PRIVATISATION AND REORGANISATION: CASE STUDIES IN RAIL POLICY IMPLEMENTATION

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Abbreviations

AIM - Alternative Investment Market

ASI - Adam Smith Institute

ASLEF - Association of Locomotive [Engineers] and Firemen

AMA - Association of Metropolitan Authorities

ATOC - Association of Train Operating Companies

BOAC - British Overseas Airline Corporation

BET - British Electric Traction

BRB - British Railways Board

BTC - British Transport Commission

CPS - Centre for Policy Studies

CRUCC - Central Rail Users' Consultative Committee

CTUCC - Central Transport Users' Consultative Committee

CGEA - Compagnie Générale des Eaux

CoSLA - Convention of Scottish Local Authorities

DoE - Department of the Environment

DTI - Department of Trade and Industry

DoT - Department of Transport

DREs - Divisional Road Engineers

EDA - Economic Development Administration

ESI - Electricity Supply Industry

EC - European Commission

EFC - External Finance Contribution

EFL - External Finance Limit

FMI - Financial Management Initiative

FWS - Fort William Sleeper

GWT - Great Western Trains

IBI - Indicative Bid Invitation

IEA - Institute of Economic Affairs

IPPR - Institute of Public Policy Research

IDR - Interdepartmental Railway Working Group

ITT - Invitation to Tender

LT&S - London, Tilbury and Southend

MD - Managing Director

MoT - Ministry of Transport

MBO - Management Buyout

MEBO - Management/Employee Buyout

MMC - Mergers and Monopolies Commission

MDC - Metropolitan District Council

MRG - Metropolitan Railway Grant

MEAV - Modern Equivalent Asset Value

NAO - National Audit Office

NIs - Nationalised Industries

NSE - Network SouthEast

NUR - National Union of Railwaymen

OPRAF - Office of Passenger Rail Franchising

ORR - Office of the Rail Regulator

OforQ - Organising for Quality

PSR - Passenger Service Requirement

PTA - Passenger Transport Authority

PTE - Passenger Transport Executive

PUC - Prime User Charging Mechanism

PRO - Public Record Office

PSBR - Public Sector Borrowing Requirement

PSO - Public Service Obligation

RUCC - Rail Users' Consultative Committee

RENT - Reorganisation of Nationalised Transport Undertakings departmental working group

RPI - Retail Price Index

ROSCO - Rolling-Stock Leasing Company

STUC - Scottish Trades Union Congress

SW&W - South Wales and West

SWT - South West Trains

SAG - (Stedeford) Special Advisory Group

SRG - Special Railway Grant

SPTA - Strathclyde Passenger Transport Authority

TUC - Trades Union Congress

TOU - Train Operating Unit

TOC - Train Operating Company

T&G - Transport and General Workers Union

TSSA - Transport Salaried Staff Association

TSC - Transport Select Committee

TUCC - Transport Users' Consultative Committee

WAGN - West Anglia Great Northern

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Chapter 1
Introduction

On 1 April 1994, one of the UK's major service industries completed a paper reorganisation that contradicted the perceived wisdom of those who managed and worked in it. The Railways Act 1993 was an unwelcome piece of legislation within the industry and beyond. It was conceived out of a dogmatic belief in the merits of the private sector by people who had little knowledge about running trains. It was the "poll-tax on wheels". A mere three years later, the paper reorganisation gave way to not only a complete legal separation of the various units that once formed the core of the British Rail organisation, but also to their absolute transfer to the private sector. The story of the delivery of this privatisation is without doubt an extraordinary one, and one that forms the core of this thesis. But equally, this story challenges the dominant thinking about the business of government - making policy and then implementing it. It begs the question of whether the implementation of the Railways Act was in some way different from all others. And if not, we need to consider what is wrong with the analytical tools that are at the disposal of the political scientists who evaluate the policy process.

In this thesis I will argue that there was nothing particularly novel about the privatisation of British Rail. The privatisation concept, as will be seen in Chapter 5, had, by 1992, become normal politics after the sale of electricity supply industry two years' previous. Former public servants who had initially opposed the wholesale privatisation of public utilities had at the very least tempered their opposition and facilitated asset transfers. Most, however, found themselves seduced by the personal opportunities inherent in the transfer and acted accordingly. The railway industry was, however, different. There was little profit to be made and the enormous effort and upheaval that privatisation would involve seemed to offer little benefit to those who managed the industry. Moreover, the liberalisation of the industry in combination with the physical transfer of assets threatened to undermine the integrity of the industry. The separation of track and operation, for example, was pure anathema. Even more significantly, the complexity of the industry could only militate against implementation. With each operational interface needing to be defined in a contract, the drafting of hundreds of thousands of contracts by lawyers with no experience of train operation was novel - no previous privatisation approached this level of complexity.

It is this complexity that presents researchers with both a dilemma and an exciting challenge. It is a dilemma because the case is not amenable to reductive method. The challenge on the other hand arises out of the opportunity it presents to embrace the complexity and present a multi-layered narrative of post-legislative policy-making and to argue that policy-making is not a linear process. It is the contention of this thesis that the policy-implementation dichotomy, which defines the dominant extant theory, delivers a rather conservative understanding of the policy process. Moreover, the rail privatisation case study legitimises a search for a more inclusive theoretical framework, one that can account for strategic action amongst a plethora of public and private actors that converge around policy and implementation problems in a modern differentiated polity.

The case study, therefore, offers an opportunity not only to test extant theory, but also build theory out of an empirically-rich project with serious inductive ambitions. The thesis, therefore, presents a critique of two dominant analytical approaches to policy implementation: "Top-down" theories, despite their elegance and sophistication, are nevertheless reductive, conservative, and ultimately prescriptive; by contrast, "Bottom-up" approaches dispense with essential structure and imbibe "street-level bureaucrats" with levels of discretion they simply do not - and cannot - possess (these criticisms are discussed in Chapter 2). Such apparent irreconcilables, therefore, call for an alternative approach. If the notion of policy networks has, as is now widely recognised and accepted, explanatory capacity where policy is concerned, then why not in the implementation phase? Indeed, we may ask, are there essential continuities between the two phases which can be captured by developing and applying a network approach to a policy programme? That is not to say that policy and implementation are one of the same thing, only that the two phases are far from divorced from one another. Implementation is characterised by both constant reference to policy objectives and "secondary" policy making by implementers with high levels of discretion. It is the contention of this work that policy/implementation continuities exist and are essential to our understanding of and explanation for the success or failure of any particular policy. A network approach, additionally, forces a reconsideration of what a policy programme is. If actors are interdependent, then perhaps programmes themselves are not linear. If so, policy is delivered through some form of governance structure.

The case study of UK rail privatisation was, as has already been noted, a highly complex process: effectively an operationalisation of an equally complex statute. So complex, in fact, that, as will be seen, few commentators and essential actors thought that it could be done, should be done, and consequently would be worth doing. When the present author embarked on the study, he anticipated that a contemporaneous study of the process would result in a narrative which would chronicle a spectacular policy failure. In terms of outputs, however, implementation has been a major success by a number of criteria. This is, therefore, a study of policy success which requires the analyst to employ an analytical framework that is not inherently pessimistic, that is, where outputs and outcomes are not explained with reference to "implementation gaps" or "control deficits". Certainly, these are important concepts but, as this case study will show, if we merely focus on instruments of control, we are liable to miss some of the more subtle, though strategic, features of programme implementation.

Single case studies, however, do not persuasively challenge existing conceptions of the policy process. For this reason, this thesis has a comparative element: a comparative element that was integral to the original research proposal. The value of (the) comparison is discussed below in Section 1.2 below. The Beeching reforms between 1960 and 1966 at the core of the historical study have been well documented and the debate about their prudentialism, success, and ultimate legacy rages on. The existing studies, however, are not studies of the process and they do not fully encapsulate actor interdependencies that ultimately define the form of the output itself, mediated by environmental - and therefore exogenous - influences. As will be seen in Chapter 11, historians and enthusiasts alike have perceived the Beeching programme as largely successful. If this was indeed the case, applying a "Top-down" model to the case study has the potential to confirm elite-actor control as the central feature of any programme. By applying a network approach, by way of comparison, we are able to reappraise the apparent success of the programme, and by virtue of its historical context, consider success in terms outcomes rather than outputs. In the presentation of these two case studies, therefore, we are well placed to argue for the generalisability of network approaches to policy analysis.

One consequence of the advocacy of a network analysis is the difficulties we inevitably encounter with regard to methodology. It is clear that many studies are conducted on implicit methodologies, particularly those employing case studies. The case study is by definition unique, particular and necessarily illustrative. Case studies have a tendency to assume an epistemological veracity while brushing aside difficult ontological questions that graft themselves onto concepts and the ever-present though rarely explicit structure/agency problem. In constructing networks for explanatory purposes we are inevitably turning over stones that perhaps should not be upturned. Frameworks that are reliant on studies of interdependencies, motives and strategic thinking/action, unfortunately, forces us onto this rather difficult territory. That is not to say this work resolves these problems - it is after all not a thesis on methodology - but it does seek to consider how, for example, sociologists have dealt with these philosophical issues and to what utility. It is also an attempt to locate the study of political processes into some methodological paradigm in a bid to improve our method and utilisation of our sources.

1.11 The Value of Comparison

The railway industry of course was no stranger to government-sponsored reorganisation. In 1960 the industry was on the verge of a reorganisation that still reverberates even today. Dr Richard Beeching came to the industry to transform it from an ailing public-sector monster into a leaner commercially-oriented business. At the centre of this conversion was his plan to slim the network down from 18,000 to 8,000 miles in the three years 1963 to 1965. The task required primary legislation as it necessitated the establishment of a series of transport boards and the abolition of the British Transport Commission which had run the national transport undertakings since nationalisation in 1948. Moreover, Dr Beeching had to staff his Railways Board and execute the most fundamental costing procedure the railway industry had ever undertaken. These costings would provide the basis of a plan for a comprehensive line closure programme. This, by any measure, was a huge task. And yet, it is generally agreed that he succeeded. Although this final point will be challenged in Chapter 11, what was achieved was against the odds, at least in the first instance. Observing the process of policy management - through formulation and implementation - gives an insight into the strategy of government and a valuable comparative opportunity.

First, the comparison offers a challenge to the notion of incrementalism. Both represent challenges to dominant organisational norms, though on both occasions the changes were eventually carried. Second, implementation theory, such that it is with its bias towards the dichotomy of policy and implementation, seemingly struggles to explain the outcome of the highly differentiated privatisation exercise in the contemporary case. It fails to capture the essential detail guiding the analyst away from positively identifying the dynamics - interpersonal dynamics - that have a major bearing on outputs of the policy exercise. Where it fails in the contemporary case, however, it must surely be robust when applied to a historical study dominated by a sponsoring government department and an executive agency, the British Railways Board? Certainly, it must be conceded that such an analysis would provide an acceptable explanation of events. However, for as long as there is doubt about the outcome (did it achieve the desired outcome?), then applying a linear model will be at best unsatisfactory. Analysts need tools that assume policy failure, or at the very least some form of policy reflexivity which steers the policy as its imputed trajectory is affected by external factors which could not have been anticipated at the outset. These intervening variables need, therefore, to be accommodated in any model the analyst employs to explain outcomes irrespective of the extent of differentiation at implementation.

Third, empirically the contemporary study is limited in terms of access to Ministry documentation. The papers dealing with the decision processes that delivered the Beeching reforms are available under the *30-year Rule* at the Public Record Office. These papers are to date an unutilised source of authoritative data not only on this period of policy management, but also on the workings of government in general. As will be seen in Chapter 10, Whitehall itself was changing in the late 1950s as a result of new imperatives governing decisions in the Treasury. The new Treasury prudence was being exported to other departments, and its effects can be seen clearly in the departmental papers. Moreover, we can witness the control mechanisms employed within the ministry to protect the core ideals from disruption after policy enactment. The contemporary researcher is able to build on this knowledge when exploring policy initiatives where such access is denied, and where one is reliant on oral accounts by civil servants responding to suitably informed questions. The two studies together, therefore, provide for a much more satisfactory understanding of the instruments of policy implementation at the disposal of implementers.

Fourth, in the analysis of the contemporary study it will be argued that policy-making is an ever-present phenomenon and does not stop at the statute. Statutes are inherently enabling in their form and implementation presents actors with substantive policy-making opportunities. In a situation where implementation is conducted by numerous often competing agencies we should not be surprised by this. However, historically this seems to be the case as well. The management of policy demands continuity of personnel, vigilance and further policy making. The Transport Act 1962 empowered Dr Beeching to construct and execute a new transport policy that would reflect the subsequent capability of the railways to provide both passenger and freight services. It is this secondary legislation that is at the core of implementation exercises and is a feature of the policy process.

Fifth, The two case studies have an inherent value in themselves. The study of rail privatisation is a contemporaneous study of the implementation of a radical policy enacted by a beleaguered government. Its contemporaneity renders it unique and unrepeatable. The historical study utilises documentation that is newly-released (to the Public Record Office) and unseen (private and non-public archives). These sources enable a re-evaluation of the programme. This re-evaluation raises one further point. The railway industry is almost exclusively studied by historians. It is not "high politics" and, therefore, usually out of the purview of political scientists who have focused their attention on major economic ministries, particularly the Treasury.[1]

These two studies represent a serious attempt at evaluating the political significance and status of the railway industry within Whitehall and also in the psyche of the electorate. The management of the implementation of changes to the industry structure and funding has always been a sensitive issue for governments. In public relations terms, the railway industry has to be handled very carefully, especially in the affluent South East where the passenger railway has always been over-subsidised, and in Scotland where its national significance should never be underestimated. More generally, the railway is truly etched onto the minds of the populace. Such etching has led to a thriving railway heritage industry taking over sections of the Beeching's "disused" railway; moreover we find a most bizarre example of one heritage company preparing to bid to run parts of the railway network in the privatisation auction. It may, too, be ingrained historically. Railway history is the history of industrial development in Britain. The railway's

[1] For example, Hugh Heclo and Aaron Wildavsky, *The Private Government of Public Money: Community and Policy Inside British Politics*, Macmillan, London, 1981; Colin Thain and Maurice Wright, *The Treasury and Whitehall: The Planning and Control of Public Expenditure 1976-1993*, Clarendon Press, Oxford, 1995.

decline being associated with the decline of the status of the nation. More politically, despite the under-utilisation of the passenger railway, the sense that the railways should still be there for whoever wishes to use them is an issue yet to be resolved. Certainly, where the railway's significance is underestimated - which it periodically is - political scientists are at liberty to explore the reasons why and draw conclusions about the nature of decision-making in a much wider context.

It is necessary to defend the decision to compare two periods of policy-making within the same policy sphere rather than selecting policies in the same period subject to implementation by different government departments and wholly different agencies. Would this approach not have been a better test for the network hypothesis? To have undertaken two contemporary/contemporaneous studies would have generated methodological problems of a serious nature. Contemporaneous studies are extraordinarily difficult to execute satisfactorily. Investigating the policy-making process within departments presents the researcher with acute data problems. One is reliant on verbal sources which are often "for information only" and therefore not attributable. Access is negotiated on terms which usually favour agents, not researchers. Moreover, notwithstanding any access to key actors the researcher may achieve, it is inconceivable that he/she will ever be able to view relevant papers that circulated at the time. A historical study in the same policy sector enables reliable inferences to be drawn between the periods as authentic documentation is available.

Equally, studies into policies affecting long-lag industries such as the railway industry benefit from longitudinal research. There is no doubting the contemporary case study below is enhanced by the reader's knowledge and understanding of the earlier period. Not only does the outcome of the earlier period define the form of the railway that was eventually privatised, but it also provides the criteria by which success is defined and then redefined as external factors shift and relocate the problem orientation. Under Beeching's success-criteria, for example, the BR organisation that was subject to privatisation some 30 years later was "successful". Under the changed circumstances of the early 1990s, it was merely a liability for a government with a mission to privatise risk.

1.12 The [illegible]

As noted above, the dominant "Top down" model of policy implementation rather crudely guides the empirical researcher past the policy-makers into the path of implementing agencies and key decision-makers within and between them. The emphasis, as will be discussed in Chapter 2, is on the composition of a normative framework, the production of a manual for trouble-free implementation. Top-down theorists have argued that policy can be steered through implementation by some central authority, and where it cannot, the researcher has exposed a control deficit which can and should be erased.

It will be my contention that control deficits cannot and indeed should not be erased. Where successful implementation is dependent the participation of many public and private-sector agencies, control deficits are a fact of life and are ineradicable. Moreover, implementation may well shift in the eyes of sponsoring-[redacted]ing to governance; where commands are replaced by incentives. The ambiguity that [redacted] Top-down theorists as inimical to successful implementation, may well present [redacted]s with the opportunity to negotiate positive-sum outcomes. [redacted].

The consequences for theory, therefore, are substantial. A framework that can capture the dynamic of bargaining while retaining the "project management" reality is needed. In making critiques of the existing frameworks, and the failure of network theorists to venture much beyond the policy sphere, it is possible to construct a framework that at the very least forces the researcher into examining unfamiliar "decision-arenas". The researcher is confronted with the realisation that post-legislative policy decisions are made in a plethora of participating agencies: from sponsoring agencies to law firms; from buyers to sellers. The realisation that it might not be a case of who meets with whom that is important, but who meets with whom *over breakfast*. Such realities make the research task so much more difficult, but the data retrieved is rich and revealing.

1.2 Structure of the Thesis

Readers will see that this is a highly empirical work. The complexity of the process that is to be evaluated against the theoretical model demands a detailed narrative if it is to be satisfactorily captured and understood. Moreover, there are, unlike in the historical study, no extant studies of the process on which to draw. It is not possible, therefore, to direct readers to other accessible sources to develop understanding. For this reason, the privatisation case study consumes the lion's share of the space. The historical case study by contrast builds on other authoritative texts which were written before the Ministry papers were available through the Public Record Office. This section is short in comparison, but it raises serious and intriguing questions for analysts. For this reason, the theoretical component of the thesis is not peripheral, though the analytical chapters are economical; they are constructed so as to give the reader sufficient insight into the utility of the model and how it can deliver explanation.

Chapters 2 and 3, then, deal with the theoretical questions posed above. The first section of Chapter 2 examines the policy literature highlighting, through the work of Herbert Simon and Charles Lindblom, the difficulties with generalising about decision-making where rationality is assumed. It is argued that the asymmetries of knowledge between policy-makers and advisers/civil servants affect the way policy is made and import an early administrative contribution into policy. The second section introduces the normative implementation literature. Pressman and Wildavsky's seminal work on the *Oakland Project* is discussed, and the development of "Top-down" theory is traced through to its apotheosis, Mazmanian and Sabatier's 1981 work, *Effective Policy Implementation.* Finally, this work is contrasted with the perspective offered by *backward mapping* as advocated by Richard Elmore and what I have termed the "Rotterdam School" where the emphasis is placed on the target group behaviour rather than the policy-makers.

In Chapter 3 these insights are used as an platform for a debate on how to generate a model to capture in abstract form the complexities encountered by both sets of theorists. In offering an alternative model, I argue that the network literature has much to offer. The Rhodes model, for example, is introduced and the more recent and abstract theorising to be found in the work of Kikert *et al.* Finally, I consider the notion of governance before constructing the theoretical model that is employed for analytical purposes elsewhere.

Chapter 4 deals with methodology and method. This chapter will not offer a working hypothesis and then construct a method for verifying or falsifying it. The Chapter does, however, grapple with the difficult questions of ontology, epistemology and the nature of the qualitative research exercise. The chapter discusses questions of evidence, validation, and reliability. More fundamentally, however, the question of methodology in political science is raised. The nature of the discipline has traditionally meant that researchers have not had to handle concepts such as "perception" which is hugely problematic. The world political scientists have considered in the past has been empirical and hence amenable to functionalist method. Although this thesis does not move absolutely into an interpretist world, the problems of the interpretist methodology are considered.

Chapter 5 introduces the first of the two case studies, rail privatisation. The ordering of the case studies - presenting the historical study second - may seem inappropriate. There is, however, good reason for the ordering. The contemporary study is the core empirical work in the thesis. The main theoretical challenges are to be found here. Moreover, although the historical study contributes to our understanding of the development of the railway industry, it is the implicit questions raised in the contemporary study that raise our interest in the historical work. It is hoped, therefore, that the stature and importance of the historical study is enhanced by first reading the contemporary work. Equally it is the contemporary work which challenges the dominant theoretical understanding of the policy process, and it is only after considering its failure to explain events here that we can contemplate asking similar questions in the historical study. The application of the network model to the historical study is a crucial test of its viability. Without the contemporary study suggesting its generalisability, the historical study would not have provided such a challenging comparison overall.

The contemporary study is bulky and is split into four substantive parts found in separate chapters (5-8). Chapter 5 deals with the policy process, tracing the development of the policy from its origins in the early 1980s to its eventual Cabinet endorsement. Chapter 6 examines the formative implementation period which spawned two new agencies which between them composed a unique regulatory framework and disaggregated the operational units from the BR organisation ready for sale. Chapter 7 introduces a number of micro case studies to elucidate the extent of the dependency relationships that were factored in to the implementation. A number of franchises are examined and compared, and the extent to which lawyers were fully integrated into the process is evaluated. Finally, Chapter 8 examines the trauma that befell those attempting to sell the ScotRail franchise located in Glasgow. Here, a political actor with a statutory function under the Railways Act 1993 used this fact to extract major concessions from the Department of Transport, and by implication the Government and the Treasury. It is a story of hard bargaining, diplomacy and concession. The sale of ScotRail completed the sales process well ahead of what was originally expected.

Chapter 9 is the analytical companion to the case study. The chapter sifts the data in search of a controlling dynamic in the context of a network. The essential relationships are mapped, located and weighted. The chapter explores the use and non-use of the implementation veto, examines the process of policy-making within the implementation arena, and addresses the question of incentives. From this implementation success is evaluated with reference to the crude marker of the transfer of assets and the more sophisticated concept of the Causal Theory.

Chapter 10 introduces the second case study: the reforms of 1961 to 1967. This second case study is also split into sections. The first section contained in Chapter 10, as in the earlier case study, traces the origins of the policy starting with nationalisation in 1948 and concluding with the appointment of Dr Beeching as the Chairman of the nationalised Board. Chapter 11 discusses the process of constructing a statute sufficiently robust to give authority to the radical overhaul of the nationalised transport sector, the centrepiece of which was the railway. The chapter considers the working group structure which anticipated the implementation problems and - at its most basic - found a form of words adequate to manage the task. The chapter provides a narrative on the passenger service closure programme and the problems of practicability both technical and political. Once again, the particularity of the Scottish railways is used as a vehicle for exploring implementation vetoes and incentives that so defined the process north of the border.

Chapter 12 formalises the data from this second case study such that the controlling dynamic can be located. Again using the network model presented in Chapter 3, the essential relationships are mapped and weighted. The chapter argues that despite the existence of fewer actors, the analysis cannot be reduced in any meaningful way to a simple department-led programme. The expertise is too contingent and diffuse for such a method to deliver a satisfactory explanation. Some interesting incentives are located - on the one hand the value of informal relationships, it is argued, should not be dismissed, on the other, power maximization remains a key factor.

Chapter 13 is the concluding analytical chapter. The utility of the model employed is considered in the context of its application to the two case studies. The chapter isolates the weaknesses of the network model vis-á-vis the extant theories and perspectives. Moreover, consideration is given to the issue of successful implementation and how the case studies meet the criteria. For example, if sustainability is a measure of success, can this be built into a model and applied? What indicators are present in the historical case study that may provide clues as to the potential outcomes when the new structure fully matures? The chapter will also give further consideration to the dynamic that transforms ideas into substantive policy and outputs. The terms of "success" will also be evaluated and the perceived difficulties arriving out of the case studies presented of transferring this model to other policy spheres where the relationship between policy and implementation is less secure conceptually.

Chapter 2
The Logic of the Policy Process

Introduction

The policy studies discipline is now embracing implementation as a consequence of the growing realisation that decisions are not self-executing[1] and that the policy/administration dichotomy is under some pressure. As long ago as 1976, Anthony King noted the inexorable growth in number of dependency relationships which government is involved.[2] He explains this with recourse to growth in the complexity of modern economies and bigger government. More recently, government has moved from being a service provider - from actively managing enterprises - to underwriting the activities of private sector service providers and core industries. For example, the state's interest in the Electricity Supply Industry remains despite the transfer of assets to the private sector. The state exercises its interest through licensing which defines operators' responsibilities in terms of supply, whilst simultaneously ensuring adequate resourcing for investment and other contingencies.

Implementation, I will argue, is about more than just implementing a policy, it is about creating the conditions for implementation and then sustaining that policy once it has been operationalised.[3] For that to happen, policies need political coherence, their long-term practicabilities require to be mapped, and the resource guarantees spelled out.[4] Achieving congruence here is extraordinarily difficult. By way of illustration, Patrick Dunleavy, in a recent comparative study of European policy implementation,

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[1] Richard F Elmore, "Backward Mapping: Implementation Research and Policy Decisions", in *Political Science Quarterly,* Vol 94(4), 1979, p605.

[2] Anthony King, "The Problem of Overload" in A. King (ed) *Why is Britain Becoming Harder to Govern?* BBC, London, 1976, pp19-23.

[3] Malcolm L Goggin in his paper "The 'Too Few Cases, Too Many Variables' Problem in Implementation Research" in *Western Political Quarterly,* Vol 39(2), p336 argues that implementation ceases at the point where operations become routinized - implementation gives way to management. However, as the poll tax débâcle has shown, governments often intervene at this stage to stabilise operation as a result of management difficulties. Routinization is an output not an outcome.

[4] Back in 1958, Herman Finer in his legal-administrative study of the functions of the civil service conceded a policy-making function to administrators: "Because the authority of scientific technique has so won its way among all sections of the population, it is now an almost universally accepted idea that those who professionally serve in a technical capacity can do so without affecting policy, or if they affect policy, that they do so impartially, without political tendencies and intentions and as a result of the sheer scientific value and significance of their advice and their assistance. They are the human transmitters of general forces and laws and nothing more." This essential thesis will not be challenged, however, one needs to consider the *degree* of discretion afforded implementers and how it may challenge the notion of what is and is not a political administrative act. See Herman Finer, *Theory and Practice of Modern Government,* Methuen and Co, London, 1965, p713.

considered two rather undesirable outcomes of the policy process: the *policy mess* and the *policy disaster*. He provides an extensive list of policy disasters which include the poll-tax and Child Support Agency (policy initiatives) and "botched" entry into the ERM (economic management). In his assessment of these and other cases, Dunleavy argues that policy failures of this kind can and should have been anticipated, and therefore either modified at the formation stage or, alternatively, not presented to Parliament in the first place. In addition, policy disasters generate *policy induced waste* which, he claims, "is now accepted as routine in British politics."[5] In other words, they are hugely expensive.

