight. (SAPP no. 56, 1928, p 7) (Other recommendations, dealing specifically with buses, are discussed in chapter 4.)

Freight regulation

Road Damage

The effect of motor traffic on the State Government's road costs was very serious, though it took quite a long time for this to be recognised. Not only had road use increased enormously, but the much faster speed at which the vehicles travelled put much greater strain on the road surface. With increased horsepower came larger carrying capacity. Commercial vehicles became wider and so used the shoulder of the road, necessitating continual repairs and the contruction of wider roads.

The first taxes affecting motor vehicles were imposed by the Commonwealth Government - a duty of two pence a gallon of petrol was imposed in 1902 and duties on imported cars and tyres were also imposed very early in the Commonwealth's history. However these were Federal taxes and at the time the funding of roads was entirely a State government responsibility.

South Australia's Motor Vehicles Act of 1907 required that all motor vehicles be registered but the cost recovery aspects were crude and vague. There were two classes of motor vehicle - motor cycles and others. No special measures were taken for commercial vehicles. At this stage the damage to the roads caused by motor vehicles was not generally perceived, though speakers from the Legislative

Council certainly drew attention to the social costs of the "infernal machines" (e.g., see the speech by Sir John Downer, SAPD 17 December 1907, pp 6404-5)

The Motor Vehicle Tax Act of 1915 refined the position somewhat. Under this Act registration fees ranged from 15 shillings for motor cycles to £15 for vehicles with over sixty horsepower. However the Act was a luxury tax designed to raise money for the war effort from those who could afford it. Little consideration was given to road damage. In fact commercial vehicles paid only 50% of the applicable rate. The tax was retained after the war and a 1925 amendment provided a user pays element by adding a surcharge of 25% for non-pneumatic rubber tyres and 50% for metal tyres. It also replaced horsepower with a power plus weight factor as the key variable by which the tax was assessed.

The issue of road costs became increasingly urgent in the post-war years. The burden remained heaviest on local government and the State Government found itself pressured by local authorities to take more responsibility for road funding. (SAPP no. 56 of 1927, Appendix E) The councils themselves had the powers to license the owners of vehicles that used their roads and some did so but such a fragmented system was obvious unsatisfactory, particularly for raising revenue. The State Government had to act and pass on money

to the local level.

The Highways Act of 1926 emphasised cost recovery. All fees and taxes raised from road users were placed in a special Highways Fund, to be controlled by a new statutory authority, the Commissioner for Highways. The only deductions were for the costs of administration and the costs associated with policing of traffic.

State Government measures so far taxed only ownership of a vehicle, not usage. Commercial operators, and in particular carriers for hire, were let off very lightly. In 1925 the Taxation (Motor Spirit Vendors) Act attempted to remedy this by placing a tax of three pence on every gallon of fuel sold at the retail level. The Commonwealth Government, jealous of its taxing powers, challenged the legislation in the High Court on the ground that the tax was an excise and therefore contravened the prohibition of State government excises contained in s 90 of the Australian Constitution. The High Court agreed with the Commonwealth. ("Commonwealth vs South Australia" 38 CLR pp 408-440)

Perhaps in an effort to placate the States, the Commonwealth negotiated a formal road grants agreement. (Burke, 1977 pp 3-5) Grants had been given for roads to encourage employment since 1921, but under the new

arrangement the amount given to South Australia doubled. Nevertheless many State government officials were still not happy. The new agreement required the South Australian Government to spend from its own funds 75% of the Commonwealth amount. The provision that the money be spent on construction or reconstruction and not on maintenance meant that South Australia was committed to an increasing road network that it could not afford to maintain. It was calculated that the Commonwealth's grant was over twice the amount of the fuel tax it received from the State's motorists and therefore the road network was being subsidised from general revenue. (SAPD 7 December, 1926 p 2131) What made this all the more irritating to some was the belief that every pound spent in this way had the effect of taking revenue from the State's rail service.

Damage to SAR finances

Ever since the emergence of the petrol-driven vehicle as a commercial form of transport, the concern to see road costs recovered has been entangled with the concern about the competition posed to pre-existing forms of transport - normally the railways. Part of the concern has been to see that the financial costs of the different modes are fairly allocated. Not only were the livelihoods of the (usually strongly-unionised) employees of the railways at

stake but competition could also lead to under-utilisation of "sunk" costs and so be wasteful. It was not as if the capital invested in the railways could be used for alternative purposes. If it was not used to provide a railway service it would be wasted. Why allow a truck service from one town to another when there is already a train service with excess capacity offering the same service? Only by carrying large amounts of traffic would the railways be able to achieve the economies of scale that could make them efficient.

Whether regulated and in private hands, or publicly owned as in South Australia, the railways were seen as much as a public service as they were a profit-making exercise. In both cases monopoly positions incurred obligations to offer some services at a loss, for example, for national defence. We have seen the importance of the railways in the development of South Australia. The railways also had to carry certain commodities (such as wheat) at a loss and like all railways their common carrier obligation meant that they had to carry any reasonable item or commodity. Unlike their new competitors in trucks, the railways could not pick and choose. The implication of this was that the railways would need protection from the "cream-skimmers". Such protection was normally in the form of monopoly rights to at least some of the more lucrative services.

In fact conventional thinking at the time went further than this. The most efficient arrangement would be one in which the truck would act as an auxiliary to the railways through legislative coordination. This might result in some commodities and some areas being subject to higher rates than would otherwise apply, but it would be in the interest of providing the cheapest and most convenient transport for the community as a whole. The complementary aspect of the road/rail relationship should be recognised. The railways were more efficient in their use of fuel and "track costs", but expensive in loading and unloading goods. Therefore the railways should be given big volume items and long distance work. Road freight transport should be left to provide "feeder" and short distance services (that is, those less than 100 miles).

The fact that the railways were owned by the government added a dimension to the argument in South Australia. Interestingly, the issue of whether ownership by the community as a whole justifies favourable attention by the government, compared to an operation in which profits are privately appropriated, has been avoided in the literature. The philosophical aspects are ignored in the economic argument. Criticisms concentrate on the perceived dangers of public ownership; lax investment criteria, featherbedding and so on. Nevertheless government policies on transport coordination were very similar throughout the

world, whether or not the railways were publicly owned. (Age 13 September, 1933)

The coming of motor transport obviously posed a real threat to the railways, particularly as it coincided with a boom in "developmental" lines which seriously weakened the railways financially. As we have seen, from the earliest days the role of railways in developing the colony was recognised. This recognition overcame many doubts about the viability of lines. The service might not be profitable in the short run, but it would create its own market and create a more prosperous rural economy in doing so.

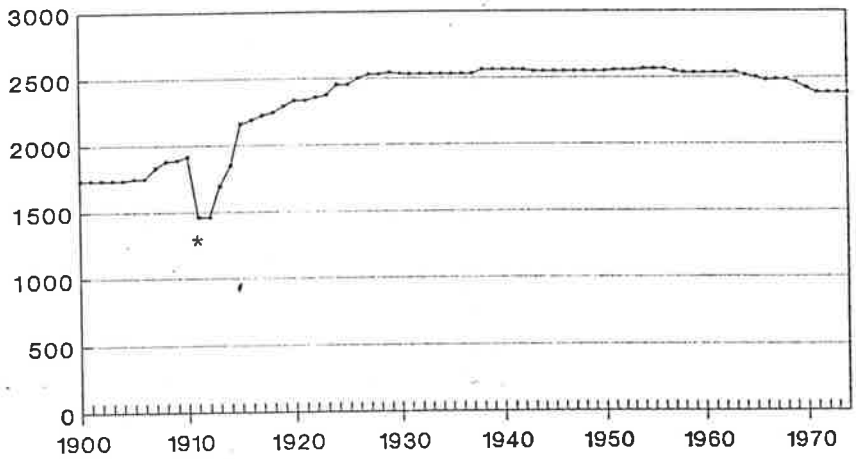
Political pressure from powerful members of parliament was often a crucial factor. Without the party discipline that has characterised twentieth century politics, changes of government were frequent. In the period from Responsible Government in 1857 to the end of the century there were 36 governments with an average tenure of less than fifteen months. Vote buying by way of public investment in a particular electorate was common. In 1900 a Royal Commission examined a proposal of the Inspector of Main Roads that the number of roads on the Main Roads Schedule should be cut drastically owing to light traffic and/or to the existence of parallel railways. The commission, composed entirely of MPs, rejected the proposal. (SAPP no.

25, 1900)

The railway network continued to grow into the twentieth century, despite the increase in the number of passenger vehicles. (See Figure 3-3) At the same time, more and more money was needed to construct and maintain the roads needed by the motor vehicle. The fact that many of these roads ran parallel to railways is illustrated in Figure 3-4. A coordinated approach to transport investment was difficult with so much pressure from individual MPs, whose vote was often needed to maintain an administration in power.

FIGURE 3-3

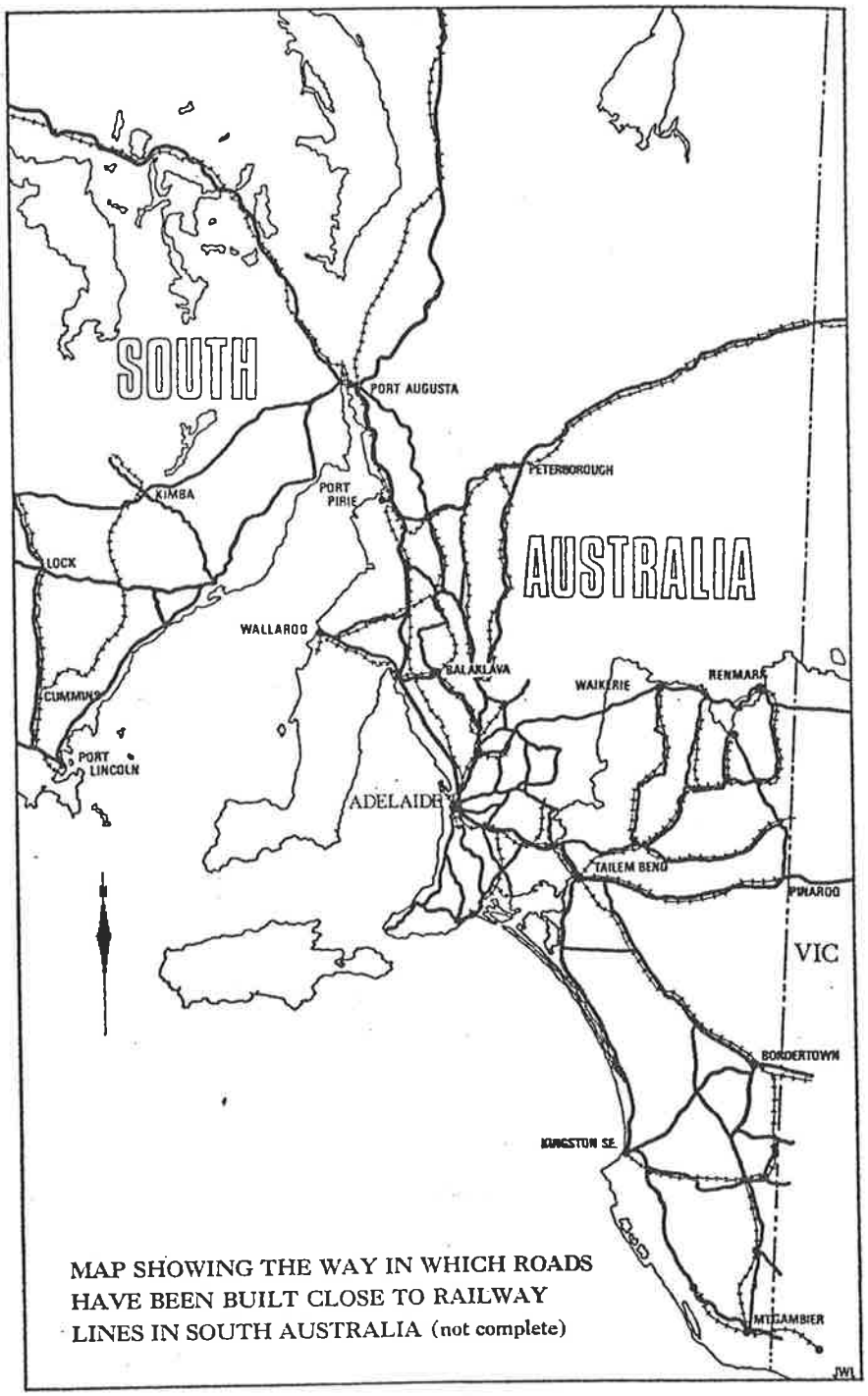
SA Railway Network, 1900-1974
(miles)



Source: Vamplew, (et al) nd,
Tables 11-16 and 11-18

* 478 miles transferred to the Commonwealth, 1911

FIGURE 3-4



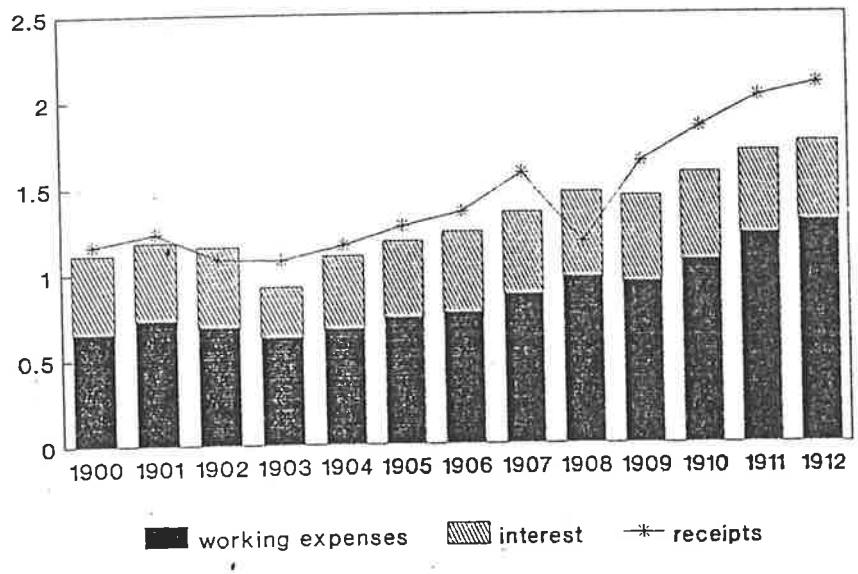
Source: Jennings, 1973, p 144

The true financial position of the railways was hidden until 1915 because until that year accounts did not include depreciation. With interest rates ignored, the railways were seen by many people as a very important source of revenue to the State. The SAR consistently provided about half of the State government's revenue. (See also Figure 3-5) Jennings quotes Sir Richard Butler, a former Minister of Railways, on how to make the railways profitable:

> The developmental railways were not losing £165 000 per annum but paying wonderfully; it still depended on how you kept your books and if they were running at a loss then obviously you weren't keeping them properly. (quoted, Jennings, 1973, p 81)

FIGURE 3-5

SAR Finances, 1900-1912
(Millions of £)



Source: SAR Annual Reports

Delusion was widespread, but not total. SAR Commissioner Pendleton's Annual Reports frequently drew attention to the

poor state of financial information and at one stage went so far as to point out that information prepared by the Government for parliament was quite misleading. (SAPP no. 47, 1901 p 5) For many years T H Smeaton, a member of the House of Assembly, tried to draw his colleagues' attention to the true state of railway finances. Finally action was taken. (Jennings, 1973, ch. 7) In 1912 a Parliamentary Standing Committee on Railways was established to consider proposals for new lines. Three years later a Royal Commission was established under Smeaton's chairmanship, which publicly exposed the true state of affairs. It produced six reports between 1916 and 1918[2].

In 1922 the Barwell Government appointed an American, W A Webb, to take over the management of the railways. It was thought that an outsider was needed to bring the railways up to standard, provide effective, modern rolling stock and upgrade tracks to the necessary standard. Webb did this, but in doing so the State was forced to borrow heavily. It was at this time that competition from the internal combustion engine became serious.

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2. Reports of the Royal Commission on North Terrace Reserves and Railway Centres, SAPP numbers 60 of 1916; 61, 62 and 63 of 1917 and 20, 22 and 64 of 1918. There was also a further enquiry by an interstate railway expert. His reports are numbers 23, 25 and 70 of 1918.

GOVERNMENT RESPONSE TO THE THREAT OF THE MOTOR VEHICLE

The first response of the railways to the new competition indicated an awareness of the advantages of motor travel. The SAR began its own bus services. (See Chapter Four) The SAR was already in the parcel delivery service, but to meet private competition it upgraded its horse-drawn fleet of vans to petrol-driven. (Register 16 July 1925) In December 1925 it began a door-to-door truck delivery service between Adelaide and Gawler and Adelaide and Murray Bridge - despite already offering rail freight services to these destinations. Ironically, there was also indignation at the way SAR vehicles were damaging the road on their way to Murray Bridge. (News 11 March 1926)

Beside the advantage of door to door handling, the big advantage of the motor vehicle was that, as roads were largely funded from general revenue, (particularly at Commonwealth and local levels) the road user did not directly pay for the roads that did not make economic sense. Poor decisions in railway investment had to be paid for by the rail user. In fact the road user hardly had to pay for the roads at all. This point was made by the Auditor-General, who repeatedly urged the Government to control the traffic. For example in his 1927 Report he described as "urgent" the need to stop subsidizing the railway's competitors and to secure the scale economies

needed to justify the State's investment in the SAR. (SAPP no. 4 of 1927, p 34)

In 1926 the Royal Commission on Traffic Control was established. It was composed of parliamentarians and had a Labor majority. Its second report dealt with road freight and passenger traffic. It described control as "urgently necessary" and pointed to the consensus of international experts on the matter. (SAPP no. 56, 1927, pp v and 111) It criticised the duplication of public investment in parallel roads and railways and suggested that investment questions be referred to "some superior body" rather than the Department of Local Government (responsible for roads) and the SAR. While stressing its regard for individual rights, it believed that "these must be subordinated to the welfare of the general community and the State" and proposed that the control of road and rail carriage for hire in country districts be placed in the hands of the SAR Commissioner in order to secure cooperation between the two modes.

Under the Royal Commission's proposals, the Commissioner would have power to issue permits, fix routes to be used and rates to be charged, as well as to enter into agreements with road carriers for the cooperative transportation of goods. The Royal Commission also suggested a doubling of registration fees with a petrol tax at ascending levels

depending on whether the vehicle was used for:

- private, non-commercial use
- commercial carriage of one's own goods
- carriage of freight or passengers for hire.

The Motor Transport Control Act, 1927

The recommendations of the Royal Commission were to appear in the Motor Transport Control Bill of 1927. The Bill was introduced by the Liberal Butler Government amid a great deal of controversy. Besides the principle of giving such power over commercial operations to a single individual, the personality factor was important, for the Railway Commissioner was himself a controversial figure. An energetic man, W A Webb rapidly changed the face of the railways, largely through massive expenditure on new rolling stock and (most conspicuously) on a grand new Adelaide railway station. He was not a man used to conventions of anonymity and neutrality. He was happy to tell a Royal Commission that the private competitors he faced were mostly "irresponsible pirates"[3]. (Jennings, 1973, p 167)

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3. Webb's biographer was to write of the road operators "The men who set themselves up as carriers in the 1920s were unscrupulous, selfish and disinterested in everything except their own profits." (Jennings, 1973, p 143)

It was also alleged Webb employed "dirty tricks" to frustrate private operators providing a complementary service to the railways. (SAPD 20 October, 1927 p 1076) One MP, who had earlier described Webb as a "Mussolini" later sought to apologize to the dictator when he learnt how well the train system was operating in Italy. (SAPD 20 October, 1927 p 1073)

Under the Bill's regulations all common carriers outside the metropolitan area had to be licensed. The twelve month licence would be free, but would specify the owner, the vehicle and route used. It could also specify the timetable used and rates charged and whether the carrier could carry freight, passengers, or both. The evidential provisions were strict, with the onus of proof of innocence always being with the defendant. As a tradeoff, the SAR had to cease all road passenger and freight services unless they were to or from a railway station. An exception would be made if no private operator would operate the service at the same or lower rate.

The Bill had Labor Party support, but was not expected to pass the more conservative Legislative Council. In the event it did, but with the important amendment that the Railway Commissioner was replaced by a Board of three people: the Railway Commisioner or his nominee, the Highways Commissioner or his nominee and an appointee of

the Governor to represent the interests of the private carriers. It would be the Board who needed to be convinced that elimination of private services, or the operation of motor services by the SAR, was in the community's best interests.

The replacement of the Railway Commissioner with a Board dampened criticism but it certainly did not eliminate it. According to one Labor speaker, the press was "seething" with the threat to private enterprise. (SAPD 20 October, 1927 p 1068) Assumptions that underlay the legislation - for example that private carriers took only high value freight, leaving vital but low value freight such as wheat to the statutory obligations of the SAR - were challenged. (SAPD 20 October, 1927 p 1075) Critics were also not happy with an arrangement that threatened the flexibility offered by seasonal services, which would be subject to the same cumbersome controls as regular services. (SAPD 20 October, 1927 p 1068) In order to placate criticism, the Liberal/Country Party Government stressed that the Bill was "experimental". The Legislative Council ensured this by inserting a sunset clause under which the Act would apply for twelve months only.

The administration of the Motor Transport Control Act by the Motor Transport Board was very difficult. Setting rates for all services had to be rather rough and ready.

In most cases the rate set was less than that applied for, but in some cases it was more - the Board arguing that applications for rates that did not include depreciation of capital equipment could not lead to a stable service. In either event the decision would usually be criticised. (SAPD 24 October, 1928 p 1500) One Board member, the motor trader Sydney Crawford, was later to say,

> ...I know quite definitely it was impossible to obtain impartial consideration to any application for a road licence on its merits.
> (Crawford, 1930, p 65)

Back to a cost recovery approach

In the event the Act was to last less than nine months. The Government bowed to media opinion that coordination of transport by administrative regulation was "unworkable". (Register 25 October, 1928) Controls were scrapped and another attempt was made at a fiscal approach to deal with the problem. The Motor Vehicles (Special Licences) Act (1928) simply required that the Registrar of Motor Vehicles issue special licences for commercial freight and passenger operators. Once again introduced by the Butler Government, it was described by the Minister as "taxation pure and simple, but no other form of control. " (SAPD 24 October, 1928 p 1495) Commercial passenger vehicles would have to pay twice the previous rate of tax; commercial freight

vehicles would have to pay an extra 50%. A private freight licence would cost 75% of a common carrier's freight licence. Primary producers, however, could obtain a licence free of charge.

The charges for licences were steep. For example the owner of a five ton truck could pay over £100 a year. This was £26 more than the rate applying in Western Australia; an amount the Minister had described a year earlier as designed to drive vehicles for hire off the road. (SAPD 6 October, 1927, pp 944ff) This was also pointed out by the President of the Master Carriers' Association, who argued that it would be better to simply ban competition on parallel routes than to tax all commercial traffic heavily. (Register 30 October, 1928 p 9) This argument ignored the issue of cost recovery. The Minister pointed out that the £100 000 that the Government expected to earn from the revenue would be only half the amount it spent that year topping up the Highways Fund.

The 1928 Act was in some ways a more refined form of cost recovery. For example the taxation of trailers closed a loophole which had seen trucks hauling "trains" of up to three and four trailers to avoid taxation. However the Government admitted that it was still a very clumsy measure. The same tax was to apply to similar commercial vehicles, no matter how much the vehicle was used or

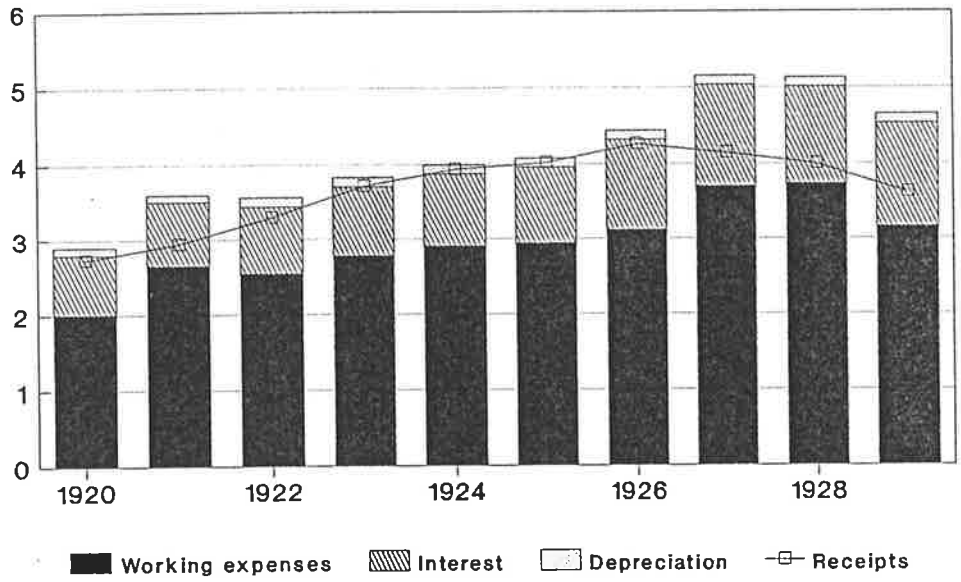
whether it competed with the railways or not. The Minister admitted that a tax on petrol - denied by the Constitution - would have been much fairer. (SAPD 24 October, 1928 p 1495) However it should be noted that even a petrol tax would not have discriminated between services that complemented or competed with the railways. Neither measure would ensure that the roads being used were capable of withstanding the traffic.

The unpopular legislation was repealed a year later. It was removed in expectation of the introduction of a new federal petrol tax. The new Commonwealth Labor Government had agreed to collect the revenue of a petrol tax on behalf of the States and transfer the money to them. However the arrangement did not eventuate. According to the Prime Minister this was due to a lack of agreement among the States. (CPD 20 June 1930 p 3064)

Political, constitutional and inter-governmental factors all had their part to play in preventing the South Australian Government relieving its increasingly parlous financial position. The railways were pushing the State heavily into debt. (See Figures 3-6 and 3-7)

FIGURE 3-6

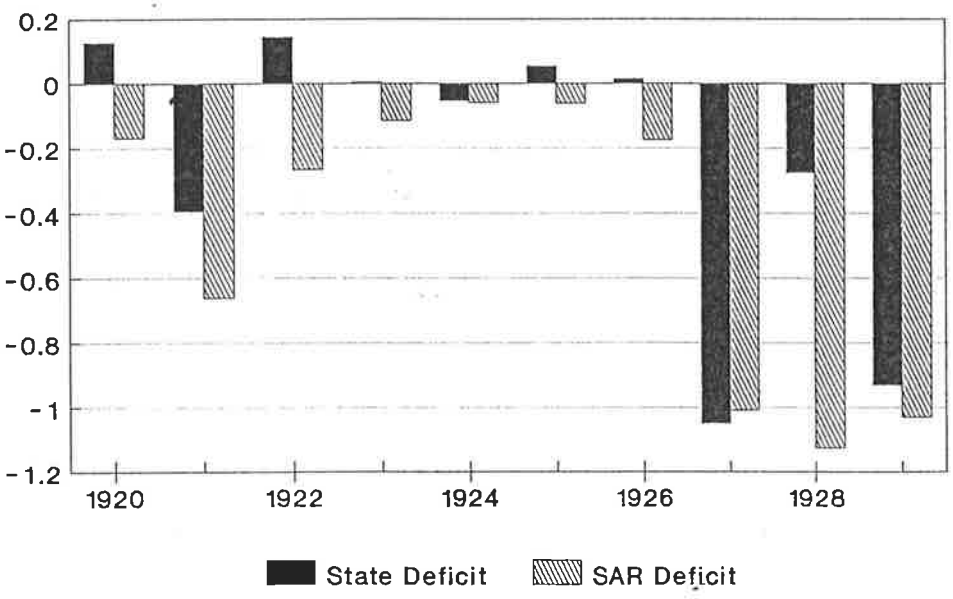
SAR Finances, 1920-1929
(millions of pounds)



Source: Auditor-General's Reports,
SAPP no 4

FIGURE 3-7

Railway and State Deficits, 1920-1929
(millions of pounds)



Source: Auditor-General's Reports,
SAPP no 4, Statistical Register

The growth in deficits was so alarming that the Commonwealth called for a Royal Commission into South Australia's financial position. Special grants were made to the State in 1929, 1930 and 1931 as a result of its recommendations. The Commission argued that subsequent developments (poor harvests and the economic downturn) had proved the loan borrowings of the mid-twenties overly ambitious:

> It is apparent that the present unsatisfactory financial position has gradually evolved over a series of years, and that the serious deficits of the last two years are due chiefly to losses on the railways and on works of a developmental character. (quoted, CPD 22 November 1929 p 198)

Return to coordination

In desperation the newly-elected South Australian Labor Government appointed a second Royal Commission to look into the matter. The Royal Commission on the South Australian Railways (Coordination of Road and Motor Services) was set up in May 1930 and reported a few months later (SAPP no. 55 of 1930). It was given the brief to look both at the management of the SAR and at the competition it faced. Though critical of SAR management, the new enquiry came to much the same conclusions as the Traffic Commission three years earlier. Given that it was composed of the General Manager of the Municipal Tramways Trust (chairman), a

former Tasmanian railway commissioner, the Assistant Auditor-General and the secretary of the Boilermakers' Society, there was little doubt that it would see a continuing important role for the railways, and that this role should be defended by the government if need be.[4].

The new Commission argued that in the absence of an effective pricing mechanism, control was the only answer. This was the conclusion of practically all witnesses; both rail and road interests. In the Commission's view, an appropriate regulatory regime would:

1. Appreciate the complementary aspects of road and rail. The SAR railways had a natural advantage for long distances and for the carriage of low value for volume products, such as wheat and ores (which in 1930 were carried for 1.74 pence and 0.74 pence a ton respectively). (SAPP no. 55 of 1930, p 6) Average freight rates for trucks were about four pence a ton, which was competitive for high value products, especially over short distances, where handling costs are relatively important.

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4. The Royal Commission produced three other reports, specifically on the performance of the railways (SAPP nos. 55, 56 and 57 of 1931). One of these recommended the management of the SAR be responsible to a board. A Bill to provide for a board of directors was defeated on the second reading in the House of Assembly in November 1931.