One cannot assess such cases episodically, to do so would lead us to conclude that all policy can be implemented in the sense of outputs; policy *outcomes*, however, are qualitatively different. For example, in spite of the perceived impracticabilities associated with the poll-tax (and the not inconsiderable professional objections to it)[6] the policy was, to all intents and purposes, implemented. Policy was operationalised (in a programme) leading to Community Charge bills being posted to putative charge payers (the desired output). The policy failed on the key criterion of compliance by target groups (the charge payers) who in unsustainably large numbers refused to pay, and in some cases, refused even to register. Instrumental governments concentrate on achieving the compliance of implementing agencies, whilst taking as read target group compliance (which usually requires a change in behaviour). At this level, structural features may not be enough, target groups need convincing of the efficacy of the policy or, alternatively, provided with a suitable compliance incentive. Indeed, this point was made quite forcefully in a *Times* leader in 1983: "Yet coming clean with the public at least offers policy makers a fighting chance, since they must win the argument, but it can also mean better government."[7]

This chapter will do the following. In the first instance it is the intention to introduce the concept of policy implementation through a brief discussion on the *policy-making process*. This discussion is in no way exhaustive; its primary function is to highlight the bounded nature of the policy-maker's rationality and the near absence in the policy-making calculus as theorised of considerations of the practicabilities of implementation. I will subsequently argue that policy-making impacts very greatly on the implementation exercise which is appreciated by some actors in the policy-making phase.

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[5] Patrick Dunleavy, "Policy Disasters" in *Public Policy and Administration*, Vol 10(2), 1995, p59.

[6] David Butler, Andrew Adonis and Tony Travers, *Failures in British Government: The Politics of the Poll Tax*, Oxford University Press, 1994. pp95-97.

[7] *The Times*, 8 August 1983. Quoted in B Hogwood and L A Gunn, *Policy Analysis in the Real World*, Oxford University Press, 1984, pp265-6.

Secondly, the policy implementation literature will be reviewed. The literature as it has evolved can be categorised as two paradigms: Top-down, hierarchical models and Bottom-up, implementation-as action models. Both of these models, it will be suggested, fail to capture the dynamics of implementation, leaving the way open for consideration of the utility of a network approach.

2.1 Implementation and the Policy Process

We accept that the policy process is an empirical phenomenon. In the context of policy dynamics, however, some have argued that the discrete means-end policy process simply does not exist.[8] A potentially corrupting force for traditional policy analysts may well be the acceptance by scholars that policy implementation impacts very greatly on policy formation and outcomes.[9] This is exacerbated in the British context by the limited nature of the obstacle presented by Parliament.[10] Policy, however, remains a central element of analysis. Analysts such as Hogwood and Peters have sought to define the ingredients of *bad* policy. They suggest it is that which is "...based upon inadequate information, defective reasoning, or hopelessly unrealistic assumptions."[11]

With this in mind, the perceived policy-making process expressed in concepts like Herbert Simon's *perfect rationality* give students of policy pause for thought. However, perfect rationality is of considerable value as an *ideal type* for students of implementation. Christopher Hood coined the term *Perfect Administration* for this very purpose. Its definition provides another sense of the dynamic of the policy process: perfect administration, for Hood, is "a condition in which 'external' elements of resource availability and political acceptability combine with 'administration' to produce perfect policy implementation."[12]

That said, the synoptic, rational deductive ideal[13] remains as seductive as ever. For Baybrooke and Lindblom, in value terms, the "...determination of policy becomes simply a matter of calculation, a question of feeding in the observed facts and thinking consistently through a sequence of logical

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[8] Hugh Heclo, "Policy Dynamics" in Richard Rose (ed) *The Dynamics of Public Policy,* Sage, 1976, p240.

[9] B Hogwood and Lewis A Gunn, *Policy Analysis in the Real World,* Oxford University Press, 1984, p198.

[10] Brian Hogwood in his book *From Crisis to Complacency: Shaping of Public Policy in Britain,* p172 notes that Parliamentary approval is tacit in all policy formulation which results in implementation starting well in advance of Royal Assent.

[11] B Hogwood and B Guy Peters, *Policy Dynamics,* Wheatsheaf, Brighton, 1983, p197.

[12] Christopher C Hood, *The Limits of Administration,* John Wiley and Sons, London, 1976.

[13] D Baybrooke and C Lindblom, *A Strategy of Decision,* Free Press, New York, 1969, p9.

transformations. One discovers the facts, looks up (or derives) the relevant hypotheticals, and deduces by strict logic which policy is to be selected."[14] Guided by ethical mileposts, the rational deductive ideal provides (at the very least) a normative framework for the policy-maker.

The rational deductive ideal has been adapted to accommodate criticisms.[15] Herbert Simon, for example, concedes the limitations of rational policy making in his book *Administrative Behaviour*. Simon constructs an "Area of Rationality" in which he identifies three quite distinct limits to human rationality. First, the individual is limited by skills, habits and reflexes; second, values and conceptions of purpose may diverge from the organisation goals; and third, there may be limits to actors' knowledge and information.[16] Crucially, however, Simon maintains that a decision (in an organisational context) needs "to be made where the knowledge is available for coordinating it with other decisions."[17] Not surprisingly then, Simon notes that some key decisions in government (such as budgetary considerations) are left with senior administrators whose "rationality" is greater than that of the politicians.

Rational Policy models have been subjected to more fundamental criticism by theorists who emphasise an experiential dimension to policy making. Charles Lindblom's work on incrementalism is perhaps the most quoted.[18] For Lindblom, it is not adequate to assume that in any policy sphere there is a tangible problem seeking a solution. Incrementalism, argues Lindblom, is nothing more than a strategy for achieving competent policy. In focusing on marginal change, one concentrates on the familiar, better known experience. Such an emphasis drastically reduces the number of policy options, thus simplifying the process. Equally, it reduces the volume and complexity of factors affecting outcomes.[19] An individual who resorts to such a strategy is a "shrewd, resourceful problem-solver who is wrestling bravely with a universe that he is wise enough to know is too big for him."[20]

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[14] Baybrooke and Lindblom, (1969), p10.

[15] See, for example, AG Jordan, JJ Richardson, *British Politics and the Policy Process: An Arena Approach*, Allen and Unwin, London, 1987, pp10-14.

[16] Herbert A Simon, *Administrative Behaviour: A Study of Decision-Making Processes in Administrative Organisations*, Macmillan, New York, 1957, p241.

[17] Simon (1957), p244.

[18] Charles E Lindblom, *The Policy-Making Process*, Prentice Hall, N Jersey, 1968.

[19] Lindblom (1968), p27.

[20] Lindblom (1968), p27.

In constituting his model of the policy process, Lindblom isolates the factors - players - who affect policy outputs; a mix of politicians, administrators, and "extra-parliamentary" interests. They illustrate, in the context of his thesis, that decision-makers are influenced in a variety of ways along a continuum with rational policy-making at one extreme, and non-decision-making (represented by the non-voter), at the other (see figure 2.1 below).

The key feature of Lindblom's "ladder" is the role of administrators whose expertise, it is argued, refines policy as it passes from one level to the next. Their function is to consider the feasibility of options. In some spheres, one can precisely pinpoint such inputs, for example in the preparation of Governments' annual budgets.[21] Administrators enter the discourse arena.

FIGURE 2.1: Lindblom's Policy-Making Ladder[22]

President
Congressional and other top party leaders, congressional Committee Chairmen, Top Administrators, and Supreme Court Justices
Other Legislative Leaders, Policy-making Judges, and High-Level Administrators
Lower-Level Party Leaders, Interest Group Leaders, and Major Public-Opinion Leaders
Politically-Active Citizens
Ordinary Voters
Non-Voters

2.12 Garbage Cans

The Garbage Can[23] model of policy making presents another model for explaining the ambiguities to be found in rational models and the failure of incrementalism to deal with discontinuities and a sudden agenda

[21] For example, Peter A. Hall, "Policy Paradigms, Social Learning and the State: The Case of Economic Policymaking in Britain" in *Comparative Politics*, Vol 25(3), 1993, p285. The blurring of policy and implementation is also recognised by Majone. See G Majone, *Evidence, Argument and Persuasion in the Policy Process*, Yale University Press, New Haven, 1989.

[22] Lindblom (1968), p103.

[23] Michael D. Cohen, James G. March, and Johan P. Olsen, "A Garbage Can Model of Organisational Choice" in *Administrative Science Quarterly*, 1972, pp1-25.

change.[24] It is a model that, in the context of organisations, "discovers preferences through action more than it acts on the basis of preferences."[25] Solutions, say Cohen *et al*, despite the not unreasonable dictum that all answers first need a question, are answers "actively looking for a question".[26] Here they present the example of the computer: it is not just a solution to the problem of payroll management discovered when needed. It is also an answer in search of a question.

Cohen *et al.* seek to challenge our understanding of the process of decision-making. Organisations, they argue, are generally seen as vehicles for solving well-defined problems. However, in the garbage can model we are presented with something approaching an *organised anarchy* where "an organisation is a collection of choices looking for problems, issues and feelings looking for decision situations in which they might be aired, solutions looking for issues to which they might be the answer, and decision-makers looking for work."[27] This view taps into an interesting dynamic incorporating as it does the evolution of meaning in decision arenas, the effect of time, and impacts of available energy, and organisational structure.

The model, in short, maps, for particular kinds of organisations (theirs is not an inter-organisational model as they empirically present it) the mechanism by which couplings of solutions to problems, choices, and personnel are achieved. In effect, there are three modes of decision: resolution, oversight, and flight. *Resolution* is synoptic and, the authors argue, requires the input of time and energy before choices engender decisions which resolve problems. It is largely restricted to specialists in any one organisational area; *oversight* occurs where a convenient choice is activated which can quickly and easily be attached to a problem despite attention being focused on other choices. Oversight occurs because the time and energy requirements are small; and *flight*, where choices are attached to problems for long periods without producing solutions. Decisions are made here when a new more attractive choice materialises and the problem and inappropriate choice decouple allowing a decision to be made. This does not necessarily provide a solution, however.[28] We should also note that some problems can remain latent *and* unattached for some time.

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[24] John W. Kingdon, *Agendas, Alternatives and Public Policies*, Little Brown and Company, Boston 1984, p20. See also Gary Mucciaroni, "The Garbage Can Model and the Study of Policy Making: A Critique", *Polity*, Vol 24(3), Spring 1992, pp 459-482.

[25] Cohen, March, and Olsen (1972), p1.

[26] Cohen, March, and Olsen (1972), p3.

[27] Cohen, March, and Olsen (1972), p2.

[28] Cohen, March, and Olsen (1972), p8.

The Garbage Can thesis has many limitations, and the claims made by its creators are modest. For example, it is firmly rooted in the organisational setting, though it was adapted for application in the political policy sphere by John W Kingdon as noted above. However, it is empirically successful in exposing the complexity of decision-making by the apparent conclusion that decision-making often does not achieve solutions. The dynamics of the process are such that unless all of the necessary conditions for problem-solving are met; namely, the putative rules of decision making allow for the problem-solving arena to contain the right decision makers vested with sufficient resources to consider the right problems with the appropriate choices available, then solutions will remain elusive. That said, the notion that solutions exist independently of problems is a sufficiently challenging idea in the sphere of policy making where generic "solutions" are modified and applied to seemingly intractable problems.

2.13 Summary

A number of models of policy formation have been reviewed. The purpose has been to illustrate the limits of rational policy making and the gradual acceptance of more bounded models that encapsulate human frailties, notably the work of Herbert Simon. Decision-making itself, however, may be even less rational than Simon's bounded rationality. Other factors which have been drawn out with reference to the *Garbage Can* model such as available energy, the physical makeup of decision forums, and the weighting of problems may impact considerably on the process and the nature and quality of the policy output.

Models of policy making are important for three reasons. Firstly, the process of policy formation necessarily impacts on implementation especially where the policy concerned represents a major change to existing arrangements for service delivery, regulation, or whatever. Failures in implementation, therefore, may be as much a consequence of flaws in policy as they are in the failings of administrators.[29] We need to be aware that we are studying a process and not discrete events. Secondly, "rationality" in the decision process at implementation is as problematic as it is at the policy formation stage of the policy process: what is true for one is true of the other. If as will be argued later the implementation of policy itself has policy-making embedded within it, the question of rationality is of central importance. And thirdly, implementation impacts on policy-making to the extent that the feasibility of any policy has to be evaluated before a decision to release the necessary resources can be made. This presents implementers with a consultative function; a means of influencing the outcome of the policy-making exercise. Explanations of policy failure, therefore, may be found in the form of policy-making employed from which

[29] Dennis J Palumbo and Donald J Calista (eds) *Opening up the Black Box: Implementation and the Policy Process*, New York, Greenwood Press, 1990, p6.

implementation programmes are derived. As Dunsire has noted, "wisdom may reside at one end, but knowledge comes from the other; policy is blind if not led by operation."[30]

2.2 Policy Implementation

The discipline of conceptualising policy implementation is a much younger enterprise. Work such as Martha Derthick's *New Towns-in Town*[31] study of policy failure alerted analysts to the dangers of ignoring implementation. Policy is often easy in comparison. What follows is an evaluation of the most influential attempts at conceptualisation.

i. Top Down Models

2.21 Pathology

On the face of it, Top Down models of policy implementation consider implementation as a discrete process: an output from the policy process. Arguably, it was Pressman and Wildavsky's study of the Oakland Employment Project in 1973 which raised the spectre of encapsulating implementation within the sphere of policy studies. Though clearly this was not the primary aim of Pressman and Wildavsky who simply sought to examine the implementation of what appeared to be a "simple" federal employment initiative. It turned out to be anything but simple; the federal agency responsible failed to achieve the necessary infrastructural investment in time to secure the desired results.[32] Reflecting on their findings, they concede that generally analysts should not be surprised by policy failure, more that new programmes work at all.[33]

Their study represented a transitionary step from the intra-organisational studies[34] to a more system-based analysis, moving away from deriving explanations from the concepts of rank and hierarchy. For example,

[30] Andrew Dunsire, *Implementation in a Bureaucracy*, Martin Robertson, London, 1978, p83.

[31] Martha Derthick, *New Towns-in-Town: Why a Federal Program Failed*, Urban Institute, Washington, 1972.

[32] Jeffrey L Pressman and Aaron Wildavsky, *Implementation*, The University of California Press, Berkeley, 1984, pxx.

[33] Pressman and Wildavsky (1984), p109.

[34] *Inter alia*, James G. March and Herbert A. Simon, *Organizations*, New York, John Wiley and Sons, 1958 where inter-organisational relations are discussed briefly in the context of conflict and game theoretic models are employed; Anthony Downs, *Inside Bureaucracy*, Boston, Little Brown and Co., 1967.

Pressman and Wildavsky consider how means-ends is meaningless in the context of multi-organisational implementation. The *Oakland Project* itself dates back to 1966 and was predicated on the belief that Oakland was racially volatile and in need of federal attention if violent unrest was to be averted. At its core was an 8.4 per cent unemployment rate. The project - authorised under the Public Works and Economic Development Act 1965 - had earmarked some $24m of loans for public works projects in the City - two of over $10m each, one of $2m, and one of $500k. The works themselves were supposed to generate some 2,200 jobs, with a further 800 being created in support industries. There were strings attached to the loans, not least an employment plan to be drawn up by recipients specifying their recruitment policy which was to provide skilled jobs for "hard core" unemployed Oakland residents. The process of policy had not been contested to any large degree - Congress appropriated the necessary funds and the EDA- the implementing agency - set up structures, approved projects and committed the necessary funds with admirable speed. But it was the technical details that militated against successful implementation.

The EDA officials had to work exceedingly fast. Their funds were time-limited which impinged greatly on the selection of projects. As the authors note, "[t]he port appeared to be the only show in town...The port had the project and the others didn't." [35] The major project was the construction of a hangar on the Port's land to be leased for 40 years by World Airlines. Oakland residents would be trained at federal expense to take skilled jobs at the airline after its completion.[36]

Each project suffered its own delays. The hangar could not be built until the leasing deal had been closed and the employment plan devised and accepted. It took a year to retain a firm of architects and engineers. The initial assessment indicated increased construction costs amounting to nearly $4.5m sparking a series of technical discussions over the sources of the increased costs. In exchange for extra funding, the EDA sought a tightening of the employment conditions in light of Washington's misgivings about the company's minority employment record to date. But a tri-partite agreement was a difficult one to manage. "The port which was in charge of building the hangar, had asked for additional funding, The EDA would be trying to use its control over this funding to force concessions from World Airways, the lessee, and future beneficiary of the hangar. Attempting to control funding for one institution to force changes in the behaviour of another would prove to be an exasperatingly indirect process."[37] To make matters worse, a complex approval process of the training programme involving three federal and one state agency. They

[35] Pressman and Wildavsky (1984), p28.

[36] The other projects were a $10m marine terminal and an industrial park (both Port of Oakland), and an access road to the coliseum (City of Oakland).

[37] Pressman and Wildavsky (1984), p44.

failed to agree, once again on technicalities, and World Airlines pulled out of the project. These were the *trials of implementation.*

Pressman and Wildavsky take their data and use it to develop a rather crude model of implementation. They employ two empirical markers: the decision point and the clearance point. A decision point is one in which an act of agreement amongst participants is required for the programme to progress. A clearance point is one in which a separate participant is required to give a consent.[38] By a process of simple arithmetic, they tabulate the total number of clearance and decision points from which they calculate the probabilities of success at various stages. Their conclusions make pessimistic reading for legislators and officials of implementing agencies alike.[39]

The Oakland Project, posit Pressman and Wildavsky, was selected because of its apparent simplicity. The EDA deliberately selected one city and the funds were to be managed by one federal agency, and there was to be one major recipient that had a good record and credit rating, and to cap it all, the funds were available immediately. But, suggest Pressman and Wildavsky, we fail to appreciate that the machinery of implementation often doesn't move fast enough to capture agreements - a labour agreement is liable to amendment some three years on, for example.[40] Moreover, "[l]east of all do we appreciate the geometric growth of interdependencies over time where each negotiation involves a number of participants with decisions to make, whose implications ramify over time."[41] Equally, they show how a means-end rationality can easily be undermined if actors participate working to different objectives perceiving the project in quite different ways. The Oakland Port Authority viewed the project as a means of expanding capital not, as the EDA did, as an employment project.[42]

Their most striking and enduring contribution, however, was their conviction that programmes need support of an adequate causal theory. In the case of the Oakland Project, it was premised on a faulty economic theory - a complete failure to comprehend the "control deficits" that necessarily hamper federal subsidising of capital projects. Moreover, ask Pressman and Wildavsky, on what grounds is it reasonable

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[38] Pressman and Wildavsky (1984), pxxiv.

[39] Pressman and Wildavsky (1984), p107. At its crudest, the authors conclude that if one assumes the probability of agreement at any one point is 80 per cent, the probability of completion falls below 50 per cent after four agreements.

[40] World Airways reneged on their labour pledge with the EDA in 1969. Pressman and Wildavsky (1984), pp56-57.

[41] Pressman and Wildavsky (1984), p93.

[42] Pressman and Wildavsky (1984), p98.

to expand the capital of commercial companies on the promise that they would later employ the right people? The logical course, it is argued, would have been to subsidize the wage bill, not the capital employed. They were reliant on the Oakland Port simply because the EDA offered the wrong incentives to employers. Capital intensive industries ordinarily have no problems attracting investment. They are, however, conscious of low labour productivity; a wages subsidy could alleviate the burden on employers taking on under-skilled workers.

Equally, they failed to appreciate the structural nature of the employment problem in the City. One key problem for the unemployed minority in the city was mobility. The largely white suburban population had equal access to the manufacturing centres located out of town (many employers followed the exodus to suburban locations made possible by the wider availability of cars and the development of freeways), and to downtown Oakland where the service-sector jobs were to be found. The largely black population in Oakland could neither get to the manufacturing sites, nor acquire the skills to compete with educated commuters. Policy-makers, they conclude, had little understanding of the problems experienced by the target group.

Three criticisms of this model are offered by Eugene Bardach which are useful to note. First, Pressman and Wildavsky's model is incomplete such that it offers a typology of delay, for example, but does not attempt to suggest a conceptual basis for the typologies. In addition, delay would seem to be the only outcome of "the complexity of joint action". Bardach believes that policy is perverted or subverted in its operationalisation by implementers. And finally, they do not capture the essence of the institutional relationships or roles that are the links in the "assembly" process.[43]

Having opened the Pandora's Box, the study of implementation spawned many empirical outings and theoretical constructs. Van Meter and Van Horn, for example, like Pressman and Wildavsky, insisted that implementation does not start until goals and objectives have been established by means of legislation and the allocation of the requisite resources. Implementation starts when administrators attempt to operationalise prior political decisions leading to "continuing efforts to achieve the large and small changes mandated by policy decisions."[44]

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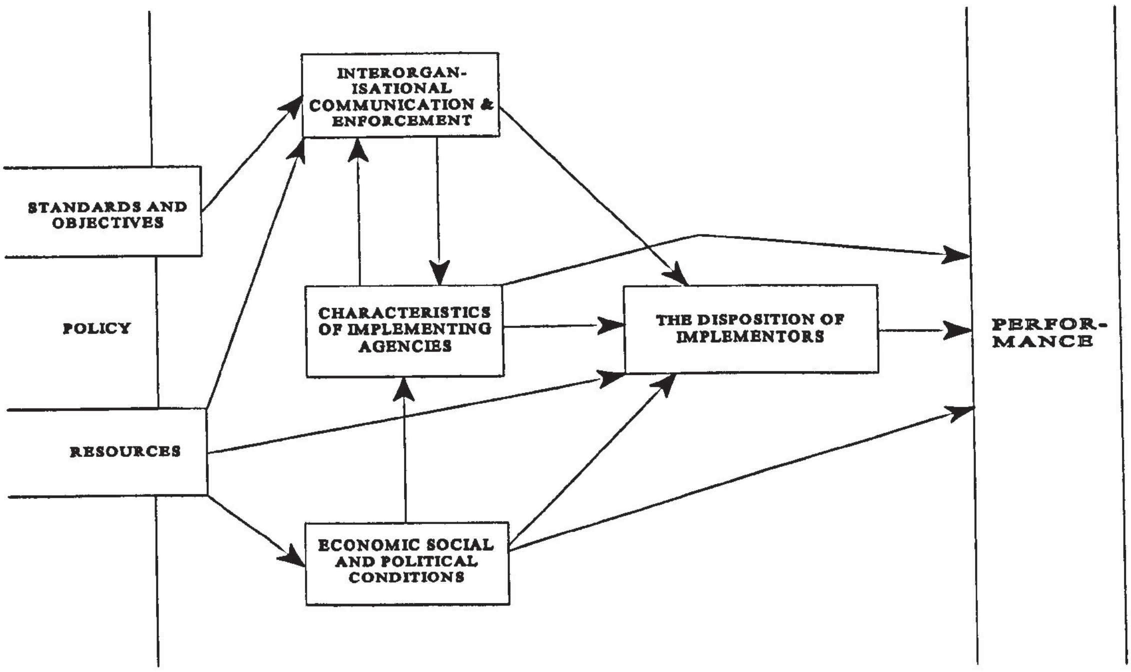
[43] Eugene Bardach, *The Implementation Game: What Happens When a Bill Becomes Law?* MIT Press, Cambridge Mass. 1984, p42.

[44] Donald S Van Meter and Carl E Van Horn, "The Policy Implementation Process: A Conceptual Framework" in *Administration and Society*, Vol 6(4), 1975, p447.

They make clear a belief that implementation is not a sufficient condition for policy to attain "positive ultimate outcomes"; policy, they assert, is often flawed, not to say ill-conceived. They argue that implementation is further affected by the extent to which policy deviates from previous policy (is the policy incremental or radical?), the degree of organisational change necessary, and the disposition of implementers. Indeed, on this latter point, Van Meter and Van Horn's model has disposition as the defining variable (see Figure 2.2 below).

Figure 2.2: A Model of the Policy Implementation Process



From Van Meter and Van Horn (1975), p463.

2.22 Fixing Games

A game-theoretic approach was presented by Eugene Bardach in his eclectic work, *The Implementation Game.* Bardach presents himself as a first-order pluralist whose contribution is brutally realist, innovative, though lacking in rigour. He reduces policy implementation to the level of the playing of a series of games between the actors in any one policy sphere. Implementation, however, is a process authorised by some "prior political process" which has a bearing on the strategy employed in implementation. Dominating the process, argues Bardach, is defensive behaviour manifested in attempts to avoid responsibility, scrutiny and blame.[45] He presents an assortment of borrowed case studies to illustrate his games typology, whilst introducing new concepts on the back of his own, rather untypical, study of mental health provision in the State of California. However, its untypicality enables one to examine particular features of a *successful* implementation exercise.[46] There are two features in particular that warrant comment.

[45] Bardach (1984), p37.

[46] There is a dearth of studies of implementation exercises that can be defined as successful.

Bardach introduces the concept of the *Fixer*[47], defined as an individual who offers a degree of continuity to any measure, and hence commitment to its successful implementation and the realisation of desired outcomes. Such actors possess considerable independent resources which they can employ to such an end.[48] Mental health issues were a lifelong preoccupation of Assemblyman Frank Lanterman. The Lanterman-Petris-Short (L-P-S) Act was to become his political swansong. He was both instigator in a legislative sense, and an avid interventionist in the implementation process. As an elder statesman with an unrivalled knowledge of the subject (and having considerable resources at his disposal) within the legislature, Lanterman pushed through his measure in spite of harsh criticism from the vested interests which the L-P-S programme was to adversely affect.

The vested interests were dealt with in two ways. The County Supervisors' Association, for example, recognised their own impotence, for "when they realised the L-P-S would actually be imposed on them, they rallied to cooperate in designing something they could live with and even support."[49] Second, the California State Employees' Association, representing hospital workers threatened by the measure, was largely (though foolishly, notes Bardach) ignored. Harsh criticism levelled at Lanterman at implementation precipitated a retrospective adjustment to accommodate their concerns.

These two examples illustrate the indispensability of a fixer with the commitment, ambition (or lack of), and stamina to stay the course and push implementation forward. Bardach notes that Lanterman was still refining the measure some four years after enactment. It is worth contrasting this with the gross turnover of key personnel which afflicted the Oakland Project which was eventually abandoned in ignominy.[50]

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[47] Readers should be aware of the distinction between Bardach's fixer and that employed by Trevor Smith and Alison Young in their work, *The Fixers: Crisis Management in British Politics*, Dartmouth Publishing, Aldershot, 1996. Smith and Young identify á distinct group of British political fixers spanning some seventy years of "outsider" intervention to solve or reflect on the nature of political problems. Examples range from "official fixers" like Lord Plowden, the distinguished thinker who chaired numerous political inquiries, to "new style fixers" like Derek Rayner who instituted the FMI in Whitehall.

[48] A fixer was advocated by Butler *et al*, in their assessment of the poll tax failure.

[49] Bardach (1984), p11.

[50] Pressman and Wildavsky (1984), p60.

Table 2.1: Typology of Implementation Games

Game	Main Features
Budget Game	Assumes that heads of bureaus are budget maximizers. They seek to win or keep favour with legislators. Where the bureau is a grant allocating agency, it seeks to keep favour by allocating funds quickly to other agencies that can deliver output quickly and conspicuously. In doing this they tend to relinquish control over how money is used as a system of monitoring has not been devised. This complements the Easy Money game.
Easy Money	Government coffers are relatively healthy and participation in Government schemes can prove lucrative especially if the rate of exchange favours non-government agencies.
Pork Barrel	Legislators' equivalent of the bureaucrats' Budget/easy life game. Legislators tend to water down proposals in the face of opposition and the search for allies/coalition building.
Territory	Initial struggle for responsibility and policy delivery. Competition for territory, however, can be quite damaging to the welfare of the programme.
Up for Grabs	Often mandates are ambiguous and subject to post-legislative bargaining. Clientele groups embracing the loose aims of the project can capture it and shape it in ways congenial to themselves.
Not our Problem	As soon as agencies discover that delivery involves a huge extra workload for which they may be inadequately prepared and equipped, or that it leads them into areas of controversy, attempts may be made to shift responsibility on to other agencies.
Odd Man Out	Actors both create and maintain their options to withdraw and cut losses whilst they monitor the remaining uncertainty, but this can often limit programme effectiveness as agencies are reluctant to do the initial running because there are no agreements on insuring against uncertainty.
Tokenism	Bureaus may want to be seen to be part of a programme without investing too much in the way of resources. Achieving this and accumulating credit is a game of ingenuity and persistence.
Piling-on	Deliberate heaping on of a large number of additional objectives with the express aim of toppling proposals.
Keeping the Peace	Some legislation is designed to extirpate certain "evils". Groups affected by legislation of this kind claim back ground ceded at the policy stage when implementers realise the need for compromise if the measures are to be implemented.
Easy Life	This is a game played by bureaucrats seeking compensation for their public service, tailoring their work environment to suit themselves as much as possible. This influences the allocation of responsibility in periods of change.
Tenacity	The belief that delay is the real killer of programmes, and agencies involved in implementation whose members are sufficiently tenacious may find the programme collapses before their achieve the sought concession.
The Delay Game	Delay is the one pathological element of implementation. It is both purposive and non-purposive and its effects are mitigated by legislators in framing their programmes.
Management	This game assumes that problems of social entropy, incompetence, etc., can be eradicated by better management. Players are the advocates of better information systems, auditing, etc.
Reputation	All actors have reputations to defend. This game is played largely by individuals. All want to be involved in successful prestigious projects to build reputations for themselves for the realisation of personal ambition. Bureaucrats seek reputations for being good at all of the above games.

Notwithstanding the untypical nature of the *Fixer*, Bardach identifies some key elements of implementation. First, despite the existence of a statute, implementation is far from being a discrete exercise. All statutes, by the very nature of the legislative process, engender consequences that must be addressed at implementation. Second, although he (unhelpfully) employs the machine metaphor in relation to programme implementation, he rightly adopts a systems approach for conceptual purposes, and focuses the analyst's attention on "vulnerable pressure points" within the system.[51] Very few measures guarantee the satisfactory participation of even an acquiescent community, a fact which leads him to conclude that "it is *conflict over the terms* on which assent is given or withheld that is crucial to the implementation process."[52] And in defence of his approach, Bardach insists that the fragmentary and disjunctive nature of the real world that makes "a general theory of the implementation process unattainable and, indeed, unrealistic."[53] The typology above gives credibility to this claim.

2.23 Apotheosis

The most sophisticated Top-down conceptual framework can be found in Mazmanian and Sabatier's composite work, *Effective Policy Implementation*. Drawing on the work of the above-mentioned writers, Mazmanian and Sabatier seek to generate a series of variables that can be operationalised for both analyst and policy-maker. "More of an effort is needed," they argue, "in conceptualising and empirically exploring the linkage between individual behaviour and the political, economic, and legal context in which it occurs."[54] Implementation, then, is affected by both actor behaviour *within* the implementation arena, and behaviour and events *exogenous* to it.

In addition, they consider a statute to have adequately identified the problem(s) to be addressed, stated the objectives, and provided for a degree of structuring of the implementation process. By structuring they mean identifying (and biasing) the implementing agency,[55] anticipation of conditions of compliance by target groups, and the provision of scope for some revision as a result of experience accruing from implementation. Legislators, Mazmanian and Sabatier suspect, are vulnerable to a "variety of 'political' variables on the balance of support for statutory objectives."[56]

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[51] Bardach (1984), p39.

[52] Bardach (1984), p42.

[53] Bardach (1984), p57.

[54] Daniel Mazmanian and Paul A. Sabatier, *Effective Policy Implementation*, Lexington Books, 1981, p5. This is the basis of their criticism of the Van Meter/Van Horn model.

[55] Biasing is the prerogative of executives; achieving compliance within organisations is a matter of incentives. See Amitai Etzioni, *A Comparative Analysis of Complex Organisations*, The Free Press, New York., 1975, pp12-16; 421-445 for a theory of compliance defined in terms of power (over) and involvement (of).

[56] Mazmanian and Sabatier (1981), p6.

Their analytical framework, assuming any particular problem is tractable, when distilled, identifies six features necessary for successful policy implementation:

1 Unambiguous and consistent objectives;
2 adequate causal theory which explicitly identifies the links that will be necessary for the attainment of policy objectives;
3 successful compliance by virtue of the provision of:
   i adequate resources; and
   ii appropriate policy instruments;
4 controlled discretion of officials at intermediate and 'street' levels in combination with sufficient commitment at these levels to the programme and its objectives;
5 support from affected interest groups and other government agencies; and
6 stable and predictable socio-economic conditions.[57]

Seductive though this framework might be, there are dangers for the analyst. Helen Ingram argues that Mazmanian and Sabatier have attempted to be too inclusive rendering their framework too cumbersome to use as a framework for analysis.[58] In addition, Angela Browne and Aaron Wildavsky criticise this approach on the grounds that it seeks to create preconditions for implementation rather than assist implementers in solving the inevitable implementation problems by adaptation. Notwithstanding the sophistication of the model, Browne and Wildavsky question the usefulness of the model in an applied sense. "Were there in existence a proven formula for implementation and for the modes of its control (i.e. resources, sanctions and inducements), all that would remain would be to press the administrative button: a desired policy outcome would simply emerge."[59]

They go on to argue that analysts have abandoned implementation in favour of influencing policy design which saves them from getting involved in the messy business of generating working objectives along the way. Moreover, it is not unreasonable to wonder how often, if ever, the six preconditions can ever be met. For example, financial resources are always finite and are never, all implementers are bound to agree, adequate. Even if they were, however, how would we really know? It is not until substantive

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[57] Derived from RAW Rhodes and D Marsh, *Implementing Thatcherite Policies*, Open University Press, Buckingham, 1992, p9.

[58] Helen Ingram, "Implementation: A Review and Suggested Framework" in Naomi B Lynn and Aaron Wildavsky (eds), *Public Administration: The State of the Discipline*, Chatham House Publishers, Chatham, New Jersey, 1990, p467.

[59] Angela Browne and Aaron Wildavsky "Implementation as Mutual Adaptation" in Pressman and Wildavsky (1984), p229.

implementation begins that the true cost of a (complex) policy initiative is known. Likewise, appropriate policy instruments. Instruments of implementation are prone to modification, and equally they change as phases of implementation are completed. Moreover, the model fails to recognise that ambiguity of objectives is both endemic and functional.[60]

ii Bottom-Up

The following brief assessment of Bottom-up approaches to implementation serves two tasks. Firstly to offer a more systematic and fundamental critique of the "Top-down" models than that provided by other exponents of the same approach; and secondly, to assist in the adaptation of a qualified rational model of the policy process into a framework which has both explanatory and predictive capabilities.

2.24 Street Level, Backward Mapping

Richard Elmore, a trenchant "Bottom-up" theorist, offers a number of salient criticisms of the "Top-down" model. Firstly, he accuses exponents of *forward mapping* (Elmore's preferred terminology for Top-down) of being long on description and short on prescription, a fault which he attributes to a reliance on the case study method. Case studies are by definition specific and, argues Elmore, their use generates caution in researchers fearful of generalising beyond the scope of their data. The net result, argues Elmore, is a tendency to concentrate on sequences of events and causes and consequences and "advice that is desultory and strategically vague."[61] Moreover, Elmore is critical of the assumptions made in forward mapping, in particular that, "policy makers either (or have the capacity to) control the organisational, political, and technological processes that affect implementation."[62] A cursory glance at Sabatier's list of conditions shows this to be the case. He calls this the "noble lie". In addition, forward mapping limits unnecessarily

[60] Indeed, a paper by Vicki Eaton Baier, James G March and Harold Saetren entitled, "Implementation and Ambiguity" in David McKevitt and Alan Lawton (eds), *Public Sector Management*, Open University Press, Buckingham, 1994 explicitly conceptualises implementation in this way. For example, they suggest that voters seek *symbolic* affirmations as well as personal or group advantage. This, they argue, leads policy makers to be vigorous in policy enactment, and decidedly lax at implementation. Furthermore, inchoate ideas can only be confirmed as policy by the support of often disparate interests. As a consequence, policy is necessarily vague, contradictory and lacking in a shared expectation about its meaning or form after implementation.

[61] Richard F. Elmore, "Backward Mapping: Implementation Research and Policy Decisions", in *Political Science Quarterly* Vol 94(4), 1979, p601.

[62] Elmore (1979), p603.

the range of possible explanations of policy failure.[63] For Elmore, the solution is *backward mapping*. Consider Elmore's own exposition:

> *It [backward mapping] begins not at the top of the implementation process but at the last possible stage, the point at which administrative actions intersect private choices. It begins not with a statement of intent, but with a statement of the specific behaviour at the lowest level of the implementation process that generates the need for a policy. Only after that behaviour is described does the analysis presume to state an objective...*[64]

The objective is stated in terms of a series of organisational operations followed by a set of effects (outcomes) that will result from such operations. At this point, the mapping commences in earnest tracing both the resources commanded at each level, and the "ability" of each unit to affect the behaviour of target groups. The final stage, according to Elmore, is for the policymaker to "describe" a policy that places resources with appropriate organisations at a level where they are likely to have maximum effect. We are constantly reminded that: "Problem solving requires skill and discretion; policy can direct individuals' attention towards a problem and provide them with an occasion for the application of skill and judgement, but the policy cannot itself solve problems."[65]

Critics of this approach question exactly what constitutes "specific behaviour...that generates the need for a policy."[66] Even if we could specify such a behaviour how can one realistically link it to a policy which emanates from some (central) authority? We do not know exactly where the policy *is*. Elmore criticises *forward mapping* for its goal orientation but by omitting goal fulfilment in any ordered (structured) sense - by measuring success by endowing participants with the ability to judge success in terms of their own criteria - *backward mapping* denies us any tangible outcome to measure success against. Indeed, Elmore himself says "it does not rely on compliance with the policymaker's intent as the standard of success or

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[63] In his earlier paper, Elmore presents four models of implementation: the Systems Management Model, the Bureaucratic Process Model, the Organisational Development Model and the Conflict and Bargaining Model. He stresses that models should not be viewed as rival hypotheses; no amount of empirical investigation is likely to prove one model of the process as being superior to the others. One reason for this is the degree of normative information entrusted to them. In addition, models have a tendency to be self-fulfilling for the researcher: "If we could find successful examples of implementation, one could argue, they would manifest all the essential attributes of the systems management model." (p197).

[64] Elmore (1979), p604.

[65] Elmore (1979), p612.

[66] See discussion by JE Lane, *The Public Sector*, Sage, London, 1993, p98.

failure."[67] Instead, he goes on, it offers a standard which is conditional (on local circumstances). By implication, such a model entrusts policy making to street-level actors whose normative outlook may differ individually from others at the same "interface", and also from elected decision-makers whose responsibilities extend much wider. We are merely describing a set of interactions that may or may not be connected with the implementation of policy. "Policy" is effectively discovered and with it the structures that deliver it. Actors, in discrete behavioural sectors, it is argued, "self-select themselves",[68] there being no logical imperative of participation. At the very least this is methodologically complex as researchers are unsure of structure, guided only by the perceived beliefs of *street-level bureaucrats*[69] and the behaviour of their clients, namely, members of the target group.

Robert P Stoker has argued that *backward mapping* approaches tend to stress conflict resolution in preference to "how implementation participants might realize their mutual interests through cooperation."[70] In reading Elmore's own attempts at *backward mapping* in relation to youth employment opportunities where responsibility is split between a federal sponsoring agency and a local education authority, one can see this. He argues that government has expended energy in knowledge development at the centre which has merely increased the knowledge *control* of administrators. It has done nothing for delivery-level personnel. We cannot, however, get away from the fact that where public money is concerned, control is part of the accountability regime. Federal governments, one could argue, intervene and make policy where resources cannot be produced locally, or where the "problem" is a recognised federal responsibility. Meanwhile, Hjern and Hull, two equally committed *backward mappers*, have provided an analytical construct that reflects this self selection and the concomitant structure in the context of the problem under investigation. Moreover, they reject any notion of organisations as unitary actors, stressing instead the importance of group dynamics within organisations which are at least as important as the strategies of

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[67] Elmore (1979), p604.

[68] *Empirical self-selection* is a research method employed by a number of committed backward mappers. See, Benny Hjern and David O Porter, "Implementation Structures: A New Unit of Administrative Analysis" in *Organization Studies* 2/3, 1981, p220 and Chris Hull and Benny Hjern "Policy Analysis in Mixed Economy: An Implementation Approach" in *Policy and Politics*, Vol 11(3), 1983. To be fair to Hull and Hjern structure is implied in their model in that the mixed economy is necessarily a structured approach encapsulating both hierarchy and markets. Their earlier paper, "Implementation Research as Empirical Constitutionalism" in *European Journal of Political Research* Vol 10(2), 1982, Hull and Hjern present a limited hierarchical model which allows for legitimizing "forces beyond the reach of the body politic." In contrast, Elmore's *backward mapping* approach has a sense of chaos about it.

[69] Michael Lipsky "Street-level Bureaucracy and the Analysis of Urban Reform" in *Urban Affairs Quarterly*, Vol 6, 1971, pp391-409.

[70] Robert P Stoker, *Reluctant Partners: Implementation of Federal Policy*, University of Pittsburgh Press, 1992, p17.

organisations in a unitary sense.[71]

The *backward mapping* approach, however, has spawned many interesting and empirically valuable studies. A study of the Swedish Energy Research Policy, for example, bears some scrutiny.[72] The researchers found that the sponsoring agency lost control over the programme at the point where the money began to flow into the coffers of the participating research organisations. Research teams have their own objectives, and there may be a multiplicity of sources of funds. The idea, then, of some unifying programme rationale ceases to have currency. In essence, the further one gets from the original allocative decision, the less is the control over the outcome. In the case of scientific research, this is not a major problem for outputs can only ever be loosely articulated and governments care only that outputs are generated, not what they are. A privatisation programme exhibits such entropic characteristics but the need for the centre to control the process and outputs is considerably greater.

2.25 Public Choice

Before fully developing the network concept to its logical conclusion in the context of implementation, it is pertinent to consider a New Right/Public Choice perspective. There is no discrete Public Choice contribution to the implementation literature; however, Public-Choice-informed policy may well challenge established modes of implementation.

The basic postulate of Public Choice is that the human individual is egoistic - a rational utility maximizer. It is the application of the methodology of micro-economics to political science, and the rejection of the political animal/economic animal dichotomy. Its exponents hail from the Chicago and Virginia Schools and include such notables as Mancur Olson, George Stigler, Anthony Downs, James Buchanan, Gordon Tullock and William Riker, and in the UK through the output of the Institute of Economic Affairs.

Peter Self sums up the New Right programme in the following way: "[t]he first objective has been to slim the state and to liberate market forces in a variety of ways such as deregulation and monetary and fiscal policy. The second objective has been to import market concepts and incentives into the operations of government itself. Public Choice theory has contributions to offer towards both the nature and justification

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[71] See K Hanf and LJ O'Toole Jnr., "Revisiting old friends: Networks, implementation structures and the management of inter-organisational relations" in *European Journal of Political Research,* Vol 21(1/2), 1992, p175.

[72] Bjorn Wittrock, Stefan Lindström and Kent Zetterberg, "Implementation Beyond Hierarchy: Swedish Energy Research Policy", *European Journal of Political Research* Vol 10(2), 1982, pp131-143.

of these goals and the possible political strategies for achieving them."[73]

According to Self, there are three strategies available: *slimming*, which entails cutting public expenditure and reviewing the scope of state activities; *privatisation*, in the form of the complete transfer of assets and resources from the public to the private sector; and *restructuring*, entailing bureau reorganisation along market lines. For Rhodes, this is the core of his "Hollowing Out" thesis. The Public Choice mode of service delivery seeks to limit the scope of forms of public intervention leading to "the loss of functions by central and local government departments to alternative service delivery systems (such as agencies)," whilst "[l]imiting the discretion of public servants through the new public management, with its emphasis on managerial accountability, and clearer political control through a sharper distinction between politics and administration."[74]

The extent to which there exists a true distinction between politics and administration will be discussed further in Chapter 3. But the Public Choice approach at its normative best employs the market to ensure allocative efficiency in the delivery of services. In many cases, as Le Grand[75] has noted, real markets are a chimera. However, quasi-markets in the form of competition between independent accounting units within bureaux, offer a vehicle for achieving the same ends. For others, such as Baumol, Panzar and Willig,[76] the key to efficiency is not the existence of a market, more that of contestability: real or potential competition necessarily affects the behaviour of providers. Contestability, however, necessitates the creation of a level playing field such that potential entrants are offered a limited-risk entry into a market by the provision of *costlessly reversible* entry. That said, some critics counter by suggesting that "the measures which have been introduced have less to do with market creation and more to do with contract negotiation."[77]

It is this latter point which augments the discussion on implementation models. Market-centred public policy, by definition, requires the establishment of markets where none existed before. As Boyne argues

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[73] Peter Self, *Governing by the Market: The Politics of Public Choice*, Macmillan, London, 1993, p59.

[74] RAW Rhodes, "The Hollowing out of the State: The Changing Nature of Public Policy in Britain", *in Political Quarterly*, Vol 65(2), 1994, pp138-9.

[75] Julian Le Grand, "Quasi-markets and Social Policy" in *The Economic Journal*, Vol 101(408), September 1991, pp2159-60.

[76] William J. Baumol, John C. Panzar and Robert D. Willig, *Contestable Markets and the Theory of Industrial Structure*, Harcourt Brace Jovanovich Inc., New York, 1982.

[77] John Wilson, "Competition in Public Service Provision" in John Wilson (ed) *Managing Public Services: Dealing With Dogma*, Tudor, London, 1995, p48.

in the context of local government, fragmentation is at the centre of this process, coupled with a "hands off" approach by the Centre granting substantial autonomy within the sphere of service delivery.[78]

There is one final important feature of the Public Choice mode of service delivery. Where contracts are the basis of delivery, negotiation therefore requires "highly specific structures...tailored to the special needs of the transaction."[79] In such circumstances the services of intermediate institutional forms may be required (legal advice on contract law, for example). However, these trilateral governance structures incur transaction costs which have to be measured against costs of delivery through *in-house* or *obligational contracting* methods.[80]

The Public Choice doctrine, therefore, presents the implementation theorist with a burgeoning literature of considerable utility. However, its specificity is such that its capacity to offer students a definitive model of implementation is limited. As will be seen from the case studies (and developed more abstractly below), implementation can be affected by factors external to any market that may be generated. Moreover, such a model would necessarily assume that all actors in any implementation scheme would engage exclusively in market transactions. Here there would be a failure to comprehend non-rational acts which are arguably a feature of motivations which combine to deliver public services.

Conclusion

Rarely in contemporary writing is a discussion of the problem of implementation omitted entirely from the policy literature. For some writers, however, implementation has been a central theme but has largely remained a discrete activity divorced from the politicking that is such a feature of policy-making and policy-implementation models. There is little agreement on what constitutes implementation i.e. deciding at what point policy gives way to implementation. Pressman and Wildavsky were adamant that implementation cannot begin until a political decision has been taken and resources allocated. That said, they were careful to ensure that they did fully explicate the preceding policy phase providing an essential context to the subsequent data. Moreover, their use of causal theory to explain policy failure illustrates the importance of actors' understanding and perception of the process and their anticipation of vetoes.

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[78] George Boyne, "Local Government: from Monopoly to Competition" in Grant Jordan and Nigel Ashford (eds) *Public Policy and the Nature of the New Right*, Pinter Publishers, London, 1993, p168.

[79] Oliver E Williamson, "Transaction-cost Economics: The Governance of Contractual Relations" in *Journal of Law and Economics*, 1979, Vol 22, p248.

[80] Oliver E Williamson (1979), p250.

Van Meter and Van Horn, too, argued for a discrete implementation phase but warned analysts to be on the look out for certain dispositions within agencies that could affect outputs. This idea was built upon by Mazmanian and Sabatier whose *Effective Policy Implementation...* framework amounted to a definitive prescriptive evaluation of the implementation process. Their complex framework did incorporate problems of exogenous variables such as the media's perceived effect on public opinion. Such admissions provided critics such as a "reformed" Aaron Wildavsky with scope to reject the framework not on the grounds of insufficient rigour, but on its concentration on policy rather than on problem solving which, no matter how rigorous one's preparation for the implementation phase, inevitably occur and for which Mazmanian and Sabatier could offer little in the way of succour. The Mazmanian and Sabatier model assumes that problems are tractable where in reality - at implementation - they may not be.

The *forward mapping* approach, therefore, is too rigid to capture the subtleties of multi-actor implementation. This limitation is compounded by its prescriptive intent delivering ideal conditions but offering no guidance on achieving such states. Moreover, achieving, for example, conducive dispositions amongst implementers may be virtually impossible if we assume that actors in bureaux tend towards stability and routinization rather than radical change. Some policies are just too far-reaching for policy makers to garner the necessary quiescence suggested by Mazmanian and Sabatier.

Equally problematic is the approach offered by advocates of *backward mapping* whose frameworks enjoy considerable utility for particular kinds of policy delivery where *street-level bureaucrats* are dominant actors, and where proximity to the all-important target group - whose behaviour is the subject of the policy initiative - make them a suitable level of analysis whatever the limitations with respect to policy. This level rather than providing us with an alternative universal analytical tool, its use is restricted to highly specific policy areas and its methodology - empirical self selection - is difficult to defend. The approach, however, does, despite its limitations, pose difficult questions for forward mappers whilst ascribing policy-generating capacities in the realms of target groups. This cannot be countenanced by forward mappers, but its absolute application by backward mappers renders unsatisfactory meso-level explanations. Moreover, should we not consider rejecting the notion of discrete policy/implementation phases and look for continuity in that the policy phase is a crucial factor in the achievement of a desired output? Equally, some policy initiatives just do not lend themselves to the bold prescriptive preparation that the *backward mapping* model offers. Finally we should consider joint action. In the modern policy environment, joint action is impossible to avoid. Not only has there been a growth in the differentiation of public agencies in the last twenty years, but the increasing reliance of private-sector actors may have redefined the concept of project management. Such considerations are the subject of Chapter 3.

Chapter 3
Towards a Network Model

3.1 Research Problems

The researcher's problem, one could argue, is to isolate a suitable level of analysis - avoiding, in the process, a resort to infinite regress on the one hand, or infinite progress on the other.[1] To that end, Rhodes and Marsh[2] employed an orthodox *top-down* analytical framework in their assessment of a whole range of case studies chronicling particular episodes of policy implementation throughout the 1980s because, as they rightly argue, this was the model adopted by the Government itself. Their approach to analysis, therefore, hinges on the existence of categorical objectives, and hence a measurement of their realisation. There are three elements of particular interest. First, as advocated by Sabatier, they incorporated a time dimension; second, they focused on outcomes in addition to outputs; and third, they expressed a need for evaluating the extent and method of policy reformulation *in light of experience*.[3]

The emphasis on outcomes raises the spectre of successful implementation but policy *failure*. It also burdens the researcher with the need to incorporate a longitudinal dimension - Sabatier suggests a decade or more.[4] In addition, Marsh and Rhodes' inclusion of policy-oriented learning as an evaluative tool bears some scrutiny. With many policies being zero-sum (particularly in the third and fourth Conservative terms) and premised on the existence of suitable control mechanisms, the prospect of learning is intriguing. Secondly, experience is located within implementing agencies. The idea, therefore, of policy reformulation or adjustment alludes to a bargaining process - policy-making, even - at a sub-executive level. At the very least, movement within channels is bi-directional, up as well as down. It also indicates a dependency by the executive on the integrity of the implementing agency and an assumed commitment to implementing the policy, if not a commitment to the policy itself.

This question of success needs to be conceptualised. Albert Weale composed a matrix for the evaluation

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[1] Charles Perrow, *Complex Organizations: A Critical Essay*, Scott, Foresman and Company, Glenview, Illinois, 1978, pp217-218.

[2] David Marsh and RAW Rhodes, *Implementing Thatcherite Policies: Audit of an Era*, Open University Press, Buckingham, 1992.

[3] Rhodes and Marsh (1992), p9.

[4] Paul A Sabatier, "Top-down and Bottom-up Approaches to implementation Research: A Critical Analysis and Suggested Synthesis." in *Journal of Public Policy*, Vol 6(1), p38. In devising his "Advocacy Coalition" framework he incorporated policy reformulation into his evaluative scheme. In so doing, an extended time scale became crucial to the evaluation exercise.

of environmental policy which clearly illustrates the difficulties associated with defining success especially where policy is amorphous.[5]

Table 3.1: The Classification of Implementation Problems

Focus of Analysis		
Orientation	Output	Outcomes
Orientation to policy intentions	(1)	(2)
Orientation to problem	(3)	(4)

Weale (1992), p45.

The matrix highlights the problem of pinpointing actual policy success as we move from defining success in terms of meeting the short-term match between intentions/objectives (that may be specified in a statute, for example) and output (eg. the sale of a utility) as represented in cell (1), and the longer-term and less tangible match between the original "problem" that may not have been defined let alone incorporated into some governmental statement, and the outcome of some hypothetical policies that may not have been implemented (or indeed conceived) in that we don't know what may or may not amount to feasible and justifiable policies for governments to follow.[6] Weale uses his matrix to examine the difficulty analysts face when evaluating environmental policy at home and in supra-national forums such as the EU. However, the question of outcomes is pertinent to all implementation studies if one perceives policy as inherently entropic. In the case of rail privatisation, the White Paper, *The Future of the Railways*, provides the orientation to policy intention, and the transfer of public assets corresponds to the output, but if the outcome proves to be chaos, a propensity of travellers to use private transport, and environmental degradation, how do we evaluate success?

Certainly, suggests Weale, we should be aware of the distinction between actual policy and optimal policy and that actual policy is not necessarily a sub-set of optimal policy. In the rail privatisation case, for example, the fact that it could achieve the policy aim of reduced subsidy whilst doing little to increase patronage may be far from optimal for an environment ministry keen to use the railway to further its own environmental objectives. Optimal policy, one assumes, comes from joint and holistic objectives, not instrumental policy. Weale also attributes failure to the asymmetry between policy instruments and the problems they are intended to solve. Again drawing from environmental policy, Weale shows how

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[5] Albert Weale, "Implementation Failure: A Suitable Case for Review" in Erik Lykke, *Achieving Environmental Goals: The Concept and Practice of Environmental Performance Review*, Belhaven Press, London, 1992.