2. Minimise unnecessary duplication of transport services. The 1930 Commission stressed the higher real transport costs being paid by the community as a whole because of unregulated competition. Capital was being wasted, and there was a heavy unnecessary duplication of labour.

3. Protect the community's investment in the railways. South Australia's income tax was already the highest in the country, and if SAR losses on the scale of that of 1929/30 were to continue, income tax would have to be doubled.

(SAPP no. 55 of 1930, p 10)

Nevertheless, the experience of the 1927 legislation induced some caution in the Commission's proposals. Control would be exercised by a Board on which the influence of the Railways Commissioner would be balanced by a representative of road interests and a "neutral" chairman. Rather than attempt to control all commercial road traffic, the Commission suggested a more piecemeal approach be taken. Routes should be declared "controlled" when needed. Operators on such routes should be licensed, but the Board should make no attempt to interfere with the vehicle used. Licences could specify maximum rates charged (and minimum rates, where over half the route could be

served by a railway) as well as frequency of service. In cases where road services were closed, compensation should be paid by the Government - though not to cover good will. The Commission concluded that as "nearly all" witnesses had stressed the need for protection from "pirates", there was very little goodwill to be compensated for. (SAPP no. 55 of 1930, p 13)

Flexibility would be enhanced if the regulatory legislation provided for exemptions for some goods and for special permits to be issued to cover seasonal activities and perishables. To the same end, the clumsy system of taxes on vehicle weight and capacity should be replaced by a tax on business turnover. On payment of such a tax, operators should be free from any local authority fees for road use (SAPP no. 55 of 1930 p 12).

The proposals also gave the board the task of recommending the closure of railway lines to parliament's Public Works Committee . The Commission noted that to leave the matter entirely to parliament would be hopeless, given the strength of local resistance to rail closures. Nevertheless, a cautious attitude was taken to the closure of railways. It was thought regrettable that capital had been wasted on some lines, but given the historical fact that it had been spent, it represented a sunk cost. (See Figure 3-7) Therefore the Commission suggested the principle that

lines be closed only if revenue did not cover working costs, and then only if the board could guarantee an adequate alternative service at the same or less cost. (SAPP no. 55 of 1930 p 11) The Commission also recommended that SAR road services be discontinued, though they could resume if the Board was convinced that private operators were exploiting their position. In other words, potential road competition by the SAR could be used as a threat against the abuse of monopoly.

These measures were to appear in the Road and Railways Transport Bill of 1930. The Bill underwent considerable amendment in its passage through Parliament, but of the Royal Commission's proposals, the only change was an amendment requiring that the Board be free of any rail or road interests. Revenue raised through a turnover tax (which could vary between 2+% and 10%) would go into a fund that initially would cover administrative costs and be used to compensate operators forced off the road by the Board.

Summary, 1925-1930

The proclamation of the Road and Railway Transport Act marked the establishment of a system of regulation that was to last for the next three decades and so it is appropriate to summarize the period leading up to its enactment. We

have seen that this period was one of an increasingly widespread acceptance of the need for control; the Auditor-General and the SAR were particularly insistent. Any measures to tax or control road transport activities were at first opposed by private motoring interests. Jennings stresses the power of the car and oil "lobbies", explaining press opposition to government action as due to the fact that "the newspapers were virtually written on the back of rival vehicle advertisements". (Jennings, 1973 p 143) However such opposition can also be explained by the simple preference of individuals to avoid collective responsibilities.

The argument of collective over individual efficiency was very persuasive in the early nineteen thirties. To quote the Times of 1932

> The real question... is not whether this or that particular manufacturer or trader can convey his goods from one centre to another more cheaply by road or by rail, but whether the country as a whole is making the most economical use of the transport resources at its disposal...In transportation, as in many other departments of life, laissez faire has long ceased to be practicable.
> (quoted, Advertiser 11 September, 1932)

The Auditor-General illustrated this in his 1932 report. He pointed out that for individual towns it might pay to switch to road, but the cost was borne by the State as a whole. The illustration was of a town which in 1926 had all of its freight business to and from Adelaide carried by

rail - about £3 000. In 1930 rail carried two thirds of the freight when measured by weight but only half when measured by value. By giving the higher value freight to truck transporters storekeepers and others saved £100 but the State lost £1500, as it could only reduce its expenses by £300. (SAPP no. 4 of 1932, p 36) The Auditor-General concluded:

> I feel that it is a duty incumbent upon me to protest against such losses being cast upon the taxpayers for the advantage of sectional interests, who advocate duplication and waste in transport, because it benefits them, and for no other reason.
> (SAPP no. 4 of 1932, p 36)

Despite opposition from the "sectional interests", the growing recognition of the need for control was such that the principle received strong support in parliament and very widespread support even among road carriers when the Road and Railway Transport Bill was passing through parliament. Crawford, whose criticism of the Motor Transport Board was quoted earlier, argued that the Act itself was necessary, particularly with its controls over entry into the industry. He claimed that as a motor trader he had seen trucks repossessed at a tenth of the price the owner had paid for them. This, he argued was due to instability and ignorance of the economics of the industry. (Crawford, 1930, p 70)

This is not to claim that the new Act was popular. Even the Minister, though referring to the repeal of the Motor Transport Act as "a huge mistake", still described the introduction of the Road and Railway Transport Bill as "this unpleasant and extremely difficult task". (SAPD 9 October, 1930 p 1304, 1311)

Pricing strategies were the preferred approach of successive governments but these had not been possible due to the Constitution and the Federal Government. Adelaide University's Professor of Economics, L G Melville. told the 1930 Royal Commission:

> If charges could be fixed upon the cost of service principle, then you could leave the two systems to fight it out on a truly competitive basis. I do not, however, think it is really practicable to go back, and I believe there is no alternative to the introduction of a Bill of this nature.
> (SAPP no. 55, 1930, p 14)

In any case a pricing strategy in itself would not have been enough. It would not have kept the trucks from using roads which were not built to take them. It would not have dealt with the issue of "cream skimming". Although it may have been possible that financial circumstances would have caused a "shake out" that would prevent wasteful duplication, this was of little comfort to either the railways or the established operators, who could see themselves undermined by a continual influx of newcomers driven by

unemployment to enter an industry already plagued by uneconomic operators.

REGULATION UNDER THE TRANSPORT CONTROL BOARD (TCB)

The professed intention of the Transport Control Board was made clear at the outset by its chairman, Mr E J Sincock:

> The intention of the Act is that road and railway competition shall be eliminated as far as posssible, and that, where it is not expedient to close a railway, the motor vehicles shall act as feeders to it, and not as competitors. In any action it may take, the board is activated by what is in the best economic interest of the State.
> (Advertiser 2 March 1931)

The speech recognized that rail closures may not be "expedient", but that in many cases private motor carriage may be better for the State's economy. The general policy was that only one operator should be licensed for a particular route, whether that route be of an arterial or feeder nature. The sole operator could offer a rail or road service, or (in at least one case), a coastal shipping service. (Smith's Weekly 21 September 1933)

The Transport Control Board had a most invidious role. A narrow path needed to be trod between efficiency for the State as a whole and the interests of the local population. It was not enough to simply tell a town that because it was

served by a railway, it did not need a truck service, particularly if the railway service was slow, infrequent and was not door to door. On the other hand, local sentiment was also against the closure of a railway service that was reliable, cheap, part of the life of the district and capable of handling large volumes at short notice. This latter factor was particularly important in wheat growing areas (News 19 April 1932) and for the fruit harvest in the Riverland (Advertiser 29 June 1932).

Once it was recognised that one mode had to go, local communities became divided over which was the most expendible. To quote the contemporary observer, Sidney Crawford,

> The various meetings of the Tranport Control Board throughout country districts indicate that feeling is becoming sharply divided . The rural community appears to support the retention of railway facilities while the country storekeepers who profit by the quick dispatch which enables them to carry lower stocks, generally favour road transport.
> (Advertiser, '29 June 1932)

But while the road service was fast, storekeepers were not necessarily uncritical supporters. They recognised that any service had to be reliable, and so they wanted the TCB to ensure that the licensed service was regular. (e.g. Advertiser, 30 June 1932) This was often difficult for the small operators using unreliable vehicles over rough roads.

Freight regulation

Despite later appointments specifically designed to favour rural interests, the TCB never shook off the reputation of being a lackey of the SAR. The reputation for independence was not helped by some unfortunate decisions on matters of TCB administration. For the first few years the Board was physically housed in the Adelaide railway station, and its chief executive officer was previously a long-serving railways official (Advertiser 19 November 1931). Early practices by the Board also encouraged antagonism. The Legislative Council had insisted that any declaration of a controlled route should be "after due inquiry and investigation" but public consultations were only instigated after public criticism, particularly from the Country Common Carriers Association.

TCB decisions were bound to be unpopular even where there was no choice between rail and road because no rail service existed. Economies may have been created by the elimination of duplicated road services, but this was often lost in the minds of consumers because the tax of up to 10% that the licencee had to pay was passed on to them (e.g. Advertiser, 4 May 1931). They were having to pay a more realistic price for the costs of road transport.

Railway closures

With the proclamation of the Road and Railway Control Act all SAR road services ceased. However for the first 12 years there was no case of the TCB recommending the closure of a railway. Perhaps this should have been expected, given the guidelines the TCB worked within. The TCB began investigations into eleven lines in its first year, but found itself heavily reliant on the facts and opinions of the SAR. After investigation of individual branch lines, the SAR found in each case that the line concerned was paying its way. At one stage the Railways Commissioner (C B Anderson) told the inquiry that SAR would lose £45 788 a year if ten lines under investigation were closed. (News 28 June 1932) The TCB also had to contend with local resistance when considering rail closures, even when the SAR itself pointed out that the lines concerned were loss makers (e.g. Advertiser 14 March 1935, 17 June 1935).

Cutting losses by quitting the loss making services was not seen as desirable because of the heavy interest component in the deficit. Running a service, even if it returned only 40% of total cost, was sometimes cheaper than closing the service and still having to pay the capital burden. It also should be remembered that the State faced new expenditure on the road route if the railway service was closed. The lack of control over, and taxation of,

ancillary services (that is, the carriage of freight by the owner of the goods) led decision makers to believe that the increased expenditure would not be met by increased revenue, particulary as country roads were always considered to be a net drain on revenue.

In making decisions regarding licences and permits there is no doubt that the TCB was sometimes unfair or that its decisions resulted in inefficiencies[5]. Those in riverland towns such as Loxton who wanted to use the road service to Adelaide had to have their goods transported via Morgan. Sometimes the Board would grant a permit to carry goods in one direction but not in the other. Other common themes for complaint concerned the carriage of livestock and perishables. The permit system was designed to encourage maximum utilisation of vehicles in the name of cutting waste. It is difficult to judge how many complaints were valid, given the newspapers' notorious reluctance to find out the truth. The chairman of the TCB raised a storm in parliament when he stated publicly that several of the complaints in parliament were simply lies. (SAPD 29 September, 1962, pp 974-982)

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5. The press clippings of the TCB hold many examples of local complaints in the form of letters to the editor or submissions to hearings. See also the broad discussion of bureaucratic anomalies that made the railway service so frustrating for the consumer, Advertiser 1 July 1932.

The SAR did try to make the new arrangements benefit the State. In response to complaints, the SAR gave preference to perishables. (Advertiser, 11 September 1932) There is no sign that the SAR tried to exploit its monopoly. Indeed, a common response to the elimination of competition was to improve the service and to lower the rates. The Premier could boast in 1950 that freight rates had remained substantially unchanged over the past 20 years, despite labour costs rising by 150% and coal by over 100%. (Advertiser 5 July 1950) There was also a genuine attempt to coordinate road and rail services. The resultant arrangements often provided for complementarity with road services designated as "feeders" for the trains. (e.g. Advertiser, 29 June 1932)

In the first few months after proclamation of the Road and Railway Control Act attempts to evade the Act by so-called "cherry pickers" (that is, unlicenced operators) were confined simply to trying to avoid detection. However loop holes in the Act were soon exploited. As we have seen the South Australian legislation (unlike that of other States) did not control "ancillary traffic". In February 1932 the TCB drew Parliament's attention to the wastefulness of companies transporting their own goods rather than using either the railways or a licenced carrier. In many cases the goods being transported were not the company's at all or (in a later refinement) were legally the carrier's only

for the duration of the trip. The TCB's solution was that companies carrying their own goods should also be licensed. (Advertiser 9 February, 1932)

The government did not move to tighten the regulations until 1935, when it introduced new regulations to prevent the Act being evaded through artificial ownership schemes. Although these measures were similar to those already operating in the eastern states, they were not acceptable to the parliament. (SAPD 27 February 1935, p 454) This did not prevent the government from using the regulations for a short while by proclaiming them at the beginning of the parliamentary recess. (Advertiser 16/4 and 16 May 1935)

The financial result of regulation

The professed objective of the Road and Railway Control Act was to bring about more efficient transport through rationalisation by removing the duplication of services. This was of course impelled by the desire to stop the massive losses being made by the railways.

The success of the policy was disputed from the beginning. In its early reports, the TCB was fond of pointing to the reduction of the number of truck and train miles without a reduction in service and to an increase in

tonnages carried by the railways. Such claims were invariably responded to by the Secretary of the Country Common Carriers Association (CCCA), who pointed out that the TCB did not know how much extra mileage was performed by "cherry pickers" and ancillary services, and that the increase in SAR business was just as likely to have been due to extraneous factors - particularly the run of good wheat crops. (TCB press clippings, South Australian Public Record Office, GRG 25, passim)

Narrow criteria were used by all parties in making their assessments. Benefits such as the savings to road maintenance were not included. On the other hand, costs of administration, the costs to patrons of having to use a slower or more inconvenient service, and the costs to road operators who lost their livelihood were also not considered.

The fact that the costs and benefits could not be quantified did not prevent a consensus that some sort of controls on road transport were necessary. Even the organisations formed to fight aspects of regulations, such as the Motor and Transport Defence League, recognised the need for the TCB. (News 6 September 1935) It is also interesting to note poachers becoming gamekeepers as Hudd and Playford progressed backbench MP to Minister for Transport and Premier respectively.

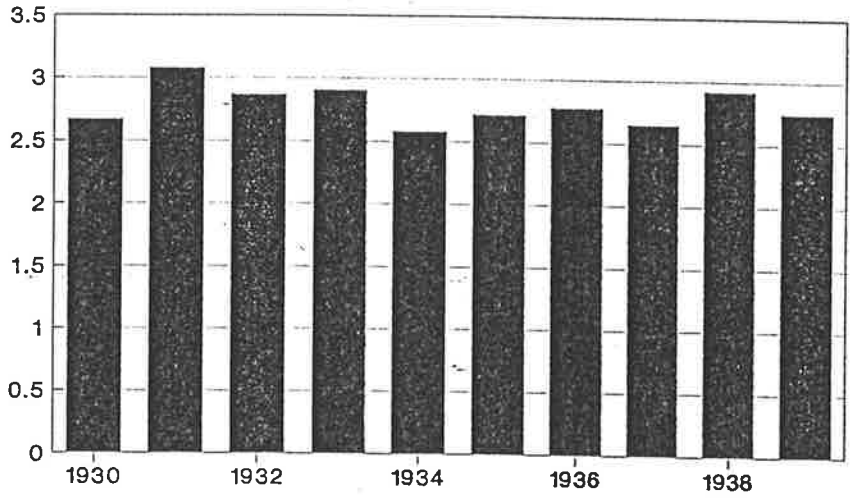
Freight regulation

In its 1939 Annual Report (and in others) the TCB was to admit: "it is impossible to state, even approximately, to what extent the railways have benefited from the operation of the Road and Railway Transport Act". (SAPP no. 19 of 1939, p 5) While it was true that there were far too many other factors besides the regulations to determine the relative performance of road and rail transport with any precision, it was clear by the end of the decade that the Act had not lived up to its expectations.

In 1937 a Royal Commission had been appointed to examine the situation, and the figures it provided gave little comfort. (SAPP no. 20 of 1938) Whilst no doubt the Depression affected performance, it was disappointing to note that tonnage hauled by the railways reached the level of the previous decade only in 1937, despite the policy of forcing traffic onto the railways. (Figure 3-8) Revenue had increased 20% since the depths of the Depression, but expenses had increased half as much again. (Figure 3-9) Also the Depression could not be blamed too much for poor results, because the average of total State production for the years 1932-37 was the same as in the twenties, and one third higher than for the previous decade (SAPP no. 20 of 1938, p 9).

FIGURE 3-8

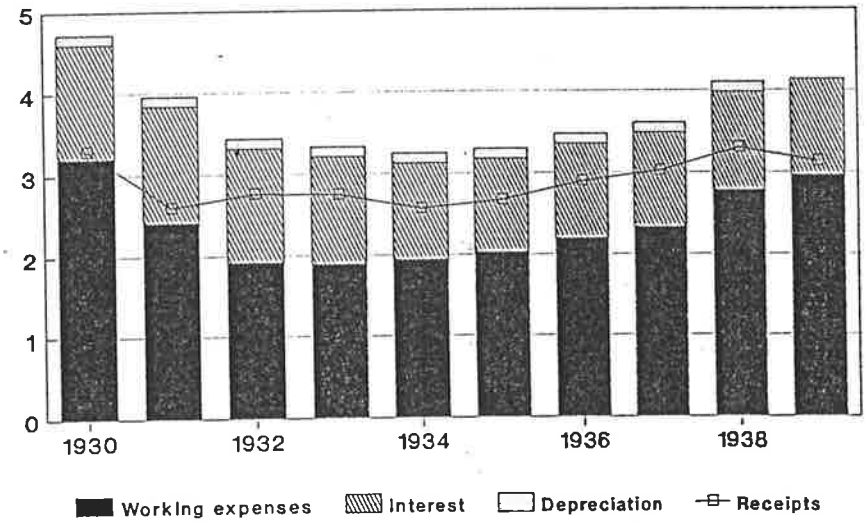
SAR Tonnage, 1930-1939
(deflated against State production)
(millions of tonnes)



Source: derived from Sinclair, nd, Table 2-3; Vamplew, (et al), nd, Table 11-18

FIGURE 3-9

SAR Finances, 1930-1939
(millions of pounds)



Source: Auditor-General's Reports, SAPP no 4

However these figures did not convince the Commission that the regulatory policy was a bad one - far from it. Its conclusion was that although the benefits (or lack of them) were impossible to assess accurately,

> one thing ...is clear; if there had been no control, the position of the railways must have been very much worse; and it can be confidently affirmed that the control of road transport has been a benefit to the State in this way. (SAPP no. 20 of 1938, p 28)

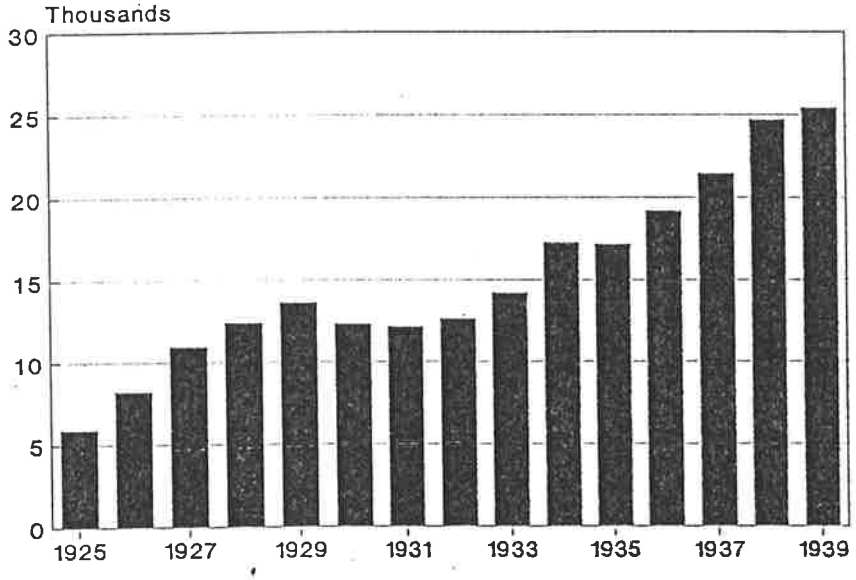
In fact apart from individual rural producers, practically all submissions - be they from the SAR, or the private road operators - acknowledged the need for regulation. Supporters of regulation now even included the Adelaide Chamber of Commerce, which in 1932 had formed a "transport vigilance committee" to fight for deregulation. (Advertiser 27 May 1932)

The problem, it was widely thought, was that the regulations were not tight enough. As we have seen, there was no control over "ancillary" services. This was enough to explain the SAR's poor performance compared with its interstate counterparts which had the benefit of such controls. In South Australia the number of commercial road vehicles had almost doubled since the regulations had been in force. Apart from a dip caused by the Depression, numbers continued to grow at the same rate as they had before the regulations had been in force. (Figure 3-10) However given that the rate of increase was even greater

for Australia as a whole, we must doubt the argument that the increase was due to the lack of controls on ancillary traffic.

FIGURE 3-10

Trucks Registered, 1925-1939
(thousands)



Source: Statistical Register

In an effort to control the growth of ancillary freight movements, the 1937 Royal Commission felt that the first step should be to make sure that ancillary services paid for the road costs they imposed. (SAPP no. 20 of 1938, p 26) The Commission recommended that they be registered and that the TCB should charge for permits it issued to them. A further factor was the desire to conserve petrol. Growing international tensions at the time gave emphasis to the need for independence of foreign fuel supplies (pp 32 and 25). At this time, the vast bulk of fuel for motor

vehicles was imported.

Safety problems

The inherent dangers of the motor vehicle's speed and mass were recognised early in the century. The effects of commercial competition on safety were identifed by the 1927 report of the Royal Commission on Traffic and were seen by many as a good reason to transfer as much as possible of the freight task to the railways. If anything, the desperation engendered by the Depression appeared to have made things worse, particularly with drivers going without sleep and rest. (Advertiser 28 June 1932) Financial pressure also posed dangers when substandard and wornout vehicle parts (brakes, tyres) were not replaced, when truck maintenance was neglected because it was too expensive and when vehicles were loaded beyond the truck specifications. (Crawford, et al, 1939)

There were other reasons why the Royal Commission felt that the regulations were "absolutely in the public interest" and needed to be strengthened. (SAPP no. 20 of 1938, p 27) The Commission felt that nobody was well served by operators who entered the industry, often through the loopholes described earlier, who had little idea of the economics of running a truck. (SAPP no. 20 of 1938, p 15)

They survived, it was argued, by compromising safety standards and exploiting employees. But it was not just the illegal operators who were the problem. The road transport industry was composed of many small operators, often owner-drivers, and it appears that even the monopoly position granted to licensed operators did not prevent overloading and conditions of work that would impair safety. The TCB noted that owner-drivers often lied about hours of work - as did employees who feared for their jobs. (SAPP no. 19, 1939, p 11)

The issues of safety and employee exploitation had been identified by the union movement for some time. In 1937 the Australian Railways Union criticised small road firms for poor working conditions and under-award wages. (Advertiser 6 May, 1937) In March 1938 the Federal council of Amalgamated Road Transport Workers' Union adopted a general policy of seeking elimination of night travelling, and attempted to set a limit on stretches behind the wheel. It claimed most country accidents involving trucks occurred when the driver fell asleep behind the wheel. (Advertiser 15 March 1938) In response, the Secretary of the CCCA admitted that even some licensed road operators "underpay and overwork their employees" and use "wornout and unsuitable vehicles", but expressed the view that the problem was temporary as such operators would not last long in the business. (Advertiser 25 May 1938)

Matters of safety were not handled well by the Road and Railway Control Act. Although the Act gave the TCB power to specify "any other matters" it thought appropriate when issuing a licence, the legislators did not have safety features in mind and no conditions pertaining to safety were specified. The Act was essentially an economic measure designed to prevent duplication and to protect the railways from unfair competition. Safety matters were left to other legislation designed to cover all motor vehicles, whether in private use or used for hire.

In late 1939 the Government responded to the Royal Commission by introducing an amendment to the Road and Rail Transport Act. The amended legislation gave the Industrial Court jurisdiction over the conditions of employees, gave the TCB the task of ensuring that vehicles were fit and servicable, and provided for the licensing of carrier's agents. Log books recording hours at the wheel were now required. The amendment also removed one of the most popular means of evasion of the regulations by preventing the owner of goods "leasing" a truck and its driver to transport them. Accountability of the TCB to parliament was strengthened through the obligation to provide an annual report.

Despite these measures, it appears that the safety problem became worse after the war and the press clippings

collection of the TCB has many examples of accidents involving trucks. The newly emerging interstate road freight business was seen to be particularly hazardous. For reasons which will be discussed below, interstate road transport competition became particularly intense after the war, despite various State Government attempts to regulate it. In 1945, citing the "deplorable" conditions applying to drivers on interstate routes, the Federal Conference of the Transport Workers Union called for the nationalisation of road transport as the only solution. (Advertiser 15 March 1945) A sympathetic newspaper article portrayed the lifestyle of a road operator who at the time was challenging freight regulation in the High Court:

> Except for short breaks, he was at the wheel for 24 hours a day.
>
> When the white posts seemed to turn into walking people and imaginary trucks began backing out of the dark trees at night, he would pull up on the side of the road and catnap for 20 minutes over the steering wheel.
> (Sunday Mail, 23 September 1950 p 9)

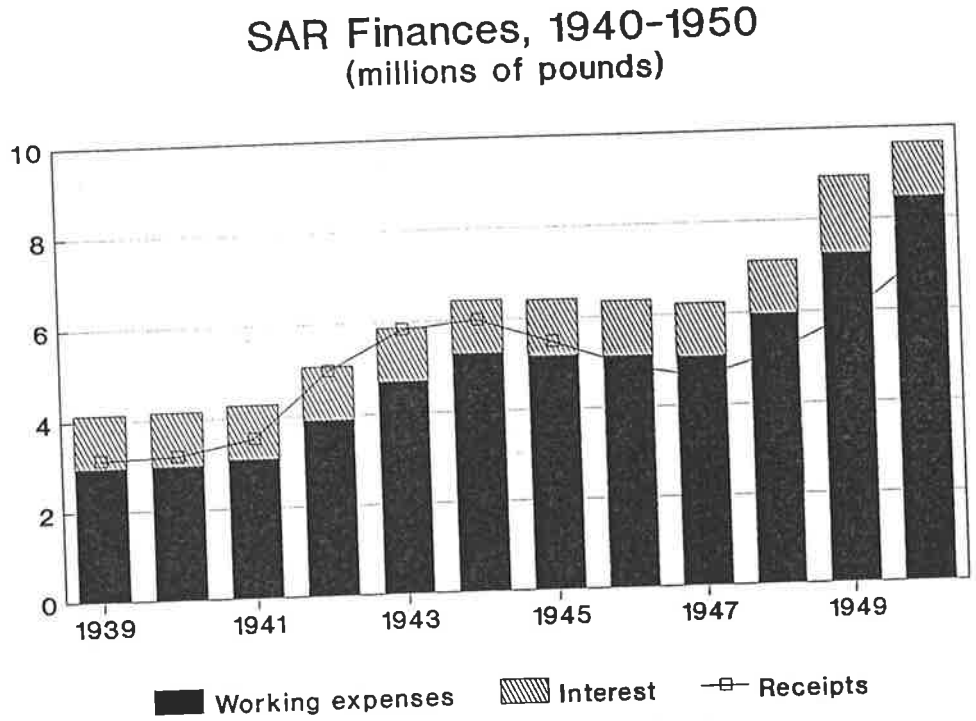
The war had similar immediate effects to those we have noted in the history of taxi regulation, but in this case these effects did not last. The campaign to save petrol meant a heavy reliance on railways and severe restrictions on petrol use by the private motorist meant that both the railways and the licensed operators saw a large increase in

business. The Commonwealth government used its defence powers ruthlessly to regulate transport in an effort to see that resources were directed toward the war effort as much as possible. Petrol (which at the time was almost all imported) had to be conserved and so coal-burning trains were used as much as possible.

In doing so, the Federal government was heavily reliant on State government officials. In 1941 all three members of the TCB became members of the Liquid Fuel Control Board which was chaired by former Premier Sir Richard Butler. From March 1942 all goods involving journeys outside a 25 mile radius of Adelaide had to be taken to the nearest railway station. The number of road operators licensed to carry freight dropped from 91 in 1940 to 53 for most of the rest of the war. The number of special permits issued declined by about 20%. (SAPP, no. 19 of 1940-1946)

These measures, plus war-time economic activity, restored the fortunes of the SAR somewhat. However although restrictions on petrol and consequent controls on transport remained in force for several years after the war ended SAR finances soon became a matter for concern again. (See Figure 3-11) With receipts not even matching operating costs, the Auditor-General noted pointedly that rail closures should be given more attention by the TCB. (SAPP no. 4, 1947 p 85)

FIGURE 3-11



Source: Auditor-General's Reports, SAPP no 4

In 1946 yet another Royal Commission was established to look into the operations of the railways. It produced three reports. The last in 1951 looked at the whole issue of transport coordination. (SAPP no. 17, 1951) Although providing a valuable overview of the State's transport situation, the Commission produced few recommendations that need concern this history, as it reaffirmed the need for control (though under a single ministry).

THE DEREGULATION OF ROAD TRANSPORT

Interstate transport

Interstate competition for border districts has been a perennial theme of Australian history. Each State would try to guard "its" industry, even if the location of that industry was closer to the capital city of another State. Traditionally this competition was played out between the States' rail authorities, with discriminatory freight rates being used as a key weapon. For example subsidised rail freight rates were used to overcome the natural advantage of Melbourne in servicing the South East of South Australia - largely to the detriment of road operators between the South East and Victorian ports. The Australian Constitution had provided for an Interstate Commission to ensure that the States would not be able to act in this parochial fashion, but the States were never anxious to have a policeman to interfere in this way, and when a jealous High Court took away the Interstate Commission's most important powers it became largely useless. It dissolved in 1920. (La Nauze, 1968)

The High Court itself tended to favour the States in its interpretation of s92 of the Constitution, which was meant to guarantee free trade between the States. It thereby allowed the regulation of interstate road transport

as well as discriminatory railway rates. The High Court's approach did not prevent continual appeals to s 92 in an effort to avoid regulation (e.g. road operators between Adelaide and Broken Hill, Advertiser 12 March 1935). The only limitation on the States was that they could not use road transport regulations in a way which discriminated against interstate operations.