[6] Weale (1992), p46.

emission controls can be rendered impotent if in a general upturn a country's economy leads to more sources of emissions. Ultimately, however, Weale says: "If we are adequately to conceptualise performance failure...we must examine not only trends in environmental indicators, but also features of the politico-administrative process that lie behind policy. In essence, this means examining indicators of the organization of policy-making."[7]

3.11 Rejecting Hierarchy

A mechanism by which one can protect oneself from the allure of the "top-down" method is to pose the question "when is domestic policy implementation not top-down in its absolute form?" Table 3.1 below offers eight instances. Cases are not necessarily mutually exclusive.

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[7] Weale (1992), p59.

Table 3.2: Cases in Which Implementation Fails to Conform to the Top-down Ideal

1	When the leading sponsoring authority is unable to control the behaviour of actors especially at *Clearance* and *Decision points.*
2	When actors have considerable discretionary powers in two senses. First, in a traditional bureaucratic sense i.e. when devising a mode of implementation; and second, as policy makers in their own right. Statutes, for whatever reason, are enabling documents rather than unambiguous statements of intent.
3	When inter-agency interactions are horizontal in flow. For example, where Agency A engages in resource exchanges with Agency B but lacks jurisdiction over it, though where both have a duty to Agency Y.
4	Where the implementation arena is a "mixed economy" where strict notions of public/hierarchy and private/markets force us into missing a useful unit of analysis - in their case the allocative process of funds/resources .[8]
5	Where agencies engage in bargaining.
6	When policy implementation is a sequential process - where one agency's outputs become the inputs of another.[9]
7	Where implementing agencies are not merely products of their environment, but actively shape it.[10]
8	Where clearances are also access points. Where "outsider" organisations, both statutory and voluntary, are presented with a critical access point either by default (oversight) or by statute (consultation or legal challenge). Essentially, where the implementation command mechanism is not sealed; where closure is incomplete.[11]

[8] Hull and Hjern (1983), pp295-312. A "mixed economy", they argue, necessarily imports mixed motives into any policy sphere. Implementation research, they claim, persistently shows that different motives and behaviours are causal elements in the failure of public programmes to achieve their objectives.

[9] See Lawrence J. O'Toole, "Diffusion of Responsibility: An Inter-organisational Analysis" in Kenneth Hanf and Theo AJ Toonen (eds), *Policy Implementation in Federal and Unitary Systems: Questions of Analysis and Design*, Nijhoff Publishers, Dordrecht, 1985, p214.

[10] RAW Rhodes, *Beyond Westminster and Whitehall*, Unwin Hyman, London, 1988, p48.

[11] Frank Parkin, *Marxism and Class Theory: A Bourgeois Critique*, Tavistock Publications, London, 1979, pp44-88. Parkin uses the Weberian concept of closure to explain social action - "inferiors" challenging the privilege of the few. In implementation, groups are excluded to limit the ability of non-statutory actors to affect outcomes. Closure is further considered below Section 3.23

3.2 Implementation Networks

The analytical construct of the network has been steadily gaining in currency amongst a growing number of European policy scholars. It has primarily been used as a tool for shoring up the pluralist policy paradigm.[12] However, the network concept has been claimed by British scholars keen on the notion of policy "communities" which assist in emphasising the stability of the system's policy-making structures which is perceived as having been under some pressure at the onset of the post-parliamentary era.[13] The strength of the network metaphor in the British context is that it can, on the one hand, point to quite robust policy making "structures" which under certain circumstances allow for the generation of unsustainable policy (the Poll Tax, for example); while on the other, directs us toward the existence of a whole family of networks co-existing in a "universe", though with disparate power distributions. Rhodes identifies five such networks.

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[12] There is an American literature which captures this particularly well. Authors such as ES Griffith who coined the term "whirlpool" to illustrate the policy process; JL Freeman, whose book *The Political Process* considers the "web of relationships in the sub-system"; and R Ripley and G Franklin's *Congress, the Bureaucracy and Public Policy* which introduced the "Iron Triangle" metaphor. For an accessible review of this literature, see Grant Jordan "Sub Governments, Policy Communities and Networks. Refilling the Old Bottles?" in *Journal of Theoretical* Politics, Vol 2(3), 1990, pp319-324. In the British context, the defence of pluralism claim is made explicit in RAW Rhodes, "Policy Networks: A British Perspective" in *Journal of Theoretical Politics,* Vol 2(3), p302. However, Rhodes argues that in the American context, networks are seen as a distortion. See also Grant Jordan and Klaus Schubert, "A preliminary ordering of policy network labels" in *European Journal of Political Research,* Vol 21(½), 1992, pp7-27 for an assessment of the location of the various strains of pluralism (and corporatism). The pluralist methodology, they conclude, has ossified confirming in many case studies the existence of stable sectoral group liaisons. They argue that "the characterisation of networks can be developed by using different dimensions and qualities rather than through attempts to relate back to some single "umbrella" concept such as corporatism or pluralism." p27.

[13] In *Governing Under Pressure*, JJ Richardson and AG Jordan, (Martin Robertson, London, 1979) consider the post-parliamentary era as characterised by, *inter alia*, extra-Parliamentary legislation, and the combining effects of interest groups and environmental factors constraining the scope for action of Parliament and the executive. This is further exacerbated when the debate breaks free of the constraints of sovereign states and is kicked around in the arena of the European Union. This is perhaps where the network metaphor has some utility. See, for example, the effect of pressure groups on the siting of a third London Airport, pp124-5.

Table 3.3: Policy Community and Policy Network (the Rhodes Model)

Type of Network	Characteristics of Network
Policy community/territorial community	Stability, highly restricted membership, vertical interdependence. Limited horizontal articulation
Professional network	Stability, highly restricted membership, vertical interdependence, limited horizontal articulation serves interest of profession
Intergovernmental network	Limited membership, limited vertical interdependence, extensive horizontal articulation
Producer network	Fluctuating membership, limited vertical interdependence, serves interest of producer
Issue network	Unstable, large number of members, limited vertical interdependence

From: D Marsh and RAW Rhodes, *Policy Networks in British Government*, Clarendon Press, Oxford, 1992, p14

The above networks are defined in two clear ways: first, by their membership and the extent of closure exercised; and second, with reference to the direction of interdependence, i.e. vertical or horizontal.[14] Fluidity of membership is a key determinant of network effectiveness in policy-making. At the two extremes we have the policy communities which are "based upon shared delivery responsibilities and insulated from other networks and invariably from the general public (including Parliament)"[15], whilst at the other one finds the issue networks with their highly mobile and disparate membership. Members enjoy little in the way of shared strategy - though they share core ideals. They have few resources. They frequent the issue networks because of their exclusion from the dominant policy fora. Such networks may well be imagined.[16]

Some networks exercise a veto over the dominant policy community and/or government. For example, professional networks are policy makers in their own right - doctors, lawyers - whose dominion over policy in their own sphere is enshrined by their incorporation into the state. The professions through their trade

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[14] Marsh elsewhere characterises networks by their limited memberships, interaction, continuity, value consensus, resource dependence, bargaining, positive-sum power games, and regulation of members. See Rhodes (1990), p311; D Marsh and RAW Rhodes, *Policy networks In Britain*, Clarendon Press, 1992, p23.

[15] David Marsh and Martin J Smith (1996), *Understanding Policy Networks: Towards a Dialectical Approach*. Unpublished paper given to the PSA Annual Conference, April 1995.

[16] In the sense of Benedict Anderson, *Imagined Communities: Reflections on the Spread of Nationalism*, Verso, London, 1983. See Marsh and Smith (1995), p14.

associations administer access programmes for the state (legal aid, for example).[17] Producer networks similarly exercise muscle by virtue of their technical knowledge not readily available from dispassionate sources. Saward's examination of the nuclear network shows this feature well.[18] The Rhodes typology does equally illustrate the itinerant memberships of these networks, and the difficulty of pinning particular groups or industries to particular policy spheres in spite of one's initial expectations. In aggregate, however, the case studies presented by Marsh and Rhodes allude to a discreet incestuousness.

The policy network, therefore, is an attempt to disaggregate policy inputs. Rhodes' network model stresses the centrality of the relationships between groups/agencies and Government - at what he identifies as the *meso* level. This is the essence of the *power dependency model* which captures the essential element of networks: group interdependence through resource exchanges. For Peterson, "[t]he internal structure of a policy network and the relationships within it are determined primarily by the extent to which members of networks depend on each other for resources."[19] Resource dependencies, he argues, provide a vital empirical marker for the researcher and gives network analysis a methodological legitimacy. In addition he argues that networks members play positive-sum games, each actor bringing to the forum resources and competences to be exchanged and enhanced. Moreover, in the context of policy delivery by sub-central government Rhodes argues, "[t]he failure to appreciate that service delivery systems are complex, disaggregated and indeterminate has led to the failure of policies. The process of differentiation in Government requires not only policies on substantive problems, but also on policies and procedures for managing differentiation (or institutionalising indeterminacy)."[20] Here we seem to be calling upon the utilisation of meta-policy as a means of controlling actors involved in policy delivery.[21] But, as Sharpe has pessimistically concluded, "where policy implementation involves, as it usually does, not just sub-national government but market, voluntary and quasi governmental bodies as well, the centre's problems are

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[17] Professional networks can determine the structure of service provision. A good illustration can be found in a comparative study of healthcare provision in three European countries. See Ellen M Immergut, "Institutions, Veto Points, and Policy Results": A Comparative Analysis of Health Care" in *Journal of Public Policy*, Vol 10(4), 1990.

[18] See Michael Saward, "Civil Nuclear Network in Britain" in Marsh and Rhodes (1992), pp75-99. In this case, the network itself is transformed over time from a closed professionalised community into a more fluid producer network.

[19] John Peterson, "Policy Networks and European Union Policy Making: A Reply to Kassim", in *West European Politics*, 1995, Vol 18(2), p391.

[20] Rhodes (1988), p87.

[21] Christopher Ham and Michael Hill, *The Policy Process in the Modern Capitalist State*, Harvester Wheatsheaf, London, 1993, p16.

mightily increased since there is not even the semblance of a decision hierarchy."[22]

3.21 Governance

The network debate has increasingly been developed with close reference to the notion of governance as the steering capacities of central actors are eroded and as new instruments are employed to realise outputs and outcomes. Governance is a central concern of Jan Kooiman for whom network interactions represent a variable in the policy process. He presents an interesting, if a little complex, socio-cybernetic thesis that engages new terms of reference:

> *In the context of theorizing on social political governance, it shifts disciplines such as public administration and political science in the direction of interdisciplinarity. Other fields such as economics, sociology and ecology are needed to uncover and interpret the diversity of social political actors with their goals, intentions, norms and powers.*[23]

Kooiman, consequently, sees the delivery of policy - indeed the management of the delivery system - as inherently dynamic, complex, and diverse. Dynamics are expressed in the form of change through concepts of entropy and negentropy. The difference is subtle but important. All systems, both natural and social, argues Kooiman, are dynamic. The basic dynamic arrives out of mutual tension and forces found within systems. Entropy, paradoxically, is a marker for change. It is the indicator of (unused) potential inherent in a dynamic system. By virtue of the fact it is unused potential, it represents a tendency towards system equilibrium. To draw on an evolution analogy, equilibrium is unhealthy as, over time, it leads to disintegration and disappearance/extinction. Negentropy, by contrast, is the *realisation* of the potential for change. The two together represent on the one hand "some kind of will to preserve the existing state and on the other hand the causation of change of that state."[24] This tension is mediated through interaction at three levels: macro, meso and micro. Interactions, suggests Kooiman, are the "primary operationalisations of the dynamic forces in societies."[25]

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[22] LJ Sharpe, "Central Coordination and the Policy Network" in *Political Studies*, Vol 33(2), 1985, p362.

[23] Jan Kooiman, "Governance and Governability" in Jan Kooiman (ed), *Modern Governance: New Government - Society Interactions*, Sage, London, 1993, p41.

[24] Kooiman (1993a), p38.

[25] Kooiman (1993a), p38.

Complexity on the other hand is defined in terms of contextual relations between actors in systems. More crudely, it is important to capture system complexity by recognising the importance of locating interaction in the parts within the wider framework of the whole, and vice versa. Interactions have different features, and an understanding of their properties is crucial for the development of a theory of social political governance.

The final concept is that of diversity. Where complexity is a structural phenomenon, diversity, with its focus on actors, necessarily draws out the aspects of the system itself. In particular Kooiman identifies goals, purposes, intentions, norms and powers, for it is these that are "at the root of many governance and governability problems."[26] In addition, neither dynamics nor complexity provide objective criteria by which to judge procedural coherence. Diversity provides an access point into the empirical world but in doing so - and as already noted - steers the study of political and administrative science towards interdiscplinarity. Interdisciplinarity is essential if analysts are to "uncover and interpret the diversity of social-political actors with their goals, intentions, purposes, norms and powers."[27]

Where traditional theory stumbles, therefore, is in its regression to simplicity - an identification of two actors and the process of needs satisfaction measured against the capacities the actors to satisfy them. A new socio-cybernetic theory, therefore...

> *...distinguishes itself from others by not regarding needs as something in society and capacity as something of governments. No, needs and capacities in their tensions (dynamics of interactions), patterns (complexities of interdependencies) and actors (diversity of meanings and interpretations) should be seen at the same time as being social and political, public and private, state and society in their mutual interdependencies.*[28]

This is a highly differentiated arena exposing the limits of "governing" in the familiar sense. Replacing it is a plethora of actors specific to each policy area, interdependence amongst the socio-political administrative actors; shared goals; blurred boundaries between public, private and voluntary sectors; multiplying and new forms of action, intervention and control. Governance of this variety, notes Rhodes,

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[26] Kooiman (1993a), p40.

[27] Kooiman (1993a), p41.

[28] Kooiman (1993a), pp43-44.

"is the result of interactive social-political forms of governing."[29] Where the approach has considerable value is the empirical guidance it offers. We are in search, indicates Kooiman, of new and changing forms of social and political interaction which by implication become part of the discourse - part of any putative network (agenda). Kooiman offers us a number of examples such as policy entrepreneurialism, but equally we might add things like covenanting (see below), fixing, and new outputs such as contracts. Additionally, we are looking for "clues and hints" supporting the view that changes may be caused "by an awareness of growing complexity, dynamics and diversity".[30] We should note, however, that the Kooiman project is highly normative in its objectives and as Peter Self has suggested, "reflects the degree of consensus in Dutch society and the accumulated respect for a public service which has always been active in social and indeed physical engineering."[31]

3.22 Closure

Closure is a recognised property of networks. Schaap and van Twist's typology builds on Parkin's model and has considerable utility in that it identifies some eight different forms of closure: conscious and unconscious, social and cognitive, and at two levels, actor and network.[32] The social closure essentially follows the Parkin model - the physical exclusion of actors. The cognitive level, however, promotes the exclusion of particular points of view.[33] Essentially, cognitive closure is defined in terms of perception: the actors' (in)ability to perceive a "reality", or the network's (in)ability to perceive a "reality".

Perception is a function of the actors' *frames of reference*. Schaap and van Twist argue that: "An actor's frame of reference acts as a filter. The world an actor perceives is a reality which is filtered through their frames of reference. Actors only perceive the "facts" if, and in so far as, their frame allows."[34] So,

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[29] RAW Rhodes, "The New Governance" in *Political Studies*, Vol 44(4), 1996, p658.

[30] Jan Kooiman (1993b), "Findings, Speculations, and Recommendations", in Jan Kooiman (Ed), *Modern Governance: New Government - Society Interactions*, Sage, London, 1993, p250.

[31] Peter Self, "What Happened to Administrative Theories?" in *Public Policy and Administration*, Vol 12(1), 1997, p18; also, Laurence J O'Toole Jnr., "Treating Networks Seriously: Practical Research-Based Agendas in Public Administration" in *Public Administration Review*, Vol 57(1), 1997, p48.

[32] Schaap and van Twist use the term "closedness" rather than closure. L Schaap and MJW Van Twist, "The Dynamics and Closedness of Networks", in WJM Kickert, E-H Klijn and JFM Koppenjan (eds), *Managing Complex Networks: Strategies for the Public Sector*, Sage, London, 1997, p65.

[33] Schaap and van Twist (1997), p65.

[34] Schaap and van Twist (1997), p67.

conclude Schaap and van Twist, framing is self-referential in that it refers to the actor's own frame, and not self-interpretative such that the frame itself is ever called into question. The frame, equally, provides actors with a perception of the network: the nature of power relations, the objectives, the resources and the interest of the other actors.[35]

Schaap and van Twist, moreover, have a culturalist bent. It is not enough to identify networks of actors and use the structure to explain outcomes. Networks for them are cultural entities with interaction within and between *affecting* policy outcomes. Culture, they argue, generates symbols, names and jargon which can be used to exclude or expel others both consciously and unconsciously. The language component is encapsulated within the concept of "discourse":

> *If we describe the object of study as the management of (actors in) networks, the frames of reference of the individual actors are hardly relevant, if and in so far as they are given meaning in the network culture. Actors' interpretations can, in any case, only become socially relevant at the moment when the interpretation between actors becomes nameable. In this sense the network culture, and in particular the discourse, forms a condition for framing in networks. Furthermore, the discourse not only describes what actors perceive, but also has a structuring effect: it also evokes a reality.*[36]

Here Schaap and van Twist identify their interest - the management of networks and/or actors in networks for steering purposes. Individual actors assume an importance when the network recognises their belonging largely by their possession of a suitable frame of reference, i.e. they have the "skills" necessary to be part of some discourse which in turn frames a network. A framed network, moreover, is secure and ready for business. Its members, equally, may be described as being covenanted in that they enjoy a level of social knowledge that facilitates the process of active decision-making. Equally, those in a network may possess sufficient social knowledge to know what has to be offered to actors outside any network for participation to occur. Closure may be seen as a necessary requirement for covenanting to occur.[37]

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[35] Schaap and van Twist (1997), p68.

[36] Schaap and van Twist (1997), pp75-76.

[37] See, E-H Klijn and GR Teisman, "Strategies and Games in Networks" in Kickert, Klijn and Koppenjan (1997), pp106-109.

3.23 Motives and Incentives

A key component of any implementation exercise is the motive which drives actors, and the incentives offered to foster compliance. Here Etzioni's framework, devised for his own work on complex organisations, has some currency.[38] Etzioni identifies three categories of "congruent compliance" mechanisms. First, *coercive compliance* which occurs as a result of the application (or threat) of physical sanctions. Second, *remunerative compliance* which is achieved by the offer of suitable payment for compliance by an organisation. Third, *normative compliance*, which operates at the level of acceptance, symbolic reward, and identification with aims, objectives, or the organisation itself.

3.3 Beyond Metaphor

Despite the clear limitations of synoptic models and the perceived utility of the network metaphor in policy studies, the network concept has not been widely used in implementation studies. Dunsire offered a network model in his analysis of the closure of a railway branch line. He constructed two kinds of model, the *developmental* and the *aggregative*, both of which he applied to the same case study at different moments in the process. The developmental model "says that the nature of the succeeding step is uniquely determined by the preceding step",[39] while the aggregative model he sees as a cumulating process whereby outputs of one unit form the inputs of another but that the "activity of each succeeding stage is wholly independent of the nature of the activity at the preceding stage".[40] In essence, the aggregative model allows for independent (or perhaps merely haphazard) routeing of process, while the developmental model is biologically programmed and requires conditions to be both necessary and sufficient for action to occur.[41]

For Hanf and O'Toole it was time to apply networks "to questions of the management of the structures through which policy is implemented."[42] Hanf and O'Toole's justification is twofold. Firstly, the policy process (policy and implementation) is complex and dependent on "innumerable substantive specialities",

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[38] Etzioni (1975), pp 4-6.

[39] Andrew Dunsire, *Implementation in a Bureaucracy*, Martin Robertson, Oxford, 1978, p121.

[40] Dunsire, (1978), p126.

[41] This distinction is also used by Klijn who uses the terms "mutual dependency" and "sequential interdependency" to described the relationship between actors in a network where the kind of relationship defines the coordinative dynamic: mutual adjustment for the former, and "by plan" for the latter. See E-H Klijn, Policy Networks an Overview", in Kickert, Klijn and Koppenjan (1997), p22.

[42] Hanf and O'Toole Jnr. (1992), p164.

a problem that becomes ever-more acute as knowledge accelerates (even to the extent of there being "hyper-specializations"). Secondly, they argue that causal links between policy and outcomes are increasingly disrupted by environmental factors. Crucially, "[t]he interorganisational nature of the policy world is an endemic feature of the modern era, not evidence of a maladapted steering pattern. Fancier top-down structures, therefore, cannot solve the institutional mismatch between structures and issues."[43]

3.31 Resource Dependencies and Nodality

Because the implementation of public policy has a growing dependency upon the voluntary participation of private sector or non-governmental actors, notions of hierarchical channels of communication and authority are reduced to fantasy. The key component of implementation analysis, argue Hanf and O'Toole, is the nature of the inter-organisational relationships which take two forms: resources (both finance and information), and interests. With the "private-sector" participants behaving as rational economic actors, interests have broken free from the bureaucratic determinacy which has dominated analysis in the past. Not surprisingly, therefore, Hanf and O'Toole select these relationships - the pattern of linkages and interactions - as their unit of analysis.

This is not to suggest that implementation networks cannot be influenced - steered - by the centre. For example, some actors/organisations owe their very existence to the policy-makers, and most actors have quite fundamental resource dependencies. This is particularly evident where the centre attempts to place adequate incentives for putative actors in the private sector to participate. Private-sector providers do want to play, but only if the price is right. If adequate financial resources are made available, participation is assured, at which point regulatory control can be advanced. There exists, in any organisational arena, a "dialectical of power and resistance" but, wherever there is disaggregation in output delivery, there is necessarily delegation, and hence discretion and "empowerment."[44] A further spin on this is offered by Stoker. He sees multi-actor implementation process as paradoxical in that it empowers "potential adversaries who may discover and exploit opportunities for strategic behaviour [such that] the act of implementing clashes with its purpose."[45]

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[43] Hanf and O'Toole Jnr. (1992), p167.

[44] Stewart R Clegg, *Frameworks of Power*, Sage, London, 1989, p189.

[45] Robert P Stoker, *Reluctant Partners: Implementing Federal Policy*, University of Pittsburgh Press, 1992, p4.

With regard to information, certainly actors use their informational resources to maximize organisational utility, and private-sector contract-seekers collect intelligence to inform their participatory behaviour. Ignorance causes inertia in any network; dynamic networks are frequented by actors constantly seeking to inform themselves about the activities of other actors within the network and exogenous activity that might bear upon outcomes. Regulators, to execute their regulatory function satisfactorily, may need to posit questions to regulated companies which are designed to extract information that they do not necessarily know they need, thus adding an almost Orwellian dimension to implementation. Peripheral actors seeking access to the network are the most disadvantaged; it is their ability to accumulate information and expertise that may eventually lead to their breaching the network.[46]

Hanf and O'Toole also point to the fact that network analysis can accommodate actors within the network working to different objectives.[47] The network is not a machine, but a collectivity of organisations with different levels of commitment and an assortment of outputs. As Clegg notes,"[t]he glue that holds...structures together continues to be the perception of the individual advantages from collective or joint action."[48] Tousling these out is problematic for the results of collective action may not be win-win; indeed some agencies may well be assisting in their own destruction. Others, however, behave as rational (economic) actors once their place in the implementation network has been secured.

Although participation in the implementation network may be defined by statute, precise organisational forms remain to be negotiated. Actors seek to interpret the rules - exploiting any latitude that may be present.[49] Moreover, agencies seek to become "nodal agencies", to control access to and from nodal points.

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[46] Peter M Haas, "Introduction: Epistemic Communities and International Policy Coordination" in *International Organization,* Vol 46, (1992), pp1-35 examines this feature in his consideration of epistemic communities whose legitimacy is based solely on expertise and access to highly complex information. Peripheral actors seek to challenge their wisdom on a point by point basis but wholly within the epistemic community's discourse. This model is not wholly applicable to implementation for there is an enhanced immediacy - implementation is not generally evolutionary. Developing expertise, particularly in the voluntary sector, is a slow process.

[47] Hanf and O'Toole Jnr. (1992), p169.

[48] Clegg (1989), p177.

[49] Anselm Strauss, *Negotiations,* Jossey Bass, San Francisco, 1978, pp5-6. For Strauss, all order is negotiated order: "[T]here could be no organisational relationships without accompanying negotiations." (p5) Though he does stop short of presenting a theory of negotiation as a means of explaining all social order. Moreover, the products of negotiation such as contracts and other less formal agreements have temporal limits injecting a dynamic element into any organisational matrix. Importantly, Strauss draws our attention to *subprocesses of negotiation* - unofficial agreements that provide a certain underpinning for eventual negotiated order. However, Strauss' primary aim is to argue against any form of structural determinism.

Alternatively, they may devise strategies for avoiding interaction with nodal agencies or the need for decisions to pass through and be scrutinized by nodal agencies. Nodal agencies can necessarily influence the behaviour of other agencies or network actors. The Treasury, for example, can attach conditions to its funding commitments which may limit actor discretion. Actors, however, may be able to negotiate exemptions from certain controls, or work towards changing the structure at a later date. An agency could perhaps advocate its own privatisation as a means of limiting its dependence on, say, the Treasury.

Moreover, it is not a normative framework, for no one would ever consider a network as an optimal means of implementing policy. It admits to the ever-increasing complexity of human organisation and service provision by confronting and mirroring complexity.[50] Central to its application is the locating and positioning of players. They are either statutory bodies (charged with implementing the provisions of statutes), incorporated organisations (trade unions, local authorities and private-sector contractors), or opponents (pressure groups/professional objectors). Only statutory bodies are completely within the implementation network; incorporated organisations are either invited to participate or attempt to exercise a veto over the process. Pressure groups can lobby incorporated organisations or attempt to exploit statutory access points in isolation. There is, therefore, little that is spontaneous about network membership.

[50] See Rhodes (1990), p313.

Table 3.4: Types of Dependency Relationship

Dependency	Variations (examples)
Financial	Voted by Parliament; purchasers[51] to service provider; sponsoring department to service provider; government departments to purchasers, etc.
Informational	Sponsoring department to nationalised industry; Sponsoring department to service provider/purchaser; service provider/purchaser to sponsoring department; sub-central government to sponsoring department; service provider to sub-central government; service providers to Regulators; service providers to consumer committees, etc.
Legal/Contractual	Service providers and purchasers; purchasers and service providers; asset owners and service providers, sponsoring agency and advisers, etc.
Statutory/command (normative-contractual)	Regulators over service providers; regulators over asset owners; sponsoring departments over service providers; sponsoring departments over purchasers; sponsoring departments over providers, sponsoring department over nationalised industry; sponsoring agency over sub-central government, etc.

Network analysis on its own is no grand theory. Indeed, it is derided by some,[52] who burden it with that most cruel of critical labels, the metaphor. However, Hanf and O'Toole are keen to move beyond metaphor, for them the network metaphor has both descriptive and explanatory capacities. Indeed, its descriptive function provides the raw data - the existence and operation of complex interdependencies - providing the analyst with a framework from which explanation can be derived. To transcend metaphor, analysts must use the concept with a greater degree of specificity - to clear away assumptions of interaction and replace them with known "constitutional" linkages with discernible outputs. In other words, to endow them with substantive existence.[53] Moreover, Marsh has argued, network models at the very least need

[51] Purchasers can be both agents of sponsoring departments and/or units of sub-central government.

[52] Keith Dowding, "Model or Metaphor? A Critical Review of the Policy Network Approach" in *Political Studies* Vol 43(1), 1995. Dowding's criticism hinges on a belief that network analysis cannot go beyond demonstrating general features of networks themselves. He suggests a reason for this being the quality of data collected will be poor because the collection of high quality data requires one to know the answers to the questions one is posing (p158). In addition, he is convinced that networks singularly fail to explain policy transformation (p139). David Marsh responds to these criticisms in *State Theory and the Policy Network Model*, Strathclyde Papers on Government and Politics, No. 102, 1995, pp3-4.

[53] Marsh and Smith (1995), p7

to be complemented by theories of behaviour - both individual and collective, and a theory of the state.[54]

To that end, Benson, has argued that any study of interorganisational activity must look beyond mapping the resource and authority dependencies, and must provide an appropriate context - a political economy. Primarily he accuses analysts of missing the developmental tendencies of capitalism which constrain attempts at planning, coordination and control in actors' attempts to avoid violating the essential character of the capitalist system.[55] More prosaically, such constraints as perceived by actors may affect behaviour to the extent that they do not suggest solutions for fear of violating norms and the accepted frame of reference. We are reminded also that implementation networks are socially constructed vehicles specifically designed for purposive action whose members each control part of the programmatic action or resources.[56]

3.32 The Programme

Richard Rose has argued for the employment of what he calls a programme approach to policy studies. Policy scholars, he suggests, focus too much on opportunism of politicians to exclusion of the behaviour of bureaucrats and the availability of resources and suitable personnel. Moreover, the programme provides him with his unit of analysis:

> *A Programme is a creation of public law; a statute identifies its purposes and the conditions under which it operates. Money to finance the programme is appropriated in the budget. A specific public agency and employees are responsible for administering a programme. The outputs of a programme can take many forms: money (a social security benefit); services of public employees (health care or education); or normative rules (laws about environmental pollution). A programme is an instrument of public policy, because it is a necessary means of achieving policy intentions.*[57]

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[54] Marsh (1995a), p3.

[55] JK Benson, "A Framework for Policy Analysis" in David L Rogers and David A Whetton (eds) *Interorganizational Coordination: Theory, Research and Implementation*, Iowa State University, Ames, 1982, p148 and 153.

[56] LJ O'Toole Jnr., KI Hanf and PL Hupe, "Managing Implementation Processes in Networks" in Kickert, Klijn and Koppenjan (1997), pp 139 and 141.

[57] Richard Rose, "The Programme Approach to the Growth of Government", *British Journal of Political Science*, Vol 5, 1985, p6. See also, Richard Rose, *Lesson Drawing in Public Policy: A Guide to Learning Across Time and Space*, Chatham House Publishers, New Jersey, 1993, p21.

The concept of the programme is a useful addition to the student of implementation because, although top-down in Rose's application, it draws our attention to chains of causality which deliver public policy and is employed as a tool for incorporating the imperatives/complexities of "big government" into the analytical exercise.[58] The programme guides the delivery process; it defines the resources and makes explicit the desired outputs - it is a necessary condition for successful implementation.

3.33 Nomenclature

The network debate has spawned many terms which are in danger of sinking the debate under a mass of competing terms. I shall attempt to limit my own contribution to this by specifying at this stage my use of terms.

The concept of the *Arena* is drawn from Jordan and Richardson[59] who use it to evaluate the policy-making process employing different units of analysis: public, party, parliament, cabinet and bureaucracy. I use the word arena to specify the area occupied by statutory bodies - those specified by statute (or implicit in any specification) as being implementing agencies. It is distinguished from a network by virtue of their differing memberships. A *network*, therefore, includes incorporated organisations and unincorporated organisations inasmuch as they have generated or are offered a link into the process. That is, where they generate a dependency relationship between themselves and other actors in the arena.

I use the term *Centre* to differentiate sponsoring agencies from implementing agencies. This recognises that sponsoring agencies have themselves duties and responsibilities to others, most especially the government (through ministers) and the central funding agency, the Treasury.

The term *closure* will be used in two forms. First in relation to implementing agencies which operate without recourse to other actors; knowledge of their activities is limited to their outputs, execution is a private affair. Secondly, and more importantly, closure refers to the scope of the network as a whole. As an ideal type, a network is closed, actors behave in a routinized fashion until the task is complete, the policy implemented. However, implementation of policy is subject to all sorts of distorting forces, the arena's exclusivity is violated whether by exogenous forces, for example from the wider economic arena,

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[58] See Richard Rose, *Understanding Big Government: The Programme Approach*, Sage, London 1985, p57.

[59] Jordan and Richardson (1987). It is, of course, not exclusively theirs; Benson, for example, employs the concept. See footnote 52 above.

or from excluded incorporated organisations which have marginal roles without being granted "formal" access to the arena.

3.4 Applying Network Analysis

The two case studies will be introduced in subsequent chapters. However, in general terms, although a top-down analysis could be applied for narrative purposes, explanation would be far more problematic and be restricted to a discussion on "control deficits" experienced by the sponsoring agency. Subsequent prescriptions would then focus upon ways of securing compliance and failing, in the process, to appreciate fully the systemic features which perpetually plague implementation. Perhaps more critically, both case studies expose the policy-makers' absolute dependency on compliance by sponsoring agencies *and* units of sub-central government namely, a nationalised industry, local authorities, trade unions, and additionally, in the contemporary case study, other non-statutory actors including private-sector providers and financial institutions. Without compliance, policy is meaningless; and although legislators' authority is generally accepted and agencies behave as unitary actors, there are pockets of resistance. These pockets may be located within the network or from without, which can disrupt implementation, though rarely forcing policy re-evaluation.

Table 3.5 captures the main analytical attributes of the network model. The model functions at four levels: individual, agency, inter-agency and network.

Table 3.5: Key Evaluative and Methodological Features of Network Analysis

Level	Function
Individual	Individuals are key agents. They may act according to agency/network rules, or they may act in unexpected ways responding to a variety of incentives, some of which may be internalised.
Agency	Forces a definition of the role of agencies - it imposes order on an highly differentiated implementation network.
Agency	As a methodological tool, locates the nodal points in the process - thus enabling a focusing on *nodal* agencies where all policy decision are ratified. This may create "bottlenecks".
Inter-agency	Identifies and forces an evaluation of "contractual" relationships between agencies.
Inter-agency	Identifies the nature of the dependency relationships between agencies.
Inter-agency	Highlights contradictions in the functions of and relations between agencies (ambiguity of function).
Inter-agency	Exposes the destabilising forces active within the network.
Network	Defines the unwritten rules of the game; the nature of the "constitution" and compliance mechanisms.
Network	Provides context to agency action and outcomes at decision points. Compensates for distortions caused by the closure of the "decision arena".
Network	Illustrates the degree of closure in operation.
Network	Provides a space for "outsider" interests by identifying statutory access points.
Network	Provides a unit of analysis.

3.41 Individual

In highly differentiated networks, the individual may have a fundamental effect on outcomes. They may have membership as an individual enjoying particular skills, or as a lead actor within an agency and from whom that agency may well derive its "identity". "Fixers" are good examples, as are entrepreneurs, equally so.

3.42 Agency

At the level of the agency the model insists that the function of the agency be defined; it is necessary to pinpoint its source of legitimacy and the authority and expertise of its members. Participating agencies or units do not have the same resources. Some have quite discrete almost self-contained functions some of which may be cosmetic for the purposes of implementation. However, some agencies or units act as implementation nodes: capillaries through which all or significant volumes of network "traffic" must pass.[60] A sort of decision quality control; clearance points, in Pressman and Wildavsky parlance. In some cases implementation nodes generate bottlenecks, slowing down implementation of the programme in the process. Regulators fit into this category. Ministers have this function, too.

3.43 Inter-Agency

Whatever the relationships between agencies, they are managed contractually. The contract may be defined in a statute, through Ministerial guidelines, or as a conventional legal contract. Contracts bind agencies and units together and shape the interactions and hence outputs. Some relationships, for example, are managed by penalty clauses, while others are political and are thus dependent upon political legitimacy and compliance mechanisms. In aggregate, they provide the means for implementation, and later, they sustain the policy (guard against entropic forces).

Inter-agency activity is of course central to the model. Implementation can be complicated if there are no clear demarcation lines for responsibility. Agencies may claim functions that are not clearly allocated, squabble over possession (or stay well clear).[61] They may share tasks, clarifying propriety over them as implementation proceeds, or perhaps having them clarified by the courts.

The implementation network is a network of dependent agencies of disparate power relations. The fundamental dependency relationship is financial - the lifeblood of the network. However, informational dependencies exist both in the form of intelligence (what is going on elsewhere?) and more concretely, in terms of outputs such as legal contracts, feasibility studies, and price structures.

3.44 Network

The network functions by means of an "implementation constitution", "implementation frame" or "frame of reference". Those who play adhere to the rules as mediated through the constitution. For example, confidentiality may well be a condition of acceptance, and those who break the spirit of the constitution

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[60] Clegg (1989), p205.

[61] For examples of inter-agency disputes over territory see Jordan and Richardson (1987), pp164-69.

are disciplined or even expelled. The constitution, however, dominates actors' understanding of their own role in the process and clarifies the network's expectations regarding players.

The network also provides actors and researchers with a context for observable decisions and action. Players can use the network construct to anticipate action or outputs from participants by virtue of the linkages and dependencies appropriated by actors. The network can compensate for the closure of implementing agencies. The linkages between agencies define the process and *expectations* - outputs and timescales - enabling actors to anticipate outputs (from closed agencies) or draw conclusions from dysfunctional behaviour. Closure, therefore, is only ever partial.

Closure is not only a phenomenon of implementing agencies, but also the network itself. A closed network with a discrete task in hand is a desirable state of affairs but is rarely achievable. Environmental factors invariably cause interference. The most obvious examples are political disturbances (in extreme cases, a change of government), but unreliable income flows, legal challenges, etc., remind players of the greater political universe that may impact upon their sphere. Accurate mapping of the network allows for the anticipation of distorting forces ('from where can the process be disrupted?').

Excluded interests seek to capitalise on the incomplete closure. No matter how well constructed, network closure is rarely complete, and can therefore be breached. The statute, for example, is often used by excluded interests in quite pedantic ways. Statutes invariably provide "statutory access points" for such interests ranging from radical campaigning groups through to incorporated organisations such as local authorities.

Finally, the network provides a unit of analysis. It is the linkages and interests in aggregate which are the focus of study. It is their constitutional behaviour which will determine implementation - whether total, partial, or eventual policy abandonment.

Table 3.6: Summary: Network Model Components

Type of Actor	Behavioural Features	Examples
Statutory Agency	Implementing agencies by statute. Dependency relationships defined in statute, orders, or through ministerial guidelines	Sponsoring Agencies, regulators, service providers, etc.
Incorporated Organisations	Actors once-removed from implementation. They are either invited into arena by statutory actors or enter by competing for contracts which are executed within the network.	Local authorities private-sector providers trade unions, lawyers, advisers.
Opponents/unincorporated organisations	No statutory right to participation. Seek out access points through which they can attempt to influence outcomes.	Pressure groups, concerned individuals, MPs, local authorities, private-sector providers.

3.45 Formalising the Concepts

The origin of this work is firmly located in the empirical research. The two case studies, as was argued in the introductory chapter, have an inherent value: one for its contemporaneity, the other for the potential for re-evaluation of current debates and understanding as a result of new Ministry documentation being declassified under the 30-year rule. The intention was, in the first instance, to apply existing theories of policy implementation in the analysis of the empirical data. As has been demonstrated in this and the previous chapter, these have been shown to be wanting which has resulted in a reworking of some of the concepts to improve their utility and enable a more rigorous analysis of the data.

For this reason, the concepts will not be formalised at this juncture. It is therefore necessary to direct readers both to the discussion around methodology in Chapter 4, and Chapter 9 (Section 9.1) where the operationalisation of the concepts is further explicated. In addition, an analytical framework is presented for application to the complex data contained in the preceding empirical chapters. This framework is then re-employed in Chapter 12 which offers an explanation of the data that makes up the second case study. It then becomes one of the functions of Chapter 13 (Section 13.4) to present a typology and formal definition of the implementation networks in support of the central claim of this thesis. That is, where implementation arenas are highly differentiated, a network approach to the analysis of case study data offers insights into, and explanations of, the policy process which dominant macro and micro-level approaches, as has been shown, cannot deliver.

Summary

Pressman and Wildavsky attempted to assess a contained implementation process[62] originating in a federal decision with quite explicit aims, leading to an implementation débâcle. Their method, such as it was, was top-down and was predicated on the question - "how can it be that such policies fail?" Wildavsky later (with Majone) goes on to develop his ideas of implementation resulting in their "seamless web" approach.[63]

Meanwhile, Bardach introduced the notion of the *Fixer* - a rarity in the policy field. Policy-makers, as many of the top-down case studies show, are ambitious merchants in ideas (or at least cultivators of ideas of other merchants) whose interest in implementation is limited by their own progression through Government, or an unbridled belief in both the propriety of implementation agencies or in the technical fix. In cases such as the poll-tax, this is misplaced. A measure which is designed to limit local authority autonomy cannot be expected to have the wholehearted support of affected executant agencies. Compliance at this level may well be reliant on professionalism and duty of officers - Etzioni's normative compliance mechanism. Moreover, the frequent change in ministers imposes discontinuities that can undermine implementation.

However, it is the Mazmanian and Sabatier model which has a level of sophistication which can accommodate both endogenous and exogenous *influences*. They argue that centrally-derived policy must structure implementation through the statute. Agencies have to be created, resources must be allocated and most significantly, dependencies need to engendered. A transparency of interaction is necessary if actors are to be adequately controlled by sponsoring agencies. This is a job for policy-makers, not implementers. Central to this is the ability of policy-makers to control variables, or at the very least, make contingencies for exogenous factors which cumulatively erode policy objectives. Delay, as Pressman and Wildavsky discover, is the enemy of implementation. Table 3.7 below lists three kinds of variables and their manifestation in any policy programme.

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62 Pressman himself had an interest in the policy by virtue of his position as director of the University of Berkeley Oakland Project.

63 Giandomenico Majone and Aaron Wildavsky, "Implementation as Evolution" in Pressman and Wildavsky (1984), pp163-180.

Table 3.7: Variables

Variable Type	Examples
Internal (controllable) variables	Commitment of core implementing officials; dependency relationships; constitutional structure (rules); financial resources; formal access to incorporated organisations and opponents; incorporation of adequate causal theory.
Intervening variables	Commitment of implementing officials and incorporated organisations; judicial review; changes (over time) in attitudes of legislature, executive and implementers.
External variables	Media scrutiny; public support; impacts from other policy arenas (including socio-economic conditions).

Although exogenous factors are extraordinarily difficult to manage, failure to contemplate them will lead to problems. Of major importance is the application of an appropriate, not to say valid, causal theory to effectively underwrite the policy. Where policy-makers employ closure as a tool of implementation, a defective causal theory may well prove to be the focus of attention for opponents and, to a lesser extent, incorporated organisations. A defective causal theory may well lead to political intervention to rectify *in situ* inconsistencies or contradictions that result. Hence the importance of examining policy formation as a further indicator of the cause of any subsequent "implementation gap".

The Mazmanian and Sabatier model, however, doesn't adequately encapsulate these features, nor does it manage horizontal dependencies between agencies and actors working to different objectives. The "mixed economy" implementation draws the analyst's attention to a different (and lower) level of analysis than is assumed by Mazmanian and Sabatier. Clearly, shifting to the other extreme - adopting a *backward mapping* approach is equally unhelpful, though the discussions emanating from the "Rotterdam School" of implementation theorists have provided the most salient critique of the "top-down" school. The Rotterdam School has focused to a very large extent on delivery of social policy in cases where there are quite discernible customer/client interfaces that provide an appropriate level of analysis. Other studies have considered micro-economics - the interaction of small businesses competing for contracts and training resources, for example. And there lies one of the problems. What is the analyst's interest in implementation? If one is dealing with an implementation procedure that is not centrally derived, a top-down analysis is likely to be unrewarding, but *can* one study the implementation of a statute from the point of delivery upwards?

Such is the utility of the network model. The statute defines the arena, and gives rise to an emergent network and the key resource dependencies. However, those very same dependencies do not all directly converge at the sponsoring agency, nor are they equal. Where agencies interact at an intermediate level, developing the structures necessary for implementation and management of policy subsequently, vertical analysis suffers from blind spots. The intermediate level provides an analytical insight into what Pressman and Wildavsky call, the *complexity of collective action.* Such coordination is difficult enough where actors are statutory in form; however, where private-sector actors are integral components not only are objectives different, but so are the dynamics of participation. Private-sector actors behave as economic rational actors and bargain within implementation networks; public-sector actors struggle for territory and responsibility (nodality). It is these imperatives which affect the smooth sequentiality and cause implementation to "slip".

However, implementation is also affected by the actions of non-statutory actors - incorporated organisations and opponents. They exploit access points which the policy process has failed to close. Implementation is about containing inputs at these points. Incorporated organisations straddle the implementation network for they have highly circumscribed executive functions, i.e necessary resources. Opponents are totally outside the framework but seek representation through incorporated organisations, or through access points in their own right.

Types of implementation determine analytical frameworks; the level of analysis problem is nothing new in policy studies. I have advocated a network approach because of the perceived failure of other models to assimilate access points which have a crucial effect on the centre's ability to implement policy. Moreover, with the emphasis placed on outcomes in preference to outputs, the network allows for the analyst to consider the change in agencies as they move from being implementers to managers, or vacate the arena altogether. How the assumptions inherent in the network model can be operationalised will be discussed in the next chapter, as will the two case studies which provide the empirical dimension to the thesis. A discussion of method can also be found in the next chapter. As a final point, I offer the following working definition of implementation:

Implementation - where statutes are the focus of action - is the establishment of a series of interdependencies which generate a chain of causality leading to the operationalisation of policy up to and until the desired or satisfactory outcome is achieved or the policy is rescinded.

Chapter 4
Methodology: Assembling the Tools

4.1 Methodology

Introduction

For students of process, methodology may well be regarded as a given. We are not, in the first instance, attempting to hypothesise, falsify theory or, for that matter, build theory. We are fascinated by process, dynamics and outcomes. This is not to say that we enter the research arena naked. Simply that process cannot and should not be bound at the empirical stage by some methodological straight-jacket which prevents the researcher from using accrued knowledge to refine the project. This is largely the consequence of our starting point. The extent of our knowledge at the point at which we construct the research proposal is somewhat limited.

We can, however, seek to expand our knowledge through constructing a hypothesis and seeking, through the empirical exercise, to verify or falsify. Alternatively, we can identify a process which is ripe for the attention of an assiduous chronicler whose primary objective is to give some structure, ordinarily a temporal structure, to a series of events that represent the constituent elements of a programme of action. More acutely, the researcher may choose to be an "active sampler of theoretically relevant data" in contrast to the method of an ethnographer who tend towards collecting the fullest data on a group.[1] In this chapter I will discuss the dynamic of the project and its dominance of by two case studies. I will then highlight the problems and my subsequent strategies for dealing with them such that one can have sufficient confidence in the data for the network framework discussed in the previous chapter to be applied for explanatory purposes.

4.11 The Nature of Explanation

The contemporary political scientist, like the sociologist, can only really be satisfied with a methodology that enables one to go beyond the "how" of understanding encapsulated within positivistic or functionalist methodologies. Our aim now must be to offer insights into why (offer explanation) things happen the way they happen. This is by no means easy, but we are in good company.

Graham T Allison, for example, in his study of the causes of the Cuban Missile crisis emphatically locates

[1] See, Derek Layder, *New Strategies in Social Research*, Polity Press, Cambridge, 1995, p44.

explanation in the realms of the conceptual models employed. Allison took a limited number of occurrences and, depending on his conceptual level of analysis (he employed three), extracted a series of "causal strands that were woven into the 'reasons' for a particular occurrence."[2] For Allison, each conceptual framework consisted of *clusters* of assumptions which raise and structure the initial research question(s), guide the researcher in his/her search for evidence, and determines what he/she eventually presents as explanation. Equally, in any programme there are many individual and corporate actors performing actions relevant to the "event". However, the analyst has to employ a suitable frame of reference to extract evidence/data relevant to the *explanation.* At the level of the network, the analyst has to have an understanding of both the organisational features *and* the nature of the personal relationships within and between these organisational actors who may or may not be unitary actors. Here we enter the realms of intersubjectivity in our attempts to understand how individuals interpret their own environment and the personal relationships which develop. This is the domain of methodological *idealism* which, argues Tim May, contrasts with empiricism such that:

> *Social life cannot simply be observed (empiricism), it can be understood only as the result of examining people's selection and interpretation of events and actions. Understanding these processes and the rules which make them possible is the aim of research for schools of thought within this tradition. It is not explaining why people behave in certain ways by reference to their subconscious states or environmental conditions, but how people interpret the world and how people interact with one another.*[3]

As we found in the cybernetic approach in Chapter 3 (Section 3.21), networks provide a tangible frame of reference, but we are never sure whether all actors interpret the frame altogether "correctly". Equally, we are never sure whether we fully appreciate the behavioural scope of such frames - the extent of such a frame's ability to determine behaviour. If frames are internally generated and sufficiently dynamic, an appreciation of them may not be sufficient to provide the explanatory power we seek. Not surprisingly then, such knowledge for the researcher is often difficult to accrue; we are reliant, in our method, on actors themselves articulating the meanings which they have ascribed. We are left to determine whether they are shared and congruent with our own perceptions of those meanings.[4] At the very least, a clear

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[2] Graham T Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*, Harper Collins Publishers, USA, 1971, p245.

[3] Tim May, *Social Research: Issues, Methods and Process*, Open University Press, Buckingham, 1993, p9.

[4] We should also note that we often attempt to enter networks where member have ascribed meaning to their situation before we arrive leaving us to, at best, catch up.

understanding of the objectives actors bring to their tasks presents the analyst with a potent explanatory framework.[5]

4.12 The Problem of Causality

Causality is of course at the centre of positivistic methodologies. It is an ideal that engages researchers in their work. We select from a multiplicity of sequences of cause and effect those which are significant.[6] In qualitative studies the search for regularity of behaviour and the ascription of rules belies the distorting forces that bear down on any study which employs human agents as causal variables. Where one is engaged in a study of bureaucracy, for example, the rule-based environment should provide the researcher with sufficient knowledge to trace a line of causality as agents' behaviour is guided by the manifested rules. But even here, the researcher needs to proceed with care. Keat and Urry, for example, have argued that conformity to a rule is not an adequate proof that a person's action is explicable by reference to the specified rule. Moreover, an action may well be less than perfectly executed giving the appearance of a non-rule-governed activity when in reality it is.[7]

More germane, however, to the study that is to follow is the expectation that the researcher will have of interviewees and the nature of their responses to questions presented which seek elucidation on questions of purpose, intent, rules and motives. To take rules once again, they often provide the basis of beliefs or desires (wishes) - they are elements of frames of reference. Due process, for example, bears a moral imperative as well as a desire for thoroughness, openness and order. Purposes and intentions specify objects of agents' desires - completing a task or achieving a net benefit through some action, for example. Motives, suggest Keat and Urry, are somewhat more complex. They may well be embedded in the psyche of the agent such that he/she may not fully comprehend his/her motive for a particular course of action.[8] Moreover, if the researcher adheres strictly to the agent's own reasons for action, one is conceptually restricted in the final analysis. The researcher may seek to employ a more holistic or even ideological explanation than is offered by individual actors.[9]

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[5] Allison (1971), p253.

[6] Carr (1965), p105.

[7] Russell Keat and John Urry, *Social Theory as Science*, Routeledge and Keagan Paul, London, 1975, pp152-3.

[8] Keat and Urry (1975), pp153.

[9] As *Realists* Keat and Urry should not surprise us on this point. The *Realist* methodology explicitly attempts to uncover "underlying structural mechanisms" to explain behaviour.

4.13 Comprehending Motives

Any discussion on motives invariably takes us to the Weberian notion of *explanatory understanding.* A motive, as defined by Weber, is "a complex of subjective meaning which seems to the actor himself or to the observer an adequate ground for the conduct in question."[10] Motivational forces are subject to empirical testing, however. It is not inconceivable that the researcher's interpretation of a particular motive may well be at variance with that of his/her subject. In addition, action may be imbued with non-rational, affective motives which further erode the observer's capacity for securing causality. The researcher may, however, be restricted in his/her attempts to confirm an assumed cause as he/she invariably has incomplete knowledge and cannot fully evaluate all of the possible alternative outcomes in the event of the absence of a hypothetical cause.

Weber devised the concept of the comparative *ideal-type* to hedge his way round this considerable methodological problem - the arguments for this are well rehearsed and will not be discussed here. We are, however, left with the problem of values and their effect on the study of social action. In recognising that in asserting that research should be value free, Weber was making a value-laden statement which suitably illustrated the main problematic of the approach. Indeed, the central problem for students of political science who study highly complex processes is that of selection and assumptions about causal variables which is by definition a value-laden exercise.[11] However, Weber, in arguing that value-judgements can be contained at the problem selection stage, objectivity at the data collection stage of a project *is* possible.[12]

In adopting a network model, moreover, one can immediately sense this. Embedded in every network - which ontologically is a construct of the researcher and not a physical entity in itself - one finds such values. One cannot avoid ascribing values to networks and making assumptions about the values embedded within and shared amongst their respective memberships. In addition, our selection of what is relevant is equally value-laden. The whole point of the network construct is, however, to draw out through empirical study the assumptions - meanings and understanding - inherent within networks and their congruence amongst members. Networks may be the sole means of ascribing meaning to a process; that is to say, actors understand their own actions through networks. At their crudest they function as problem-

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[10] Quoted in Keat and Urry (1975), pp145-6.

[11] Keat and Urry (1975), pp199-200.

[12] This view was shared by some eminent political scientists. For example, Daniel Lerner and Harold D Lasswell, *The Policy Sciences: Recent Developments in Scope and Method*, Stanford University Press, 1951, p11.

solving fora, at their most abstract they allow for reflexivity, ie the ability to manage the internal dynamics of any process or programme.

For the reader, according to EH Carr, objectivity can mean something else, too. In what we write, suggests Carr, the reader is receptive to our attempts to rise above what might be expected by virtue of our own situation and in history, ie for the writer to recognise the impossibility of total objectivity. More profoundly, the writer of history is seen as being objective if he/she projects his/her vision "into the future in such a way as to give him a more profound and more lasting insight into the past than can be attained by those historians whose outlook is entirely bound by their immediate situation."[13]

Gibson Burrell and Gareth Morgan have attempted to apply interpretative methodologies to the study of organisations.[14] They accuse organisational theorists of collusion with interests they attempt to serve which results in reducing their work to the level of the study of managerialism. The interpretist methodological paradigm, however, cannot realistically refute the effects of organisations on behaviour, and yet that is what they would necessarily demand. The interpretist paradigm, argue Burrell and Morgan, cannot challenge the basic functionalist ontology and must restrict itself to improving on epistemology, methodology and the extent of voluntarism found in the human situation.[15] To challenge the ontology one enters the realms of critical theory - an avenue which itself would go somewhat beyond the objectives of this study.