The High Court's green light to the regulation of inter-state operators still left problems for the State governments. It would obviously be unfair to impose the same taxes on operators who were licensed interstate and only did a small proportion of their business in the State. In July 1938 NSW, Victoria and South Australia agreed that as a general rule, operators from other States who stayed within 50 miles of the border could travel freely. If they went beyond 50 miles, they would have to register with the relevant State body. (Advertiser 5, 20 July, 1938)

Until the post-war period interstate road transport was relatively minor, as the distances between the major capital cities still favoured rail as the best means of freight transport. However the situation changed rapidly once the war was over. War-time neglect of track and rolling stock maintenance as well as neglect of capital investment had left the railways in a poor position. The rapid industrialisation of the post-war period led to

claims that restrictions on transport were hampering the development of South Australia by restricting the flow of goods to and from the eastern states. The railways, it was argued, could not cope. (e.g., the Chamber of Manufacturers, Advertiser 12 September 1947) Premier Playford disputed such claims, arguing that bottlenecks in the production of raw materials were the main inhibitor of development. (Advertiser 2 October 1947)

Presssure was brought to bear on the TCB and it became common for temporary permits to be issued in urgent cases. Apart from a hiccup in 1948, the number of permits issued each year showed a dramatic increase, from 2067 in 1945/46 to 15661 in 1951/52; the TCB noting that interstate transport could explain most of the increase. (SAPP no. 19, 1946 and 1952)

The increase was most dramatic in the period 1949 to 1952. Major industrial disputes in the coal industry and in the railways themselves demonstrated the fragility of reliance on the railways. In order to cope, the regulatory authorities in all States issued permits freely, and this coupled with the permits issued to deal with urgent cases encouraged a tremendous growth in road transport, particularly on interstate routes. It was estimated by the South Australian Railways Commissioner that in the two years to 1951/52 £405 million had been spent on commercial

vehicles in South Australia alone. (SAPP no. 47, 1952 p 18)

This private investment had not been matched by an equivalent public investment in roads. While it was common to point out that State governments in the twenties and thirties commonly built roads parallel to railway lines and then banned commercial vehicles from using these roads, in fact the roads were built for non-commercial users and were not usually designed to take heavy vehicles. Playford described the post-war road transport as having a "disastrous" effect on the road service. (Advertiser 1 October, 1947)

The inevitable response from industry was to urge the government to something about the "donkey tracks". It was the duty of State road authorities, the chairman of the haulier's division of the Road Transport Association claimed, "to construct roads to carry all classes of vehicles under all conditions". (Advertiser 27 May 1951) Visions of a duplicate road system to take heavy traffic, suggested by the Federal Minister for Shipping and Transport (Advertiser 6 February 1951) must have made State Treasury officials pale, for while the earlier investment in railways was motivated by a return in terms of fares, it was much more difficult to get the truckers to pay for their usage. Much cheaper, it was thought, to upgrade rail

services and ban trucks wherever possible.

The question of the recovery of costs from road transport was a lively one in the early fifties. Most of the larger trucks were diesel-driven and at that stage did not even have to pay a tax built into the price of petrol. (Diesel was to remain untaxed until 1957.) However State governments were free to impose quite severe taxes on commercial road users and NSW in particular practised this. But to recover from individual operators the cost of the road they used was very difficult, because such costs varied with the load, axle ratios and of course the distances travelled.

South Australia, along with the other States, moved against the road operators once the period of industrial dispute ended and rail and shipping services had upgraded capacity. One response of the truck owners was to operate illegally, and this was a major concern for State governments. But more significant was the second response - to challenge the enabling legislation on the grounds that it infringed s92. The High Court had continually rejected such challenges, but supported by a fighting fund raised among the private operators, Hughes and Vale Pty Ltd persisted in taking its case against the NSW Transport Coordination Act to the Privy Council. When the Privy Council decided in favour of the company in November 1954, the discriminatory taxes and

restrictions on interstate road transport disappeared overnight. The only restrictions to which interstate operators could be subject concerned safety. (91 CLR 1954 pp. 1-35)

Intrastate transport

Denied the power to control interstate road freight transport, State governments quickly attempted to find a means of recovering lost revenue and ensuring that interstate operators paid the cost of road use. The South Australian parliament passed an amendment to the Road and Railways Transport Act in 1956 to recover the revenue, but this also did not pass the courts. Later in the same year a scheme was devised that did prove acceptable. This was a form of revenue carefully titled "Road Maintenance Contributions", though more widely referred to as the "ton-mile tax". Road operators were to pay for road damage by a tax calculated on the basis of the weight of the vehicle and the distance travelled. All States except Tasmania adopted this tax on a fairly uniform basis between 1956 and 1965. South Australia was one of the latecomers, introducing the Road Maintenance Contribution Bill in 1963. A charge was imposed for each mile travelled of one third of a penny per ton, calculated by adding the net weight of the vehicle plus 40% of the load capacity.

The idea that truckers should simply pay for any measurable damage they did to the roads may have appealed to the judiciary but it was never popular with either governments or the road transport industry. To governments it was very much a second best solution. To the industry it was seen as an "honesty tax" - payments were based on information collected in a log book kept by the driver. Expectations that such logs would be an accurate reflection of reality in the highly competitive industry stretched a belief in altruism too far. Charges that were imposed could be avoided through the use of a one pound holding company that would declare itself bankrupt.

Of course there was official monitoring of road transport to supplement the log books but it could be only a token effort given the scale of operations. Even so, the Road Maintenance Contribution became a very expensive tax to administer. Administration costs in South Australia eventually totalled 40% of the revenue raised. Government also did not like the way the tax had to be restricted to road maintenance, despite the fact that huge capital costs were incurred constructing arterial roads to a standard necessary only for heavy vehicles. Finally to tax on the basis of a percentage of load capacity, rather than actual load, was a further incentive to overloading, the extra weight being free of tax. The Minister summed it up well with a depressing comment:

> I would be foolish if I did not admit that there will be many problems and anomalies in the administration of the Act.
> (SAPD 19 November 1963, p 1756)

The courts had left governments little choice. Although the South Australian Government stressed to Parliament the need for uniformity throughout Australia, the legislation it introduced differed significantly from that of other States. It exempted all vehicles under eight tons, as well as a variety of freight activities, mostly concerned with perishables. Other States had a slightly longer list of exemptions, but in general applied the tax to all trucks over four tons. It was claimed that the higher weight in South Australia was designed to exclude the primary producer who usually used vehicles up to eight tons, and catch only the common carrier and other large commercial operators. (SAPD 30 September 1964, p 1142) The higher limit also kept administration costs down. However given the rate and exemptions which applied, the Minister did not expect the new tax to go close to meeting the road costs imposed by freight transport. (SAPD 14 November, 1963 p 1711)

The South Australian legislation differed from that of the other States in one other, much more important, respect. With the imposition of a ton-mile tax on both interstate and intrastate road freight transport, both were freed from

economic regulation. Clause 14 of the Road Maintenance Contribution Bill provided that on the expiration of current permits, the TCB should issue permits freely. Controlled routes would be phased out over the next four years. The Road Maintenance Contributions replaced the 5% tax previously paid by licencees.

Why did the South Australian Government decide that the introduction of the ton-mile tax allowed it to deregulate intrastate transport? It argued that with the new pricing mechanism, regulation lost its reason for existence. However no other State felt the same way. One possible reason could have been the strained relations between the Government and the TCB. As soon as the new legislation was announced, the TCB issued some new five year licences, in apparent defiance of government policy. This prompted a second piece of legislation, the Road and Rail Transport Amendment Act of 1964, which ordered the TCB to issue licences to any applicant unless it could demonstrate to the Minister that the material position of an existing licencee would be affected.

A more important factor for deregulation was pressure from MPs. We have seen that the TCB was never a popular agency, particularly with country members. Thanks to a notorious malapportionment in both houses, rural members occupied a

larger proportion of the State parliament than that of any other Australian parliament. The debates on the two pieces of legislation were characterised by a "good riddance" attitude on the part of rural government MPs and a defence of the TCB by largely urban Labor MPs. However even those wishing to see the end of the TCB expressed concern about complete deregulation. In one case a rural MP wanted the Government to make sure that the carrier he paid to take his prize sheep to auction would be responsible, and not take them to the nearest abattoir instead! (SAPD 19 November, 1963 p 1757)

Wider factors may also have been important. It appears that there was a gradual change of heart within the Government during the 1950s. On many occasions the Premier stressed the importance of cheap and reliable transport for the State's industrialisation strategy. The railways were seen in this light - part of the State apparatus designed to provide cheap transport, which should not be expected to be profitable in their own right. (SAPD 30 September, 1964 p 1110) In any case the new road tax was also expected to encourage use of the railways. This is suggested by the fact that the goods whose carriage was exempt from Road Maintenance Contributions were mainly those that the railways could not handle well - particularly perishables. However it appears that the Government had accepted that the future of transport was to be on the roads. Along with

the other States, public investment was more and more directed toward the roads. In nominal terms, more money was spent on roads from 1955 to 1967 than had ever been spent on the railways. (SAPP no 104 of 1967, p 38) TCB suppression of road freight transport was appearing more and more anachronistic.

Finally, (though this was not peculiar to South Australia) pressure by larger transport operators for retention of a regulated system was probably weakening, for two reasons. First the railways began the practice of wholesaling capacity on a wagon load basis - offering incentives for transport companies to move into the freight forwarding business. Second, since the removal of barriers to entry the larger, more established companies found it cheaper to use contract labour (often "painted" in company colours) rather than employ their own drivers and own their own vehicles. Direct employment came to be confined to metropolitan delivery. (May, 1984, p 17) Entry controls would limit the supply of this contract labour, which in turn would increase the rates the freight forwarders would have to pay.

The Labor Party opposed deregulation. Since the 1920s it had stressed the need for coordination of transport wherever possible, arguing that Australia's geography made it imperative that duplication of services be minimised.

It also opposed the bills to deregulate road freight services because of a desire to protect public assets. When it came to office in 1965 the Labor Government introduced an amendment to the Road and Railway Transport Act to restore regulation. The Bill contained several changes from the old arrangements designed to reduce bureaucratic difficulties in obtaining a permit. For example, although permits would be reintroduced for carriage of goods on a route served by a railway, these would be routinely made available by a local police officer on payment of a ton-mile tax.

The idea of a reimposition of controls was not popular in country areas. They enjoyed the freedom of choice between truckers and between road and rail transport. At this stage the SAR had not closed any of its services as a response to the deregulation, and so the new regime appeared costless. The Bill was defeated in the Opposition-dominated Legislative Council.

In 1967 another Royal Commission was held in order, one suspects, to justify the Government's position. (SAPP no. 104 of 1967) Evidence before the Commission was predictable, with the carriers' organisations wanting a return to regulation and the South Australia Road Transport Association, representing larger freight forwarding companies, wanting an open roads policy. Rural consumers

were well represented through the farmers organisations and these too argued against a reimposition of regulation.

The arguments presented and the arguments used by the Royal Commission to justify its recommendation for a reintroduction of controls are by now familiar and will not be repeated. The Commission did suggest that the regulation be administered by a Commissioner advised by a part-time body representing rural and urban interests, and that the Commissioner be subject to the control of the minister. However by the time it reported Labor was back on the Opposition benches and the new Liberal and Country League Government took no action. Labor returned to government in 1970, but did not move to adopt the findings of the Royal Commission. Perhaps the most important motivation, the financial plight of the country railways, ceased to be an issue for the State Government when they were sold to the Commonwealth in 1975.

There has been little development in the history of road freight regulation at a purely State level since that time. Perhaps the most important event has been the relaxation of controls on small parcel fares charged by buses. While it could be argued that this move has allowed the buses to compete unfairly with freight carriers (the latter are not allowed to carry paying passengers) it was justified as a means of using the bus service more efficiently. (Starrs,

1985, pp 28ff)

More important developments have been national, most notably a series of road blockades throughout Australia established in May 1979 by long distance truck drivers dissatisfied with conditions in the industry.

Interstate trucking remained extremely competitive after deregulation. Thousands of owner-drivers competed for the business of an increasingly concentrated group of large freight forwarders. It became a permanent buyer's market, with stability for consumers bought at the expense of fluctuating fortunes for subcontractors. The freight forwarders also had the advantage of a much better knowledge of rates being charged throughout the industry compared to the individual subcontractor. The annual attrition rate among long-distance truck drivers has been described as "appalling" by the training development executive for the SA Road Transport Industry Training Committee - 48.75% for owner drivers and 32% for employees. (Advertiser 22 August 1987 p 69) However there have always been newcomers willing to fill the places of those who could not continue.

In the absence of capacity controls, industry training has been the most popular response by governments to the problems of owner-drivers. It was the approach recommended

by a major inquiry into the industry commissioned by the federal Labor Government - the National Road Freight Industry Inquiry of 1984. (May, 1984) The inquiry was a recognition of a continuation of the same dissatisfaction which produced the blockades of early May 1979. The joint response of all State governments at that time was an emergency meeting of the Australian Transport Advisory Council (i.e. the ministers concerned) which agreed to meet the immediate demands of the owner-drivers - the abolition of the Road Maintenance Contributions and a slight lift in axle load limits. Ironically, the Road Maintenance Contributions were replaced by a petrol tax - something that had been thought constitutionally impossible for the previous fifty years. "Business fuel franchise fees" were imposed on petrol companies, based on the amount of petrol and diesel sold over the previous month. That is, the tax was regarded as a revenue raising measure based on the amount of business transacted and as such was not regarded as an excise. Diesel fuel used on the road attracted a rate about 25% higher.

In reality, the governmental response was a sideshow and did nothing to relieve the real issue - low freight rates paid by freight forwarders. These continued to fall in real terms throughout the early eighties. (May, 1984 p 35) It is ironic then, that the National Road Freight Industry Inquiry was chaired by Mr Thomas May, an executive

connected with one of the biggest freight forwarders, TNT.

The Inquiry rejected economic regulation as a means of overcoming problems in the industry. It devoted a chapter to pointing out why capacity and route licensing would be bad for the country, pointing out difficulties of enforcement, the variety of issues which would have to be decided once a regulatory approach had been accepted, and the inhibitions to flexibility and efficiency posed by such regulation. (May, 1984 ch 5) Surprisingly in a report of 312 pages, two paragraphs sufficed to dismiss the link between safety and economic conditions. In the first of these the Inquiry expressed

> ...considerable concern at the prospect of highly stressed operators working extraordinarily long weeks and driving more than 80 hours per week to keep up with financial commitments. Ample evidence was collected in a number of surveys of the road freight industry to indicate that this problem area was of significance.
> (May, 1984 p 151)

However in the second paragraph readers were told that the Inquiry had commissioned an econometric study of accident rates and economic conditions as well as a survey of overseas relationships. "No such link was established" was the only detail given of these reports. (May, 1984, p 152)

In fact the Inquiry concluded that apart from vehicle design standards, regulatory safety limits such as those on speed should be relaxed, arguing that they were unrealistic

and largely ignored, and also that there would be less desire by private motorists to undertake dangerous overtaking manoeuvres if the truck was travelling faster. (May, 1984 pp 143, 150) However it stressed that new standards should be more vigorously enforced than in the past to ensure compliance. The one concession to traditional economic regulation was a recommendation that consignors be licensed to see that they behave honorably in the demands they put on the subcontractors. (May, 1984 p 168)

However the recommendations that provoked the most immediate action concerned the recovery of costs from the interstate operators. The anomaly whereby interstate trucking was not subject to registration fees had to be removed. (States could impose only a nominal registration charge of about $10 to cover administration of interstate vehicles, compared with an equivalent charge of $2000 for an intrastate vehicle.) The Enquiry proposed that in the immediate future a national registration scheme be adopted, using Commonwealth legislation, with the States acting as administrative agents. It also proposed that the revenue raised should be formally hypothecated for spending on roads. (May, 1984, p 251)

The Federal Government responded by passing to Acts in 1985: the Interstate Road Transport Act and the Interstate Road Transport Charge Act. As well as providing realistic

registration charges (initially $1400 for a 38 tonne vehicle) the legislation sought to provide some control of insurance and safety standards and provided for the eventual possibility of a weight/distance tax based on tamper-proof recording devices. The legislation also provides for the States to act as agents for the Federal Government and that funds raised be placed in a trust fund for spending on roads.

In the period since the national registration scheme was established the Federal Government has also sponsored a series of measures to make existing safety standards and axle loadings standard throughout Australia. In doing so it has encouraged a relaxation of these standards in line with the recommendations of the National Inquiry.

Uniform higher limits have pleased the industry, but the progressive raising of registration fees toward a cost recovery target have provoked hostility - most recently a further series of truck blockades in August 1988. Competition has remained so intense that most operators still find it very difficult to pass on the new taxes to the consumers, (or more usually, to the freight forwarders). The competition still has serious safety implications.

The problem now is not so much the owner-driver; insurance

and finance companies have responded to bankruptcies by restricting vehicle financing to owner-drivers with several year's experience as a business and then keeping the first vehicle to a fairly modest price.[6] Competition is now particularly intense among the small fleet (ten to sixty vehicles) companies. According to one insurance company's survey, trucks in fleets of this size are involved in 90% of fatalities, even though they account for only 30% of interstate road freight transport. Drivers are given tasks which compel them to drive beyond the speed limit and without the specified rest breaks. One such company has had eight drivers killed in a recent two year period. Furthermore, such companies can only survive by paying drivers about two thirds of the award wage.

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6. This and much of the following material has been gained from a personal interview with Adrian Achatz, a partner of Thompson Douglass and Co., transport accountancy specialists involved in insurance of road operators, 16 September, 1988.

DISCUSSION

The history of road freight regulation is sad and unsatisfactory. It appears that at no time since the arrival of motorised trucking has there been widespread acceptance of government policy, no matter what degree of regulation was involved. This is just as true today as it has been at any time and it is despite the fact that the road freight industry today is one in which there are very few complaints from customers. Intercity transport is particularly efficient and flexible. It is so reliable that it is claimed retailers are avoiding warehousing costs by not holding stocks even of goods made interstate. Instead they are ordered as purchases are made. Evidence from overturned trucks suggests it is so fast that freight forwarders accept payment for air freight and send the goods overnight by road. (Achatz, personal interview; see f 6 above.)

Dissatisfaction is felt by governments concerned about road funding, by members of the public concerned about the social costs incurred by trucks, by the railways, who claim unfair competition, and by the road freight industry itself.

Government concern: an adequate pricing system

Both government concern to see that resources are efficiently allocated between road and rail and that the costs imposed by the road freight industry are recovered may be met by the adequate pricing system commonly suggested by economists. (e.g. Kolsen, 1968) However the apparently simple mechanism of an adequate pricing system has eluded governments for 150 years. There have been a variety of reasons for this.

The early reasons were administrative. Toll roads proved impossible to administer because of the ease of evasion. Delegation of responsibility for roads to local government left the incentive for recovery of costs to local councils which could not realistically charge more than token registration fees to vehicles that passed through numerous council districts.

Constitutional interpretation by the High Court and Federal government concern for its revenue base combined to prevent an efficient pricing system so desperately needed to recover the costs imposed by motor vehicles. The taxes the South Australian Government did impose on the road freight industry did not cover the road costs imposed by trucks and in any case left the State in the unsatisfactory position of being reliant on Federal grants for road

funding.

The federal system also prevented use of the more clumsy registration fee to recover costs from interstate trucks. It is ironic that constitutional interpretation has freed road transport from regulation and most taxation on long hauls, where fuel costs should render it uncompetitive with the railways, but allowed the relatively competitive short haul road transport to be regulated and taxed. Opportunities for sensible cooperation were also hampered. By 1953 the railways were developing a scheme whereby one road operator or two working in cooperation could deliver a container load of goods to a capital city rail terminal, have it carried by rail to another capital within 24 hours, and then distribute it from the terminal. The scheme took advantage of the inherent economies of the rail service and avoided the handling costs for which the railways were notorious. (Advertiser 2 December, 1952) The widespread adoption of containers could only have encouraged this, but the untaxed and unregulated road freight industry created by the Hughes and Vale decision all but wiped out the practice.

However an adequate pricing system would remain elusive even without the complications of a federal system. Fuel taxes in themselves are not an adequate means of cost recovery from very heavy vehicles, because as the size of

the vehicle increases, attributable road costs rise at a much faster rate than fuel consumption. The supplement of registration fees helps, but makes no allowance for use of the vehicle.

Also, there is still no consensus on just what the costs are, i.e. on what share of road and other costs the trucks actually cause. There is broad agreement that cost recovery from heavy vehicles is not sufficient, but there is none on the question of comparative cost recovery of road and rail. Compare, for example, the view of the National Road Freight Industry Inquiry (May, 1984 p 295) with that of the Interstate Commission and the Bureau of Transport Economics. (Inter-state Commission, 1986, p 360; Luck and Martin, 1987) The 1988 Royal Commission into Grain Handling, Storage and Transport is perhaps the most recent to call for an enquiry into the issue of cost recovery, not withstanding previous studies. (Australian 24 March, 1988 p 18) The issue is futher complicated by the question of overloading. Although the fourth power rule suggests that overloading dramatically increases road damage, there are of course no reliable figures on how much it occurs.

If direct financial costs are difficult to determine, broader social costs are even more so. Factors such as noise, vibration, engine emissions, dust and spillage must

be added to the general frustration caused to other motorists by the large, slow and cumbersome vehicles. If nothing else, the slowing down of traffic increases petrol consumption and the costs of travelling time for private motorists. (McCalden and Jarvie, 1977) Despite brave attempts to quantify these costs, (Ravallion, 1974) it is a safe prediction that they will continue to be determined by political action. A tactic used by protesting drivers recently - rerouting trucks travelling between Sydney and Melbourne so that they would circle Parliament House in Canberra - may simply have drawn these externalities to the attention of MPs and so encouraged political action.

As we have seen in Chapter One, the usual public choice solution to the rational allocation of resources is to ensure public expenditure is recouped from the user and, where possible, spent on the services from which it was raised. The earmarking of revenue has been a feature of Commonwealth petrol taxes for most of the their history, and State registration fees are earmarked for the Highways Fund. The National Road Freight Industry Inquiry recommended that its new road user charges be formally hypothecated. (May, 1984 pp 250-252) New South Wales has recently announced that its fuel taxes will be earmarked for roads. (Australian 25 August 1988 p 19)

Freight regulation

Apart from broader issues such as the government's ability to shift resources on equity grounds, hypothecation in the transport sector comes up against the specific problem that broader social costs are not included. The dangers of transport hypothecation which does not take social costs into account have been demonstrated in the United States. Self-funding public utilities operating toll bridges and tunnels have become unaccountable monsters fed on revenue from a public which is increasingly dependent on roads because of a skewing of capital investment away from public transport. Similarly, the tying of fuel taxes to national highway spending has created a magnificent network of roads, but at the expense of alternative means of transportation - often the only means of transport for the poor, children and the elderly. There is also the Parkinson's Law effect of road investment, with funds spent to relieve congestion simply having the effect of attracting more car use. Delbert and Cornehls give the example of the New Jersey turnpike, built to relieve Highway 1. Within three years it had as much traffic as Highway 1 had before it was built. (Delbert and Cornehls, 1977, p 22) (For similar examples, this time concerning bridges in New York, see Caro, 1974, chapter 2.)

Subcontractors' concerns: effects of competition

The complaint of the road transport industry is that an unregulated environment has produced an unstable industry in which it is very difficult to make a living. This is not so much an issue for intrastate transport within South Australia, where it has been possible to build a reasonably stable business.

What has been debunked, however, is the common belief that instability in an unregulated environment will be temporary - that the market will soon cause a shakeout of inefficient operators. (e.g. Mumby, 1965 p 118) Joy's study of 1964 is often cited as evidence of the success of deregulation, for he claimed that "fierce rate wars" lasted only until 1957 and that the industry stabilised a few years after deregulation. (Joy, 1964) However over thirty years after the deregulation of interstate haulage, the Liberal Opposition spokesman in the Federal parliament characterised the industry in the following terms:

> ...the interstate road freight industry has a turbulent history of instability, a high number of owner-operator bankruptcies, low morale, price-cutting, speeding, maintenance and safety standard problems and pressure on drivers.
> (CPD 18 September, 1985, p 1189)

We have seen that operators ignorant of the economics of the industry are replaced by other operators in the same

position. They survive for a while by expedients such as overloading, skimping on maintenance, requesting cash payments to enable tax evasion and ignoring safety regulations such as limitations on time at the wheel. It has been a continuous problem since the 1920s.

The 1937 Royal Commission quoted the widely-recognized expert on South Australia's road transport industry, Sydney Crawford:

> In many cases operations are conducted without profit and at times even below actual operating costs. Perhaps no recognized industry and certainly none as important and the road transport industry, is so much in need at the present time of a thorough understanding of its actual cost. Neither the operator himself, nor those who employ him, appear to know the true cost of any freight operation... In practically every haulage undertaking the operator is charging far too little, and those that hire him are getting their transport at too low a rate. (quoted, SAPP no. 20 of 1938 p 123)

The National Inquiry of 1974 acknowleged - and was itself a response to - the same problem. It cited lack of sufficient initial capital, lack of business skills, inappropriate choice of vehicle and the commitment to purchase a vehicle before adequate assurance of work as important factors used to explain industry instability. (May, 1984, p 47)

The matter can be debated between those who would take a

"that's business" attitude and point to the advantage for the consumer, and those who believe that a civilised society should ensure that services are provided in a way that offers fair working conditions and payment for those providing the service. However in this case there are several complicating factors. Because of the strains overloading puts on the vehicle, effective rules against overloading make good commercial sense for the operators themselves, as well as reducing road damage. Reliance on a pricing policy may well exacerbate the problem of overloading, as we have seen with the Road Maintenance Contributions. The National Inquiry argued for stiffer penalties and stricter enforcement. The railway authorities would argue that the problem is insoluble, except by transferring the freight task to the trains.

Closely related to questions of economic inefficiencies of overloading and inadequate maintenance is the issue of safety. We have seen that economic regulation of the Road and Railway Control Act did not prevent hazards to safety. The desire for profit may not be as consuming as the desire to survive, but it still produces temptations to compromise on safety.

If economic controls were not enough, neither were safety controls. In 1982 a survey of 12 000 heavy trucks carried out by the NSW Department of Motor Transport found half

were defective in some way and one in twelve had "very dangerous" mechanical faults such as defective tyres, steering and brakes. South Australian registered trucks were the worst, with 25% having major or extremely dangerous defects. Two thirds of South Australian registered interstate trucks were defective. (Advertiser 10 August 1982 p 4) The National Inquiry noted that log books on driving hours were widely falsified and laws governing driving hours ignored. (May, 1984 p 149)

The 1984 National Inquiry was relatively sanguine about the issue of safety, pointing out that although large trucks are over-represented in the fatality statistics, even given the large number of vehicle-kilometres they represent, they are under-represented in accident statistics as a whole, and that in most truck accidents involving other vehicles, it is the other vehicle at fault - typically a frustrated driver overtaking when it was not safe to do so. (May, 1984 p 150)

This point unintentionally suggests the other costs, besides road costs, of truck transport that are borne by other road users - costs which are apparent to frustrated drivers, but very difficult to quantify. Also, whether or not the truck driver is to blame for the accident, the presence of the truck on the road makes the road more dangerous, as rail transport does not.

Railways' concern: unfair competition

The railway authorities argue that the factors discussed above need to be considered when comparing road and rail freight operations and that the advantages of rail freight in these areas are lost in a deregulated environment. We have seen that South Australia's road transport regulations of the 1930s were designed principally to protect the railways. This motive waned as the railway's debt became less of a feature in the State's finances.

The National Inquiry argued that when the States moved to protect their railways,

> Little account was taken of the relative efficiencies of the alternative transport modes, transport users' preferences, or whether the charging mechanisms for road transport were adequate or equitable.

In South Australia's case at least, we have seen that this charge is unfair. A great deal of recognition was given to such matters. A user pays approach similar to that advocated by the National Inquiry 55 years later was only prevented by the Constitution and the politics of the federal system. All over the world the question of relative efficiencies was seen to be best addressed by a coordinated system, with duplication avoided, and trucks concentrating on what they did best - short haul services. If South Australian Government spokesmen found themselves

downplaying user preferences, it was because they were defending public finances in response to localised demands for the best of both worlds. Even in the 1950s government plans to close country lines met opposition from rural parliamentarians, with arguments such as, "Country people are entitled to the amenities enjoyed by those living in the city." (SAPD 29 July 1952 p 126) Compromises on control of ancillary services, as well as the issuance of permits and the exemption of goods from control, reflected a sensitivity to these preferences.

With a position so desperate that it required special grants from the Federal Government and even the payment of the public service payroll for a couple of weeks by a local businessman, State finances were the paramount concern in 1930. Controlling road freight not only saved expenditure on roads, it provided revenue for the railways at little extra cost, because so much of the railway's financial problem was bound up in sunk capital. The accounting logic used then still applies today. When examining public enterprises conventional accounting often cannot be used:

> All inputs must be valued at their real opportunity cost. In particular, the capital employed in an enterprise should be valued at its real opportunity cost. The accounting rate of return is irrelevant for two reasons. First, it is applied to the entire existing capital stock of the enterprise. But the existing capital stock is likely to have a very low opportunity cost outside the enterprise - it is largely `sunk cost'.
> (Rees, 1986 p 321)

Freight regulation

In the 1930s it was widely accepted that there had been too much spent on railway infrastructure and rolling stock, and so it is not surprising that railway investment declined thereafter. In fact the State governments have been criticised in a recent report of the House of Representatives Standing Committee on Transport, Communications and Infrastructure (Australia, HRSCTCI, 1987), which argued that the railways would be more competitive if adequate capital investment had been maintained in the post-war period.

We have seen that "cream skimming" was also an important theme, especially in the late 1920s and in the 1930s when the SAR wanted all the business it could get in order to utilize its capital investment. As working expenses came to take a greater proportion of total railway expenses, the issue of cream skimming disappeared. The "cream" was the high value goods which tended to be small in size and which the railways were comparatively inefficient in handling anyway. In fact railways today are trying to avoid LCL (less than container load) freight wherever possible. They are often prevented from doing this by governments insisting that they still have a common carrier obligation. (Australian 9 June, 1988 p-18.)

Solutions: three approaches

With an unsatisfactory past and an unsatisfactory present, what does the future hold? One hope, particularly favoured by economists, is a technological solution to problems of providing an adequate road pricing system. (May, 1984 p 171) In the United States there are currently large scale trials of a tachograph which can monitor vehicle speed, engine revolutions, distance travelled and time elapsed for a journey. (Australian 25 August, 1988, p 19) It is possible that such tamper-proof devices could become compulsory in the future. The Road Traffic Authority of Victoria has recently presented a proposal for the introduction of such monitoring. (Australian, 25 August 1988, p 19)

The tachograph will reveal to authorities the distance travelled by each vehicle and so help in the determination of costs incurred. It will also help control speeding and by monitoring engine revolutions help determine if over-loading occurs. By measuring distance travelled, it may also enable controls to be introduced to ensure that trucks stay on roads built to take them. Combined with automatic vehicle identification technology (using sensors embedded within road surfaces) it may go a long way to meet the needs for adequate pricing and some of the issues of safety - if governments can surmount the political hurdles of a

dramatic increase in cost recovery (from 34%, according to the Bureau of Transport and Communications Economics). (Luck and Martin, 1987) So far the civil liberty aspects of such monitoring have not been raised, but opposition on such grounds may prevent the widespread adoption of electronic monitoring, even within the commercial sector.

Another possible future is the reintroduction of traditional economic regulation, particularly controls on entry into the industry. To its proponents it provides a more comprehensive solution to the industry's ills. However, given current government attitudes economic regulation of interstate transport is unlikely. It is even less likely for intrastate transport, where complaints of instability are very few.

The reintroduction of economic regulation was demanded as early as the 1979 blockades and some submissions to the National Inquiry, most notably that of the Transport Workers Union, called for capacity and rate regulation, but as we have seen, these were firmly rejected. However, more recently they appear to have been gaining currency; some owner-drivers in the 1988 blockades and recently the President of the oldest of the road operator's organisations, the Long Distance Road Transport Association, have called for economic regulation. The demand was sympathetically reported and commented on in the

Australian, a paper not normally in favour of regulation. (Australian 2 June, 1988 p 17)

A reinterpretation of s 92 by the High Court in May 1988 has had the effect of overturning the Hughes and Vale rule and providing the opportunity for the reintroduction of regulations covering interstate operators, as long as they do not discriminate against trade from another state. One farmers' newpaper has gloomily forecast an increase in cartage costs because the new ruling will enable State governments to recover more of the costs of road damage, at the very least by applying stamp duty to interstate vehicles - something from which they have previously been protected. (National Farmer 20 May 1988 p 6)

A third possibility involves the use of the industrial courts. Awards for drivers dealing with wages and safety could be given more teeth, it is argued, if the definitions of employer and employee were more flexibly interpreted to encompass the "grey" areas of subcontracting. This would enhance the ability of bodies such as the Transport Workers Union to enforce minimum standards. This course was recommended in the Review of the Industrial Conciliation and Arbitration Act. (Cawthorne, 1982, pp 83-93) There have been several attempts at amendment of this kind by the South Australian Labor party, both in Opposition in 1981 and since it formed government in 1982. The most recent of

these is at the time of writing (March, 1989) before the Parliament. To date the Legislative Council has not been convinced of the need. In any case, one wonders how effective it would be in dealing with interstate transport until such legislation is reasonably uniform. At present only New South Wales has such legislation.

THE APPLICABILITY OF PUBLIC CHOICE

The history of road freight regulation in South Australia provides some interesting evidence regarding the public choice model of political behaviour. The public choice model of bureaucratic behaviour is generally not supported. Some interesting complications arise as far as interest group behaviour is concerned.

Interest group behaviour

The behaviour and influence of interest groups is complicated by the important State interest in the finances of its railways. The SAR was a relatively autonomous body, free to pressure the Government to pursue policies it desired. This combination of factors suggests a relatively weak position for private interest groups. Having said that, the comments of the 1930 Royal Commission are

interesting:

> Strangely enough, State-owned railways are to-day generally less protected from subsidised and unregulated competition than privately-owned railways.
> (SAPP no. 55 of 1930 p 6)

The other interesting point to note from the politics of the regulatory period is the power of the consumers. Rural transport users were very vocal and had their interests vociferously pursued in a parliament shaped by a rural malapportionment. They were also well represented by farming lobby groups. Exemption of goods, the relaxed attitude toward permits for rural produce, the exclusion of ancillary vehicles and most recently reductions in petrol franchise fees have all been designed to help the rural producer transport goods by road. At the same time, it was 1943 before the Government closed a railway line in the country - the line concerned having earned only £18 freight revenue in 1938/39! It was this lax approach which annoyed the Grants Commission. Furthermore, provisions that South Australian trucks could be eight tons before they were subject to Road Maintenance Contributions (compared with four tons in the other States) was also designed to help the rural producers.

It is ironic that Olson's theory of the logic of collective

action is a better explanation of consumer pressure on the Government and its regulatory agent, than it is of producer pressure. A feature of his theory of collective action is that those who are hurt by a government action will be more motivated to pressure the government than those who would gain. This effect was exacerbated by the nature of the gainers and losers in the case of the Road and Railway Transport Act. The new regime was designed to benefit the community as a whole by cutting wasteful duplication. Locals affected, however would wish to maximise their choice and would not regard the "duplication" as wasteful. As we have seen, both modes had their advantages. Unfortunately for the TCB, there were few voices speaking for the community as a whole.

The actions and views of private sector producers certainly followed self-interest, as would be assumed by a public choice theorist. Though somewhat divided on the issue of regulation in the late twenties, once the regulations were established, practically all of those regulated became converts. Of the 19 submissions from private operators before the 1937 Royal Commission, only one wanted unrestricted competition. (SAPP no. 20 of 1938, p 22) Licencees also told the 1966 Royal Commission that freight regulation should be reintroduced. (SAPP no. 104 of 1967, pp 18-20)

Freight regulation

As with taxi operators, those providing freight transport services have found it very difficult to organise. Most Royal Commissions received a variety of submissions from groups claiming to represent road freight interests. Interstate operators have been the most difficult to organise. Long periods away on the roads, a natural predisposition toward independence and a simple lack of time have all created a pattern of weak, non-representative groups who spend as much time criticising each other as pursuing their case with governments.

The union notionally responsible is the Transport Workers Union, but it has had very little success in gaining members or overcoming the rate cutting which dominates the industry. A spectacular example of the inability to organise is provided by the Australian Transport Association. This was born out of the 1979 blockades, when 4000 truckies pledged to join. Seven months later it had only 80 members. (Radbone, 1981, p 128) In fact the fragmentation after the 1979 blockades was such that in 1981 the Federal Government set up an inquiry to determine just which of these groups it should recognise. (Hay, 1980) This failed to establish the authority of any one organisation. A survey a couple of years later found that one third of owner-drivers still did not belong to any industry association or union. (survey cited May, 1984 p 72)

In the August, 1988, blockades at Yass it was announced that truckies would form an Australian equivalent of the US teamsters. This announcement was portrayed by media observers as indicative of the naivety of truckies on political issues, as it was apparent that very few of the truckies present knew of the Teamsters' unsavoury reputation. On the other hand, given the futility of previous action and given government commitment to maintaining a deregulated environment, the attraction of the ruthless approach to maintaining solidarity that is associated with the US Teamsters is understandable.

There is one exception to the general picture of organisational ineffectiveness. It is the Australian Road Transport Federation which represents the freight forwarders and other large transport companies. It exists mainly to represent employer interests in industrial matters, but also has a wider lobbying role. The relatively few potential members, the resources available and the power of members has made this a coherent and effective body in the eighties. However it has had little need to demonstrate its potential power as it is generally well-satisfied with the current situation. Just as the Americans have recently found that unionised wages fell significantly after deregulation by the Interstate Commerce Commission and that there was little if any increase for non-unionised and previously non-regulated drivers, (Rose,

1987), larger Australian companies discovered the benefits for them of a deregulated road transport industry in the 1950s.

The public choice expectation that producers will support the regulatory regime is supported by this history. From submissions to inquiries and press statements it is apparent that support for regulation among road freight interests increased toward the end of the 1920s until there was virtual unanimity for some form of control among those making submissions to the 1930 Royal Commission. Those appearing before the Commission were not truly representative, however. They tended to be the "responsible" operators who felt the industry needed to be protected from the "pirates".

As the TCB went about its business compensating operators forced off the road and creating local monopolies, opposition from the operators diminished further, or at least was driven underground. The usual criticism of the TCB by operators was that it did not do enough to protect them from the non-licence-paying pirate. (e.g. Advertiser 5 May 1931; 28 February 1933; News 10 February, 1932, 17 March 1932)

Unlike the situation with taxis, however, support for the regulatory regime was not significantly enhanced by the

existence of a market in licences. Licences were transferrable, with the TCB's approval. "Franchise of the road" was included in goodwill in the sale of a company as early as March, 1932 (Advertiser 19 March 1932) and several annual reports of the TCB speak of "fairly substantial amounts" given for goodwill. (e.g. SAPP no. 19/1944 p 5) However the value does not seem to have risen to any significant amount and of course would vary according to the service involved. The liberal issue of permits after the war would also have kept prices of licences down. It is notable that when calculating the economics of a road transport business in 1939, the 1937 Royal Commission included no amount for the value of the licence. (SAPP no. 20 of 1938, p 15)

Politicians' behaviour

The politicians of the nineteenth century appear to fit the public choice model well in their over-riding concern to nurse their electorates at the expense of the broader community interest. This can be seen in the pattern of railway development and in the MPs' efforts to keep both rail and road options available to constituents despite the diseconomies of maintaining both. The criticisms of the TCB by rural MPs may also be viewed in this light, although in most cases the MPs would have sincerely argued

that the cause they espoused was in the best interests of the State as a whole.

The advent of party discipline in the twentieth century inhibited the MPs' pursuit of constituency interest and allowed ministers to impose on them the government's understanding of the broader community interest. We have noted the changing concerns of MPs once they became ministers. This is to be expected. The important point is that they could successfully impress this on the legislature contrary to the normal assumptions of public choice.

The politicians have not been enthusiastic regulators. Matters had to reach a crisis before steps were taken, and then the job was handed over to an independent authority. Deregulation occured without an equivalent crisis being necessary. At the federal level the politicians have refused to consider the introduction of economic regulation despite manifest problems in the industry.

Bureaucratic behaviour

Certainly SAR management was far from perfect. Ironically it was probably at its worst when the SAR's balance books looked their healthiest. Reece Jennings has some colourful

comments regarding key employees. (Jennings, 1973 ch. 5) However for the most part his criticisms are that they did not move with the times; they did not undertake necessary investments. They were conservers rather than climbers. Pressure from expansion came from the community via the politicians and we have noted at least one Railway Commissioner's concern at the way politicians were happy to delude themselves and the public about railway finances.

In fact it is Jennings' hero, W A Webb, the imported railway commissioner of the 1920s, who best fits the empire-building mould. Certainly this was the impression of many contemporary critics, particularly because of his efforts to compete with urban parcel delivery services by running an SAR motor vehicle service. When introducing the Road and Railway Control Bill the Minister was to say of the recently-departed Commissioner:

> I always said he was a very clever man, but the greatest disaster that ever overcame South Australia.
> (SAPD 9 October, 1930 p 1305)

Contemporary views were no doubt unfair, as Jennings asserts. Certainly renewed capital investment in rolling stock and upgrading of lines was necessary and the value of this could be seen in the dramatic improvement in the efficiency of the service (Jennings, 1973, app. C.) and in the reduction of working expenses. (Figures 3-6 and 3-9) Webb's reputation also stands at odds with his decision to

get out of urban passenger services, leaving them to the Municipal Tramways Trust. (See below, Chapter Four) But to many the new Adelaide railway station he convinced parliament to build was the symbol of a man given too much freedom to pursue his grandiose dreams. Government control and policy since his departure certainly restrained capital investment. SAR employment also declined in line with the decline in business. If there were overmanning, it could be explained by the political priority of governments to avoid retrenchments.

The Transport Control Board was bound to be an unpopular body by the very nature of its duties. It was required to favour the railway service, other things being equal, and so it had a general reputation of being a weapon used by the SAR. On the other hand any suggestion that a local railway service be closed was always unpopular and the SAR itself was not always on the best of terms with the Board. (SAPP no 20 of 1938, p 37)

Despite this the TCB conducted its activities in such a way that long term critics of the regulatory regime were careful to distinguish between the body and the policies it implemented. The Advertiser, a frequent mouthpiece for criticism of the policies, editorialised in 1937 that the TCB had undertaken its duties with "care and competence". (Advertiser, 17 May 1937) The man who never failed to

criticize any claims of regulatory success, the Secretary of the Common Carriers Association, was to tell the 1938 Royal Commission:

> My view is that the Board has made a definite and honest attempt to administer the Act reasonably and fairly, although on many occasions I have not seen eye to eye with it. I have, however, always had a high regard for the Board. Any failures have not been on the part of the personnel, but on account of the provisions of the Act.
> (SAPP no. 20 of 1938, p23)

MPs became annoyed when their representations on behalf of constituents were refused. (For example SAPD 30 September, 1964, pp 1141, 1152) In most cases the cause of the frustration was the regulatory framework itself. Here the conflict could often be seen in terms of the individual interest versus the community interest.

Many of the attacks on the Board were unjustified and at least in one demonstrated case, based on lies. (SAPD 30 September, 1964, pp 1139, 1147) No doubt its decisions were sometimes unfair, like those of any body which has to sit in judgement. At times it discouraged efficiencies, as when it forbade backloading. But despite a vague hint of collusion between the TCB and a transport firm (SAPD 19 November 1963, 1751) Labor Premier Frank Walsh could fairly comment that the attacks on the TCB were not on its integrity. (SAPD 21 August 1965, p 2298) Even the Minister, when removing the TCB's powers, had to say "well done" with regard to the way it had carried out its task.

(SAPD 8 October, 1964, 1344) The Liberal Opposition spokesman of the time had this to say:

> Over the years the members of the Transport Control Board have done a splendid job; they have been dedicated to serving the people, and the board has been staffed by sincere and hard-working people... I am pleased to commend those people for the service they have given.
> (SAPD 12 November, 1975 p 1872)

The organisational size of the TCB remained modest throughout its history, with a maximum of four inspectorial staff. Once a Government loan to set up a compensation fund was repaid, licence income dwarfed expenses. When discussing the size of the regulatory authority, it should be noted that alternatives to economic regulation do not necessarily involve fewer bureaucrats. The Road Maintenance Contribution system, for example, needed more inspectorial staff because the nature of the violation was more subtle and therefore evidence was harder to gather. (In fact this was predicted, SAPD 19 November, 1963 p 1745) In the absence of capacity and route licensing, much larger numbers are needed to police matters such as overloading and other safety aspects. Many more staff were clearly needed to implement the recommendations of the National Inquiry in this regard.

Was the TCB "captured" by the industry it regulated? Certainly there was a belief on the part of the TCB and the

licensed operators that controls were necessary and the defiance of government policy in 1963 suggests a close relationship. However we should also note the legal prohibition on membership of the Board by anyone with road or rail interests. The first Transport Control Board consisted entirely of Government officials. When their terms were due in 1935 the Liberal and Country League Government ensured that rural interests were represented, by appointing a pastoralist, A Kidman, and G A W Pope, a member of a variety of primary producer boards (the latter becoming chairman in 1939). The tradition of "consumer" (rural) representation was maintained throughout the period of freight regulation.

Finally, it is interesting to note the views of current policy-makers within the South Australian Department of Transport. Certainly the public choice model of bureaucratic behaviour is not evident. The current Chief Executive Officer's prescription for road freight transport gives his department little role to play:

> There is a need to ensure the transport system works efficiently to minimise total costs of goods and services produced and moved in South Australia. To achieve this, the private road freight industry must be unfettered by arbitrary controls...There should be no artificial restrictions on entry into the road transport industry, which must be vigorous and competitive and be prepared to pay its way.
> (Scrafton, 1985, p 20)

In summary then, the history of freight regulation generally supports the public choice portrayal of interest group behaviour, while also offering some surprising findings in terms of the power of consumers and the evidence that it is sometimes the bigger companies that benefit most from deregulation. There is also evidence to support the public choice assumptions of the politician's behaviour, but this applies only to backbenchers, and was subject to the constraints of party discipline. Bureaucratic behaviour could generally not be seen to fit the public choice model.

CHAPTER 4

BUS PASSENGER REGULATION

INTRODUCTION

The western world began to regulate buses almost as soon as it had any. In most countries, and in most States of Australia, they still are tightly regulated. In fact the perceived need to have collective rather than "market" control of bus transport is such that the provision of such services, in metropolitan areas at least, has normally passed beyond the regulatory stage and into government ownership.

Given the trend to deregulation of trucking this suggests that there must be more and stronger reasons for public control of bus transport than of trucks. These reasons will be discussed before proceeding to the history of bus regulation in South Australia. Other reasons which apply to both modes, particularly the recovery of road costs and the need to protect a public investment, have been discussed in the previous chapter and need not be dealt with here.

There are two peculiarities of bus passenger transport that have justified more pervasive regulation than that which

applies to freight transport. Route buses run to a schedule and they carry relatively large numbers of passengers, making safety issues most important.

The desire to see the service efficiently utitilised, which we have also discussed earlier, involves added complexity in the case of bus passenger transport. The fact that most bus services run to a schedule has several implications. The schedule itself becomes an important factor in the competition between a limited number of operators on the same route (and few routes with South Australia have ever sustained more than two operators, either in the country or in the metropolitan area). A number of practices may arise which are undesirable from the point of view of the consumer. (Foster, 1986)

A common practice is the "bunching" of timetables. Operators will tend to schedule services closely together, leaving relatively long periods without a service. Of course when this happens there will always be a temptation to be the first bus at the bus stop, and both "leap-frogging" and "hanging back" (run late so as to pick up the customers of the later service) will occur. If the situation becomes more anarchic, some operators will abandon their timetable and engage in "headrunning"; that is, running just in front of a scheduled service to scoop up the waiting customers. Hibbs found in his study of

independent operations in the 1920s that the bus crews were often left to determine their own "schedule" on a day to day basis. The crews "displayed considerable commercial acumen in the process." (Hibbs, 1972, p 281)

Where two buses are chasing each other to be the first at the stop it has even been known for them to engage in "passing"; refusing to stop at a bus stop if the number of people waiting did not justify the time delay. Other dirty tactics have included blocking stops, preventing overtaking and pulling out in front of the opposition. (Savage, 1985, p 40) Before English bus services were more tightly regulated it was not unknown for drivers to refuse to put down passengers for this reason. Foster also cites Dickens' Sketches by Boz as evidence of the nineteenth century practice of "lifting" or "chucking"; stopping by someone standing or walking beside the road and literally forcing them into the vehicle as an unwilling customer. One can only hope that such tales are apochryphal.

A further feature of a scheduled service is the element of stability. Regulation of buses is defended as a means of preventing bus operators changing schedules with little or no notice. This may happen for temporary reasons - for example a large-scale event may induce an operator to forsake a scheduled service to cater for the crowds attending the event - or the reasons may be more long-term,

as when competition is unstable and operators enter and leave the market frequently. This has been a fear of those opposing the deregulation of "stage" bus services in the United Kingdom (that is, services on routes of less than thirty kilometres which normally have only one or two operators). The British Government's White Paper on the issue is sanguine on this point. While on the one hand the new services will be highly "contestible", it is expected that they will soon settle down into a stable pattern (Great Britain, 1983, Annex 2, para. 20).

The concern for safety was and still is a very important factor in the establishment and maintenance of regulations. In fact Stephen Glaister and Corinne Mulley concluded after studying departmental files that safety concerns were much more important to the British Government than efficient utilisation or the desire to protect the railways when it decided to regulate the bus industry in the 1920s. (Glaister and Mulley, 1983 ch. 3)

The early safety regulations were along the same lines as those that applied to hackney cabs with detailed differences about the size and carrying capacity of vehicles and the level of enforcement. Safety factors were later cited as justifying a restriction of competition. This aspect will be discussed later.

Bus passenger regulation

The desire for efficient utilisation has an added element in the case of the bus passenger service. Because a route bus service has set routes and schedules there is an element of continuity that is missing from taxi and freight services. Supply is therefore more difficult to adjust to demand and there is a greater danger of waste in the provision of services. There is also the argument that on "thin" routes only one operator can be viable. This is often argued by operators themselves. (See, for example, Savage, 1985, p 56) and has been given theoretical support by academics. (For an analysis using game theory, see Evans and Holder, 1985.)

Of course such views have not gone unchallenged. Hibbs points out that in the English context combines have formed among private operators to prevent waste (Hibbs, 1963). Similarly, Glaister and Mulley suggested that given time, the bus operators would have sorted out timetabling problems that characterised the infant industry. (Glaister and Mulley, 1983, p 126) This of course raises the issue of collusion and the question as to whether such practices would not be better off under public control.

BUS REGULATION IN SOUTH AUSTRALIA

Bus passenger regulation

The horse-drawn omnibus and its regulation

The colonial government had no need to regulate regular passenger services in the first two decades of the colony simply because there was very little passenger transport to regulate. In the 1840s there were only a handful of regular passenger services. The first genuine omnibus service did not begin until 1853. (Radcliffe and Steele, 1974, p 3; see also Gooden and Moore, 1903, p 25) The poor condition of the roads up to this time meant that the only suitable vehicle was a spring cart, which usually carried about five passengers. If "bus" services could be distinguished from "taxi" services at this stage it would be by the regular nature of their operation rather than the type of vehicle used.

The regulations of 1853 covering hackney cabs which were outlined in Chapter Two also applied to other forms of commercial transport. As we have seen, the regulations had two objectives: two ensure a minimum standard of service and to force the operators to pay for the damage to the roads. Nevertheless, it would appear that the conduct of these enterprises left a lot to be desired. The attraction of the state-owned railways was an escape from such behaviour. (See letter from George Hamilton to Colonial Secretary, 1854, quoted Radcliffe and Steele, 1974, p 12.)

Bus passenger regulation

By the 1860s the public passenger transport network in South Australia had grown considerably and rolling stock consisted of spring carts, horse-drawn omnibuses and railway carriages. The various services both competed with and complemented each other. At this stage the only railways were government-owned. The government railway system carried both freight and passengers and because its development has been outlined in the previous chapter it will not be given further attention at this stage.

The responsibility for the licensing of omnibuses was transferred from the police to the local councils along with other forms of transport for hire in 1861. The first legislative action specifically designed to control omnibuses came in the form of an amendment to the Municipal Corporations Act in 1873. Controls over routes used and the number of vehicles operating were added to the pre-existing controls.

As with taxis, the enthusiasm with which councils used their powers varied. It was over ten years before the Adelaide City Council (ACC) issued separate licences to drivers. (South Australian Government Gazette 2 July 1874) Most councils did not bother at all. It appears as if the "free market" which operated at the time was not sufficient to maintain quality. There were occasions when ratepayers petitioned the local council to force the operator to clean

up his vehicles. (Radcliffe and Steele, 1974, p 23) This was perhaps because of the "natural monopoly" conditions that pertained to routes which could not sustain more than one operator.

Private railways

In the last three decades of the nineteenth century private ventures played an important part in urban passenger transportation. The first successful private railway was a line to Glenelg. The Government had resisted calls by residents for a train service throughout the 1860s and was happy to let private capital be risked in what was thought to be a very doubtful financial venture. With such an attitude, the official requirements were not severe and the Adelaide, Glenelg and Suburban Railway Bill passed fairly easily through Parliament in 1871. The main features of the Bill were special borrowing privileges. Concern about the prospect of locomotives using King William Street up to Currie Street resulted in a compromise, with the route terminating at Victoria Square. From there it went south to the village of Goodwood before proceeding southwest to Glenelg.

The company proved that, in the short run at least, the service could be profitable. Handsome dividends (amounting

to 29% of investment one year) were soon being paid, partly, it later transpired, through the (illegal) expedient of paying such dividends out of capital assets. (SAPD 9 December, 1898 p 1064) Another explanation for the profits was the extortionate fare structure, particularly on public holidays. The normal fares charged were those approved by Parliament in the 1871 bill, (which at the time were thought by MPs to be low). Resentment arose because it was felt that increased traffic should have created opportunities for fare decreases, and that the company deliberately constricted the amount of third class seating, forcing patrons to pay the higher fare.[1]

Hostility was so deep-seated that a rival service was established. Because of the unpopularity of the company providing the existing service Parliament paid little heed to its objections, and in fact gave an advantage to the new service by allowing it to use the South Australian Railways (SAR) station adjacent to North Terrace and SAR tracks as far as West Terrace in return for an annual rental. Conditions imposed by the Holdfast Bay Railway Act (1878) were also not particularly harsh, though the lessons of the Glenelg experience resulted in more attention to minimizing

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1. For expressions of resentment, see SAPD 12 June 1878, columns 1071 and 1075; 6 November 1878, column 1515; 15 Dec 1898 p 532 and in particular the report of Select Committee into the Holdfast Bay proposal, SAPP no. 105 of 1878.

disruption caused by construction work. More importantly, s.70 provided that the Government could compulsorily purchase the service if it wished. It was felt that this measure would ensure that the service would be run in the public interest.

The Holdfast Bay Railway had operated for only a year when the two companies realized they could not compete profitably and so amalgamated. This was sanctioned under the Glenelg Railways Act. The Act's most significant new features required a minimum number of second class seats, a much more frequent service and fares up to 50% cheaper. The Government was given the right to purchase either or both lines at an arbitrated price. Interestingly, the combined company continued to operate both lines.

The 1880s economic downturn made operations difficult and in 1887 the company initiated negotiations to be bought out by the Government. Although there was a widespread feeling in Parliament the community and the public sector that the entire rail network should be under a single authority, the Government of the day baulked at the asking price of £117 000. Negotiations continued throughout the 1890s. During this time the service moved into the black again, partly because of revived economic conditions and partly because capital expenditure and maintenance were neglected -

understandably, given the likelihood of government takeover. Realizing that it was becoming a seller's market, the company raised the asking price to £152 000. The Government was under pressure to buy, particularly from Glenelg residents who felt they were not getting the same level of service as residents served by the SAR. Holiday makers resented the doubling of fares on public holidays. Even the Mayor of Glenelg - himself a director in the company - felt obliged to represent resident and holiday-makers' interests and call for a Government takeover. (SAPD 9 December, 1898 p 1059)

This issue was finally resolved through a clever piece of government blackmail. Using the s.78 of the 1881 Act which allowed government purchase, the Government moved to buy just the Goodwood line for £70 000. This would have left the remaining Holdfast Bay line in a parlous position, being undercut by the SAR and at the mercy of the SAR in that it relied on use of SAR facilities at the Adelaide end of the service.

In 1899 the service was transferred to the SAR for £120 000. Fares were immediately cut by 20% to bring them into line with fares for other suburban destinations and £24 000 was allocated for needed capital works. It was several years before the Government acceded to constant requests from the Railways Commissioner to close the

Holdfast line.

Several other private lines operated for short periods. These ran along the coast, north and south from Glenelg. However they were of minor importance compared with the services to Glenelg. At no time did the total length of private railways exceed eighteen miles and the Adelaide-Glenelg lines accounted for fourteen of these miles. All of the private lines were taken over by the SAR about the end of the century. The depressed economic conditions were blamed, though Radcliffe and Steele also note the effect of the "cyclemania" which cut into patronage in these years. (Radcliffe and Steele, 1974, p 29) The takeovers were also justified by the argument that the control and placement of railway lines in the city could be rationalised if they were under a single authority. (e.g., SAPD 14 July, 1981 cc. 263-282)

private tramways

Within the metropolitan area the most important form of public transport in the late 1870s was the horse drawn railway, or tramway. The first line opened in 1878 and linked Adelaide and Norwood. Where trams appeared, this more comfortable form of travel soon drove out the omnibus competition. (Gooden and Moore, 1903, p 31; see also

Radcliffe and Steele, 1974, p 19) In some cases the bus service was bought out by the tram company. (Register 15 May 1879 p 5) Even before the first tramway began operating, however, it was obvious that the new form of transport would have to come under some form of public control.

Subsequent tramways regulation was designed to achieve the following aims:

- Services were rationalised so that duplication of track was avoided. This included joint use of track within the city.
- Because this rationalisation involved the creation of local monopolies, in the suburbs fares and conditions were controlled to prevent exploitation. (This argument was made in an editorial in the Register 5 May 1880.)
- The convergence of tramlines close to the city meant that different companies would share the same route and so timetables had to be specified to ensure that companies did not "rob" passengers from rivals.[2]
- Conditions were specified to minimize disruption and

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2. In fact General and Suburban Company was later to complain that their less well-run rivals managed to run just ahead of its buses and so take customers on such routes. (Steele, 1986, p 13)

inconvenience caused by the construction and operation of tracks on public roads.

Because the tramways needed to be constructed on public roads, approval was necessary from the road authority, that is, the local council. This of course gave that authority de facto control over entry into the new industry. The Adelaide City Council argued that it had power under the 1873 amendment to the Municipal Corporations Act to regulate any tram services that used city streets (that is, all of them). When this power was not recognised, it promoted the Tramway Clauses Bill (1876) as a means of obtaining it. However the Bill was withdrawn when it became clear that the Parliament was determined to exercise control over the tramways itself.

Regulations were specified in a series of private acts sponsored by the tramway companies. They were promoted by the companies partly to forestall government action that may have been less favourable and partly to get the necessary approval as soon as possible. There were fourteen of these from the Adelaide and Suburban Tramways Act passed in 1876, until the passage of the General Tramways Act in 1884. Each bill was examined by the Tramways Committee, a select committee of the Legislative Council. Although they varied in detail (being drafted by agents of the companies), the acts provided for control

over fares, rates paid to councils, sale of the tramways and utilisation of the track. Powers were given to councils (in the first few acts, the ACC only) to make by-laws covering maximum speed, the frequency of service, the number of passengers and the quality of drivers (who were to be licensed). The companies were also given power to make by-laws, most commonly to cover passenger behaviour. The acts also contained clauses specifying responsibility for the track and roadway used. A common provision that was later to prove significant allowed a public takeover for an arbitrated figure after fourteen years' operation. This was designed to ensure that the company did not exploit its monopoly position. In the earlier private legislation the public authority specified to take over the service was the ACC but this was later changed to the State Government.