4.2 Method

Where methodology attempts to secure the philosophical coherence to the process of data collection, analysis, explanation and the construction of theoretical conclusions, methods describe our attempts to present the "products" of social enquiry.[16] Here we are concerned with identifying and then amassing valid and reliable data as defined by the methodological assumptions carried forward from the research proposal. The case studies that follow are quite taxing in terms of method and challenging at the point of comparison. I will now introduce the two studies and proceed to detail the method to be employed.

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[13] Carr (1965), p123. This idea of projecting into the future was a preoccupation of Carr, and the subject of one of the component lectures (History as Progress) in the series which form the book.

[14] Gibson Burrell and Gareth Morgan, *Sociological Paradigms and Organisational Analysis*, Heinemann, London, 1979.

[15] Burrell and Morgan (1979), p277.

[16] Louis Cohen and Lawrence Manion, *Research Methods in Education*, Routeledge, London, 1989, p42.

4.21 Historical Case Study and Method

There are no shortage of accounts of the period 1960-65 in the history of the British Rail organisation. The definitive account is the authorised business history by TR Gourvish.[17] Gourvish enjoyed unique access to the BR Records Centre where he and his research team scrutinized official papers and actor responses to them. Gourvish does not, however, attempt to explain the dynamics of the changes that railway personnel managed over the period of his study. Gourvish's account is data-rich and his subsequent analysis provides a definitive "how?". He identifies the key actors and traces their involvement and reasoning. Gourvish does not employ theory to assist in identifying structural dynamics. Moreover, Gourvish was denied access to Ministerial papers in spite of his privileged access to the BR archive. Gourvish, therefore, was unable to examine parallel decision-making within the sponsoring agency.

For the political scientist, Gourvish's account was tantalising. He does identify crucial weaknesses in the command structure within the BR organisation without questioning motives, influences, and objectives. He uses such examples to explore flaws in Dr Beeching's ideas which were the main currency of the period. My interest, therefore, was in building on Gourvish's account; to uncover the dynamics which delivered Beeching's plan which, logically, might well have been resisted from within the BR edifice. In addition, papers dealing with the parallel decision-making in the Ministry, now in the public domain at the Public Record Office, could be explored and their impacts assessed. Essentially, I sought answers to the ultimate question of authority and power within and between the two dependent bureaucracies with disparate power relations. How effective was the Ministry's control over the BR organisation? and how much control did the British Railways Board have over the huge organisation of which they represented the notional apex?

It was my intention to investigate these questions by examining the ministerial papers, revisiting Gourvish's work by viewing BR papers which I erroneously believed would be released to the PRO, locate surviving actors, interview them, and contextualise decision-making in this policy area with reference to other policy areas, social and economic conditions, and the general uneasiness over the political management of public industries generally. These were heady times for the public sector as their *raison d'être* came under considerable pressure from a hawkish Treasury.

The Ministerial papers were released to the PRO in what can only be described as "dribs and drabs". My belief that the "30-Rule" could be taken literally was wrong. Thirty years is a minimum not an absolute.

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[17] TR Gourvish, *British Railways 1947-73: A Business History*, Cambridge University Press, 1986.

Moreover, files are packaged together and released at the point the most recent document, not the oldest, is declassified. Some files are packaged such that they contain papers covering a five or six-year time span which inevitably results their continued closure as their declassification is determined by the date of the last - and not the first - document. The net effect of this was to make the research somewhat haphazard and non-chronological. The advantage, however, was that my fear that my sources were going to be much denuded meant that I read *everything* that was available. The "marginal" papers often provided some unexpected context and provided further examples of the capacities of my key bureaucratic actors.[18] This is, however, a dangerous strategy for the political scientist. Fear of insufficient data can lead to over compensating with the data one does collect when it comes to selection and analysis.[19]

The second unexpected discovery was that the public record is not a definitive public record. Papers are missing and those that are available are not complete. "Events" as traced through the papers often exhibit somewhat whimsical progress that defy explanation or understanding. One concludes that the compilation of the public record does not guarantee their eventual transfer to the PRO at any time, let alone after thirty years.

As far as the BR papers were concerned, I learned that the BRB's papers are *not* public papers. They are transferred to the PRO at the discretion of the Board, there is no legal requirement for them to do so. Moreover, the PRO does not accept papers that are not "ready-to-read" which forces the Board to re-classify files before they are approved for transfer by the PRO. This is a labour-intensive process which is a marginal occupation of the Board's records centre. Suffice to say, very few BR records were transferred to the PRO. Even relatively straightforward documents such as the BRB minute book (of which the Board keeps multiple copies) remain closed.

In appreciation of the limitations of the PRO, I attempted to negotiate access to the Board's records. Access was denied until August 1997 after the intervention of the Chairman of the residual BR. As in all archives, organisation is the essence. The BR archive does not have an accessible indexing system. I found myself totally beholden to staff at the Records Centre impinging on their own work in the process. I also found that even though I used the fortnight that I had to examine papers at the centre to examine very

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[18] For example, I read all of the papers relating to the establishment of all of the other public boards created out of the former British Transport Commission. As the populating of these Boards was as much about patronage and "good management", the manoeuvrings provided good indicators and additional research questions when it came to examining the equivalent papers relating to the first BRB.

[19] Jennifer Platt, "Evidence and Proof in Documentary Research: 1" in *Sociological Review*, Vol 29(1), 1981(a), p35.

specific papers, most of which were referenced in Gourvish's book, the documents could not be produced. A repository like the BRB's does prefer to keep its secrets. Unlike the government papers at the PRO, the BR archive could have amounted to a boundless resource presenting major selection problems. Had I been given free rein over the resource at an early stage in my research, it is conceivable that one could have been adequately occupied for some considerable time. Although such archives are, by definition, finite, the Ministry files proved few in number in comparison to the output at the BRB.

In terms of scrutiny, particularly the Ministry papers, their significance and the extent to which they show shared understandings is most graphically witnessed in reports, minutes and memoranda that are circulated and then annotated. In addition, significance was measured crudely by the number of times certain issues returned to discussion fora and the apparent care taken to secure the "right" output. Significance, on occasions, can be all too obvious. Written exchanges between key individual actors often enjoy a candidness that removes doubt from the mind of the researcher on this point, and the fact that the file exists at all should not be discounted. Though finally, as Platt notes, one is ultimately reliant on the application of "historical imagination" or "commonsense theories" to resolve these awkward questions.[20] The reliability of data from these sources, I would argue, is not in doubt.

I limited myself to conducting two oral interviews, though I did track down a number of surviving actors. Most were quite explicit in their belief that their memory of events was simply too poor to be of use. At least one memory was, however, razor-sharp, that of the then Deputy Secretary, David Serpell. His recollection of particular documents that I confronted him with was impressive. Equally, his willingness to negotiate meaning and significance with me indicated considerable thoughtfulness on his part. In the account which follows in Chapters 10 and 11, I do not present substantive data that was taken from this encounter. I used the interview to test my understanding of the decision-making processes at the Ministry and the dynamics that sustained the implementation programme. Serpell was an instrumental actor with clear aims and ambitions. He was also a manager of personnel, a motivator, an innovator, and a considerable intellect. Meeting the man behind the signature, albeit over thirty years after the event, gave me greater confidence over the inferences that I had drawn from what I had read.

The question of inference is another thorny subject for historical researchers. Indeed, invoking Platt once again, she sees the historical method as one that depends very heavily on "chains of inference" which are open to question in the final (reader) analysis.[21] Inference results largely from the historical researcher's

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[20] Platt (1981a), p45.

[21] Platt (1981a), pp64-65.

inability to generate new data to confirm research questions. Gaps, therefore, are necessarily filled by inference which themselves are open to question and verification. Some inferences are part of the commonsense school: inferences about document form as witnessed by regularity and reproducibility; others are more subjective, such as those mapping beliefs and motives. In the cases that follow, I have tried to manage these two problems in particular by tracing the origins of the inferred beliefs which ultimately informed actor behaviour. I am perhaps fortunate in being able to do this unlike researchers' studying other cultures, earlier times, or less literate subjects.

4.22 The Contemporary Case Study and Method

The contemporary case study deals with the process by which the provision of passenger rail services was transferred to the private sector in the railway privatisation implementation programme initiated by passage of the Railways Act 1993. The research questions were, at the outset, few. Implementation was taken as the dependent variable, and the initial exercise was to isolate the independent variables and consider their effect on the implementation programme. As the programme progressed, more explicit questions were raised when the variables did indeed alter the form and pace of programme implementation. Essentially, this was a contemporaneous study in the first instance. The policy presented a unique opportunity to witness at close proximity a unique process from which conclusions about the implementation of public policy in contemporary British government could be made. In contrasting this data with that drawn from the historical case study, I sought to gauge the extent to which government has a continued reliance on particular compliance mechanisms even when confronted with a highly differentiated implementation network.

The contemporary study is built on two explicit sources of data: documentary and interview. The documentary evidence was of a qualitatively different kind to that which formed the basis of the historical study. There were no government papers other than those which had leaked to news organisations. I did get copies of a number of these, but largely they had themselves been "selected" for their impact and were desperately short of context. They provided nothing more than interesting questions to be raised with principal actors. The primary source of information from within government came from the Office of the Rail Regulator whose deliberations over the form of contracts, licences, competition policy, etc., was conducted through the publication of detailed consultation documents which were distributed widely and beyond those who might be expected to have a financial interest in the Regulator's outputs. The detail in these documents provided me with considerable data to enable an accurate evaluation of the evolution of the policy as implementation progressed.

As the process matured, other agencies began to discuss more openly their procedures. For the flotation of the Railtrack organisation, the merchant bank handling the sale had to produce a detailed prospectus which isolated all of the risks that might be borne by putative investors, both economic and political. And as the confidence of those in the Office of Passenger Rail Franchising increased, their willingness to go public about what they were seeking from bidders also assisted the research effort. Moreover, duty-bound by statute, all of the leading agencies produced their annual reports detailing their specific contribution to the privatisation programme. The National Audit Office published a timely analysis of the propriety of OPRAF's sale of the first three franchises, and the Transport Select Committee published two reports on rail privatisation based on the evidence of key actors from both the public and private sector.

The media was also a vital source, though the data it presented was largely of dubious reliability. That said, on checking many of the stories that dealt with privatisation, there were grains of truth which had either been badly or mis-reported. There was considerable ignorance in the media regarding rail privatisation; very few specialist reporters followed the story with any degree of competence. The grains of truth, however, were useful, and the opportunity inherent in media reporting acted as an efficient procurer of otherwise concealed information. The railway press, particularly *Modern Railways,* combined accurate reporting with informed comment. This is recognised in the text.

The interviews took the form of detailed unstructured interviews and were conducted between August 1995 and June 1997. Their form was interactionist by which I mean that I as the interviewer sought "facts" and complementary perceptions of motives and behaviour from subjects relating to themselves and others. This generates an interview context which is integral to developing an understanding of the data that are obtained. The interviewee both complies with and resists the definition of the context which the interviewer constructs.[22] The data thus obtained has a high degree of inter-subjectivity based on a mutual understanding of the context. As an interviewer, therefore, one attempts to appear an equivalent professional to the respondent. That is, a professional political/social scientist with sufficient understanding of the process under investigation to be entrusted with the respondent's own insights.

So what of the questions of reliability and validity? The interview schedule was devised in such a way so as to, wherever possible, manage any tendency towards rogue responses. In the early stages, for example, while still building my own understanding of the process, I asked the same questions in all of my encounters with the managers at BR train operating companies. The data obtained identified what I believe

[22] See David Silverman, *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction*, Sage, London, 1993, p94.

to be a shared understanding. I used this technique in all of my interviews where I encountered individuals occupying comparable positions in the implementation network. For example, I interviewed two lawyers working for different clients but occupying the same network space to inform me of their own world view and how that affected their behaviour. Both accounts, at this level, tell a similar story such that basic perceptions were congruent with one another importing greater confidence in the veracity of subsequent responses relating to the specifics of the task for which they were retained.

The question of validity is equally problematic for this kind of research. The tendency to select data that are "exotic" and fulfil the "ideal conception" of the phenomenon under investigation is well recognised.[23] The study that follows attempts to achieve validation in two ways. In the later interviews, particularly with key actors in the implementation programme, I did seek guidance on the validity of my data in terms of choice of avenues for further investigation, and on the veracity of that which I had already amassed. The later interviews were, therefore, very much concerned with validating data. Second, I employed the technique of *triangulation.* I validated much of the documentation - and my inferences derived therefrom - through my interviewees; equally, I used interview data to make judgements on the significance and validity of particular actions in the implementation process. For some of the technical data, I compared my interpretation against both assessments made by other observers (specialist media), and by checking with the authors in many cases that my understanding was correct and intended.

Getting access to actors was, in the early stages, not easy. The policy was highly controversial and by no means secure politically. The sales process was conducted under the utmost secrecy, too much even for participants so it came to pass. Attempts at talking to the outgoing Chairman of British Rail, leaving in some ignominy, despite this researcher's persistence, came to nothing. I made approaches in a number of ways. I negotiated access to a number of industry conferences which acted as shop windows for vendors. In addition, senior managers of all of BR's train operators were obliged to attend meetings of the statutory Rail Users' Consultative Committees. As a result I became, what the Chair of the Eastern Committee described as, "a RUCC groupie" following these meetings around the region. The chairs of these committees also formed the membership of the Central Rail Users' Consultative Committee who invited key central actors to address the Committee on a regular basis in London.

These contacts enabled me in some cases to "nobble" various individuals where appropriate. I largely used them to introduce myself physically after making initial contact by letter. In the early phases, confidence

[23] Silverman (1993), p153.

building was important, though on only one occasion were my references taken up.[24] These occasions were absolutely vital to the development of my understanding of the process which I was studying and the role of key actors and their relations with one another. It helped enormously to be able to refer to these meetings in introductory letters as I attempted to build up an interview sample.

The response that I had from public-sector actors was largely good. Apart from the above-mentioned rejection, I had five other outright rejections. One subject did say that he was interested in the form of the project such that it set my request apart from other requests for interview that he regularly received. Access was, I believe, achieved by coherent and brief articulation of one's project and primary interests couched in terms of "exploration". Private-sector actors were much less cooperative. It was here that I suffered the majority of the rejections but in some cases this was due to my contacting the wrong person within the organisation, probably at the wrong time. Such a realisation, if made in time, allows one to rectify the mistake contacting the right person at the right time. I failed to get an interview with representatives of merchant banks involved in the sales, despite repeated efforts. This, I believe, is something that needs rectifying in future work.

I conducted 32 interviews in total. All but two of the interviews were committed to audio tape and transcribed in full. I successfully interviewed key personnel in all of the statutory agencies, in some cases more than one, depending on their location in the matrix. Some were interviewed more than once, though I prepared the interviews on the understanding that they would present single contact opportunities. This in itself presents major difficulties when one attempts to build sufficient confidence with the interviewee for them to converse fluently and candidly with interviewers. Moreover, not only do subjects demand a healthy familiarity with the subject, but they also expect an exchange of information.[25] A working knowledge of the subject, I concluded, was the most effective way of building the necessary confidence quickly. The times when I conducted interviews under the influence of knowledge deficiency were embarrassing and unfruitful. And the closed nature of the network in which they acted could potentially have affected my efforts at reaching others.

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[24] Chris Kinchin-Smith, MD of London, Tilbury and Southend Railway Ltd., was a dynamic early bidder through his management vehicle, Enterprise Rail. He agreed to meet with me after the franchise had been let, but prior to control being ceded by BR. This proved to be a good time to make contact with incumbent managers. Unfortunately, a ticketing scandal broke over the franchise allocation three days before I was due to meet with Kinchin-Smith . The "scandal" of the successful bid, that of Enterprise Rail, rendered it void. Kinchin-Smith "disappeared", and my data source was lost. On one other occasion I was invited to a pre-meeting for my subject to satisfy himself that my project was worth his participation. Fortunately it proved to be so.

[25] Hugh Heclo and Aaron Wildavsky, *The Private Government of Public Money: Community and Policy Inside British Politics*, Macmillan, London, 1981, plxviii.

The analysis of the transcripts was not computer-aided, I managed all of the transcripts manually. The key themes, areas of contestation, etc., emerged very early in my study and were developed in the interview process. The interviews were unstructured but were focused and detailed. The key concept throughout was that of problem tractability. Once I had identified the substantive problems, and selected particular problems to investigate - each one unique, but not exotic - managing the data was less traumatic than I had feared.

Conclusion

The execution of a qualitative study of policy making demands a robust methodological stance which has earned the respect of practitioners and critics. The positivistic paradigm that has periodically dominated social science has a very limited utility in the study of complex, value-laden decision-making which characterises the work of the political scientist. That is not to suggest, however, that the criticisms of qualitative methods should not be heeded. The interpretive method, which I have advocated above, is pitted with problems. How can we be sure about the beliefs of others? How can we minimize the potential for being the victim of deliberate or unintentional misinformation? How do we manage the need of respondents in this situation to some form of reciprocity?

The case studies that are presented below have been conducted with these caveats over methodology very much in mind. The contemporary study, in particular, was vulnerable to the receipt of poor quality data. There were no guarantees that the respondents would warm to the exercise; but to my surprise many used the experience reflexively. My respondents were clearly not used to being questioned about their perceptions and motives, but once retrieved and juxtaposed against their outputs and observed behaviour, one can build an accurate picture of events, their causes, and their contribution and significance to the wider programme.

The historical case study on the other hand presented authoritative documentation. Extracting perceptions from these papers, however, is a curious pastime. One is tempted to read them as the output of a large bureaucracy, nothing more. It soon becomes clear to the sceptic that other forces are at work. The selection of personnel, the building of reputations/careers, and "can-dooism" encroach on such a linear analysis. By tracing origins we can alert ourselves to such dangers, and by reading the annotations, we can cut through the bureau-speak. By contrasting the two studies we can grapple with the changes time imposes on procedures and ways of getting things done. We may find that nothing really changes.

Chapter 5
The Policy Process - Deciding What to Implement

Introduction

The British Rail network is made up of just short of 11,000 route miles, and has remained virtually unchanged since BR was charged with the task of maintaining passenger service provision at the 1974 level.[1] It is generally referred to as the privatisation that *even* Prime Minister Thatcher shied away from. As will be seen below, she did not; the railways were simply unimportant to *her*. With the viability of bits of the railway affecting the fortunes of most parliamentarians, threats to the integrity of the network were guaranteed to generate parliamentary dissent. The Serpell Report[2] of 1983, for example, which was erroneously interpreted as a proposal to close much of the rail network, was promptly dispatched as nothing more than an accounting exercise by embarrassed ministers and restive BR managers. In the run up to the 1983 general election, the Government decided that BR was best left well alone. Despite that, forces close to the Government were already advocating radical changes - over and above the 1982 sectorisation exercise executed by the then BR Chairman, Peter Parker, and his chief executive and eventual successor, Robert Reid.[3]

5.1 Policy Origins

5.11 The Parker Effect

In 1969 the Ministry of Transport was absorbed by one of the great "super-ministries", the Department of the Environment where it was held in some contempt. In his autobiography, Peter Parker recalls Tony Crosland saying in 1976: "Peter, I see a future BR as a smaller, sensible little railway."[4] When it came to public-sector cash limits in 1976, BR had its PSO grant frozen in real terms. For Parker, the PSO was the

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[1] Transport Act 1974. See also TR Gourvish, "British Rail's 'Business-Led' Organisation 1977-1990: Government-Industry Relations in Britain's Public Sector" in *Business History Review*, Vol 64, Spring 1990, p120.

[2] Department of Transport (January 1983), *Railway Finances: Report of a Committee Chaired by Sir David Serpell*, HMSO, London. See also *Second Report of the Transport Committee, Serpell Committee Report on Review of Railway Finances*, HC 240, April 1983.

[3] For an insight into the strategic planning that went into sectorisation, see John Heath, "Planning in Transport" in John Grieve Smith (ed), *Strategic Planning in the Nationalised Industries*, Macmillan, London, 1984, pp221-222.

[4] Peter Parker, *For Starters: The Business Life*, Pan, 1989, p203.

cornerstone of BR's relationship with the Government. It was the Minister who had to defend it in Cabinet. Moreover, Parker believed that BR's obligation to provide unremunerative services amounted to a contract with government. There was a longer-term project, too. The notion of the contract presented the possibility of developing *"...the accounting accuracy to make more specific contracts for each sector of the business. These sectors were defined as InterCity, the commuter network and Provincial Services and they were to transform the geography-based structure of the railways. I held to the contractual position explicitly...I did not want a subsidy for BR, I wanted a contract."*[5]

In addition to the development of the contract with government and notions of discrete business sectors within BR, Parker also had plans for the development of the network which trickled out in a series of pamphlets. He publicly advocated building North-South and East-West routes across London, a doubling of the electrified network, and building the Channel Tunnel. These options, suggests Parker, were aired despite the possibility of offending the Department of Transport now demerged from the DoE, though these proposals were made against the backdrop of the implementation of a strict efficiency drive. In his first annual report, Parker announced the loss of 40,000 jobs; a further 35,000 were earmarked to go in the first 5-year plan published in 1981. As a keen moderniser, Parker concedes that he could not argue for further investment without offering the government efficiencies both in terms of workforce and stock utilisation. The battle over flexible rostering in January 1982 and single operation of trains between Bedford and St Pancras provided a clear indicator to government that the railway industry - despite its management's best efforts - still had a conflict-based relationship with the unions (in particular with ASLEF). The failure of the Board to consult over these stock innovations shows too that the Board viewed the future in terms of tough decisions in a hostile political environment.[6]

5.12 The Mantra of Privatisation

Most commentators are agreed that privatisation was not a central element of the Conservative programme of 1979.[7] That said, clearly, the nationalised industries were going to receive some attention in the first

[5] Parker (1989), p240. Parker Credits the Board member for finance, Derek Fowler, with developing this idea.

[6] The split between ASLEF and the NUR is illustrated by Sidney Weighell in his autobiography, *On the Rails*, Orbis, London, 1983, p86.

[7] For Example, see Dennis Kavanagh and Peter Morriss, *Consensus Politics From Attlee to Thatcher*, Basil Blackwell, Oxford, 1989, p30. This is not to say that there were no examples of privatisation. For example, see Oliver Letwin, *Privatizing the World*, Cassell, London, 1988, p12.

Thatcher administration.[8] Sir Geoffrey Howe captures this:

It is only since the election that the issue of privatisation has moved to the very forefront of politics. Our experience since we have been in government has convinced us...that the need for privatisation, competition or, at least, private-sector financial disciplines in the nationalised industries is even greater than we imagined in opposition. The only advantage of having most of these in the public-sector was the Government's ability to underwrite losses sustained from industrial action.[9]

Christopher Foster's historiography of contemporary privatisation is perhaps the most lucid and informed. In the first instance he suggests that the privatisation programme as it evolved was largely "pragmatic and improvised and that its motives were various"[10] Foster argues that there were two events that raised the question in Whitehall and amongst ministers of the need to reassess the management and objectives of the Nationalised Industries (NIs). First, in 1980 and 1981 litigation was begun by foreign airlines against the Government and the British Airports Authority which "alerted the Treasury to the desirability of altering the duties of nationalised industries."[11] The second was the realisation, not least by the publication of the Serpell Report, that this administration was "interested only in the efficiency of these industries and rarely in intervention for political ends..."[12] Both of these realisations could be settled by the conversion of the NIs into "Companies Act" companies. Foster concludes that: "In the early stages at least who held the shares was largely a political issue, though the sale of at least the majority of the shares was needed to prevent ministers or their successors interfering. Outright privatisation was simpler,"[13] even if the advocates of privatisation had the Whitehall machine to overcome in order to do it.

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[8] Richard Molyneux and David Thompson identify the shift in policy towards the NIs as stemming from a Treasury White Paper Cmnd 7131 (1978) which emphasised the need for the achievement of productive efficiency and the reduction in discretionary financial freedom of nationalised industry managers - Molyneux and Thompson, "Nationalised Industry Performance: Still Third Rate?" *Fiscal Studies*, Vol 8(1), February 1987, p77. Richard Pryke adds that the White Paper sought to impose strict financial guidelines on the NIs advocating that they earn a return of 5 per cent (discount cash flow) on total capital expenditure. However, BR remained a sacred cow where subsidies were concerned well into the second Thatcher administration.

[9] Selesdon Group speech 1 July 1981 Quoted in: Geoffrey Howe, *Conflict of Loyalty*, Macmillan, London, 1994, p255.

[10] Christopher D Foster, *Privatisation, Public Ownership and Regulation of Natural Monopoly*, Blackwell, Oxford, 1992, p106.

[11] Foster (1992), p111.

[12] Foster (1992), p111.

[13] Foster (1992), p111.

There were perhaps two more pieces to the privatisation jigsaw. The first was identified by Geoffrey Howe. The Treasury and Civil Service Select Committee had been hearing the case for giving the NIs powers to borrow from the private sector. The Committee concluded that the cases put were unconvincing. "This conclusion," noted Howe, "from which the Treasury certainly did not dissent, put a stop to the seemingly hopeful idea of privatising the financing rather than the ownership (the debt rather than the equity) of the nationalised industries."[14] For the Treasury, moreover, there came the realisation that expanding public expenditure was not a solution to the economy's woes after an electorate had made clear its preference for lower taxes. Public-sector efficiency, therefore, became the mechanism for maintaining and expanding public services.[15]

A final factor was the Public Service Borrowing Requirement (PSBR). The PSBR was a stark indicator of public spending. Its escalation had a causal relationship with inflation, the Government's primary economic interest. Deficits incurred by the NIs were covered by the PSBR, so were investment and public service grants. Clearly, disposal of state-owned companies could pass the responsibility for solvency on to the private sector. Even more tantalising was the realisation that receipts from sales would count against the PSBR; that is, reduce it.[16] BR was a huge contributor to the PSBR. In 1990/1 alone, BR was in receipt of £800m of public money to run uneconomic services (see table). However, as the Serpell Report had shown in 1983, if the objective was to eliminate BR's call on the PSBR, then the network would have to be reduced to a route mileage of a mere 1,600 miles.

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[14] Howe (1994), p256; *Treasury and Civil Service Select Committee Eighth Report*, Vol 1, 27 July 1981. See para 6.16

[15] Christopher Foster and Philip Plowden, *The State Under Stress*, Open University Press, Buckingham, 1996, p21.

[16] See, *inter alia*, Peter Saunders and Colin Harris, *Privatisation and Popular Capitalism*, Open University Press, Buckingham, 1994, p19; John Vickers and George Yarrow, *Privatisation: An Economic Analysis*, The MIT Press, Cambridge MA, 1989, p158; Foster (1992), p113; Jane Roberts, David Elliott, Trevor Houghton, *Privatising Electricity: The Politics of Power*, Belhaven Press, London, 1991, pp24-25.