In 1884 the need for the Tramways Committee to examine separate bills for each application was obviated by the passage of the General Tramways Act. As well as saving Parliament work, the Act was designed to overcome inconsistencies which appeared under the previous arrangement. The provisions of the Act itself varied little from the most recent of the private bills, the only significant innovation being the granting of power to the councils to regulate over-crowding - a measure accepted by bus interests in the Legislative Council largely because

they felt it to be unnecessary.[3]

Although the ends being sought by the legislators appear sensible and necessary, there are suggestions that the process was influenced by the vested interests of individuals. The ACC/Legislative Council axis was very prominent in the establishment and regulation of the private tramway companies, to such an extent that at one stage it was claimed a quorum was impossible for a Legislative Council select committee on private tramways because so many had pecuniary interests in them. (SAPD 30 August, 1904, p 368) It was also claimed that municipalities were allowing the tramways to damage roads without restitution because of conflicts of interest arising from share ownership by members of parliament. (SAPD 4 September 1883 col. 996) An influential member of the Adelaide and Suburban Tramway Company, W Buik and another director, E T Smith, both became prominent men on the ACC. Buik was Lord Mayor in 1879; Smith in 1880, 1881 and 1882. By 1881 both were members of parliament as well. Furthermore, Kannis claims that they saw to it that other MPs were well endowed with shares in the company. (Kannis, 1965, pp 25-26) One alderman claimed that twenty five MPs had shares in tram companies affected by by-laws. (Register 2 October 1883 p

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3. In the event, this power proved difficult to use. In 1892 the ACC tried to introduce such regulations, but they were refused by the House of Assembly (Kannis, 1965, p 73)

7) According to Kannis,

> Through its influence on both Parliament and City Council, the Adelaide and Suburban Tramways Company had very little trouble in opposing - and eliminating - any rival schemes that appeared to be injurious to its interests.
> (Kannis, 1965, p 26)[4]

The General Tramways Act really came too late: by 1884 the boom in tramway growth was over. Bad times saw the failure of several companies from 1885 onward. The tramways had earlier picked up a lot of business from those who had previously walked and as times grew hard these customers took to walking again. The horse-drawn tramways never recovered the confidence and enthusiasm of their early years. It was not until the late 1890s that economic conditions improved, and by then the tracks were wearing out and it was obvious that electric traction would soon be making the old trams obsolete. In fact the ride provided by the trams began to grow so uncomfortable because of the deteriorating track that the horse bus network began to grow again. Pressure grew for the tramway companies to amalgamate in order to avoid the inefficiencies of maintaining multiple tracks in the city and also to enable

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4. To balance Kannis' picture, it should be noted that none of the names on the Tramways Committee match with those on the list of prominent shareholders of the Adelaide and Suburban Tramways Company that Kannis includes as an appendix.

them to absorb the huge cost of electrification. If they did not do so they would be taken over by the government - at either the State or local level.

The options of private amalgamation, "municipalisation", and nationalisation all had their champions at the turn of the century. At a time when the State government was elected by full adult franchise and the local councils by a restricted franchise as well as plural voting, the difference between having the trams run by the State government and by the municipalities was regarded by many as important.

F H Snow was an entrepreneur who felt that the trams should remain in private hands. In 1898 and 1899 he bought out the concessions of various companies on behalf of two British companies and devised a scheme which succeeded in amalgamating five of the seven remaining companies over the period 1899-1900. (Kannis, 1965, p 75, see also SAPD 4 September 1906, p.403) The Adelaide and Surburban Tramways Electric (Private) Bill was introduced into Parliament in June 1900. It was designed to allow Snow to buy out the tramways in order to convert them to electricity, and it gave him exclusive rights to them for 21 years.

The Bill aroused great controversy, and took a year and a half to pass both houses. The ACC was initially hostile

because it had plans to orchestrate a municipal take over of the tramways. However it came to support the private option when legislation for municipalisation (introduced in July 1900) was ruled out of the Legislative Council because it did not comply with Standing Orders. In any case the press (particularly the Register) was enthusiastic for the Snow scheme and hostile to any alternative.

However the main opposition to the Snow scheme was aroused by fear of exploitation by a private monopoly. Stockley, in his history of the Legislative Council, depicts the Bill as a watershed, because for the first time non-Labour Councillors joined with the Labour MPs in an attempt to defeat a private initiative. (Stockley, 1967, p 10) Outside the Parliament, the Bill was opposed by the Public Tramways League which wanted the State government to take over the trams. The League was formed by members of the Labour movement. It alleged that a regime in which private tramways were publicly regulated was unsatisfactory not least because of corruption. Its leader, Cornelius Proud, said that he would be willing to state in a court of law "without hesitation" that in Adelaide there was

> influence exerted, and an absolute conspiracy among certain men to rob the citizens of their street franchise.
> (quoted, Register 20 September 1900, p 6)

The "Snow" Act provided for a referendum, to be put to

those entitled to vote at council elections (that is, property owners) in the areas affected. This was done on 8 February 1902. Perhaps because of the blandishment of "free" conversion (that is, the government would not have to provide the capital) and electric traction within a year or two, the Act was resoundingly supported.

The scheme nevertheless failed because the promoters could not raise the necessary capital in Britain. Various suggestions were put forward as to why the capital was not forthcoming: those sympathetic with private ownership blamed the maximum fares imposed in the Act; whilst those unsympathetic claimed that Snow had been too ambitious and that his prospectus proposed more money than was needed.

Two years went by, and the lack of investment in the horse drawn tramways made them even more of an embarrassment - "the one stigma on the fair city of Adelaide", in the words of one conservative MP. (SAPD 13 December 1906, p 51) Although profits had become healthy once more, the realisation that horse tramways were doomed and had no future led to their neglect, and, it appears, to the running down of track, rolling stock and horses.[5]

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5. For a highly critical but entertaining contemporary view of the private tramways, see Thistle Anderson's Arcadian Adelaide, reprinted by the Wakefield Press, 1984. She was distressed by the treatment of the horses used and her views of the tramway companies are plain:

Attempts were made to create a "municipal trust" to buy, modernise and run the tramways, but lack of unity among the councils and fear of the capital expense involved prevented this. The Government, while opposed to nationalisation, grew impatient and in 1904 the Parliament agreed to a scheme whereby the Government would put up the money to electrify the tramways, and then offer tenders to other parties (either private companies or local authorities) to run the service. This was provided in the Tramways Electric Traction Act.

The negotiation and subsequent arbitration over a suitable price took several years, eventually being decided in the Supreme Court. The owners wanted £400 000; the arbitrated figure was £280 000. It was not until the end of 1906 that Parliament passed the Tramways Act ratifying the agreement. By this stage a new Labor Government had been elected which clearly stood for nationalisation of the tramways.

"I would suggest that the promoters of this tramway system be boiled to slow music, the shareholders be mutilated, and the drivers be put to a more Christian trade...and the youthful fare-collectors taught to espouse a nobler cause." (pp.43-44)

The Municipal Tramways Trust (MTT)

Although a State statutory authority, the Municipal Tramways Trust provided for under the 1906 Bill was largely composed of local government representatives. The State Government had, in the words of the chief agitator for nationalisation, "an undoubted mandate" to take over the tramways itself. (Advertiser 7 August 1905) But such action would never have been acceptable to the upper house and so the Government had to be content with an organisation responsible to the metropolitan councils which would be financially guaranteed by the Government. The Chief Secretary mollified the suspicious Legislative Council by introducing the Bill as a "purely a municipal scheme" without "even a shadow of nationalisation." (SAPD 13 December 1906 p 48) The State Government nominated two members, the ACC two, and four others represented those suburban councils that had tramways. The Government claimed it needed to have representation on the Trust because it was putting up the money to pay for the purchase and conversion. It was only after some struggle that the Legislative Council agreed to have chairman (who had both a deliberative and a casting vote) being a government nominee.

With all other options exhausted, the Bill was widely supported, the only amendments by the Legislative Council

being designed to protect the Electric Supply Company by preventing the MTT from selling surplus electricity.

The MTT was given the exclusive right to operate trams within ten miles of the General Post Office. This was granted because it was thought "essential to make the trust a paying concern". (SAPD 21 August 1906 p 314) In the light of subsequent events it is interesting to note the Minister's rejection of a suggestion that a measure be included to prevent possible competition from private omnibuses. Despite the increased use of internal combustion engines this was felt by the minister to be unnecessary. (SAPD 23 August 1904 p 318)

The Government provided the capital to pay for the conversion of rolling stock, buy out the private companies and electrify the principal routes. This was to be repaid by the MTT over the next thirty years at a rate of three and a third per cent each year. Given the healthy profits that the private tram owners had recently managed to extract (in the most recent year, revenue of £100 000 comfortably exceeded expenses of £76 000), the Government expected that the MTT had a rosy financial future ahead of it, even given that in its service to the people it would be opening up new routes that private enterprise failed to provide. (SAPD 21 August 1906 p 308) It was felt that success would be possible because a single operator could

better utilize tracks. It was estimated that through rationalisation of duplicated tramlines, the same routes could be offered with only fifty of the seventy miles of track then in existence. (SAPD 21 August 1906, p 310)

With the establishment of the MTT and the hiring of a young British engineer, William Goodman, as General-Manager, restoration and electrification of the lines proceeded gradually with the first electric tram service beginning in 1909. (Radcliffe and Steele, 1974, p 40) Once again the omnibus network began to shrink. The proceeds of the sale of the horse trams (a total of £227 133) was paid to the councils as "goodwill" for use of the roadway.

THE IMPACT OF THE MOTORISED BUS

It is ironic that only three years after the creation of the MTT to electrify the tramways, there appeared on the roads the technology that would all but extinguish the trams. This technology was of course was the motorised bus. Though the first bus did not appear on Adelaide streets until 1915 the St Peters Council anticipated the problem a year earlier when it passed a resolution calling on the Government to prevent buses competing with the MTT, for fear that the competition may eventually lead to losses payable by the ratepayers. (Advertiser 12 June 1914) In

fact the impact was not felt until after the war.

The first motorised bus had solid tyres, offered an uncomfortable ride and its service was short-lived. (SAPP 56 of 1926, p iv) Buses reappeared on the roads in 1921 or 1922, often run by ex-servicemen. Once again, regulation by the councils was haphazard. The most active in the area, the Adelaide City Council, licensed buses to ensure the quality of the vehicle and minimize traffic congestion, but made no attempt to restrict the numbers involved. From 1924 it also tested the suitability of drivers to make sure that they matched the quality of those employed by the MTT. Attempts by councils to control numbers were made on one or two occasions. When the Glenelg Council rejected an application for a licence on the grounds that the service was not needed, the applicant appealed to the Supreme Court. The Court decided in favour of the applicant, denying the validity of such regulations and also suggesting that councils did not have the ability to properly administer such measures. (Advertiser 30 April 1927) As we shall see, by then the State Government had adopted a new position on how the buses should be regulated.

Partly in response to the competition posed by the private buses, both the MTT and the South Australian Railways (SAR) started running buses themselves. MTT buses services began

in March 1925. The Trust realized the potential of the modern bus as early as 1915, when it placed an order with an English firm for ten Daimler chassis, but these were commandered by the British Government for the war effort. Goodman was later to blame lack of financial support from successive State governments as the reason that the first MTT buses did not appear on the road until 1925. (SAPP, 1926, no. 56, p 12) Where MTT buses were operated, the service was such that the private operators felt compelled to retreat to another area. (ACC, 1925, p 40; see also Advertiser 2 March 1926)

The prospect of two public utilities both offering metropolitan-wide bus services may seem a little strange, if not alarming, to the modern observer, particularly as neither utility was established to run bus services. At that stage however, it was not obvious which of the two should have a "natural" right to the bus and they did cooperate to avoid duplication and competition. Goodman claimed that the MTT tried to "work in" with the railways to make sure that their bus services did not compete. (SAPP, 1926, no. 56, p 10)

The MTT also changed operating patterns to meet the private competition. To combat the private operator's practice of scheduling services just ahead of the trams the MTT ran "nark" cars which had no timetable. They were simply to

use their superior speed to keep ahead of any private bus service they found using their route. Trams returning to depot were instructed to reverse and run ahead of private buses. (Radcliffe and Steele, 1974, pp 76-78)

Problems caused by the motorised omnibus

By the mid 1920s it was clear that the bus was to be a permanent feature of urban public transport. By 1926 the ACC registered 136 vehicles. But although the new form of transport was obviously popular with the general public, it certainly did not come without problems. The public utilities, the road authorities and even the private bus operators themselves were dissatisfied with the relatively anarchic state which had developed. Broadly, the problems were fourfold:[6]

(1) Unfair competition

In the previous chapter we discussed the threat posed by motorised private freight transport to the SAR. The buses

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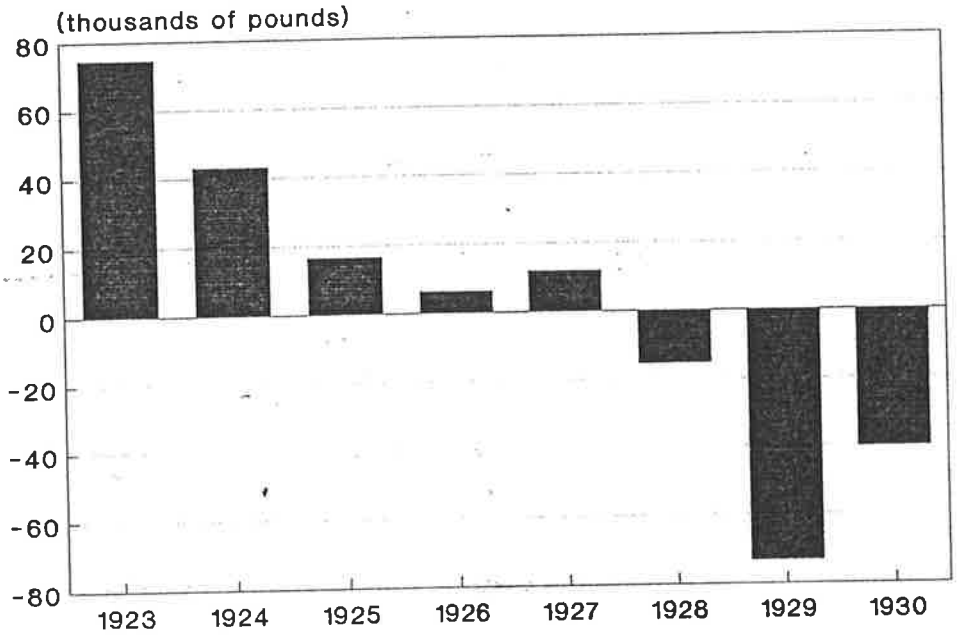
6. The problems outlined below were all expressed in the newspapers and parliamentary debates of the time. However, perhaps the best source of reference is the Minutes of Evidence of the Royal Commission on Traffic Control, SAPP 1926, no. 56.

also threatened the railway's passenger services and of course the services of the MTT.

The MTT and the SAR were unhappy with what they saw as unfair competition, particularly when they started to see their profits on the metropolitan services dwindle. Figure 4-1 is a graph of MTT finances derived from figures presented to an alarmed State Parliament.

FIGURE 4.1

MTT Finances, 1923-1930
(as reported to parliament)



Source: SAPD, 25 October, 1933, p 1819

The MTT lost £5260 in the first six months of 1924 due, the management believed, to competition from private buses. (News, 16 July, 1924) In July 1924 the MTT made a public appeal to the Government for legislation to prevent the

competition, pointing out that public investment worth three and a half million pounds was threatened. (Register, 26 July, 1924)

This was not the only argument used to call for government action. The new competition was seen as unfair because the MTT had to maintain that portion of the roadway used between the tracks, plus eighteen inches either side, whereas the buses had to pay only a nominal registration fee. Goodman argued that when the Tramways Act was passed it was contemplated that the MTT should have control of metropolitan streets. The bulk of the arbitrated figure paid to the horse tramway companies had been for the use of the street, and the MTT calculated that the continuing interest on that amount was £9 000 a year. This, plus the maintenance of the track and roadway, totalled £108 10s for each of the 240 trams it had on the roads, or one and a half pence per vehicle mile. (SAPP 1926 no. 56, p 10) This was a cost the private operators largely escaped, the only State tax being registration fees which were paid at half the rate applicable to non-commercial users. (See chapter three.)

What made this more galling was the fact that the trams did not wear out the road whereas the private buses, which did, used the MTT section as much as possible because it was usually the best maintained part of the road. The Railway

Gazette, (22 February 1924), gave figures which supported the contention that commercial vehicles were responsible for the bulk of the damage to roads, and yet provided very little of the revenue needed to pay for it.

The MTT also argued that cross-subsidisation obligations justified protection from the "cream skimmers". To "fulfill its obligations as a municipal undertaking" it had to carry incapacitated soldiers free of charge, run unprofitable off-peak services and provide "developmental" services into as yet sparsely populated areas. Buses were not seen as effective in this role, even where the owners were willing to undertake the task. Because they did not require a track, the permanence of the buses could not be relied upon and so they did not encourage individuals to buy and develop land in confidence. The private operators cream-skimmed by concentrating on the most profitable routes and then running an irregular peak hour service only, designed to run just before the tram and so take its customers. The "nark" cars of the MTT were run in retaliation.

The bus representatives said that they were prepared to pay between thirty shillings and three pounds per seat as a contribution to road maintenance. One declared that her association was prepared for "heavy regulation" as it would remove the "very dreadful side of the bus business". (SAPP

no. 56 of 1926, p 16)

(2) Congestion

The local authorities also had cause for complaint. The largely unrecompensed damage to the road has been mentioned. The buses also constituted a traffic hazard as they jostled amongst themselves and with the trams for passengers and concentrated on a few city streets. According to MTT figures, although trams comprised 5% of the vehicles on the road at peak hour, they carried nearly 63% of passengers. Buses, by contrast, comprised 2.1% of vehicles and carried 9% of the passengers. (SAPP 1926 no. 56, p 3) In August 1924 the metropolitan councils held a conference on the matter, with the result that a draft bill was put forward for consideration. (See minutes of a special meeting of the ACC, 3 October 1924, ACC Digest, pp 405-408.) Predictably, it wanted a joint body representing the relevant councils to control the private bus industry; one that was exclusively appointed by and responsible to the councils concerned. The proposed authority would be dominated by the ACC; its powers would be determined by its by-laws (a doubtful legal proposition) and its officers would administer the regulations.

(3) Chaotic competition between bus operators

For their part, the private operators were dissatisfied with council control, such as it was. A separate licence was required for each council area the bus operated in, and the licence conditions that were imposed were frequently inconsistently and arbitrarily administered. The licence requirement was frequently evaded. Bus representatives appearing before a Royal Commission into the matter complained about the practices of others in the industry who gave it a bad name. They were forced to abandon timetables in an effort to stop the cream-skimming of rivals. (SAPP no. 56 of 1926, p 10ff) There was even a case of an operator painting his vehicle as an exact replica of a bus running to a timetable and then running it just in front of the competition. Other practices, which cannot have been in the public interest, included buses exceeding the speed limit to jump ahead of one another and operators employing friends with horse-drawn trolleys to pull in front of the competition and slow them down. (Radcliffe and Steele, 1974, p 80) Complaints about unreliable off-peak services appeared in the papers. For example the metroplitan services were said to be poor on New Year's Day because the bus operators had deserted the city for the more lucrative Victor Harbor trade. (Advertiser 15 January, 1925)

Having said this, however, it appears that these problems were outweighed in the public mind by the opportunity to use new and rapidly improving technology. Competition increased frequencies and provided more seats. There was also considerable public sympathy for the private operators because so many were ex-servicemen. (Radcliffe and Steele, 1974, p 78)

(4) Safety

A common argument at the time was that competition was dangerous; not only were the competitive driving practices referred to above hazardous to passengers and other road users but competitors were encouraged and sometimes compelled to neglect maintenance and overall standards of safety. An operator may have recognised the need for better practices but was forced by high capital commitments to continue in the industry without the money to improve or replace the vehicle.

Even the existing safety regulations, designed in a previous era, were not well administered. Conditions varied depending on the council's regulations and the degree to which they could be evaded, but often private operators had to meet no requirements regarding the skill and health of drivers (it was claimed that private bus

drivers endangered their passengers and other road users by working up to seventeen hour shifts); vehicles had no safety inspections and were often not adequately insured, if at all. While there were no serious accidents involving buses during this period a nasty accident in the United Kingdom in which twelve people were killed created public concern. There were also several cases in South Australia of companies evading passenger liability by declaring themselves bankrupt. (SAPD 3 December 1924, p 2079)

As the more lucrative larger buses became available numerous claims on fire insurance were made. The 1925 report of the ACC licensing officer makes interesting reading in this respect. There were twenty eight buses with a capacity of fifteen or less licensed in 1924; there were only five a year later. During the year twenty three insurance claims were made for vehicles totally destroyed by fire. Each claim was accompanied by a police certificate stating that no inquest was necessary. While the inspector was "gratified" that in every case no passengers were on board, and that the vehicle was well away from a built up area, it was

> ...a cause for anxiety when a motor vehicle holding a certificate as safe suddenly proved so unreliable as to burst into flames and be totally destroyed. (ACC, 1925, p 39-40)

ATTEMPTS AT REGULATION

The Labor Government elected in 1924 was determined to see that the public investment in the MTT was protected, at least from unfair competition. (It was also not lost on the press that the minister concerned was a former secretary of the Tramway Employees Union. Register 1 December 1924) The new Government determined that buses should be regulated at State level.

The Motor Omnibus Bill introduced toward the end of 1924 was the first in a series of attempts to achieve this. It was designed to protect the MTT, prevent congestion, ensure the quality and safety of vehicles, ensure adequate financial coverage to deal with liabilities in case of accidents and finally to recover the road costs imposed by the buses. Modelled on Victorian legislation which had recently been passed, the three basic features were as follows:

- The Minister would have power to determine who could operate on what routes and the timetable they were to use.
- Annual licences would be issued by the Commissioner of Police after a vehicle inspection and payment of a fee to cover road maintenance. SAR and MTT buses would also pay this. (These fees were on top of a 3 penny per gallon tax introduced earlier in the year.

See Chapter Three.) All funds raised would go to the Main Roads Fund once administrative expenses were deducted.

- Insurance provisions were those recommended by the councils' conference that had been held in October: a minimum of £3 000 per vehicle.

The Register, ever hostile to a Labor government, was firm in its condemnation. It saw the Bill as a "death sentence" for buses. The taxes to be imposed on the buses were "excessive to the point of condemnation". Relative efficiency should be the only concern of the government. The editorial commented;

> The whole Bill has been framed in a vindictive and repressive spirit, and the more candid course would have been for the Government to have introduced a straightout measure for the prohibition of the buses. (Register, 1 December 1924)

Even the safety regulations were seen as an attempt by the Tramways Employees Union to safeguard their conditions by ensuring that the competition would not undercut them by using labour more intensively and working excessively long hours. To quote an editorial of the time:

> The tramways were created for the benefit of the public, not to provide an attractive source of employment for unionists.
> (Register 26 July 1924)

In the event the decisive opposition came from local

government interests. An amendment in the House of Assembly provided for the Minister to be advised by a council of seven, chaired by the Engineer for Roads and Bridges. Other members would represent the two utilities, the councils (including one from the ACC) and the private operators. This was not enough to appease those wishing to retain local government control and the Bill failed to pass the second reading in the Legislative Council.

Practically the same piece of legislation was introduced towards the end of 1925. This time it passed the second reading stage in both Houses, but was doomed to lapse when it was referred to a Select Committee of the Legislative Council. However the appointment of the Royal Commission on Traffic Control in January 1926 rendered the committee superfluous.

As noted in the previous chapter, the seven members of the Royal Commission were all members of the State Parliament, with the majority from the government backbench. It was asked to inquire into and report on problems caused by motorised transport, particularly traffic control. Its terms of reference were later widened at the Commission's request to look into metropolitan traffic generally. The widening reflects the conviction that the question of bus regulation could not be separated from the whole issue of traffic control. The evidence presented to the Commission

is a good picture of the inadequacies caused by the lack of regulation according to the various perspectives of the utilities, the ACC, the busmen and others.

The Royal Commission reported in August 1926. (See "First Progress Report of the Royal Commission on Traffic Control (Motorbus Traffic)" SAPP no. 56 of 1926.) It concluded that the role of the bus should be as an auxilliary of the fixed rail systems. It could never hope to be the medium which handled peak hour commuting needs. The huge sums of money invested in the railways and trams had to be protected, "consistent with the needs of the travelling public being adequately served." (SAPP no. 56 of 1926, p vi)

The draft Bill attached to the report was very similar to those of 1924 and 1925, except that it provided for overall control by the Commissioner of Police, with appropriate consultation with the local authorities, the SAR and the MTT. This was in line with the wishes of the private operators. The Commission recommended that the Trust and the SAR pay only half the normal rate of tax for their buses, "by reason of the enormous amount of public money invested in the public utilities they operate." (SAPP no. 56 of 1926, p viii)

Insurance provisions were more strict in the new Bill, but a ceiling of £1 500 was put on a claim for any one individual. The utilities were to pay only half the rate of insurance applying to private operators. The scale of fees to cover road damage was reduced from that applying in the previous legislation. In fact it was now lower than the rate that the private operators had argued for in submissions to the Royal Commission. (See Figure 4-2) There was also a 50% reduction in vehicle licence fees allowable for buses operating in the outer metropolitan area, to encourage the development.

FIGURE 4-2

Recommended vehicle fees, 1924 - 1926

(per seat per annum)

	pneumatic tyres	other
1924 Bill	£4 10s	£6
1925 Bill	£3 7s 6d	£4 10s
1926 Bill	£2 10s	£3 10s

Bus passenger regulation

Practically all speakers to the 1926 Bill recognised the need for regulation. To quote two Liberal Opposition speakers:

> I think there is no member of this House and no one outside who does not fully realize the necessity for this Bill.
> (SAPD 14 September 1926, p 665)

> Everyone recognises that buses have been run recklessly, and very often dangerously; consequently something should be done to regulate them.
> (SAPD 15 September 1926, p 206)

Once again the most controversial point was who should do the regulating, and a struggle ensued between the two houses. The clause providing regulation by the Police Commissioner was finally replaced by a compromise in the form of the Metropolitan Omnibus Board, composed of the Railways Commissioner (chairman), the General Manager of the MTT, a representative each from the ACC and the suburban councils.

The Act also ended the era of railway buses in the metropolitan area, as these and the staff that dealt with them were transferred to the MTT. The SAR decided that it should not be in the business of providing metropolitan transport; such a service could be better handled by the MTT. The Government agreed to electrify the suburban rail services and hand them over to the MTT.[7]

Once the Act was passed, it was apparent that the bus representatives who appeared before the Royal Commission had not represented all operators. The industry itself varied a great deal, particularly in terms of the financial strength of the owners. The new fees and insurance provisions were very onerous to operators who were heavily in debt to pay the capital cost of the vehicle. It was to prevent their desperate practices that the Act was passed. Faced with these costs, private busmen could have been expected to welcome the fact that the Metropolitan Omnibus Board imposed minimum fares up to 30% above the previous rate, but this was interpreted merely as a measure to prevent them undercutting the public utilities.

In June a petition claiming 45 000 signatures was presented to the Premier by busmen opposed to the legislation. (Advertiser 28 October 1927) While this may may be seen as an impressive demonstration of community feeling on the matter, the fact that the petition called for no more that a rather ambiguous "fair and just" regulation suggests that the community did favour some government action.

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7. The line to Glenelg was the first to be treated in this way, but it was also destined to be the last. The Depression halted work on the electrification of the line to Port Adelaide, and by the time State finances were in a position to afford the expense, (after World War Two) enthusiasm for electric traction had waned.

At the same time there was hostility to the ACC's attempt to overcome traffic congestion by banning buses from the central business district. (Register 21 January 1927) Although it was arranged that no patron would have to walk more than a block to catch a bus, the measure aroused such resentment from an already antagonised industry that it was six months before it was gazetted.

It was partly because of sustained hostility that it took a year for the Motor Transport Act to be proclaimed and then it soon became apparent that, without the goodwill of the operators, the new regime would be no less difficult than that which preceded it. The General Transport Company (a cooperative of private owners) announced it would defy the new regulations even before they were proclaimed.[8]

The Company devised an interesting strategy to avoid the regulations using s.92 of the Australian Constitution which provides for free trade between the States. As soon as the new regulations came into force, the General

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8. The Company was formed to overcome a serious problem of the small operator. If only one or two buses were owned, any breakdown meant that the service could not be offered. A cooperative was formed to enable buses to be held in reserve. The Board's insistence that individual owners be licensed was interpreted by the company as a deliberate attempt to run them off the road, for if the a bus broke down and a service could not be offered, the Board would have a justification for cancelling the service. (Advertiser 28 October 1927)

Transport Company began exploiting the section by scheduling services from a suburban location to Murrayville (in the Victorian mallee) via the city. Murrayville was chosen as an appropriate location because it was a relatively close interstate destination that very few people would want to travel to. Once the bus left the city only toilet stops were allowed for and these were at least three miles from the nearest town. This was to prevent people using the ticket to take them to a country town on route.

The service operated from November 1927 to April 1928 and in that time twenty trips to Murrayville were actually made. These were forced on the companies by the Metropolitan Omnibus Board and were paid for by a general levy on private operators within the cooperative. The High Court eventually ruled that the Metropolitan Omnibus Board could regulate the service. (Radcliffe and Steele, 1974, pp 83-84) By that time, however, the Government had abolished the Metropolitan Omnibus Board and replaced it with a new regulatory regime.

The Murrayville ploy was simply the most ingenious of many attempts at evasion by operators who were often forced to stay in the industry because of financial liabilities. The courts were soon clogged with litigation. The Act was amended in 1927 to prevent this by providing that fines imposed had to be paid irrespective of appeal proceedings,

but this measure also failed due to non-compliance. The operators simply refused to pay. Often they could not. The experience of the Motor Transport Act suggested that while economic regulations were more necessary than ever, a simple imposition of controls on existing operators was not enough.

MTT TAKEOVER OF PRIVATE BUSES

The key to the replacement of the Motor Omnibus Board after less than one year's operation was the nationalisation of the private buses. The original Act gave the MTT the power to buy out the private operators, but it was reluctant to do so for two reasons: under its Act it could only run buses on routes that would supplement and encourage more tram traffic. Therefore the use to which it could put the vehicles it bought was limited. Secondly the MTT saw little point purchasing an operator if there was a threat that another competitor would take his place.

The MTT Act (Amendment) Bill of 1928 was designed to cure these problems by freeing the MTT of the restrictions on how its buses could be used and by giving it control over potential competition. In return the MTT agreed to buy out all the currently licensed metropolitan private bus services at a valuation determined by an independent

valuer.

In many cases private operators were desperate to get out of the industry and had stayed only because of the capital cost of their vehicles, which were often worn out and obsolete. Only one operator did not agree to sell and he operated almost entirely outside the metropolitan area. The MTT agreed to license this business. (SAPD 16 October 1928, p 1284) The litigation that characterised the Metropolitan Omnibus Board period was to end.

Apart from some irritation that the Government would be compensating private operators, the Labor Opposition was delighted with the Bill. The greater efficiency of a single operator was self-evident to the Labor MPs, especially when the unnecessary damage done to the roads by buses competing with trams was considered. Supplementing this attitude was a dislike of the methods of the private operators. An excerpt from Hansard, quoting the Labor leader Lionel Hill, sums up the point of view well:

> Over and over again private ownership has proved a failure.... The trams run to a scheduled timetable. This the private buses never did. They ran at their own sweet will up one street and down another and charged whatever fare they liked
>
> Mr Anthoney: They were subject to no regulation.
>
> The Hon. L L Hill: That is so. If the tramways had operated under those conditions there would have been a great public outcry. The trams would have returned handsome profits if the management had laid up the trams during slack periods and on holidays

> had taken their vehicles off the regular routes in order to cater for the public visiting pleasure resorts. However, it has always been the policy of the Trust to provide a service for the convenience of the people.
> (SAPD 16 October 1928, p. 1287)

This is not so say the MTT was a paragon. Even the Treasurer, when introducing the Bill, claimed that before the private buses intruded the MTT had not shown itself sensitive. (SAPD 16 October 1928, p 1285) This sentiment was echoed by a number of later speakers, one of whom pointed out that the Government only responded to Goodman's requests for necessary capital to upgrade trams when the competition was being felt. (SAPD 18 October, 1928, p 1403)

The fares of both the MTT and the licensed operators were limited to one shilling and sixpence (single) and three shillings return. (These amounts were not changed until an amendment of 1952 doubled them.) The fact that the Act did not apply to private operators charging fares above this should not be interpreted as evidence that the regulations were designed only to stop operators undercutting the MTT. Rather the limit was simply a means of confining the operation of the Act to metropolitan services, as only country services could realistically charge fares above these amounts.

There was opposition from the Adelaide City Council to the prospect that the MTT (and in effect, William Goodman) would be fixing the routes on city streets (see Minutes of General Purpose Committee of the ACC 17 October 1928, ACC Digest, 1927/28, pp 366-7) but this was overcome by negotiations between the MTT and the ACC, with the MTT making commitments limiting the use of the certain streets. An amendment to the Bill provided for the Highways Commissioner to adjudicate in possible future disputes over whether the road concerned was suitable to take heavy vehicles. Another complaint was removed with a later amendment that the MTT should pay for damage to the roads caused by its buses.

Considering the escalating problems of the previous two years of chaotic competition, it was hardly surprising that the parliamentary debate on the Bill revealed a remarkable consensus about the desirability of a single government-operated service. One or two speakers spoke of the general superiority of private enterprise, but it is evident that the position of the private operators evoked little sympathy among the legislators, even though it was pointed out that this attitude was not held by the public at large. (SAPD, 14 October 1928, pp. 1532-3) Even this speaker believed it best that the private operators should go. The most commonly expressed fear amongst non-government speakers was that new operators might somehow

find their way around the restrictions. The Government, believing that the current operators were only there because they could not afford to get out, were quite sanguine on this point. In the more conservative Legislative Council two speakers grumbled that the private operators had been "starved into submission" and supported the Bill because it at least provided for compensation. Most private operators could not have continued to operate for long anyway. It was a moot point whether this was due to harsh and partisan regulation under the Metropolitan Omnibus Board or was due to them being forced to compete fairly by running to a timetable and not overloading. (SAPD, 25 October 1928, pp. 1565-1569)

Country buses

Country bus services were to remain in private hands. The MTT was confined to regulating buses services whose fares had been up to two shillings and sixpence under the MTT Act Amendment. This feature was designed to exclude country bus services. Like the MTT, the SAR had begun several bus services to compete with the road-based competition for passengers. The most important of these were to Victor Harbor, taking advantage of the shorter route distance by road. The Motor Transport Control Act, 1927 (outlined in chapter three) also applied to country passenger services.

These operations were under the control of the Motor Transport Board. The SAR discontinued its bus services, as required under the terms of the Act. When the Motor Transport Control Act was repealed a year later, country passenger services became subject to the Motor Vehicles (Special Licences) Act (1928) which in effect doubled the rate of taxation. The SAR recommenced bus services, but only temporarily. The Road and Railway Tranport Act in 1930 required them to close and they did so for good in 1931.

Under the terms of the Act, country buses passed under the control of the Transport Control Board (TCB). We have already discussed the administration of the TCB in the previous chapter and will not do so again as TCB policies were substantially the same for passenger services as they were for trucks.

The Transport Control Board was welcomed by some road transport operators. The Government actively encouraged the creation of local monopolies, regarding them as capable of a more efficient use of resources. (Advertiser 27 May, 1931) This applied even in cases where there had never been a railway service. The Bus service to Victor Harbor was given to three operators, but their amalgamation into one a few days after receiving their licence was welcomed by the TCB. In a speech a few months later the Board's

chairman pointed out that the amalgamation had reduced the miles travelled from a probable 110 000 to a much better utilized 64 000. (Advertiser 10 October, 1931)

There were early attempts at evasion. The first conviction occurred in April, when a carrier was fined by a court which refused to accept the legitimacy of a scheme under which passengers were transported to Victor Harbour free, if they bought a six penny booklet for 12/6. (News 18 April 1932) However evasion by bus operators was not such a problem for the TCB as it was in the case of trucks because the numbers of patrons involved made the exercise more likely to be detected. From the records of prosecutions it appears that the most common problem was licensed operators trying to minimize the 10% levy on receipts, either by not issuing tickets or through forgery. (e.g. Advertiser 13, 23 and 26 September, 1935)

In April 1937 the Road Traffic Act was amended to ensure at least £2000 insurance for each passenger, up to a maximum of £20 000 per vehicle. The other development was the amendment to the Road and Railway Transport Act in 1939. As well as the features outlined earlier, it was designed to prevent competition from trucks by banning the carriage of passengers in trucks unless they were either relatives or employees of the owner.

Although High Court decisions in the 1930s gave the TCB the undoubted power, there is evidence that it chose not to impose the same restrictions on the interstate operators that it did on those purely intrastate. Mildura bus passengers heading for Adelaide beaches did not have to board the train at Morgan, unlike their counterparts in the Riverland. This may have had something to do with the desire to attract interstate tourism. (News, 24 September, 1936) All economic regulations on interstate operators were suspended during the celebrations of South Australia's centenary. (Advertiser 15 January, 1937)

This relative freedom was removed during the War, when the Federal Government insisted on the most efficient use of fuel. All country passenger services of a non-essential nature were discouraged during the war. Tourist services in country areas were banned. (Advertiser 15 December 1941)

Metropolitan buses under MTT regulation

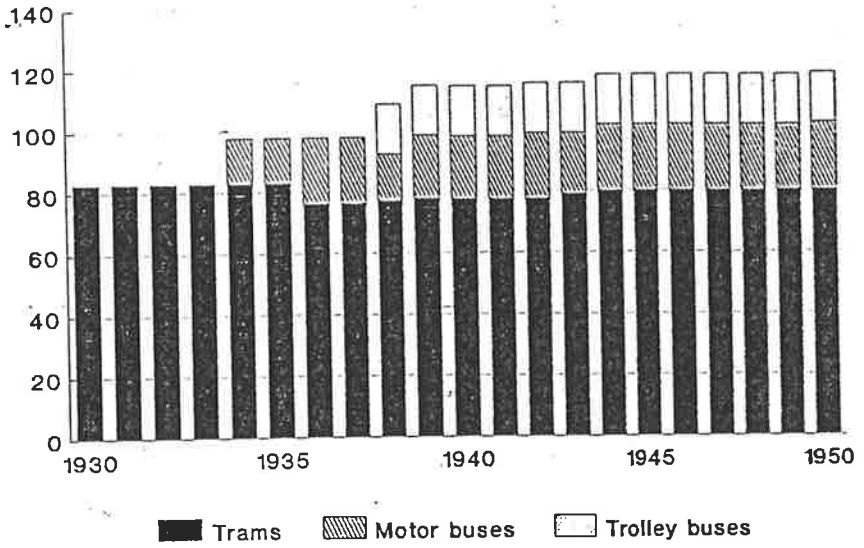
In retrospect, it appears that the Government's complacency in the ability of the MTT to regulate private buses was well justified, as from the proclamation of the 1928 amendments the problems of the past disappeared. The MTT found itself unable to operate some of the lines it took over profitably (labour conditions were blamed) and so it

sold back some of the buses it had acquired (at very generous terms, see The Sunday Mail 14 December 1929). The private network expanded once more. The licences under which the private services operated were subject to control by means of by-laws over fares, numbers of passengers, stopping places and timetables. The MTT checked the roadworthiness of vehicles as often as once a week. If Hansard is sufficient evidence, this arrangement appears to have been quite satisfactory, although there was concern expressed that private drivers were driving up to seventy hours a week and that measures should be taken to prevent this. (SAPD 30 August 1938, p 1213; 12 July 1938, p 372)

During this time MTT tram services became more frequent, but there was practically no change in length of the tramways network. Trolley buses were introduced in 1938 and though this enhanced the level of service the number route miles did not extend beyond the reasonably modest level of 1936. Fuel driven buses presented a similar picture. Previously they had been restricted to providing feeder services. They were introduced as separate service in 1936. There was very little increase in route mileage. ("Interim Report on the Municipal Tramways Trust" SAPP no.22 of 1952 pp. 6-7)

FIGURE 4-3

MTT Network, 1930-1950
(miles)



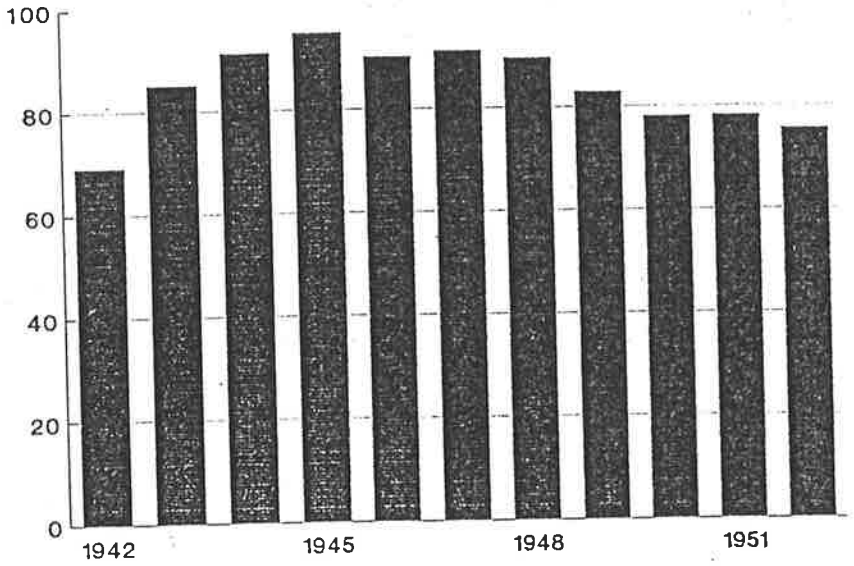
Source: Statistical Register

While the period from the passing of the Amendment Act of 1928 until the end of the Second World War was relatively smooth for the MTT, both in terms of its operations and its regulatory activities, the fuel restrictions on private transport imposed during the Second World War merely delayed a crisis in public transport operation. MTT passenger numbers peaked at 95 million in 1945. This was a 82% increase on the immediate pre-war figure. However patronage began to slide once petrol restrictions were lifted and by 1951 numbers had dropped to 78 million with a consequent deterioration in MTT finances. (see Figure 4-4) In the early 1950s South Australia had a much higher rate of ownership of private motor cars and motor cycles per head than any other State (SAPP no.22 of 1952 p.9) and the

MTT faced a financial crisis. A healthy profit in the war years had become a loss of almost £400 000 in 1951/52. (See Figure 4-5) Periodic fare increases did not raise as much revenue as was expected because of passenger resistance. Fears were also expressed that fare increases were hitting those who could least afford it. (SAPD 1 November 1949, p 1169)

FIGURE 4-4

MTT Passengers, 1942-1952
(millions)



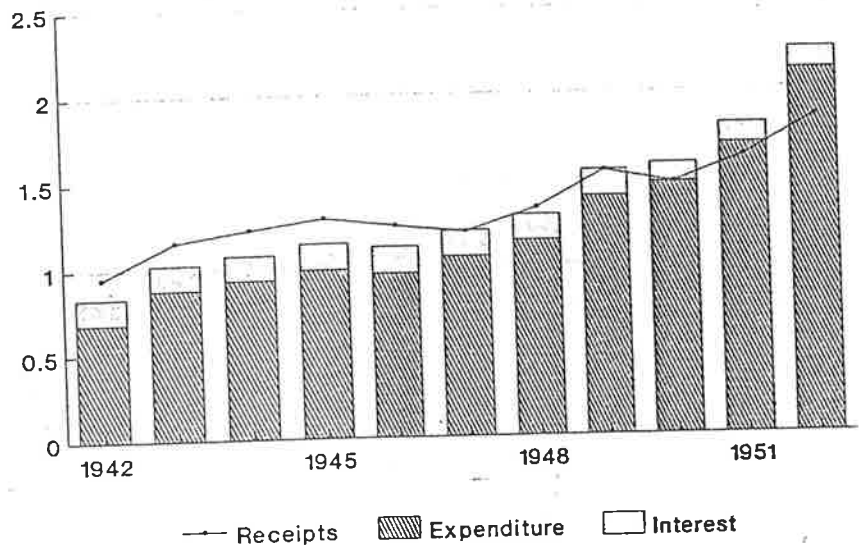
Source: Statistical Register

From 1950 onwards calls for an inquiry into the management of the MTT became insistent. They mainly originated from the councils concerned that their nominal responsibility for MTT finances might become actual. The Government resisted for a year or so, suggesting that as the MTT was representative of the councils, they should undertake such

an investigation. However the Government finally gave in and appointed C B Anderson (former Railways Commissioner), W D Howard (Assistant Auditor General) and J S Melion (a local businessman) to undertake an inquiry.

FIGURE 4-5

MTT Finances, 1942-1952
(millions of pounds)



Source: Statistical Register

The committee of inquiry issued two reports in 1952. (SAPP 22 and 22A) It was critical of the management of the MTT and recommended a wide variety of changes dealing with vehicles, track, research capacity and management structure. Given the earlier criticism of insensitivity to community needs, it is ironic that the MT was now accused of paying too much attention to providing a service at the expense of overall finances. The Committee believed this situation was due to the composition of the Trust. Six of

the eight board members were nominees of the metropolitan councils, yet the councils themselves had no real financial responsibility for the operations of the MTT. Their liability for losses had not been enforced. Nor did they share in any profits made. Therefore, it was argued, their representatives were far more sensitive to demands for enhanced services than they were to the need to keep costs down.

This view illustrates the long-standing concern that the MTT was not sufficiently accountable to Government, either local or State. MPs who sought information both in parliament and from the councils found that neither quarter saw the MTT as responsible to them. (SAPD 12 July, 1938, p 372) The only time the utility was in any sense accountable to government was when it sought to borrow money. This needed government approval. As early as 1914 councillors complained that the MTT was a law unto itself, beyond the reach of the councils it was supposed to serve. (Register 12 June 1914) Until the restructuring of 1952 it did not even have to produce an Annual Report, though in practice accounts could be examined using the Auditor General's figures.

As far as the MTT's relations with private operators were concerned, the enquiry recommended that more private operators be allowed to run on the lightly trafficked

routes, but that private operators should not threaten the financial position of the MTT. (SAPP no. 22A, of 1952, p 25) The report said "The policy of licensing these services is a sound one, because if the Trust operated the services, it would lose heavily on them". (SAPP no. 22 of 1952, p 18) While the MTT was sinking deeper into debt, all but one or two of the private operators were making a profit. Those that weren't were subsidized by the MTT [9].

The need to protect the MTT is also apparent in the committee's recommendations regarding taxis. Under the MTT Act a taxi cab operator must charge more than 1s 6d for a single journey and 3s for return. The committee believed that a recommendation of the Trust that this be raised to 2s 6d and 5s. was reasonable, as it was only 67% above the rate as fixed by the amending Act of 1928. (SAPP no. 22A of 1952, p 9) Commenting on complaints about the restriction on taxi numbers it had the following to say:

> The Committee agrees that there should be a reasonable number of taxis available, but as they are in competition with the public transport system their number should be strictly controlled. (SAPP no. 22A of 1952, p 10)

The Government's amendments to the MTT Act were based on these recommendations and the consensus of the metropolitan councils. In an effort to provide more professional

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9. Amounts involved are recorded in the relevant Auditor General's reports.

management, the MTT Act (Amendment) Act of 1953 replaced the old board dominated by council representatives with a new five person government-appointed board. The accountability of the MTT was also tightened. The amendment provided for compulsory financial statements, separate annual reports and auditing undertaken by the Auditor-General. (Previously the MTT had been free to choose its own auditors.) Interestingly, the councils retained liability for any losses, even though they had never been required to pay (and neither were they in the future). The sweetnener as far as the councils were concerned was that current debts would be cleared by the Government and diminishing government grants would be provided to enable the MTT to replace its obsolete buses, and trams.

The belief that the MTT's problems were due to inadequate management by the Board was widespread and so the new method of appointment and the strengthening of the public transport system was welcomed by the Labor Opposition[10].

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10. In fact the Labor spokesmen suggested a variety of ways to strengthen the regulations to protect public transport, including restricting parking in the city - perhaps by charging for it. Their opposition to the private motorist was in part motivated by the assumption that the worker of the early 1950s could not afford a car and so protection of public transport was protecting the working class. (SAPD 1 August 1952, p 734)

Bus passenger regulation

While the need to protect the public enterprise was assumed, there was also agreement that private operators were more efficient. They could make a profit where the MTT could not. While this was generally blamed on the poor management of the MTT, one Labor MP suggested that there were diseconomies of scale involved and that the profits of the private operators were made at the expense of the quality of service, with frequent breakdowns and infrequent schedules. (SAPD 2 October 1952, p 742) It was also pointed out by the Premier that the MTT could be more "efficient" if it ran the sort of frequencies the private buses were running. (SAPD 26 August 1953, p 510)

The new Board took office in January 1953 and set about the task of replacing tram services with buses and reducing staffing levels. As far as the private operators were concerned, the MTT followed the principle laid down by the enquiry and in "The Report on the Ten Year Modernisation of the Municipal Tramways Trust" stated that "The use of licensed bus services will be continued, but licenses will not be granted on routes which are unreasonably competitive with the Trust." (SAPP no. 92 of 1956, p.-3) Two such services were taken over in the following year (Annual Report of the MTT, SAPP no. 65 of 1956), but the next decade or so saw an increase in the route mileage of licensed buses, from 115 miles in 1954 to 145 miles in 1964[11]. Increases were due to several factors. Many were

the result of redesigning of routes to enhance the role of the private service as a feeder to the MTT service, some were simply to give a better service to patrons and in several cases new services were established to run between new outer suburbs and the city. The Trust recognised that it would be unlikely to provide a profitable service for such areas, and so it might as well let the private entrepreneur try. It was reasoned that private operators would be more likely to make a profit because they operated out of local premises. (SAPP no. 92 of 1956, p 7) In any case the licence issued stipulated that much of the journey into the city was to be express and so not provide competition for the MTT.

For several years it seemed as if the surgery of 1952 was not going to work. Increasing deficits required increasing injections of capital. (See Figure 4-6) For the politicians, there were two responses. The first was a resigned acceptance that the public transport system could never pay its way, that it was now a public service rather than a profitable public enterprise. Playford was not willing to have a financially profitable MTT if it that meant significant fare increases. Fare increases meant

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11. In 1964 the number of route miles jumped to 245. Growth in the metropolitan area during the sixties convinced the Government of the need to change the boundaries applying under the MTT Act and so several country operations that were previously under the TCB came under the control of the MTT. (SAPP no. 65 of 1964)

wage increases, which meant South Australia would be less competitive when seeking to attract industry. (SAPD 18 November 1954, p 1430)

The second response followed on from the first. If the public transport network was doomed to make a loss, there was no financial incentive to maintain the scale of the undertaking. If the service could be provided by private companies at no cost to the public purse, it should be. Instead of restricting their services to protect the MTT, taking over of unprofitable MTT services by private operators was seen as a means of reducing the MTT deficit. Practices such as one-man buses enabled the private services to return higher productivity figures.

Another important reason why services could be provided more cheaply by the private buses was that their employees were not subject to the same industrial award as the MTT employees. For example it was because the private operators did not have to pay penalty rates that a private bus was used to provide a Sunday morning service to Glenelg. (SAPD 8 November 1955, p 438) The main reason why industrial conditions were worse for private employees was that there were so few of them. The companies were usually small family concerns which had no employees as such. The advantage they offered because of cheap wages would disappear if they had to provide a large, metropolitan wide

service.

Nevertheless, life could be made easier for the private operator. By 1952 the number of buses licensed by the MTT had grown to 116 and the number of passengers carried to twelve million per annum. (State Transport Authority (STA), 1978, p 3) This growth was despite the fact that operators never had more than twelve months security. This lack of security was thought to inhibit capital investment by the private operators and was blamed for the poor (and even unsafe) quality of buses. (SAPD 1 November 1955, p 1307) In 1955 they succeeded in a mover to extend the terms of their contracts to a five year period. The MTT also agreed to give at least two years' warning of any move to buy out a company. (STA, 1978 pp 4-5)

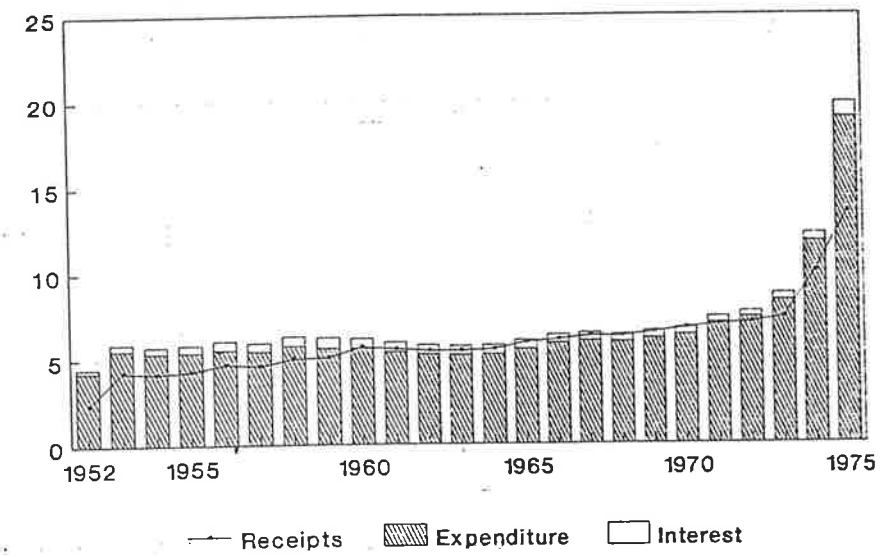
Although the transfer of services to the private sector was welcomed, this was not to be at the expense of the public service obligations. As we have seen, a feature of the licences was that the fare structure should be the same as that of the MTT. From the sixties the private operators found it increasingly difficult to make a profit under this constraint.

The private operators could make a profit where the MTT could not. But even then as we have seen, subsidies were used in one or two cases in the early 1950s. However

these were discontinued and in 1963 and again in 1968 private bus services failed due to inability to make a profit on those routes. The rest struggled on and by the early 1970s were demanding that if the Government was adamant that fares should be kept low, they must be subsidised. The fact that these companies had a monopoly of the route became less and less of an advantage as patrons gained access to personal transportation.

FIGURE 4-6

MTT Finances, 1952-1975
($ millions)



Source: Statistical Register

Despite the financial difficulties of some of the private bus companies, the MTT did reasonably well. (See Figure 4-6.) Economies demonstrated by the private operators were adopted and routes were fine-tuned to encourage patronage. By the end of the decade losses had been reduced to

$41 000. Talk of letting the private buses take over some of the MTT network disappeared and if anything, the MTT control over the private buses became stronger. In 1965 the Act was amended to cover buses that charged over two shillings and sixpence for a trip. While this was no doubt a recognition that inflation had made the figure too low, it is noteworthy that there was now no upper limit. The MTT jealously guarded its controls on the renewal of licences. Hon C M Hill revealed that when Minister for Transport his wishes were ignored when the MTT chose not to renew all licences for five years. (SAPD 16 November 1971, pp 3002-3)

The MTT, independence in such matters was soon to be limited. In 1971, in keeping with a general policy of putting all public transport agencies under government control, the MTT Act was amended to place it under the direction of the Minister. This move had important implications for the MTT and for the regulation of the private buses, because the Labor Party's policy advocated subsidised urban public transport in order to pursue planning, transport and other social goals.

The new powers were used to keep MTT prices steady, despite increasing costs. The deficit began to rise once again. (see Figure 4-6). The Government was also reluctant to approve applications for price increases by the private

companies and yet also rejected the idea of subsidising these services. Partly as a consequence, the service offered by the private companies began to deteriorate, particularly the quality of the vehicles used. (Advertiser, 6 February, 1974, p 3)

A "second" nationalisation

In early February 1974 the Government announced that it would refuse all subsidies and that the private licences would be phased out over the next five years. With the Minister announcing that the Government was not in the business of subsidising the private companies and given the Government's cheap public transport policy, there seemed little other option.[12]

The bitter reaction of the Bus Proprietors Association to the announcement was an assertion that it would be impossible to operate under such conditions and it would be better if the Government bought them out immediately.

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12. The Deputy Opposition Leader claimed that the takeover was a tactic to compel the drivers for the private companies to join a union. It would seem an extraordinary length to go to and in any case the Secretary of the Transport Workers Union claimed that, owing to past bitterness generated from the campaign for compulsory unionism, he gained "little satisfaction" from seeing the private drivers gain guaranteed conditions and employment within the MTT. (Advertiser, 8 February, 1974, pp 1, 6)

This the Government agreed to do, at a cost of $4 million. The take over date was set for 24 February. (SAPP 1974 no 65, pp 17-20) One large operator, Lewis Brothers, refused to be a party to the agreement, arguing that it had large profitable country and charter services and that it would be "impractical" to split its fleet. (Steele, 1986, p 75) On 11 February it gave one week's notice of a suspension of services, refusing to sell its buses or depot to the Government. The MTT met the sudden demand by bringing over thirty buses out of "retirement". (SAPP 1974 no. 65, pp 17-20) Two operators who felt they could still make a profit within the existing fare structure chose to continue operating until their licence expired. Another operator in the outer suburbs chose to continue operations and was eventually taken over in 1978.

The Government also had plans for the MTT itself. Toward the end of 1974 a State Transport Authority Act was passed. This and consequent legislation was proclaimed in December 1975, when the both the TCB and the MTT were abolished and their functions brought under the State Transport Authority. The STA Act had clauses based on the Road and Railways Act, to allow the Authority to regulate all country bus services, not just those on "proclaimed" routes. This it did through its Regulation Division. At the same time a "Private Sector Advisory Panel" (i.e. of bus company interests) was created to advise the STA on

regulatory policy.

The creation of the STA was the almost the fulfillment of the Labor party's long-standing policy to coordinate all the State's public transport activities in a single agency, under minsterial control. Only the regulation of taxis remained the responsibility of a separate body. The state railways were also taken over by the STA - though it had already been arranged that the country services would sold to the Commonwealth.

With the sale of the railways to the Commonwealth Government in 1975 the State Government lost whatever was left of an original motivation to regulate the country buses; that is, to protect its investment. Moreover, the Commonwealth did not adopt this perspective, as it made it clear that it saw the railways future confined to long-distance, interstate services, for which the competition was immune from economic regulation due s92 of the Constitution. (Williams, 1981)

There is however, a slight qualification that has to be made to any claim that government no longer had a financial stake to be protected. When it took over the metropolitan private bus companies in 1974, the MTT also found itself with several interstate operations. These it maintained and when the STA was created a separate arm, Roadliner Pty

Ltd, was established to handle interstate and country operations. Due to an amendment to the original STA Bill imposed on the Government by the Legislative Council, Roadliner was confined to charter operations. Roadliner provided country and interstate services for ten years from 1976. It was eventually sold by the Bannon Labor Government, which argued that it should not be in the business of running a leisure service.

A decision in 1979 by the STA to restrict private charter licences, to "increase utilisation and maintain viability" (SAPP 1979 no. 19, p 10) may be interpreted as an effort to restrict competition for Roadliner. However the number of buses involved in charter work did not increase when Roadliner was sold. The number of licences did increase, but this merely reflects the transfer of buses from the STA to the private sector.

For the latter half of the 1970s, then, country routes buses and charter services were regulated by an organisation whose dominant function was to provide urban public transport. The era of STA regulation was destined to be relatively short-lived. Claiming that an operating agency should not also be a regulatory agency, the Liberal Government elected in 1979 removed the STA's regulatory powers when it had the Act amended in 1981. A contingent

amendment to the Road Traffic Act transferred these powers (and the Regulation Division) to the Department of Transport's new Division of Road Safety and Motor Transport.