Table 5.1: PSO Grant and Investment - £m 1991/92 prices

Year	PSO	Investment (existing)	Investment (new)[1]
1983/1984	1,347	403	
1984/1985[2]	1,586	425	
1985/1986	1,157	578	
1986/1987	943	597	
1987/1988	986	915	
1988/1989	644	892	
1989/1990	566	1030	
1990/1991	641	941	
1991/1992[3]	900	1034	180
1992/1993	1080[4]	1088[5]	284
1993/1994	794[6]	482[7]	547[8]

From Transport Select Committee Report HC246, 1992/3, pxxxvii

1 mainly channel tunnel
2 15 month period
3 forecast
4 estimated outturn
5 estimated outturn
6 plans
7 ceiling
8 estimated outturn

More prosaically, it is useful to consider the motivations that underpin the decisions to privatise state assets for these have a bearing on outcomes. Feigenbaum and Henig[17] have constructed a typology of privatisation for this purpose and which will have considerable utility in the case study that follows. They identify three different motivations: pragmatism, tactical and systemic.

Pragmatic privatisations, argue Feigenbaum and Henig, "are short-term often *ad hoc* solutions to immediate problems - for example, the need for cash."[18] They do not reflect an ideological shift. Tactical privatisations, however, "are intended for the short-term political benefit of those backing the policy."[19] They are designed to appeal to specific groups of voters or, indeed, to reward "political friends". Many

[17] Harvey B Feigenbaum and Jeffrey R Henig, "The Political Underpinnings of Privatization: A Typology" in *World Politics* 46 (January 1994), pp185-208.

[18] Feigenbaum and Henig (1994), p194.

[19] Feigenbaum and Henig (1994), p196.

of the Thatcher Government's privatisations were tactical in origin.

Finally there are systemic privatisations. This category is further subdivided into three components. First, where it is used to undermine the power of already mobilised groups, such as organised labour. Feigenbaum and Henig label this "power shift". Second, where it involves the shrinking of the sphere of activity of legitimate public scrutiny and intervention. It represents a shift in the values, culture and expectations of the active public. "The idea was to change British society from a Marxian world of class conflict to a Hobbesian world of atomized individuals."[20] This Feigenbaum and Henig call "perceptual shift". Finally, systemic privatisation involves the "nontransient restructuring of the institutional arrangements of the society (legal, political, economic) so that the array of incentives presented to individuals and groups encourages a greater reliance on private and market-oriented solutions."[21] This, in Feigenbaum and Henig terminology is "institutional shift".

[20] Feigenbaum and Henig (1994), p200.

[21] Feigenbaum and Henig (1994), p201.

Table 5.2: Typology of Privatisation Forms

	Pragmatic	Tactical	Systemic
Key motives	public-sector "triage" * reduce budget * adjust to changing circumstances	short-term shift in balance of power * attract voters * reward supporters * product differentiation	long-term shift in balance of power * lower expectations of government * reduce government capacity * transform political stakes
Illustrations of Conventional Privatisation Techniques			
Asset Sales	hiving off costly public enterprises where private provision has become a viable alternative	selling profitable public assets at discounted prices as form of patronage	selling public housing in order to convert tenants into a (more conservative) homeowner's mentality
Contracting Out	competitive bidding among private firms to provide service where contracting agency has enforcement capacity	awarding "sweetheart" contract to campaign contributor	shifting governmentally-provided services to private providers to build new interest group to lobby for further reductions
Deregulation	deregulating sectors that are not natural monopolies, coupled with protection of consumer interests	reduced enforcement of regulations that fall heavily on supporters	across-the-board deligitimization of regulatory intervention and government capacity to oversee and enforce
User Fees	raising new revenues and diversifying revenue alternatives	making it possible for the governing party to cut (or avoid raising) an unpopular tax	reducing the net progressivity of public policies

Feigenbaum and Henig (1994), p203

5.2 Debating Form

David Starkie[22] was the first to present the case for a track authority as a means of privatising the rail network. As sectorisation was to show, BR amounted to a number of discrete businesses sharing a permanent way. Managing these businesses was extremely complex and has been dominated by a rail culture arguably since the first world war. Not surprisingly then, prior to the establishment of Railtrack in

[22] D Starkie, "BR: Privatisation without tears" in *Economic Affairs*, October 1984, pp16-19.

April 1994, gaining access to the track was a bureaucratically-fraught exercise. Some operators such as the Venice-Simplon Orient Express Company[23] overcame the obstacles, not least because it did not present a challenge to BR nor did it require a premium train path. Entry into the rail market is also accepted as being overbearingly expensive in terms of fixed costs.[24]

Starkie's article appeared even before the privatisation and deregulation of the bus industry[25] the liberalising effect of which was widely brandished as a justification for the rail privatisation plan. Starkie argued that the seeds of a private railway were already flourishing by virtue of the fact that even in 1982, 40% of all freight was carried by private wagons, leased from private companies; this trend, suggested Starkie, could and should be extended to the provision of motive power and passenger rolling stock. To facilitate the growth of leasing he suggested that BR's assets be divided between two holding companies, one of which would be a track and termini authority. Rolling stock, he suggested, could be vested in the other company, or a number of smaller companies. In which case, charges should be levied on a "direct train cost control basis".

Starkie also warned against the potential for cross-subsidisation from the PSO grant. To avoid this Starkie argued for a "fencing in" of the competitive market to prevent misuse of the PSO grant. Where PSO grant is appropriate:

> *Competitive franchising could provide a means of improving efficiency. The essence of the franchising idea is that services would be open for tender to be operated in a specified manner for a particular period. A distinction between "track" and "trains" is appropriate also when franchising the social railway. The expertise required to operate train services per se is different from that required for maintaining the permanent way - recognised in BR's existing corporate structure which distinguishes between operations and engineering.*[26]

He concluded his paper with the recognition of the need to maintain a sizable public sector alongside a range of private-sector firms operating in a similar environment to that which the airline and bus industries

[23] A subsidiary of Sea Containers.

[24] See Foster (1992), p160. Also footnote 71. Malcolm Gylee in his article, "Alternative Ways to Run Railways" in *Transport*, January/February 1984, pp14-15, suggested rail infrastructure be treated the same way as roads, with access being purchase on a access-tax basis.

[25] Provisions held in the Transport Act 1985.

[26] Starkie (1984), pp18-19

functioned at the time.

5.21 The Adam Smith Institute

1984 was perhaps not the right time to challenge the BR sleeping giant. The ideas encapsulated in Starkie's paper, however, clearly left a mark on Kenneth Irvine, author of a paper published by the Adam Smith Institute four years later.[27] Irvine's paper stressed the need for the introduction of competition into the passenger business criticising both the Passenger Transport Executives (PTEs) for their price-fixing mechanisms, and the allocation of the centrally-held PSO grant which, he argued, had been conveniently used as a means of cross-subsidising loss-making routes. Citing the performance achievements of the soon-to-be profitable InterCity and the freight business he argued that, with the correct medicine, the railways could be made profitable.

One course of treatment would involve the abolition of the *Prime User Charging Mechanism* (PUC) whereby the majority of costs are borne by the main user of any stretch of track, with other users being charged *avoidable costs*. The effect of PUC is the tendency for prime users - most explicitly InterCity - to lower its commitment to some services so as to cease to enjoy prime user status over the track, leaving the PSO delivered to loss-making services to subsidise the infrastructure. The existence of a separate infrastructure company would end this if charges were spread amongst all users on a common cost basis.

Irvine's enthusiasm for rail privatisation also included measures for franchising out services, some of which could be vertically integrated (London-Tilbury-Southend, for example). Loss-making services could be offered on a negative-bid basis similar to that which had become common in the provision of bus services. Franchisees, under the Irvine plan, would be responsible for meeting service criteria for punctuality, cleanliness, frequency of service, etc.

Interestingly, Irvine used his paper to criticise parallel proposals offered by Andrew Gritten of the Centre for Policy Studies who propounded the case for a return to regional structure operated by the former regional companies. With this generally regarded as being the favoured option of the Prime Minister, John

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[27] K Irvine, *Track to the Future*, ASI, London, 1988; this developed an earlier paper, *The Right Lines*, ASI, London, 1987.

Major, in the period prior to the publication of the Manifesto, Irvine's criticism bears some scrutiny.[28]

The regional solution presented four clear areas of contention. First, such a structure would fail to take account of the changes in the rail industry and demography since the demise of the four companies in 1948. Its parochialism was inappropriate for the late 20th century. Second, with both freight and people travelling further in the 1980s, the developing railway industry would, he argued, become increasingly complex. External provision would have to be made for the maintenance of ticket interchangeability and reciprocity. This would necessarily engender complex negotiating structures to resolve disputes arising from questions of path priorities and such like.

Third, Irvine feared a resurgence of militancy from the rail unions. Fearful of job security and ideologically opposed to privatisation and deregulation, he claimed that the unions would be in a position to scupper the plan. Finally, he envisaged a fatal haemorrhaging of industry expertise as skilled personnel shifted from one company to a more vibrant competitor.

5.22 Genesis

The sectorisation markedly improved BR's financial situation (see table below), whilst also making it easier for the Government to set targets for the business sectors. On 1 April 1988, InterCity was excluded from PSO provision, and the other businesses were cutting their losses (most especially freight). By 1992, Network SouthEast was also expected to operate without subsidy.[29]

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[28] Simon Jenkins, *Accountable to None: The Tory Privatisation of Britain*, Hamish Hamilton, London, 1995, pp207-208

[29] See C. Nash and J. Preston, "Franchising Rail Services", in Anthony John Harrison (ed), *From Hierarchy to Contract*, Newbury Policy Journals, 1992. For an account of how InterCity was transformed, see Dr John Prideaux, "InterCity: Passenger Railway Without Subsidy" in *RSA Journal*, Vol 138, March 1990, pp244-258.

Table 5.3
British Rail Results by Sector, 1982-1989
(in constant 1982 prices)

sector	Gross Income £million 1982	1988/89	%age chge	Operating Surplus/ Loss £million 1982	1988/89	%age chge
IC	350	596	+70	-196	+42	+121
NSE	448	662	+44	-310	-102	+67
Provincial	136	203	+49	-489	-346	+29
Freight	487	506	+4	+2	+51	+2,450
Parcels	93	94	+1	+8	-9	-213
Total	1,514	2061	+36	-985	-364	+63

From TR Gourvish (1990), p131

On 25 February 1989, Paul Channon addressed the Conservative Political Centre and confirmed that the Cabinet was not committed to the sale of BR in whole or in part.[30] The Department of Transport, however, was weighing up the options and had appointed Samuel Montagu merchant bank to advise on the value of the assets. In addition, Deloitte, Haskins and Sells advised on structure and National Economic Research Association (NERA) likewise on regulation.[31] Whatever the eventual preferred model, consumers were, particularly in the South East, vulnerable to the monopolist's vagaries thus necessitating the creation of another utility regulator. But such were the complexities that *The Economist* advised Channon to "[j]ust sell InterCity and the freight services, declare another victory for the Thatcherite revolution, and go home."[32]

[30] *The Economist*, 4 March 1989, p32.

[31] *The Economist*, 4 March 1989, p32; *HC WA*, 12 December 1995, Vol 268, Col 558.

[32] *The Economist*, 4 March 1989, p35.

Table 5.4: Secretaries of State for Transport 1979 - 1997

May 1979 - Sept 1981	Norman Fowler
Sept 1981 - June 1983	David Howell
June 1983 - Oct 1983	Tom King
Oct 1983 - Oct 1986	Nicholas Ridley
Oct 1986 - June 1987	John Moore
June 1987 - Oct 1989	Paul Channon
Oct 1989 - Nov 1990	Cecil Parkinson
Nov 1990 - Apl 1992	Malcolm Rifkind
Apl 1992 - July 1994	John MacGregor
July 1994 - July 1995	Brian Mawhinney
July 1995 - May 1997	Sir George Young

Paul Channon soon gave way to Cecil Parkinson whose privatisation credentials at Energy were somewhat more robust if not totally sound.[33] Wise though the Economist's advice may have been, a partial privatisation was never going to suit the true privatisers in the Government, or indeed the Treasury. It was incumbent upon the privatisers to devise a means of privatising British Rail and then advocate it before the Cabinet. The private utilities model as the standard model for the provision of public services had imported an intellectual imperative into the transport policy sphere. The privatisers were convinced that British Rail could be broken up and privatised, amongst them, Parkinson himself.[34] This had to be a systemic privatisation. John Palmer, later Sir Bob Reid's personal adviser, had detected in the Government a certain triumphalism associated with electricity privatisation with its separation of generation and distribution. Although far from simple, electricity privatisation highlighted a technocratic feasibility that could inform the debate on rail privatisation.[35]

[33] Margaret Thatcher in her memoirs notes, "It was Cecil who took the bold and right decision to reject both corporatist thinking and vested interests by breaking up the CEGB and - most crucially - removing from its control the National Grid." Margaret Thatcher, *The Downing Street Years*, Harper Collins, London, 1993, p683. His judgement was called into question, however, in the Commons Energy Committee in 1990. See Jane Roberts, David Elliott and Trevor Houghton, *Privatising Electricity: The Politics of Power*, Belhaven Press, London, 1991, p117.

[34] Foster (1992), p133 dampens this somewhat. He suggests that the difficulties experienced in restructuring the electricity supply industry "was the main reason why in the autumn of 1989 the privatisation and break-up of the railways were postponed by the Government. There the interconnection problems are even greater."

[35] Interview with author, 28 March 1996. This view was shared by Francis Maude (see below).

To reiterate this point, Parkinson convened a seminar at Chevening on 10 September 1990 to discuss the options, once again, with his three Ministers of State and key officials in the Department of Transport. A leaked strategy memo made its way to the Labour Party which generated alarmist headlines when reproduced in the press that day.[36] The main conclusion of the seminar seems to have been the realisation that, despite its success in a corporate BR, the business unit model would engender fundamental and irresolvable problems of access and "endless squabbles over inter-divisional pricing".[37]

Another obstacle to the adoption of this model proved to be the perceived need to initiate a radical purge of senior managers, not least the business managers at Euston House[38] itself. Again, the *Economist* noted that, "[h]owever sensible the impending reorganisation, it has injected no new blood at the top...the conductor is shouting "All change!" but everyone is sitting tight, confident that only their corporate titles will be affected."[39] The privatisers, as will be seen, were seeking to revolutionise the running of the industry, not just ownership.

In November 1990, Parkinson left the Department of Transport and Malcolm Rifkind found himself lumbered with the BR policy option conundrum in the run up to the publication of the Conservative Manifesto in 1992. He inherited a bundle of less-than-complete ideas and the earlier deliberations and disposition of his Minister of State (Minister for Public Transport), Roger Freeman. Freeman had told the Commons of 13 March 1991 that no decisions had been made on the "timing or method...but we are clear in our determination to move the railways back into the private sector from which they originated in their original railway company form."[40] but the options were reducing by this time and a division was evident amongst ministers in the Department.

Rifkind's preferred option was to sell the now-profitable vertically-integrated InterCity and also the freight operations, whilst opting for the franchising solution for the remaining passenger operations; namely, the politically-sensitive Network SouthEast services, and Regional Railways. Rifkind, however, was

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[36] Chevening is the country residence of the Foreign Secretary. Ministers of State were Roger Freeman, Robert Atkins, Patrick McLoughlin. *The Times* (10 September 1990) reported that the memo was drawn up by Edward Osmotherly which cautioned against privatisation in the next Parliament because "the company's finances, excluding its provincial services, are unlikely to have improved sufficiently to permit a successful sale before the turn of the century." The memo presented the case for private investment rather than an outright sale.

[37] *The Economist*, 15 September 1990, p32.

[38] Euston House is the HQ of the BRB - 24 Eversholt Street, London.

[39] *The Economist*, 15 September 1990, p34.

[40] *HC debates*, 13 March 1991, Vol 187, Col 1075.

unconvinced about the infrastructure company option accepting the BR/DoT argument that infrastructure and services are too closely integrated sensibly to split, not least on the question of future investment.[41]

5.23 Three Ministers

Malcolm Rifkind assumed the Transport portfolio at a crucial time. His predecessor, Cecil Parkinson, and the Chancellor of the Exchequer, John Major (with the knowledge of the Prime Minister[42]), had called into existence a small ministerial committee co-chaired by Roger Freeman and the then Financial Secretary to the Treasury, Francis Maude. The group was later augmented with the addition of John Redwood, then a Minister at the Department of Trade and Industry.[43] The task was to embark on substantive work on devising a workable structure which was intellectually and ideologically coherent. As Francis Maude recalls, the novelty had an unmitigated lure: *"It was a very exciting process, we were playing with ideas which...had [not] been done anywhere else, and it was one of the great unsolvable problems. How do you get the railways to work better? How do you...turn it into something that is more like an airline where managers and providers can be incentivised to provide the quality of service people want to use?"*[44]

The Committee worked systematically for six months from October 1990. It met semi-formally and worked on ideas and papers presented to them by officials at the Department of Transport and The Treasury.[45] In many respects a dialectical process which, it was hoped, would lead to substantive legislative recommendations. Consultants were retained to audit the outputs of the committee.[46] Crucial to the objectives was the introduction of competition, an objective which informed the group's outputs and cleared away much of the romance that had fixed itself to the debate thus far. As Maude admits, *"[w]e*

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[41] *The Economist*, 30 March 1991, p28.

[42] Margaret Thatcher indicates that Parkinson was in favour of a privatisation based on BR's existing business unit structure. Her preference was for the track authority option, but "these were large questions that needed careful thought and economic analysis. So I agreed with Cecil that a working party involving the Treasury and the DTI as well as the Transport Department be set up to study the issue and report back to me. This was as far as I could take the issue." Thatcher (1993), p686.

[43] John Redwood had, however, three years earlier expressed major doubts about a track authority. See John Redwood, *Signals from a Railway Conference*, Centre for Policy Studies, London, 1988; Jenkins (1995), p206.

[44] Interview with author, 17 November 1995.

[45] Edward Osmotherly (Deputy Secretary, Public Transport, DoT) and Richard Wilson (Deputy Secretary, Industry, HM Treasury).

[46] One of the firms appointed was Puttnam, Hayes and Bartlett, a consultancy specialising in litigation, later advised the Department of Transport.

reached a fairly early conclusion that for the bulk of the railway system there should be a separation of track and operations - that was fundamental. Although interestingly, for parts of it, particularly for the South East, we did not conclude that."[47] The Committee's output, however, fell far short of a blueprint for privatisation. And as will be seen, the eventual evolved structure mutated as the political imperative intervened.

5.24 Try Again

There was a difference of view between the Department of Transport and the Treasury over the form of the privatisation. It was reasonably assumed within the Treasury, the Department and at BR that it would go ahead if the Conservatives were returned to power at the general election. The debate in Whitehall was very much concerned with questions of structure and regulation. The primary policy objective was liberalisation of the network and the generation of a markets for services. The Prime Minister, John Major, was by no means averse to this as he needed a radical policy option to maintain his privatisation credentials *vis-á-vis* his predecessor. BR favoured vertical integration, and the Department inclined to the same view, envisaging three large passenger companies - based on the existing BR businesses - each owning the track over which it was the primary user.

Unlike other utility privatisations, this was not to be a proceeds privatisation. The primary objectives were to liberalise the network and generate markets for services (passenger, freight, and infrastructural). The Treasury's desire to reduce the railway's reliance on the Exchequer was always likely to favour a radical break-up of the BR organisation. It was, however, a question of a *reduction* in subsidy as the complete withdrawal of support was never seriously courted. The problem with the business-sector approach for the Treasury was the fear that vertical integration would give companies undue monopoly power over sections of track where infrastructure was shared. The other advantage of adopting a franchising model for the privatisation was that it would make it possible to inject subsidy at the level of operation rather than direct to the infrastructure owner; a system of access charges payable by operators, it was felt, would be more successful in creating the genuinely commercial relationships which the Government sought to foster in the new railway. A definitive practicable form remained elusive, however.

Indeed, although a Railtrack organisation was envisaged as the owner and operator of BR's infrastructure, it was in the first instance to be a wholly-owned subsidiary of the British Railways Board within the public

[47] Francis Maude, Interview with author, 17 November 1995.

sector.[48] However, by the Second Reading of the Bill (2 February 1993), the status of the new rail authority had shifted to one of independence - a legal split from BR - though still within the public sector; the Bill merely sought "powers to allow the future privatisation of all infrastructure currently owned by British Rail.'"[49] The Prime Minister ultimately settled for the Treasury's preferred option of separation which developed within the Treasury's Public Enterprise and Privatisation Group. Defining the exact nature of the dynamic that led to this particular policy option is a job for contemporary historians of the future. Suffice to say, the Department's preference for vertical integration can be ascribed to its own privatisation unit.

BR unquestionably had major reservations over separation. Bob Reid was appointed in January 1990 to the Chair of the BRB with the completion of the business sectorisation initiated by his predecessor, Robert Reid, as a firm objective. Organising for Quality (OforQ) was an internal reorganisation of the rail industry around self-accounting profit centres (divisions), of which eighteen were vertically integrated passenger businesses.[50] The reorganisation, as will be seen, was viewed by the Board and widely by managers as providing an efficient organisational structure on which to develop the businesses.[51] In their efforts to preserve this structure, the Board were perceived by Ministers as frustrating policy. This perception explains the *volte face* over the legal status of Railtrack.

The implementation of OforQ had continued throughout the debate on form. Indeed OforQ had within it the seeds of privatisation. Certain discrete passenger businesses could be run independently of the network as a whole. The Gatwick Express operation out of London's Victoria was a case in point (although it was part of the Anglia/Gatwick InterCity division). The total route modernisation of the Chiltern routes out of Marylebone offered a similar option. This was also in line with the Government's

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[48] Department of Transport, *The Franchising of Passenger Rail Services*, October 1992, para 2.11.

[49] Department of Transport, *Gaining Access to the Railway Network: The Government's Proposals.* February 1993, para 2.1. Philip Wood (DoT) evidence to the Transport Select Committee Second Report (1993), *Future of the Railways in the Light of the Government's White Paper Proposals*, HC 246II, 4 November 1992, para 134, p34.

[50] Charles Brown, Director, Policy Unit, BRB address to Institute of Civil Engineers' conference, 10 March 1992. Brown argued that the BRB was not opposed to privatisation *per se*. However, an insistence on vertical integration would inevitably limit the options.

[51] Studies have shown that in Europe BR was by 1994 second only to BLS (Swiss Railways) in most operating efficiency measures. See, for example, H-J Gathon and P Pestieau, "Decomposing Efficiency into its managerial and its regulatory components: The case of European railways" in *European Journal of Operational Research*, Vol 80, 1995, pp500-507.

"mixed economy" objectives at the time.[52] Moreover, Europe was moving on the issue, too. EC Directive 91/440 instructed member states to cost access to infrastructure for international services. To that end, Coopers and Lybrand were commissioned in 1992 to work on a formula for the equitable apportionment of "common costs" amongst users. This was, of course, likely to be functional for the privatisation process.[53] Their formula became Railtrack's first charging regime in 1994.[54]

The issue was still being debated in 1993 (the Bill was introduced to the Commons in January). The then Secretary of State, John MacGregor, and his railways minister Roger Freeman, invited Sir Bob Reid, John Welsby and the managers of the passenger divisions to put their case for the maintenance of the vertically integrated railway.[55] The decision had, it seems, been taken elsewhere, and earlier. The BR participants, however, were now clear about the Government's agenda and their expected role in implementing the policy.

5.25 The Citizen's Charter[56]

Sarah Hogg, director of the Prime Minister's Policy Unit, and Jonathan Hill took the baton presented by the Maude ministerial committee. The new Prime Minister, claim Hogg and Hill, had "strong convictions about the dignity of personal ownership, and a desire to give people more direct control over bureaucracy."[57] These convictions were the source of the philosophy underpinning John Major's "big

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[52] See Roger Freeman's address to Institute of Civil Engineers' Infrastructure Policy Group conference, Rail Privatisation - Deregulation and Open Access, 10 March 1992. Virgin was trying unsuccessfully to gain access and run its own trains on the East Coast Main Line at this time. See TSC (1993),Memorandum 21 July 1992 outlining Virgin Rail's pilot scheme for train services up the East Coast Main Line, p212. East Coast's Managing Director, Brian Burdsall, recalled this time in an interview with the author on 25 April 1996. Virgin sought to run trains of a certain configuration based on "their knowledge of our best trips" details of which were allegedly supplied by a shared consultant. With East Coast effectively subsiding the rest of the InterCity operation, the BRB quoted an "opportunity price rather than a cost of running trains price which made them pretty expensive because it was more than £40m and the thing fizzled out in due course." However, Burdsall believes that the timing of Virgin's action was significant coming as it did at the time of the publication of the White Paper in July 1992.

[53] Coopers and Lybrand had earlier advised the BRB on privatisation. See Jenkins (1995), p206.

[54] See below Section 6.4

[55] This recollection is shared by all of the senior BR managers interviewed. It was a seminal event.

[56] For an accessible discussion on the Citizen's Charter concept, and a series of case studies including British Rail, see JA Chandler, *The Citizen's Charter*, Dartmouth, Aldershot, 1996. The chapter on BR by Peter Curwen is a shade flippant, but is illustrative of the difficulty of application to a public service.

[57] Sarah Hogg and Jonathan Hill, *Too Close to Call: Power and Politics - John Major in No.10*, Warner Books, London, 1995, p83.

idea", the Citizen's Charter. The preferred delivery system for the transformation of public services through customer responsiveness, moreover, remained privatisation and contracting-out. This was affirmed at a gathering of Ministers at Chequers on 23-25 March 1991 where Malcolm Rifkind was engaged to pursue a privatisation programme in the longer term. In the immediate term, the departmental objective was to devise plans to raise service standards on the railways under the Citizen's Charter initiative.

With this in mind, Francis Maude, then Chief Secretary to the Treasury, assumed the role of chief ministerial catalyst seeking to reduce the Treasury's suspicion of the initiative and incorporate key departments by pounding "round Whitehall, filling in the Charter scorecard."[58] BR's Chairman, Sir Bob Reid, participated in a seminar at Chequers on 3 June 1991 also attended by industrialists, regulators, think-tankers and junior ministers to "raise the profile of the Charter, and bring in outside ideas."[59] The Department of Transport's and BR's contribution and inclusiveness was crucial to the Charter concept along with the Departments of Health and Education; suffice to say, Maude and Reid were to see much more of one another in the run up to the launch of BR's Charter in the Autumn.[60]

John Major launched the White Paper on 22 July 1991 first by means of a statement to Parliament. His statement to the Commons confirmed his Government's intention to privatise BR and to establish an independent regulator "to ensure fair access to the network and protect the customer."[61]

5.3 Making it Happen

By 1992 privatisation had become somewhat of an art form. There was considerable expertise both within and without government on how to sell utilities to the private sector.[62] Samuel Montagu's accrued expertise enabled the merchant bank to secure the contract to advise the Department of Transport. Christopher Foster, the Secretary of State's special adviser on rail privatisation after the election, also found his

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[58] Hogg and Hill (1995), p96.