The Liberal Party had come to power on a deregulation platform. One of its first acts was to set up a Deregulation Unit within the Premier's Department. However the regulations dealing with the country buses were left intact and were actually strengthened during the Liberal Government's period in office. As is often the case with safety regulations, the Government acted after a particularly bad accident. The New South Wales Coroner, inquiring into the deaths of three people aboard a South Australian-registered bus, criticised the safety standards of the bus and the lax regulations which allowed this. Stung, the Minister for Transport was to say halfway through the Government's term of office:

> The Government is concerned to ensure that it does all in its power to upgrade regulatory activities and bus inspections to ensure safe operation of buses registered in South Australia, particularly in light of a number of serious accidents interstate involving South Australian buses.
> (SAPD 17 February 1981, p 2879)

One response was to create a central bus inspection authority administratively tied to the regulatory arm (the Division of Road Traffic and Motor Traffic) and the imposition of compulsory maintenance schedules. Vehicles were inspected every six months. In 1985, inspections became an annual

affair but the maintenance schedules were tightened, with random inspection of records used to enforce the schedules. Although the new procedures were designed to be more efficient, the tight financial circumstances induce a belief that economy was a more important consideration. There has been a steady increase in the number of buses to be inspected (particularly charter and tour buses) but the number of inspectors has remained at two and so the effectiveness of the random inspections has declined.

On one route where competition is allowed, there are signs of old ways re-emerging with drivers of one private bus company trying to coax waiting STA passengers by calling out "anybody for Adelaide express", "discount" and "special price" - the latter usually in a lower voice so as to minimize anatagonism from full fare paying passengers who entered on a part of the route not subject to competition. (personal experience, August 1988)

The most recent developments have concerned tour and charter buses. In 1987 the regulations were simplified, with the previous seventeen categories of licences reduced to three, including route licences. (South Australia, Director-General of Transport, 1988) Licence fees based on gross earnings have been replaced by fees based on the size of the vehicle (in terms of seats) and whether the bus operates within 80 kilometres of Adelaide or not. These

are designed to provide a user pays element. More significantly, limits on entry were also lifted.

It may seem surprising that the industry was not strong in opposition to lifting of entry restrictions. Goodwill prices were relatively low (about $5000 to $7000). Also a number of operators wanted to enlarge their fleet but were frustrated by the limit on licences. However the number of charter licences has increased by over 30% since then and existing operators have recently called for a moratorium on new licences. (Personal Communication, Mr Steve Tiltman, Department of Transport, 24 January, 1989) So far they have succeeded in convincing the Department to conduct a review of regulatory policy which is underway at the time of writing.

DISCUSSION

In contrast to the depressing picture presented by the history of freight regulation, bus passenger regulation has been relatively successful.

Apart from the brief period of turbulence when the State Government took over the private services in 1975, the regulatory regimes that have existed since the 1930s have provided stability. Though for many years private operators were hampered by the limited length of time granted for each licence, in fact country services have had remarkable continuity for the past sixty years. There have been more frequent route changes in the metropolitan area, but this has to be expected if services are to be kept up to date. In contrast to the argument that regulation will not encourage operators to modify services to suit customers, the Annual Reports of the MTT contain many examples of changes to the routes of both the private and the public operators that have been made to improve service, often coordinated between the two sectors.

In several respects the country route services are regulated lightly. There is very little cross-subsidisation between profitable and unprofitable services

by the regulated operators. There have been no cases of the Government forcing cross-subsidisation since the mid-1970s. In recent years in particular regulatory authority has been very agreeable to requests by companies for changes in routes and timetables, even to the extent that in one or two cases the timetable is such that one wonders how it can be kept by buses travelling within the speed limit.

Bus regulation has had widespread support from the beginning. The need for regulation was widely recognised by contemporaries. The poor record of the first private railway revealed the problems that could occur if careful regulatory controls were not introduced. The scheduling problems outlined at the beginning of this chapter were apparent in the 1920s and even in the era of the private trams. The inability of many operators to cope was demonstrated by the number of fire insurance claims. As a consequence, regulation was more and more widely supported during the 1920s, until by 1926 the consensus in parliament was practically unanimous.

The consensus is still largely uncontested for route licences, though we have seen some deregulation of tour and charter services in recent years. Safety controls have, if anything, been made stronger but financial restrictions

have limited the degree to which they can be policed.

Even tight regulation could not overcome some problems. One was how to prevent private buses exploiting the MTT-maintained section of the public roadway. Another was how to deal with over-extended busmen who had to stay in business to keep their financial commitments. Perhaps the latter problem would have sorted itself out in time, but such a prospect would have seemed intolerable both to politicians and to the busmen themselves at the time.

Public choice

By now the pattern of behaviour by those involved in the regulatory process is clear. Once again public choice assumptions about interest group behaviour are largely supported, while those about politicians and bureaucrats receive less support.

In the late nineteenth century individuals with a clear economic stake exploited the political process to benefit themselves. The somewhat atomised nature of parliament at the time, perhaps combined with the effects of a property-based franchise, led to allegations that personal pecuniary interests were severely influencing the decisions made.

However given the recognised need for at least some control over the operation of tramways on public roads, the public choice preference for the free market would not have been feasible. Instead the solution reached was the nationalisation of the industry and its control by a statutory authority.

The party discipline which grew gradually from the late 1890s stifled the effect of pecuniary interests, though there were allegations that the trade unions used the Labor party as their agent in parliament to protect the working conditions of their members from the effects of competition.

The familiar pattern which has operators in the infant industry gradually transformed from opponents of regulation to defenders is also supported, though more weakly than in the case of taxis and freight operators. For example in 1938 the Combined Passenger Services Association submitted that

> The Association does not favour an uncontrolled road...It has been said that control should be abolished but we consider that would be a grave error...Our view is that an open road leads to duplication and cut fares. If there was no Control Board duplication would become rife and too many services would operate the same routes. Many of these proprietors would have very little conception of a passenger service and its demands...Duplication is a waste and we maintain that it is not in the interests of the travelling public...Where fares are not reasonable cars cannot be maintained efficiently, and without

> control that would be impossible because a man who undercuts must neglect maintenance of his cars.
> (SAPP no 20 of 1938, p 23)

The industry did prove relatively sanguine about the relaxation of controls over entry into the tour and charter business in 1987. Concern has grown along with the growth in the number of buses.

It is also notable that the Government has found it very difficult to remove services due to interest group behaviour. Moves to close railway lines are invariably met with vocal opposition within the area concerned. The rest of the public, who would presumably save from the closure, appear to be either unconcerned, or if anything, sympathetic to the people affected[13].

On the other hand the history also provides specific illustrations of interests failing to form themselves into cohesive interest groups. The busmen of the 1920s had great difficulty forming an adequately representative organisation to put their case. An early association collapsed when the founders absconded with the membership dues. (SAPP no. 56 of 1926, p 15) Two organisations

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13. The (successful) attempt to close the Bridgwater line in mid 1987 is a good illustration of this.

appeared before the 1926 Royal Commission, both claiming to represent the bus operators. Since the 1950s the Bus Proprietors' Association has successfully established itself as the representative body for the industry.

The politicians have generally not proved eager to introduce regulatory controls. They reacted to events rather than anticipated them. As we saw in chapter two, local councillors have not been enthusiastic regulators, though they have proved remarkably jealous of their power, particularly those of the ACC.

In the State parliament policy depended on party allegiance. Conservative governments would only act when forced to, and then the solution was to establish a body responsible not to the State government, but to the local authorities. However it was a Liberal Government which took over the responsibilities of the MTT when the shortcomings of the previous arrangement were manifest.

Labor Party members were consistently in favour of stronger control through the state, either by means of regulation or nationalisation. They were motivated by both ideological preference and by the interests of the trade unions. The two factors cannot be separated. For most of our history the Labor Party has acted as a ginger group, with the

measures it advocated only being successfully introduced by its more conservative opponents. Until the 1970s it was in office for a few brief periods only, and when it did form the Government it was hampered by a conservative upper house. It has had more success since 1970 and used its power to perform a second nationalisation, firmly establishing the STA as a public service under ministerial control rather than as an autonomous business enterprise.

However the Bannon Labor Government has been the first to take any steps to lessen the role of the State, by curtailing metropolitan services, by abolishing entry controls into the tour and charter industry and by selling off the Roadliner service. It has also taken cautious steps to allow competition, both between private route licencees (for example, for some sections of the route from Adelaide to Broken Hill) and between private services and the STA.

Evidence supporting public choice assertions about bureaucratic behaviour is seen in the record of the operators of public enterprise and of the regulators.

The MTT and the SAR both reacted in the way typical of any company faced with new competition. While the utilities sought protection through regulation (and their case was strong) they also developed services using the new

technology which threatened them. Indeed, the MTT ordered buses five years before they appeared on the streets of Adelaide. They competed vigorously with the private buses. Competition between the two utilities did exist, but was not considered desirable. Plans for an MTT takeover of metropolitan train passenger services and their conversion to electric tram services were stopped by the Depression, after only one line had been converted.

MTT regulation of metropolitan private buses after 1930 was apparently benevolent, though restrictive. The private network's growth under the MTT was probably greater than had originally been envisaged by the legislators. It grew further in the 1950s when the MTT's financial problems were paramount. The Trust itself appears to have been happy to permit any private operations if they allowed a reduction in the deficit. Like most private companies, the MTT (and its successor, the STA) has measured its performance by the amount of profit or loss, rather than its size.

It is difficult to judge the performance of the MTT. It appeared a very successful organisation when developing the network in its first twenty years. Depression and war were also good for business, and kept the balance sheet balanced. However flaws in the management structure became a public issue when the profits of the MTT were eroded by the increasing use of the private motor car. At various

times it was accused of being inattentive to the needs of its customers and of being too attentive to its customers, at the expense of financial responsibility. Given its lack of real accountability, the MTT was remarkably successful. Neither the State Government nor the local authorities saw it as their responsibility. Yet from 1906 to 1950 it developed and operated a public transport network with little criticism or controversy and for much of that time regulated its competition in the same manner. Much of the credit for this must go to its General-Manager throughout this period, William Goodman.

When the Municipal Tramways Trust was absorbed into the State Transport Authority the Liberal Shadow Minister had this to say:

> The Trust has been like some similar institutions that have been traditional in this State over the years in that it has given splendid service to the traveling public of metropolitan Adelaide. Years ago, members of the board gave their services for minimal remuneration, looking upon it as an honour and privilege to serve the State by giving those services.
>
> The General Managers have been men of great dedication and high qualifications, and the senior staff and the employees, right down to the... drivers and conductors... have served the State well indeed.
> (SAPD 12 November, 1975, p 1865)

When the MTT's performance was subject to criticism in the 1950s, the private buses were pointed to by way of comparison. Apart from the late 1960s, the private buses

were consistently able to make profit on routes on which the MTT lost money.

It is very difficult to compare a company operating only one or two routes with one managing a metropolitan-wide network and with various social responsibilities, particularly concerning the frequency of schedules. Once social responsibilities are accepted the single criterion of profit or loss is no longer a sufficient indicator of success.[14]

Nevertheless, the private buses companies have had and still do have a reputation for being lean, efficient organisations. Several compete successfully in the

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14. The consulting firm Travers Morgan has made such a comparison in a study of Australian operations, including those of South Australia. (Wallis, 1986) It found that private operators on average had operating costs that varied between 50% and 65% of the large public operators, in terms of operating costs per kilometre. This was mainly attributed to cheaper use of staff; slightly lower wage rates, more efficient utilisation in terms of signing on and off, timetabling and the use of drivers for maintenance tasks. Also the wage bill was cut when the proprietor and his/her family drove the bus for effectively low rates of pay. Other significant staff savings occurred in the area of superannuation and pension payments. Non-staff savings included having depots near or on the route served, the use of older buses, and a less frequent maintainance schedule. While Wallis points out that many of these savings would disappear if the private operators were to take over "public service" routes, it is apparent that they could run a cheaper service at the expense of staff and some convenience to the public.

unregulated inter-state market, and the prices, frequency and quality on their intra-state services are at least as good as those between the capital cities.

The bus companies have to be lean operators because of the alternative provided by the private car. Here is a case of the economist's concept of the "substitutable product", which is normally used to query the existence of a natural monopoly, being turned on its head to explain the efficiency of the regulated monopoly and hence defend the principle of regulation.

The apparent efficiency of the private companies is in large part due to the working conditions of employees. Regulation has not prevented harsh labor conditions in the industry. Often the operators were owner-drivers, and family labor was used. But in later years employees have borne the brunt. Although the award conditions for the private employees are similar to those of the STA, the latter has been forced by the union to abide carefully by the conditions of the award. Beyond a simple outline of each award comparisons are difficult because of the secrecy surrounding work conditions in private companies. Certainly the STA is forced to stick rigidly to the conditions of the award. It is very doubtful if the same applies to the private companies and there is little doubt that private drivers are forced to work outside the award

(and in fact drive illegally).[15]

The other important regulatory body was of course the Transport Control Board, which has been discussed in the previous chapter. There appears to have been little change in the way the regulations were handled when the function (and the staff involved) were transferred to the STA. Under the Department of Transport there are still only about seven staff used to regulate the private bus transport industry, despite the recent increase in the numbers of buses. Given the size of the task, "empires" have, if anything, shrunk.

An Opposition spokesman claimed at the time of the transfer of regulatory functions to the Department of Transport that the move smacked of empire building on the part of the Department. (SAPD 25 February, 1981, p 3211) However the public utterences of senior officials in the department show no inclination toward empire building. (e.g. Scrafton, 1985) In fact departmental officers have

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15. In discussion of working conditions the author is faced with the same problem that faced the Royal Commission which reported in 1938. (see chapter 3) Revelation of specific cases in which working conditions have violated the award (and endangered safety) is not possible because to do so would threaten the employment of informers.

been quite open in their desire to deregulate where possible (as we have seen in the previous chapters) and to reduce the size of the public transport undertakings.

Finally, the history also brings some evidence to bear on the public choice recommendations for local control and competition between services.

The MTT operated quite successfully as a Trust responsible to multiple councils, but this was more likely to be due to the dedication of executives in control than the inherent advantages of the arrangement. When things went bad (in retrospect, due to societal developments rather than management deficiencies) action about the lack of accountability and responsibility was the first change recommended. Local control was found to be nominal only.

Competition between public utilities was never popular. In the era of the private tramways, fear of unnecessary duplication of track overrode the desire for competition. The competitive relationship between rival railway services to Glenelg lasted for only one year. Competition between the SAR and the MTT was avoided wherever possible because competition was equated with waste of transport infrastructure.

All of this is not to condemn competition between transport utilities. However it does indicate that the size of capital infrastructure needs to be considered. Competition between human service agencies may be quite feasible because the personnel are relatively "fluid"; they can be transferred or perhaps dismissed, depending on the results of that competition. Capital tied up in physical infrastucture is much more "lumpy" and so the same flexibility is not available. The hazards of duplication become more important than the gains from competition.

CHAPTER 5

CONCLUSIONS

Public choice theories have been criticised because they are so often difficult or even impossible to test.[1] This case study has also found this to be true, though this is partly because the broad nature of the subject area does not allow detailed information gathering on specific decisions. On many occasions the information necessary to explain exactly why decisions were made is not available and informed guesses must suffice.

With this limitation in mind, this chapter will summarize the findings presented in the discussion attached to each chapter. The summary will be structured by the questions posed at the outset of this study. This will be followed by general conclusions about the public choice approach and

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1. For example, see Howard, 1984, p 346 and Toye, 1976. It is noteworthy that despite the importance placed on testing these theories by such critics very few of them ever seriously try to test public choice predictions. Genuine attempts seem to be confined to the public choice school itself and are frequently "written up" in the journal Public Choice. Tullock and Wagner rather unkindly ascribe all the testing to the development of the computer and a surfeit of lowly paid research assistance made possible by the proliferation of graduate programs teaching public choice. (Tullock and Wagner, 1978, p ix) Sadly for the school, the usual conclusion is that the hypothesis is too difficult to test or that it is unsupported.

the value of this history as a case study.

SUMMARY

Interest groups

Public choice predictions about the behaviour of interest groups have generally been supported by the evidence from this history. The interest groups were motivated by self-interest, but given this is the reason for the existence of industry groups this should not be surprising. Group influence on the political process has been dominated by those with a focussed financial stake. Once regulations were in place, producer pressure became a powerful force for the status quo. The attempts of truck drivers to organise themselves in the 1980s are a caricature of the difficulties identified by Olson.

Having said that, some interesting qualifications need to be made. Interestingly, neither freight, passenger or taxi regulation provide examples of the common public choice assumption that regulation is the result of pressure from members of industry who seek to be regulated. More often the most decisive source of pressure for regulation was independent of the industry. Sometimes the industry (or at least influential parts of it) has been a force for

deregulation.

It is difficult to determine the source of pressure for early safety and quality controls. Evidence has been provided that standards were considered poor by some independent observers and in any event the standards required were fairly basic (the prohibition on the carriage of corpses perhaps being the most basic!). No evidence was found of those in the industry calling for such regulations, but this is not to say that they did not occur. Certainly the economic restrictions imposed on the taxi industry in the twentieth century had industry support.

The sources of pressure for the economic restrictions on trucks and buses in the 1920s are fairly clear. They were the publicly-owned transport enterprises and government finance officials, particularly the Auditor-General. Competition between private buses and between private trucks may have resulted in calls for restrictions eventually, but the pressure for regulation from the public officials was far stronger and earlier. In exerting such pressure the officials sincerely felt that the regulations they urged were in the public interest. Given the critical financial position of the State at the time, their argument was very strong.

Of course the position is made more complicated because the tramways and railways were in public hands. Here was a clear example of service providers calling for regulation, as predicted by proponents of public choice. But the "shareholders" were every member of the South Australian community.

The one owner, one stand taxi policy was introduced both for the convenience of customers (they could now make an informed choice between taxis) and for the administrative convenience of the regulatory authority. Presumably the operators also would have appreciated that the policy obviated conflicts over positions on stands. Taxi operators did try to have the ACC restrict numbers in the 1930s, but unlike their equivalents in other States, they were not successful. The ACC was well aware of the dangers of limiting taxi numbers and it submitted only to external pressure from a Federal Government anxious about fuel supplies.

The taxi industry also provides the strongest example of a regulatory system which places a barrier to entry and of "producers" fighting to retain the protective arrangements. The ability to buy and sell licences has created a set of owners with a large investment to protect, and any measures that threaten this investment have met with resistance.[2]

Truck and bus licences have also been transferable, but in these cases the plates have never risen to a significant value. Once again we have operators who have been protected from competition by the regulatory system, but in the history of freight regulation producer pressure to maintain barriers to entry was not sufficient to prevail over consumer pressure from rural quarters. Regulatory barriers still prevent competition on rural bus routes, though one suspects that they are in place as much because there has been no pressure for their removal as because of operator pressure for their retention.[3]

The history of land transport in South Australia has been a history of small companies and large public enterprises. Furthermore there have been no examples of a strongly organised representative group arising from these companies. At critical times, multiple, competing groups have been more likely.

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2. It is ironic that despite the experience of taxi regulation, South Australian governments hav continued to bow to industry pressure by allowing transferable licences, most recently in the prawn industry. Perhaps the "market" element of having licences bought and sold rather than controlled by an adminstrative process also appeals.

3. We might also add that academic studies give little support for deregulation. This includes both studies based on deductive logic, using game theory (eg Evans, 1987) and those based on the experience of deregulation of services between provincial towns in Britain. (Savage, 1985, p 47; Kilvington and Cross, 1985, and Robbins and White, 1986)

Conclusions

There have been only two examples of clear competition for influence from big and small companies. The first is the taxi industry in the 1920s when foreign-based firms (particularly Yellow Cabs) entered the local market and relied on the ACC to allow them to compete. These companies were not conspicuously successful in their attempts to have meters made compulsory (despite consumer support). Nor do ACC records show any consistent policy of approval for stands for these companies. It is true that the council bureaucrats favoured deregulation in the 1920s - a policy that would have favoured the newcomers - but this does not appear to have been the result of pressure from the large companies, and in any event was not adopted by the ACC.

The other example of large companies conflicting with small occurs in the trucking industry, with the large freight forwarding companies benefiting from an open roads policy because it has enabled them to exploit fierce competition between the small companies who actually transport the goods. The large companies have been the only element in the industry that has been able to maintain a cohesive lobby group. The Federal Government has favoured the large companies in their wish to have a deregulated system retained. While this may be the result of the superior connections and lobbying activities of the freight forwarders, the influence of neo-classical economics (discussed below) has also an important part to play.

Conclusions

It is noticeable that those wishing to maintain or introduce regulations have consistently been small companies or elements in the public sector. The large companies have favoured less regulation. There are a number of reasons for this, including the ability of large companies to "ride out" the industry fluctuations that result in calls for regulation. However the road freight industry provides an interesting situation in which the large freight forwarding companies can be seen as "consumers" of the transport services. It is clear that any simple dichotomy between producers on the one hand and consumers on the other can at times oversimplify the issue.

Conflict of interest between employers and employees is another important aspect of division among producers. Marxist class analysis has traditionally seen the major division in society between employers and employees, that is, within the producer category. It can no doubt be used to illuminate relationships between governments, large fleet and freight forwarding companies and owner-drivers and employees. For example, deregulation in the freight transport business can been seen to favour employers who have been able to avoid labour regulations by "contracting" (in nominal terms only) work to former employees. Under a regulated regime the "contractors" can only operate as employees, and so are protected by labour legislation. On the other hand the taxi industry can be seen as one in

which employers are favoured by a regulatory regime because it forces drivers to work for the relatively few licencees. In an industry in which connections and goodwill are not important, and the issue of freight consolidation irrelevant, it would be relatively easy for drivers to compete with their former employers if barriers to entry were removed.

In both illustrations the interests of the employers are being served and marxist analyists have developed sophisticated explanations for this. But having said that, public choice explanations of differential influence, using factors such as ability to organise, concentration of interests and so on are also useful.[3]

Politicians

What has been the role of the politician in all of this? The history reveals two pictures. The first is that of the nineteenth century politician using his influence to gain opportunities either for himself (particularly in the regulation of the private tramways) or for his constituency

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3. As an example of this, Williams and Aitken explain the superior influence of taxi owners compared with taxi drivers by referring to the "lobbying dominance" of the owners. (Williams and Aitken, 1984, p 184)

(rural railway development). Though there are suggestions that this picture is applicable well into the twentieth century in the case of the Adelaide City Council, at the State level it was to be superseded by the second view; individual and constituency interest became subordinated to the party's need to aggregate voting support.

Politicians of the twentieth century have generally been reactive; they cannot be seen as entrepreneurial. They have had to cope with situations thrust upon them and to choose between competing claims and demands of rural supporters, private transport operators (with many conflicts within this group), public transport operators, urban constituents and bureaucrats.

Conservative governments have been reluctant to act despite demonstrable need. This is clear in the handling of the problems caused by buses and trucks in the 1920s and taxis in the 1950s. Labor governments have been readier to tackle issues. In the 1920s there were claims that the desire to regulate stemmed from a need to satisfy Labor supporters in the public transport unions, but against this it should be noted that a Liberal government was later to enact the same legislation that had provoked these accusations.

The post-war Labor Party also made consistent calls for

coordination of all transport regulation and the operation of public transport activities under a single responsible minister. This policy, as well as the swift takeover of private buses in 1974 conformed to the Party's long term belief in the value of centralised coordination. (It also helps to explain why the Labor Government was receptive to a Federal takeover of the country rail service.) While public ownership can be seen to benefit transport unionists, particularly in terms of providing security, a public choice explanation of the moves for coordination is less convincing.

There is little evidence of parliamentarians influencing the decisions of the regulatory authorities. South Australia's system of responsible party government does not give the individual MP leverage in terms of influence over budget outcomes. The budget is determined by Cabinet and presented to parliament as a fait accompli. The regulatory agencies were immune from direct financial pressure of this sort. There were some examples of individual MPs using the parliamentary forum to express grievances about individual decisions made by the statutory authorities. On one occasion a member of parliament defended the provision of parallel bus and rail services in his electorate by having the body recommending the elimination of one service (the Metropolitan Transport Advisory Council) abolished. Ironically the basis of his attack was that the Council was

useless in achieving the stated goal of removing duplication of transport services!

The most successful example of MPs pursuing the interest of their consituencies involved the deregulation of rural freight transport. Ironically for public choice theory, this pressure was in the interests of consumers. However even here the collective pressure of rural MPs, within the forum of the Liberal and Country Party, was necessary for policy change. This collective pressure may be seen to be in the overall community interest, though we must note the heavy rural bias of the electoral system at that time.

Bureaucrats

The evidence of this history provides little support for the Niskanen analysis, nor for other predictions that stem from the public choice approach. Regulatory agencies did not grow in size. In each case the handful of staff devoted to the task at the outset did not grow. There has been no noticeable increase in the complexity of the regulations administered. Where changes to regulations have been tightened it has been the result of publicised safety problems. Relaxation of regulations has been as common as tightening. The influence of the MTCB and in particular the Department of Transport has been for

relaxation of regulations. The fact that neither the TCB and successors nor the MTCB have ever seen the need to employ a single lawyer on a full-time basis is an adequate indicator of the relative simplicity of their regulations.

Public choice suggests that bureaucrats will seek to maximise autonomy. In the history of South Australian transport regulatory powers have generally been exercised at arm's length from the Parliament and even Cabinet. However this autonomy was not sought by the regulatory agency itself - it was specified in legislation at the outset and reflects Australia's historical preference for bureaucratic administration free from detailed political influence. Australians have characteristically trusted appointed officials more than their elected representatives. This attitude seems to have changed and has resulted in a lessening of autonomy. Legislation has been changed to provide more ministerial oversight of decisions, and in the case of the MTCB the Minister has used the power of appointment to ensure the Board was attuned to the government's policies - even if this resulted in the appointment of a former political opponent to the position of chairman!

Did the regulatory agencies come to identify with the industry rather than the consumers and the wider community?

Conclusions

Each of the boards and their staff have agreed with their respective industry on the continuing need for regulations (though this needs to be qualified in the case of the ACC and the MTCB in recent years). This is probably due to a whole range of factors from the psychological need to feel that what one is doing is worthwhile to the evidence of poor quality and safety standards when checks are not carried out. Job swapping between industry and the agency has not been significant because of the traditional importance of the career concept in South Australian public administration.

The agencies' notion of a healthy industry also included concern for the consumer. Safety and quality controls have been taken seriously. Peltzman's suggestion that the regulatory agency will lean more toward the producer in hard times and toward the consumer in better times receives only faint support. The regulations were at their tightest during the depressions but this did not always favour those operating in the industry. Limits on competition did, but for taxi operators the severity of quality and safety standards was also felt most at these times. Permits and exemptions from the Road and Railway Control Act were most freely given in the immediate post-war period - a time of strong economic activity but also of austerity due to shortages.

Conclusions

It is interesting to note the different stances taken by governments on the composition of boards. Under the Road and Railway Control Act road and rail interests were proscribed from membership. The previous experience of the Motor Transport Board and the Metropolitan Omnibus Board had shown that antagonism within the transport sector was so great that a representative body could not be decisive and still retain legitimacy among all road and rail, public and private interests. Later a genuine consumerist element was added to the TCB by having one of the members represent rural interests.

The Metropolitan Taxi Cab Board Act on the other hand was described (perhaps inaccurately) by its sponsoring government as an industry body to control the industry. An industry-based board was thought to have the advantage of securing the necessary consensus between different elements within the industry - suburban operators, city operators, drivers - and also provide the necessary knowledge of the industry.[4] In fact the industry influence - never dominating - was to be weakened by later appointments and legislative changes which made the Board more subject to ministerial direction.

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4. For an example of the defence of such representative bodies that formed the conventional thinking of the time, see Leiserson, 1942.

The praise accorded in parliament to both the TCB and the MTCB (and for that matter, the MTT) has been noted. It is clear that the rhetorical question of James Buchanan - "Where are the economic eunuchs to be found to operate the system?" - is only superficially attractive. (Buchanan, 1986, p 25) It does not give sufficient weight to either the desire on the part of bureaucrats to do the job they have been asked to do or the ability on the part of superiors to extract compliance from those below them. Economic eunuchs are not necessary for honest, competent administration.

Level of service

Whilst mainly concerned with the performance of the regulatory agencies, this history provides the basis for a few comments about the provision of public services. South Australian public transport undertakings have not proved keen to maximise their business if it has meant providing uneconomic services. Pressure for expansion of services came from politicians. The traditional concern of the MTT and the SAR was to try to make a profit.

In contrast to the United States, where Huntingdon found the Interstate Commerce Commission supported efforts by the railways to keep small parcel traffic that would have been

handled more efficiently by road, the railways in South Australia, in recent years at least, have tried to shed this business. (Huntingdon, 1966 p 81; Williams, 1981) Similarly, in contrast to the reluctance of the railways in the US to enter multi-modal arrangements (Huntingdon, 1966, p 84), the railways have encouraged developments such as the "piggybacking" of trucks on long routes such as from Port Augusta to Perth. However it may be argued that this is a defensive measure and one that would not be taken if the railways could snare the entire transport undertaking.

Since 1970 decisions regarding the level of services provided by the State's transport undertakings have been taken more and more out of the hands of the utilities, though the advice of the STA on closure of services is still legislatively required. (Scrafton, 1982) The recognition that they are social services rather than business undertakings has led to an acceptance that the level of service is first and foremost a political question that is appropriately decided by the Minister. The Minister is advised in such matters by the Department of Transport. Despite one or two claims that transport coordination is a form of empire-building on the part of the Department, the senior personnel can in no way be seen to fit the public choice stereotype. Amalgamation which has occurred under the Department of Transport has resulted from Labor Party policy which predated the very existence

of the Department of Transport.

Dominated by economists, the advice emanating from the Department has consistently been in favour of a lower level of services, and replacement of public sector activities by a variety of private sector initiatives. It is also worth noting that despite taking over functions such as motor vehicle registration and bus regulation, the central core of the Department has remained small, with a complement of about thirty officers. To some extent pressures for expansion have been held in check through heavy use of contracted consultants.

There is also a good argument to be made that it is not necessarily a bad thing if government regulation or government provision results in a larger service than consumers would otherwise pay for. There are circumstances in which the community as a whole wants more public transport than individuals would be willing to pay for on their own behalf. It may be in the interest of each individual to drive to work because of time-saving and convenience, but it is not in the interest of individuals taken collectively. If everybody drives to work, commuting times become longer for everyone. We may be willing to support collectively-provided services in order to gain public "goods" such as mobility for the disadvantaged, congestion-free roads, cleaner air and so on.

Conclusions

How efficient have the public transport undertakings been? The experience of the fifties was that private buses could provide a service on individual routes more cheaply than could the MTT. However a number of qualifications need to be made. First, the level of service cannot always be compared due to differences in timetables and buses used. Also advantages on individual routes may not translate into advantages for servicing the metropolitan area as a whole, where coordination and economies of scale may reap benefits. William Baumol, who is normally seen as a critic of collective action, has noted

> The case of large enterprises is quite different. Here the efficiency advantage of private enterprise, apparently, often disappears. One can easily find cases in which a public firm seems much more efficient than its private counterpart, as well as cases where the reverse is true. Thus where large industry is concerned one must be pragmatic and be prepared to act differently from case to case in choosing between private and public ownership.
> (quoted, Emy and Hughes, 1988, p 388)

Some may also question the value of an advantage gained largely through use of non-unionised, often family labour. As was pointed out in chapter four, the comparison made was between the public utility and the <u>regulated</u> private operators who were supposedly protected from competition. This suggests that the elasticity of demand due to the alternative of the private car had the effect of diminishing the negative effects of a monopoly position held by a private operator.

5

The experience of unregulated interstate freight transport is that high competitiveness can induce even greater efficiencies in individual operations, though this conclusion needs to be qualified by a record of labour exploitation, a questionable safety record and other externalities such as frustration and intimidation for the private motorist. One may also question whether it would not be more efficient to spend public resources encouraging a fully utilised rail freight service between the capital cities, rather than spend the money on building roads to take ever bigger trucks.

Policy change

What has been the nature of policy change? Has it been characterised by inertia or at most incremental change? Once again the history cannot give a conclusive answer. Taxi regulation gives the clearest example of both inertia (restrictions on entry in the number of plates allowed since the creation of the MTCB) and of incremental change (gradual easing of the two plate system). After the turbulence of the twenties brought about by technological innovation, freight and passenger transport regulation

5. For a general discussion of the difficulties of comparing public and private sector activities, see Downs and Larkey, 1986, ch 2.

changed little for the next twenty years. However at the end of that period interstate road transport was deregulated in an extremely abrupt fashion - literally overnight. This demonstrates the way in which "external" factors (in this instance, constitutional interpretation) can upset some political models. Though the manner was less dramatic, intrastate freight transport was also deregulated quickly. Bus regulation has been more stable, though it has also not been without drama, as in 1974, when most private bus services were suddenly nationalised.

Two comments are pertinent here. The importance of "external" and "one-off" factors - factors which cannot be adequately accounted for in any deductive models - is apparent. The effect of such factors can be good or bad or a mixture of both. They highlight the need for policy analysis to consider individual circumstances, particularly when making predictions and recommendations. Secondly, the fact that policies are stable or change only incrementally should not necessarily be construed negatively. Stability may indicate that the policy was working satisfactorily for the community as a whole. Policy stability is itself valuable for economic behaviour. Incremental change may well be the most appropriate way of adapting to new circumstances.[6]

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6. The literature debating the merits of incrementalism is vast. For a general discussion, see Goodin, 1982, ch. 2

POLICY PREFERENCES OF PUBLIC CHOICE

Although it was not its purpose, the history has raised some issues with a bearing on the recommendations arising from public choice analysis. Some of the prescriptions are supported but most are not.

(1) Deregulation, encouragement of competition

The most significant of these recommendations is of course to deregulate wherever possible. The efficacy of the regulations themselves has not been an issue in this history though if some tentative conclusions are to be drawn, they are:

- In each case control of some sort was needed at the time it was introduced. The experience of the twenties demonstrates that "milder" forms of regulation such as certification and the specification of safety standards are not always sufficient.

- The design of the regulations could have been improved and sometimes it was. Licences should have been non-transferable - though this would probably not find favour with those advocating a quasi-market

approach. Bus regulation could be improved by allowing private buses to supplement SAR services at peak periods. If intrastate truck regulation were to be reintroduced, the Bill of 1965 which was designed to do this contained a number of new features worthy of merit.

- The record of deregulation is mixed. The abolition of the two plate system has made the taxi industry more flexible.

Intrastate road transport deregulation has been generally successful, notwithstanding complaints from rural centres as their rail services have been progressively withdrawn. The degree of success of interstate freight deregulation is extremely contentious. Paeans of praise regarding the efficiency and flexibility of road transport are balanced by denunciations of the "terror" and financial burden imposed on private motorists and the waste of the railways as the logical mode for carrying freight the large distance between cities.

There is little pressure from the community for the deregulation of country bus services, where the regulations have provided stability within a very competitive environment because of the alternatives

provided principally by the private car but also by the railways and planes.

Once again, the mixed record suggests we need to look at the full circumstances in each case. A blanket recommendation either to regulate or to deregulate would not be adequate.

The worth of any policy will to some extent be determined by personal values. Some of the quality controls may be regarded as "paternalist" by the free marketeer. But to label a government activity as paternalistic should not be regarded as a damning indictment. Even a favourite public choice scheme - that of providing education through a voucher system - implicitly accepts that the state needs to take a "paternalist" stance in determining that individual families should not be able to opt out of education. Arguments against paternalism should be recognised as promoting the value of individual choice. The implications of this value are much more complex than is often admitted by market devotees (for example, see Heald, 1983, ch. 3) and in any event any value needs to be weighed against other values. (See also Kelman, 1981.)

There is also the question of whether caveat emptor and learning from experience are always practicable. Shreiber argues that the random hailing of taxis renders experience

useless, while Williams plays down the significance of this. The question of safety is much more serious. This quotation from Victor Goldberg could apply to the bus passengers killed in 1981 because of inadequate safety standards, or to truck drivers killed while working under extreme pressure:

> Learning from one's own experience is... impractical if the injury is a very serious one. In the extreme case of a fatal accident, of course, the learning experience might be profound, but the learning curve is abruptly truncated.
> (quoted, Kelman, 1981 p 230)

Other values which complicate any assessment of regulation are attitudes about stability and quality of life for providers of services, attitudes toward equality of service provision and security for consumers.

The history has demonstrated that moves toward deregulation do not necessarily mean less bureaucratic staff. They may mean the opposite. Relaxation of economic controls to allow more taxis and private buses will necessitate more inspectorial staff if safety and quality standards are to be maintained. If controls over freight services are to be replaced with a combination of "open" roads and user charges more staff are needed to police the regulations.

(2) Minimal public provision of services

Once again the issue is very contentious and depends on an opinion about how big a deficit on transport undertakings can be afforded, how important the provision of a service for the "transport poor" is, how much traffic congestion is tolerable and so on.

Kerin has put a value on such factors and has concluded that only 28.8% of the subsidy paid to the STA in 1984/85 was justified. (Kerin, 1987, p 69) In reality the question cannot be confined to the quantification of a particular service. There may be cheaper innovations which can achieve goals, such as "taxi-stamps" to enable the transport poor to get around after hours. Also other policies such as those on land use, parking restrictions (or its encouragement, as may happen when a city council is trying to gain revenue) and the amount of road investment are all important. The complexity of the issue is demonstrated in the following quotation from Singer:

> [Suppose that a law]... is enacted prohibiting the use of private vehicles in a defined inner city area. In one sense the range of choice of transport open to people has been reduced; but on the other hand a new choice now opens up - the choice of using a fast and frequent public transport system at moderate cost. Nevertheless, because the choice of driving oneself to work has been eliminated by a deliberate human act, the defenders of laissez-faire will regard this restriction as interference with freedom: and they will not accept that the non-existence of the option of efficient public transport, if private transport is not restricted,

> is a comparable interference with freedom, the removal of which compensates for the restriction of private transport. They will argue that it is circumstances, not deliberate human acts, which preclude the co-existence of efficient public transport and the unrestricted use of private vehicles...that freedom is not restricted, and rights are not infringed by circumstances, but only by deliberate human acts.
> (quoted, Wilenski, 1987, p 63)

(3) Common law remedies

Little light has been thrown on the utility of common law as an alternative to regulation. This is simply because there has been very little use of common law, even by families of people killed through negligence on the part of companies. Unlike the United States, Australia does not yet have a legal system which encourages the use of tort law and this may be a good thing. Although the quasi-market element appeals to public choice, one of the school's leading scholars, Gordon Tullock, (whose original training was in law) has concluded that the courts are so bad and inefficient at producing justice that it is better to rely on regulation. (Tullock, 1983, p 11, 1980. For discussion of Tullock's views, see Rowley, 1987, Pt VI.)

(4) Local administration and local financing

The history has highlighted the limitations of the public choice preference for local government. South Australia persisted with local administration of taxi regulation much later than the eastern states and long after the silliness of such fragmented administration was apparent.

Both the Municipal Tramways Trust and the Metropolitan Taxi Cab Board were attempts to reconcile the need for a single metropolitan-wide authority with the desire to retain responsibility for such services at the local government level. As a reconciliation, neither was successful. Local government input and responsibility soon became nominal only. Similarly, increasing responsibility of the Federal Government for interstate transport and pressure for uniformity has stemmed from an acceptance of the need for a unified policy for transport that crosses state borders. Localised government is simply not administratively practicable. It is noteworthy that in Britain, where public choice prescriptions have been strongly in vogue, there has been little if any attempt to move responsibility to local government. (Dunsire, 1987, pp 152-4) If anything, the Thatcher government has been notable for its efforts to weaken local government.

Moving responsibility for regulation to a local level would

probably have important political as well as management implications. The economists Drake and Niewenhuysen have discussed the negative effects of localising decision-making for investment decisions. (Drake and Niewenhuysen, 1988, ch 3) Sholz argues that the effect for regulation would be to make economic controls more "pro-producer". The first reason for this is that producers will be scared away by regulations that are perceived to harm them and attracted to those that protect them. (This is not so relevant to transport regulation, where those providing a transport service have to produce their service locally if they are to supply the market.) The second factor is that fragmenting government administration into local areas will fragment the knowledge base and analytical skills needed to match the organisations being regulated. (Sholz, 1981)

(5) Client control

The public choice preference for control in the hands of those subject to the agency focuses on the provision of public services. Self notes that the concept of client control "could hardly apply to public regulation". (Self, 1986, p 388) However, we have seen that South Australian governments have been willing to place industry representatives on regulatory control boards, though they have not formed a majority. While the Motor Transport Control Board

conspicuously failed to gain acceptance among those it regulated, the Metropolitan Taxi Cab Board has demonstrated that some representation of industry, combined with a consensus approach to decision-making, can operate quite successfully. We should also note that there are examples outside of the transport industry of government-sponsored self-regulation schemes and grower-controlled marketing arrangements which have worked well enough to be numerous. This suggests that we need not necessarily expect that producers will use such boards simply to exploit the consumers.[7]

(6) Ear-marking of revenue, tied funding

The public choice proposal that agencies be funded from revenue provided by their clients also assumes service provision rather than regulation. When looking at regulation the question may be asked: who are the beneficiaries of the policy? The difficulty of answering this question has not prevented governments from levying industry to pay for administrative expenses of the MTCB, the MTT and the TCB. The arrangement seems to have worked well, and could be an explanation for the modest size of

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7. For a discussion of the use by governments of this form of delegations, see Streeck and Schmitter, 1985.

the agencies, without obviously obligating the agencies. Now that bus regulation is a departmental responsibility, licence fees are paid into Consolidated Revenue. However this has had no effect on the size of the staff devoted to the job, and if anything, may have served to keep numbers lower than they would otherwise have been. The tight financial restraints that have been imposed on the public service as a whole have had the effect of limiting the scale of activities undertaken. (Radbone, 1988) Bus regulation is no exception.

There has been a suggestion that the possiblity of raising further revenue can have a deleterious influence on policy-making. The unfortunate decision to relax the rule on non-transferability of taxi licence was probably influenced by the fact that such a policy would raise more money for the MTCB. Also, although we have seen no real evidence of it in South Australia, the discussion on freight regulation pointed to the difficulties that can be posed by self-funding monopolies in the United States, particularly when social costs are not included.

We have noted that the revenue gained by the Federal Government under the Interstate Road Transport Act is paid into a special fund to be spent on roads. Because the amounts involved are only a very small proportion of both the amounts raised from road users and those spent on roads

it is impossible to judge the effect of this. It is tempting to suggest that the measure was implemented in order to minimize the hostility of the road operators.

(7) Charging for externalities (eg pollution charges)

The history provides no examples of government imposing a charge for externalities, with one exception. This is the attempt to charge road operators for costs they incur in road construction and maintenance. The long and painful history of this exercise, using registration charges, petrol taxes and road maintenance contributions, does not bode well for attempts to impose charges for externalities with less quantifiable costs, such as inconvenience to private motorists, air pollution and other environmental damage.

Grabowsky and Braithwaite found that in general Australian regulatory agencies have taken little interest in charging for pollution rights because of the cost of administering the charges. Simple prohibition is much cheaper than continually trying to measure emissions. (Grabowsky and Braithwaite, 1986, p 184) Pollution charges may be a theoretically elegant "market" solution to the problem of allocation of resources when externalities are involved, but as we found with road maintenance contributions, they also

need many more bureaucrats if they are to be successfully enforced.

VALUE OF THE HISTORY AS A CASE STUDY

Dunsire notes that empirical social science "is better at knocking down ideas than at setting them up, at destructive rather [than] constructive argument." (Dunsire, 1987, p 139) This has been the experience of our history. It is not enough to see evidence to support a theory; we must also note circumstances where it does not apply. If there is a positive conclusion to be drawn, perhaps it is that it is necessary to be pragmatic, to look at each case on its merits when assessing regulatory reform. Being pragmatic does not mean ignoring values. On the contrary, it should mean that values are more likely to be identified and considered than they would be if an ideological "package" was used - particularly if that package was presented as a science.

Of course any conclusions that are to be drawn from a case study need to be tempered on the basis of how representative that study is. As a topic, transport regulation should be conducive to public choice analysis. It is popular subject matter for public choice studies and it

is usually condemned. For example, while Tullock defends many forms of social regulation and states his belief that many traditional forms of regulation were needed at the time of imposition, he describes the regulation of trucks in the 1930s as a "very, very, severe mistake." (Tullock, 1983, p 12)

In some respects the South Australian setting is not conducive to public choice presumptions. Conclusions drawn from the two most substantial histories of administration in South Australia must be that the State has been served at least competently by its public servants, with few if any scandals or obvious examples of extravagance. (Hawker, 1967, Radbone and Robbins, 1986. See also Sheridan, 1986) The lesson for South Australian governments is that they can adopt policies in the reasonably confident knowledge that they will be implemented. On the basis of evidence considered here it is not possible to say if other States can have the same confidence, but the fact that officials frequently compared and adjusted activities in the light of interstate experience suggests some consistency.

On the other hand South Australian regulation has been unusually light compared to other States. It was the last State to limit taxi licences. Freight regulation was relatively benign. It was the only State to pay compensation to existing operators denied a licence when

the controls were brought in. Unlike other States, ancillary services were never controlled. On one occasion the State received a chiding from the Grants Commission for being too lenient in its attitude to road freight. (Commonwealth Grants Commission, 1940 p 59) South Australia was also the first State to deregulate intrastate road freight and has led the way with the removal of economic controls over intrastate commercial aviation. This suggests that the influence of neo-classical economics is stronger in South Australian transport policy than in other States. Once again, this suggests that assumptions need to be tested on a case by case basis.

IMPLICATIONS FOR PUBLIC CHOICE ANALYSIS

We have seen that the public choice approach would have, at best, a patchy record for explaining political and administrative behaviour in the history of transport regulation. It would be best at predicting the behaviour of interest groups and worst at predicting the behaviour of bureaucrats. The history has also indicated difficulties with most of the prescriptions that emerge from public choice analysis, though one or two (eg ear-marking of funds) are supported.

The ability of public choice analysis to predict interest group

behaviour is not surprising, as it is widely accepted that interest groups within particular industries will be self-seeking. A leading critic of public choice, Peter Self, has noted that "no problem is harder for modern bureaucracies to solve than the unequal influence and access of interest groups". (Self, 1986, p 395)

The poor record of public choice can be explained by two factors: a simplistic view of human nature and an ethnocentric view of political institutions. Human nature is more complex than deductive models can allow. The institutions of parliamentary government are (apparently) more successful in securing a compliant adminstration than those of the congressional system.

The public choice view of human nature

The differing predictive ability of public choice stems in part from the accuracy of its basic assumptions concerning the motivation of individuals. These assumptions generally hold true when people are forming interest groups, but not when they are administering policy. The expected behaviour is common in the former case but not the latter.

Calculating human nature as 90% selfish does not do justice to the complexity of our attitudes and behaviour. The homo

economicus model may be reasonably accurate when applied to commercial contractual behaviour, but beyond this the model becomes too unrealistic. People exhibit different degrees of selfishness on different occasions. Public behaviour will vary from private behaviour. The person who occasionally drives when over the legal alcohol limit may still support stiff penalties for drink driving. A belief that people like themselves should pay more tax may coexist with attempts to minimize one's personal tax burden legitimately. Personal attitudes on the same issue may vary depending on the circumstances. The "high moral ground" is sometimes easier to take, particularly when the choices are abstracted from personal circumstances. Therefore political beliefs will not necessarily reflect everyday economic behaviour.

People seek more than short term personal material interest. They are subject to many socialising factors which upset the relatively simple world beloved of public choice. Barry has developed the difference between economic man and socialised man in his book, Socialists, Economists and Democracy. (1970) Self's comment on the economics discipline also applies to public choice:

> Economics can offer general laws and predictions only to the extent that enough individuals do in fact behave like 'economic man'. Beyond this point, economics has to descend form its perch into the same limited and qualified empirical generalizations which characterize the other social sciences.
> (Self, 1985, p 7)

Conclusions

There is plenty of evidence that bureaucrats respond to more complex forces than material self-interest. Ironically, the clearest opposing forces to self-interest today are the precepts of modern economics. The Department of Transport has consistently argued for less regulation and a lower level of government services - hardly fulfilling the public choice model.[8]

There are several factors at work here, one of which is a genuine concern to see the best for the community. A second is the social context in which individuals operate. If rewards are determined by individuals with strong ideological leanings, self-interest suggests that those leanings be adopted by those seeking the rewards. Thirdly, it is often easier and simpler to adopt the organisation's goals and outlook rather than continually re-examine issues for their bearing on one's personal interest. As Philip Pettit notes;

> ...individuals, under pressure of appropriate sanctions ...find it optimal to pursue the ends corporately assigned to them, without constant reference to their

8. In case it be thought that the Department of Transport is unusual in this regard, Pusey has surveyed the Senior Executive Service in Canberra and found similar attitudes. Less than one in five senior bureaucrats in Canberra want to increase social welfare. Two thirds of SES wanted smaller government, less state involvement, more incentives for private initiative. 44% of respondents had a degree in economics. (Pusey, 1988) Similarly, Kelman argues that the greatest force for deregulation in the United States has not been material interest, but the influential ideas of economists. (Kelman, 1987)

> self interest; such a line may save them time, provide them with a simple decision making procedure, ensure the public legitimacy of what they decide, and promise better career prospects than unrelentingly self interested calculation.[9]
> (quoted, Wilenski, 1986, p 8)

The complexity of individual motivation has been implicitly acknowledged by some proponents of public choice, although their exploration of this point is not very satisfactory. One approach is to deflect criticism through definitional fiat:

> The word self-interested is not equivalent to "selfish". The assumption of self-interest implies primarily that individuals each have their own preferences which affect the decisions they make, and that those preferences may differ from individual to individual.
> (Ostrom and Ostrom, 1971, p 205)

This rather vague reference to "preferences" is not tight

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9. Barry has made a similar point by ridiculing the belief that careful consideration will always be given to personal interest. He does this effectively by quoting a public choice student who explained the rational considerations to be made when deciding on whether to join in a revolution:

> In choosing his course of action, the individual will calculate the differential between expected utility streams under the existing and revolutionary arrangements... This differential is then discounted in the individual's mind by the probability that he personally will change the chances of success of the revolution... This discounted value is then compared to costs of action...The individual participates if his discounted expected utility for supporting the revolution exceeds the expected costs of his participation.

Barry notes "unfortunately, the author does not attempt to relate his model to the facts of any revolution, so he does not have to face the question of whether it actually works. (Barry, 1970, p 45)

enough for later argument of these authors, which appears to assume that self-interested equals selfish. As Sen comments,

> It is possible to define a person's interests in such a way that no matter what he does he can be seen to be furthering his own interest in every isolated act of choice.
> (Sen, 1977, p 322)

Similarly, Buchanan has recently accepted that the private enterprise system will only work if people are not simply homo economicus.

> Laws, customs, traditions, moral precepts - these are all designed and/or evolve to limit or control the exercise of short-term self-interest. And the spontaneous order emergent from the market process maximises separately conceived individual values only if these institutional constraints operate successfully.
> (Buchanan, 1986, p 88)

Buchanan does not explore the implications of this for his political model.

The North American influence

If the public choice model has enough verisimilitude to have become popular, it is perhaps because it bears a relationship to reality in the United States, where the values it espouses such as individual initiative and self-help are popular.[10]

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10. Kelman, however, has vigorously contested this view of American political behaviour, arguing that while private interest may help determine fairly narrowly-based decisions such as where to locate a new office, large policy

Conclusions

American culture has generally promoted the individual at the expense of the collective and, unlike Europe or Australia, America's government remained a very small influence on economy and society until the twentieth century, particularly at federal level. A career in the public service has never been highly regarded. Until the 1930s "big government" was likely to be city government, often characterised as Tammany Hall.

It is a mistake to translate experiences in one society and assume they will apply in all. Toye, amongst others, has pointed out that the economic approach to politics assumes a western, representative democracy with a large private sector, particularly for arguments concerning the primacy of producer influences over those of consumers.[11] (Toye, 1976, p 436-7. See also McPherson, 1973)

The lesson of the history (and, incidentally, of the British history; see Glaister and Mulley, 1983 p 56) is that American assumptions of self-seeking should not be accepted in other administrative systems until there is

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directions are more likely to result from public spirit. (Kelman, 1987)

11. Seldon quotes the Cambridge economist R C O Matthews, that "much of it [public choice] is inapplicable without considerable modification to countries other than the United States." Seldon argues to the contrary that because international relations have been fruitfully analysed by public choice students, the approach must be ubiquitous. (Seldon, 1987, p 123f) Seldon appears to confuse the topics of international relations and comparative government.

good experiential evidence to support them.

Another American characteristic that should not be accepted as applicable to other countries without evidence is the approach to conflict resolution through litigation. It has been noted that much of the literature on regulation is based on examples of regulatory bodies which tend to be large and which operate in a legalistic manner, with a high proportion of the senior officials being lawyers. This is contrary to the experience of the South Australian regulatory bodies we have examined. Page has noted how the British legal tradition is far more limited in comparison with the United States, in his view largely due to the absence of a formal written constitution. (Page, 1987, p 241) The Australian judicial role is similarly limited. Although written constitutions exist at both Federal and State level, there has been no Bill of Rights to encourage the resolution of political and administrative conflict in the courts.

Australian regulatory authorities operate in a very different manner from those in the United States. We have noted Grabowsky and Braithwaite's findings on the different regulatory style in Australia. This also applies to means of enforcement. Legal processes are eshewed in favour of persuasion wherever possible. Neither the regulatory agency on the one hand nor business on the other is keen to test matters in the courts. (Grabowsky, and Braithwaite,

1986, pp 188-91)

Other marked differences include the practice of job swapping between the regulatory body and the industry. While this may be common in the United States, traditional Westminster-style administration is characterised by the permanent career official. Although this may be changing in recent years, it is still most likely that the Australian regulatory official will spend his or her entire career within the public sector, unlike the American regulator. In their survey of Australian regulatory authorities Grabowsky and Braithwaite found little evidence that offers of plum jobs in the regulated industry skewed the agencies' activities, though they did note that it was fairly common to recruit from the industry. (Grabowsky and Braithwaite, 1986, pp 198, 214)

Another institutional difference that has important implications for administrative style is the relatively loosely structured nature of the congressional system in the United States. The more complete separation of the executive and the legislature that occurs in the United States means that budgets are as much determined in the legislature as they are by the government. This has several important implications.

First, the centralisation of budget-making that occurs

under parliamentary government gives an important role to central departments charged with advising the government on the allocation of resources. Treasury and Finance departments are powerful forces for the minimisation of expenditure. Their very existence underlies the weakness of public choice assumptions, for they contain the most powerful and prestigious positions in the public service and yet are generally administratively small themselves. (Dunleavy, 1985; Dunsire, 1987, p 106)

A second difference between the congressional and parliamentary systems concerns security of tenure. Tullock refers to the way in which bureaucrats have lobbied Congress to retain programs and policies, pointing out that they would be fired if they terminated. (Tullock, 1987, p 338) Without this fear of redundancy in the traditional parliamentary public service, bureaucrats have had less motivation to "lobby", even if it were possible for parliament to alter a budget once it was introduced.

Thirdly, personnel administration in the United States' public service tends to be much more decentralised, providing flexibility for managers to appropriate gains. This contrasts with the traditional position in South Australia, where conditions are centrally determined. Despite statutory status, the adminstrative boards we have examined offered the same conditions of service as those

applying within the public service proper. (The MTCB is required to do so under its Act.) The centralised personnel authority's control over establishments is also designed to keep staff to an efficient level.

Finally, the more loosely-articulated nature of the American system gives far more access to interest groups. The term "lobbying" was invented in the United States, to describe the attempts to influence congressmen outside the chamber, in the lobby of the Capitol Hill building. Certainly interest groups are important in Australia. However they operate within a parliamentary system that places political power much more firmly in the hands of the cabinet. Tullock has attempted to demonstrate the relevance of the American concept of "logrolling" to the United Kingdom, whereby support for otherwise unrelated measures are traded by key individuals. (Tullock, 1976, p 41ff.) However the illustrations he gives all occur within the confines of executive committees, where room for manoeuvre and bargaining is circumscribed by government ideology and priorities.

In many ways the effects of these differences between the congressional system and the parliamentary system can be seen in our history, for South Australian politics of the nineteenth century was an "immature" form of parliamentary government in which disciplined parties had not arisen to deal

with the problem of an executive at the mercy of a fickle and faction-ridden legislature. (There were 36 governments in South Australia in the 43 years from the time of Responsible Government to the end of the century.) South Australian politics in the nineteenth century was for our purposes similar to American politics today. We have noted the important influence of key parliamentarians in that period, and the way in which the railways developed on the basis of constituency interest. Statutory authorities were created to avoid the pernicious affects of this. (Wettenhall, 1987) The development of strong parties has obviated the need for such measures to some extent, and in fact the latter part of the history has seen a trend toward centralisation under ministerial control.

Perhaps it is this centralisation of responsibility and control that has enabled recent Australian governments at both Federal and State level to produce balanced budgets or even surpluses when they believed that the public interest required this. The way in which this has been done draws the sting from the rhetorical question posed by James Buchanan to an Italian audience in 1983:

> Why did they [Keynesian economists] fail to see the elementary point that elected politicians will seek any excuse to create budget deficits?
> (Buchanan, 1986, p 25)

Some of the qualifications and contrary findings that this

study has identified have been recognised by public choice scholars. As has been pointed out earlier, the school contains many individual thinkers and the successive editors of the leading journal, Public Choice, are not afraid to publish findings contrary to public choice theory. If in one sense the model of public choice presented in this study has been over-simplified, in another, more important, respect it has not. It is the essence of public choice that is influential, not the qualifications. The latter are generally ignored, both by members of the public choice school and by participants in the wider political debate. Rarely are the implications of these qualifications considered and accepted, though Tullock is an important exception here. In a more typical vein, James Buchanan has contemptuously labelled the empiricists as "ideological eunuchs". (Buchanan, 1986 p 14) For him the ideological thrust, emphasising his version of personal freedom, is paramount. For Buchanan, as for ideologists generally, simplicity is essential.

The public choice model is a useful means of analysing political and administrative behaviour. However its use is limited and sometimes misleading. There are also other models which direct our attention to considerations not heeded by the public choice school.

To give two examples; a systems model, with an emphasis on the

external environment, would highlight the relationship between the regulatory regime and technological developments. Horse drawn tramways, electricity, the internal combustion engine, taxi meters and telephones were all technological innovations that created turning points in the regulatory arrangements. Also the feedback loop of a systems model would direct attention to the way in which regulations once enforced created new demands on the state. The important lesson here is that there can be no "ideal" regulatory (or deregulatory) arrangement that can be fixed for all time. What may operate satisfactorily for twenty or thirty years will still become anachronistic at some stage. In the twenties buses needed to be restricted partly because they were seen as damaging the roadway. Today they need to be encouraged because road congestion is a principal problem.

Another approach which could advance our understanding would be the structuralist view. (Althusser, 1970; Block, 1979) This emphasises that pressure is exerted on government by underlying structural forces (such as the need to encourage investment and maintain "market" confidence) as much as it is buffeted by surface phenonmena such as lobbying by interest groups. Playford's desire to keep bus fares low in order to keep wages down, which would in turn attract industrial investment to South Australia, is an example of structuralist theory in action. So too is the measurement of an industry's health in terms of

investment growth without consideration of the social costs involved. Structural factors such as these, and the profits to be made by the larger companies, help to explain the continued deregulation of the interstate trucking industry, despite manifest problems. Finally, Dunleavy (1986) demonstrates that privatisation (which we saw in the case of the Roadliner bus service) can be better explained by class interest than public choice. (Privatisation is particularly hard to explain in Niskanen's terms)

The illustrations of the systems and structuralist models have been included to suggest that whilst public choice theory does provide insights, a more flexible approach yields richer results and offers alternatives to the narrow prescriptions offered by the school. This is important, not only because the complexities of public issues cannot be reduced to a few deductive assumptions. It is also important because the egoistic behaviour assumed by the public choice approach becomes the behaviour it advocates. To accept human greed and to structure human relationships on this acceptance is tantamount to proclaiming that greed is good. As Self notes:

> In a system dominated by "possessive individualism" ...the values needed to sustain good social services (such as education or health), good public facilities (parks, streets, cultural and community centres, etc) and compliance with the market-necessitated volume of public regulation, will surely wither. In this sense many of the public choice theorists are at once the products and the prophets of the universal egoism which they posit. (Self, 1986, p 391)

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The Times (London)

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