[59] Hogg and Hill (1995), p96.

[60] Francis Maude, interview with author, 17 November 1995. Hogg notes that just prior to leaving the Policy Unit, Reid was to admit to her that the Charter had transformed attitudes within BR. See Hogg and Hill (1995), p99.

[61] *HC debs*, Vol 195, 22 July 1991, Col 765. His words were extracted straight from the White Paper, *The Citizen's Charter: Raising the Standard*, Cm 1599, p29.

[62] See Nicholas Ridley, *My Style of Government*, Hutchinson, London, 1991, p60.

privatisation expertise in some demand.[63] His appointment was confirmed by the new Secretary of State, John MacGregor, after the publication of the White Paper[64] which followed promptly the General Election victory.

Also new to the Department were two key officials. Patrick Brown as Permanent Secretary, and Nick Montagu as Deputy Secretary (Railways).[65] Construction of the Bill took a very orthodox departmental form, however. A series of functional committees (freight, passenger franchises, finance and regulation) were established in order to pursue the political aims to legislation and beyond. Their memberships were fluid as the decision arena expanded. The arrival of the inchoate Railtrack as a statutory agency formalised the participation of Bob Horton, BR vice-chairman and Chairman designate of Railtrack. John Swift and Roger Salmon both made substantive contributions to the committees on their appointments in 1993.[66] A steering group was necessarily located at the apex. Elsewhere, the nature of the routine meetings between Bob Reid and John MacGregor - in their capacities as Secretary of State and chairman of nationalised industries - shifted to more politically oriented encounters. Christopher Foster, positively reviled by Reid, also attended.

5.31 New Opportunities for the Railway (Cm2012)

Though short on detail, the White Paper when it finally arrived in July 1992 spelled out a number of key objectives and safeguards. For example, it provided an assurance that socially-necessary services would be protected: public subsidy would continue. It also specified the funding mechanism. Subsidy would flow through a new conduit, the Office of Passenger Rail Franchising (OPRAF), bypassing completely the new track authority, Railtrack, with the level of subsidy being established by competitive bidding for access rights.

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[63] Sir Christopher Foster had advised the Government on the privatisation of BT and BAA. His association with the railways, however, goes back many years. He was invited by the Ministry of Transport in February 1964 to undertake a "ground-breaking" social benefit study on options for the modernisation of the Great Northern line out of London. However, he was appointed head of the Ministry's Economics Division by Barbara Castle to advise on the form of her Transport Act 1968.

[64] Cm 2012, *New Opportunities for the Railways*, in July 1992.

[65] Patrick Brown was Under-Secretary at DoT 1983-88, Deputy Secretary DoE 1988-90; Permanent Secretary and Chief Executive of DoE/PSA 1990-91. Brown had played a pivotal role in the privatisation of the National Bus Company in 1985 before moving on to Environment where he worked on the privatisation of the water industry. See Ridley (1991), p62. For a profile of Nick Montagu see Appendix 5.

[66] Roger Salmon became special adviser on 18 January 1993; John Swift was appointed on the same day.

The White Paper also presented the first substantive timetable for implementation: "By the end of the Parliament" wrote the Secretary of State, "the Government intends to a) sell BR's freight and parcels business to the private sector; b) to establish a Franchising Authority and to franchise a substantial number of passenger services; c) to restructure BR to own and operate track and infrastructure separately from the operation of services; d) to establish rights of access for new operators to the rail network; e) to establish an independent Regulator to protect the interests of consumers and supervise access to all track and charges for its use; and f) to provide opportunities for the sale or leasing of stations." [67]

More importantly, the document attempted to get to grips with one of the fundamental privatisation questions namely, how to limit entry (and exit) costs.[68] In order to attract bidders, putative franchisees would need access to appropriate rolling stock. To that end, the White Paper indicated that the intention was to make the existing rolling stock available to the private sector through the residual BR, and to encourage the development of a healthy second-hand market. The ideas were further developed in the Department's consultation document of January 1993, *Railway Privatisation, Passenger Rolling Stock.* As a first step, the bar on BR's entering into leasing arrangements for rolling stock was lifted (1992 Autumn Statement) releasing some £150m of capital for new rolling stock for which only the leasing payments would score against the External Financing Limit and hence the PSBR.[69] Two options were presented. First, BR would be instructed to enter into a leasing agreement with a franchisee on a commercial basis. BR would then offer for sale its interest in the rolling stock. Buyers in setting their purchase price would have to weigh the leasing payments the stock attracted against the residual values of the stock once a franchise is completed.[70] Alternatively, the DoT proposed to establish 3 to 5 public sector leasing companies out of BR's existing fleet transferring them to the private sector once a track record of successful leasing to the private sector had been created.[71]

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[67] Cm 2012, para 100.

[68] See John Dodgson, "Railway Privatisation" in M Bishop, J Kay, C Mayer, *Privatisation and Economic Performance*, Oxford University Press, 1994, p243. The theory of contestable markets which rail privatisation presented a serious challenge can be found in William J Baumol, John C. Panzar, and Robert D. Willig, *Contestable Markets and the Theory of Industry Structure*, Harcourt Brace Jovanovich, New York, 1982. For an accessible attempt to apply it to the airline industry, see Steven A Morrison and Clifford Winston, "Empirical Implications and Tests of the Contestability Hypothesis" in *Journal of Law and Economics*, Vol xxx (April 1987), pp53-66.

[69] Department of Transport, *Railway Privatisation, Passenger Rolling Stock.*, January 1993, paras 6-10.

[70] Department of Transport (January 1993), para 11.1; See also, Bob Reid's evidence to the TSC (1993), 4 November 1992, para 200, p54.

[71] Department of Transport (January 1993), para 11.2.

Finally, the consultation document attempted to address the problem of residual values created by the asymmetry between franchise duration and the useful life of rolling stock. The desire for short franchises to "keep franchisees on their toes" meant that rolling stock could outlive franchisees many times over. Franchisees would only take a rolling-stock lease for the duration of the franchise otherwise the franchisee would take on an unacceptable level of risk should he/she either not seek to renew the franchise or be unsuccessful in bidding. The rolling stock, therefore, would have a residual value which would need to be transferred or sold on to new franchisees. There were a number of perceived solutions to this. First, the Franchising Director could have guaranteed use of the rolling stock irrespective of whether stock-owning franchisees were successful in winning a second-term franchise. Alternatively, the public sector could have borne some of the risk at a rate agreed prior to purchase.

Were rolling-stock leasing companies to be established, the DoT proposed that they be compelled to purchase new rolling stock by attracting private-sector participants to take equity stakes in the leasing companies and use released funds to purchase the stock. Private partners would then share the risk which would be spread over the whole of the company's portfolio not just the new stock. The Government, however, were not prepared to be the backer of last resort in the event of default. But this was a realistic mechanism for gradually transferring the companies to the private sector.[72]

The enormity of the task was apparent to all those involved. At the legislative stage, there was frenetic activity throughout the passage of the Bill. At the Committee and Report Stages in both the Lords and Commons, for example, 32 new clauses were tabled along with 1,435 amendments, most of them from the Government.[73] Moreover, scrutiny of the Bill by the Houses of Parliament was impeded by the late arrival of eight explanatory consultation papers which failed to get the nessary and intended wide circulation.[74] If implementation was to occur within the lifetime of the Parliament, it was deemed crucial that the legislation was passed in the first Parliament of the new administration. More acutely, as it proved, the Department instinctively knew that the Bill would extensively be rewritten as it proceeded. It had,

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[72] Department of Transport (January 1993), paras 17.2, 17.3, 17.4 and 18.

[73] Sir Christopher Foster (interview with author, 22 August 1995) talks of "overload". "There's been overload since about the early 1980s...But my memory of legislation - I've been involved in the 60s and 70s - is that they were in far better shape by the time the Bill was introduced. The Bill was in far more complete stage - notes on amendments, notes on clauses were in decent nick. There was much more of a feeling that the Bill was in good shape; of course there are amendments but there's a tremendous difference between responding to criticisms, innovating, improving at the edges, than having a large number of issues that hadn't actually been sorted out." See also, *HC debs WA*, 1 November 1995, Vol 231, Col 38.

[74] This point was raised many times by the TSC (1993). Also Christopher Foster, interview with author, 22 August 1995.

therefore, to be introduced early in the session if it was not to be lost.[75]

5.32 The Transport Select Committee

The Transport Select Committee collectively proved to be a major critic of the proposals. In November 1992, the Committee elected to undertake a comprehensive five-month study of the Bill's provisions. Chaired by Sir Robert Adley, the Committee eventually published its report which pointed to perceived deficiencies in the project in terms of "practicability". The report, minutes of evidence, and recommendations alluded to the potential for both policy and implementation problems. Sceptical readers were to find little comfort in the text.

The Committee saw fit to highlight a number of perceived failings. Despite the delay in the publication of the White Paper (originally earmarked for publication before the election), much of the detail on the new structure was missing, and, as noted above, clearly remained unresolved at the point of publication of the Bill in January 1993. In particular, the Committee was critical of Part II of the Bill which awarded considerable discretion to the Secretary of State, the Rail Regulator and the Franchising Director.[76] By way of contrast, the Committee noted the failure to give statutory recognition to Railtrack, the proposed new public sector owner of the infrastructure.[77] John MacGregor took the opportunity to allay fears concerning the status of Railtrack by announcing that it would be a *separate* company to the residual BR; and on the issue of mooted vertical integration for Train Operating Units (TOUs) he confirmed that such a structure would be confined to the operator of the Isle of Wight services.

The Committee accused the Government of forcing MPs to debate rail privatisation on incomplete information. With the Bill being largely an enabling measure, key consultation documents trailed in too late for MPs to debate the issues raised in the context of the Railways Bill. For example, a consultation document recommending only a temporary moderation on open access was finally published by the

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[75] A Bill of the density of the Railways Act (154 Clauses, 14 Schedules) represents a major drafting exercise for any department. The Railways Act was drafted and presented in 6 months. Rewrites of sections of the bill conferring the necessary authority were presented as it passed through Parliament.

[76] TSC (1993), para 26(ii).

[77] Illustrated by the general confusion when the expected announcement of the sale of Railtrack in the 1994 Queen's Speech failed to materialise. Provisions for the sale of Railtrack were already present in the Railways Act 1993, leaving John MacGregor's successor at the Department of Transport to announce the sale on 24 November 1994. TSC (1993), para 26(iii).

Department on 9 February.[78] Open access, it will be recalled, represented a crucial provision if the Government was to meet its objective of fostering true competition in the provision of passenger services. The Department envisaged a situation where operators who did *not* provide franchised services could nonetheless get access to the network by negotiating with Railtrack directly to purchase train paths that were not subject to contract with franchisees. This was "on-track" competition and was of symbolic importance to the privatisers. Competition for franchises may deliver value for money, but in terms of public perception of a competitive market being produced (as opposed to a private-sector monopoly), it was on-track competition that provided the challenge. Open access, however, had the potential of greatly reducing the value of franchise contracts where stripped of exclusivity and subject to competition for valuable train paths by operators who would not have to pay a full-share of operating costs.[79] Theodore Goddard, a practice of City solicitors, also warned the Government that open access would dampen the interest of investors as revenue streams were threatened by competition. It was for passenger railways an illusory hope.[80] Freight was a different matter as all operators would compete as open access operators without commitments to non-profitable operation. John MacGregor in his charm offensive before the Transport Select Committee on 12 January 1993 insisted that his overriding objectives for rail privatisation were "to improve services to the passenger and improve the prospects for freight."[81]

In the end, the public relations battle focused on the retention of the full range of railcards and protection for the London Travelcard. MacGregor conceded the railcard concession at the Commons Report stage of the Bill, despite maintaining that the Young Persons and Senior Citizens railcards were only ever marketing tools by BR in the 1970s. As such they had been very successful and it was unlikely that they would be dispensed with by the industry. Their inclusion was a PR coup for both the Government and Tory backbenchers. The Travelcard, on the other hand, was always likely to be given statutory protection as it was a major source of revenue for all operators in the London Transport area. Again, its statutory protection affected the Bill very little.

5.33 Unprecedented Measure

To what extent the Government and its advisers engaged in international comparisons is unclear. Members

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[78] Department of Transport (February 1993).

[79] For "open access" operators, "Any contribution to common costs should reflect their ability to pay, subject to charges not being discriminatory". Department of Transport (February 1993), para 5.3

[80] Written submission. See TSC (1993), ix, p223.

[81] TSC (1993), 12 January 1993, para 2289, p740.

of the Select Committee, however, made these a central element of their study. Evidence was provided by rail operators in Sweden where a separate state-owned track authority had been established in 1988, and after the first round of franchise allocation, private operators were awarded contracts to provide only one-half per cent of passenger services; in Germany, where similar measures were planned after the full assimilation of the railways in the former East Germany into the West German operator, Deutsche Bundesbahn;[82] and Argentina where passenger services are provided by private operators on the state-owned infrastructure.[83]

The Select Committee concluded that the combined objectives of privatisation, franchising and open access had no international precedent. Moreover, in Sweden and Germany, investment in the infrastructure was deemed to be the responsibility of central government. In Germany, further structural change had been suspended until the completion of the investment programme. In the Swedish model, access charges specifically did not cover investment costs. Investment - a "pragmatic" privatisation - therefore, did not provide a rationale for the proposals, unlike in the British model.[84]

The Government's view on investment relating to rolling stock hardened as the Bill passed through Parliament. Again, the ROSCOs were absent from the Bill, and Roger Freeman's evidence to the Committee in which he committed the Government to meeting investment needs with the proviso that the private sector would be expected gradually to take an increasing responsibility in this sphere,[85]indicates that the realisation of the ROSCOs represents a further example of incremental reorganisation within the industry to meet the terms of ministerial objectives. In the case of the ROSCOs, they offered the Government a trouble-free way of transferring railway assets to the private sector, and, of course, generating proceeds. They were also tactical weapons against entropic forces.

5.34 Complexity

The complexity of this privatisation is largely perceived as being the reason for the slowness of the

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[82] See PH Bowers, "Railway Reform in Germany, *Journal of Transport Economics and Policy*, January 1996, Vol 30, pp95-102.

[83] Richard Hope, Editor of Railway Gazette, described the situation in Argentina as: "Total anarchy with little to offer in the way of guidance." Paper to Institute of Civil Engineers, 10 March 1992.

[84] In his written submission, Stig Larsson President and Director General, Swedish State Railway, said: "Privatisation seems to be a goal in itself, not a means to develop the railways." TSC (1993), p311.

[85] TSC (1993), Roger Freeman's evidence, 28 October 1992, para 21, p12.

implementation programme: reorganisation, seemingly, was executed relatively smoothly. In drawing up the proposals, the Government has crossed swords with the BRB which now comprised members, not least the Chairman, Bob Reid, who had anticipated a move towards privatising the railway industry during their tenure. In his advocacy of maintaining a corporate BR, Reid, mused John MacGregor, may well have been seduced by the omnipresent railway culture that has shown on many occasions that defending the integrity of the rail network is a primary objective.[86]

Bob Reid in his evidence to the Committee illustrated its complexity:

> *When it comes into a new situation in which there are commercial rights which are enshrined in legal documents which will encapsulate [these] 14,000 points, then the business of resolving conflict becomes more a matter of law than it becomes a matter of managerial practice. One of the tests of making this system work will be to try to persuade people not to bring in their lawyers, but to resolve it and resolve it quickly. That is a major issue.* [87]

The 14,000 points referred to are the points of contact between operators and providers of ancillary services managed at the time of the inquiry by a corporate BR. Reid's 14,000 "nodal" points did not include the track access agreements. Negotiations over these legal agreements were a crucial forum for establishing the essentials of the regulatory regime.

Summary

Everything is possible, but some things are more possible than others. The privatisation of the ESI - the first utility privatisation underpinned with a complex contractual matrix - unleashed an extraordinary "belief" amongst political entrepreneurs that the same could be done for the railways. The policy-making lessons of the Poll-Tax, it seems, were not learned.

The policy entrepreneurs offered little practicable detail; the Treasury was driven by its conviction to the competition model for delivering efficiency gains. British Rail, ironically, may well have been the single actor to have learned from the past, and indeed, have learned how to learn. Its managers were adept at defending it against political attack by instituting internally-generated reforms designed specifically to deliver profit, efficiency and modernisation. By 1992, however, the forces baying for its dismemberment

[86] See Parker, (1989), p303. John MacGregor, interview with author, 22 November 1996.

[87] TSC (1993), 27 January 1993, para 2024, p686.

were just too great to repel, whatever the force of argument. There were, however, few casualties. The Chairman of British Rail unsurprisingly was a visible casualty. As the penultimate chairman of British Rail, his ambition was thwarted by the privatisers. He was never convinced of the case for privatisation, or at the very least horizontal separation of track and trains. There were others, but as in other utility privatisations, there were incentives for managers to engage with the process. The capital gain was there for the taking. And the prospect of being one's own boss proved surprisingly seductive.

Rail Privatisation: Chronology

October 1990	Establishment of Ministerial committee to discuss rail privatisation
April 1992	Legal work commences on separating infrastructure from operation
July 1992	*New Opportunities for the Railways* published
November 1992-March 1993	Transport Select Committee hearing into the "Future of the Railways"
November 1993	Railways Bill completes its passage through Parliament; OPRAF and ORR established
22 March 1994	MacGregor publishes OPRAF memorandum
1 April 1994	Launch of the "new" railway with Railtrack owning infrastructure and separate train operators providing passenger and freight services
December 1994	Franchising Director announces the first 8 franchises, and the ending of support for the Fort William Sleeper after May 1995
January 1995	The Regulator completes his deliberations over charging for access
15 May 1995	OPRAF announces fare capping system
16 May 1995	ITTs offered for the first three franchises
3 August 1995	Regulator comes to Glasgow for round-table discussion on track access agreements for Scottish railway operations including ScotRail
14 September 1995	Publication of ScotRail PSR which included the Fort William Sleeper
October 1995	Patrick Hetherington seconded to OPRAF to work on ScotRail franchise
November 1995	Announcement on the intention to float Railtrack in 1996; sale of the three ROSCOs
7 December 1995	Save our Railways' asks the High Court to render the sales process unlawful
15 December 1995	Law Lords accept Save our Railways' appeal confirming the unlawful action of the Franchising Director over five PSRs
18 December 1995	Sir George Young announces to Parliament his intention to redraft the offending *Guidance* document to render PSRs compliant
19 December 1995	Stagecoach declared winner of the first franchise auction
30 January 1996	Ticketing fraud exposed at LT&S - franchise bid collapses
16 May 1996	SPTE petitions Edinburgh Court of Session
20 May 1996	Railtrack flotation
29 May 1996	Prism debuts on the AIM
25 February 1997	Sale of ScotRail completes the franchising process

Chapter 6
Brass Tacks

Introduction

Implementing the provisions of the Railways Act 1993 was to be dependent on the convergence of a number of key variables. At the outset, the extent of the necessary convergence was unknown, particularly so regarding the disposal of BR's passenger businesses - the evolving train operating companies (TOCs).[1] Although the private sector had been consulted on rail privatisation, precisely who would play and at what price remained unclear. Moreover, players, most especially the incumbent BR managers, most of whom were expected to lodge buy-out bids, would need to find external finance from a sceptical finance industry. Their efforts represent crucial implementation legwork not subject to central guidance or control.

In addition, implementation was primarily an exercise in the construction of a regulatory regime. At the time of the passing of the Railways Act there was nothing to regulate, though the inchoate offices of the Regulator and the Franchising Director occupied space in the Department of Transport's Marsham Street offices. Over the next three years their paper musings were transformed into physical manifestations of themselves, uniquely their offices were established before the transfer of any businesses to the private sector. Within the confines of the Railways Act, the new railway industry was their's to define.

6.1 The Contractual Conundrum

Under OforQ, the industry operated by a profit centre management arrangement. Each business sector was split into self-accounting profit centres, eighteen of which were passenger businesses. Some were vertically integrated, some were not. Whatever the detail, it was a complex command structure free of commercial contracts. When the new industry emerged on 1 April 1994, a whole raft of interim contracts emerged exposing the new imperative governing the management of operational relationships on the railway. For the purposes of this discussion, the most important relationship was that between train operators and Railtrack. Like all new structures this one was greeted with considerable disdain throughout

[1] The British Railway Board's Vendor Unit had some sixty other businesses to sell some of which were highly attractive to private sector civil engineering companies as they came complete with seven-year contracts with Railtrack for infrastructural maintenance/renewal. See *Financial Times*, 1 February 1995, p15.

the industry.[2] For the most part, operators did not respond well to the loss of control over the infrastructure. To have one's business dictated by an actor over which an operational manager had no control was not welcomed from within BR. This was most lucidly expressed by Ivor Warburton, the hugely sceptical MD of InterCity West Coast, to the BBC's Vivian White in December 1994:

> *I think the railway in the past was very like a large train set, it all changed on 1 April when the boy that ran the train set had to take all the locomotives and the coaches off and put them in a box and give them to the boy who lived in the house on one side, and then he had to take up all the track, the stations, the tunnels and give them to the boy that lived in the house on the other side, and if he wants to play with his railway now, he's got to have an agreement with each of those boys to pay them to go and play on the railway that one boy owns, with the coaches and locomotives that he's paid another boy to borrow. He's got to keep on good terms with both of them.*[3]

Moreover, the TOCs themselves were short of assets:

> *I have 4,500 staff as my main asset. Some desks, staplers and other office equipment and a 22 foot high pile of paper that's growing daily as we move towards concluding the 840 contracts that complete the company of today.*[4]

The fundamentals of the contractual matrix were the product of Railtrack's lawyers, Simmons and Simmons. Appointed in April 1992 after a beauty contest, they set about sketching out the matrix from a position of no knowledge of the railway industry (such knowledge was the near exclusive preserve of BR's legal department) and no expertise in railway contracts (Simmons and Simmons was not unique in this respect). The contracts, here, have added importance for they not only grant rights to train operators to use Railtrack's infrastructure, but they also define and set policy for the future.[5]

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[2] That's not to say everyone in the BR organisation was against privatisation. John Nelson and Chris Green both recognised that some of their managers at InterCity and NSE who were keen to move into the private sector. See TSC (1993), para 1020, p279.

[3] BBC *Panorama*, 13 December 1994.

[4] BBC *Panorama*, 13 December 1994.

[5] The effect contracts have on train operators will be discussed below. The contracts between Railtrack and maintenance contract companies, however, lay their emphasis on cooperative buying as opposed to the competitive approach employed by other public sector procurers such as the MoD. This was Railtrack's preferred option due to the ongoing nature of much of the maintenance work where positive relations and partnerships generate essential knowledge of the infrastructure. This is beneficial to Railtrack due to the aged nature of much of the

Here lies one of the key spurs to implementation. For Gareth Davies, partner at Simmons and Simmons, here was an opportunity to lead an intellectually challenging project, pitted with difficult contracts, deadlines and executed by team working: *"If you were in one of the teams that actually got on top of this way of doing the job and stuck with it, it's rather like being given the keys to Blackpool Pleasure Beach. You've got the roller coasters, you've got the love-boat rides, all the entertainment you want. And it's great fun. So it was a dream job. Tremendous."*[6]

In the first instance, the customer-client relationship was awkward. The pay cheques were coming from the BRB but they were working for the Railtrack Division of British Rail although at this stage the impending divorce was by no means assured. The Simmons' pitch team[7] were treated to a most fitting introduction to the railway- a summons by BR's chief lawyer, Simon Osborne, to the control centre at Crewe - a crucial operational interface encompassing, *inter alia*, train operation, freight, engineering, consultancy.

Beyond that, a series of working groups emerged which were a new experience for the lawyers. The groups identified problems and sought from the lawyers practical ways of solving them. The railway bloc, fresh from their OforQ experience, sought optimal solutions with the expectation that the lawyers would translate them into legal outputs. As Gareth Davies notes: *"As lawyers we were used to going into adversarial situations to negotiate a deal, argue a dispute or to present a case in court...I actually remember thinking you'd already absorbed a cultural change which was very important...It was essential in the limited time that we didn't get distracted...things that lawyers like to fight about."*[8]

The discrete business sectors constructed their edifices differently; the lawyers having different roles in each. However, within the BR organisation of the passenger businesses inevitably attracted the participation of OPRAF in combination with the lawyers as the salience of the most politically risky aspect of the privatisation project rose. However, Davies detected a hiatus immediately after the vesting of Railtrack on Good Friday 1994. Again, Davies is worth quoting at length:

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infrastructure. Maintenance histories are, therefore, important in procurement policies. Gareth Davies, Interview with author, 23 October 1996.

[6] Gareth Davies, Interview with author, 23 October 1996.

[7] Gareth Davies identified these as himself (the commercial lawyer), Bill Knight (acting as a steerer) a couple of corporate lawyers, and key individuals with expertise in employment and safety/risk.

[8] Gareth Davies, Interview with author, 23 October 1996.

It was a fairly odd completion meeting. Very stressed, very awkward. Former friends who just wouldn't say goodnight to each other. It was a sad occasion. But it was also a tremendous achievement. I can remember we had a conference room of long, long tables and two of those conference rooms with boxes two high all the way from end to end with just the contracts that I and my small team had actually written in the course of three months which were going for signing....All of which had been produced by us, some of which had been produced despite lack of cooperation from BRB until the very last minute. I think partly because of the colossal effort and...people at BR and Railtrack had a rest; I'm sure the Department sat down and tried to work out what they'd learned. There must have been some testing of the political waters going on as well.[9]

6.2 The Job in Hand

The creation of a Railtrack division of BR would have happened irrespective of the privatisation agenda. EC Directive 91/440/EEC required the isolation of costs for infrastructure provision, though not necessarily in the form of a separate company. The lawyers had to work through the political uncertainty - not getting distracted. Davies and his team worked to the assumption that they were establishing a stand-alone company complete with *shadow* contracts that would later be replaced by the necessary arms-length contracts as the privatisation progressed. But the political uncertainty was real. On the publication of the White Paper (14 July 1992), the Secretary of State for Transport, John MacGregor, told the House of Commons that the first franchised train operation would begin in April 1995 and preparations for the sale of BR's parcels and freight businesses would "proceed as quickly as possible".[10] These were dates based on less-than-secure predictions and an unsubstantiated confidence in co-operation with the private-sector.

Fundamentally, as Davies' account of the completion meeting indicates, the BR separation occurred in

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[9] Gareth Davies, Interview with author, 23 October 1996. The vesting process had stripped out of the BR organisation all of the infrastructure and most of the property and reconstituted it in a separate legal entity, Railtrack. All relations between former service units and this new body were in future to be managed by contract. At the very least this was alien to senior managers and the antithesis of what they had attempted to do with the BR organisation prior to this unwelcome political intervention. Although the preparatory work is done over an extended period, vesting proves as symbolic as any political summit.

[10] His statement was quite telling in places reflecting a Government with time on its side: "The timetable is flexible. I have made it clear that I want to pursue a flexible, workable and realistic approach, but I can say that, once the Bill has Royal Assent, we intend to proceed as quickly as possible with the freight and parcels businesses. I expect and *hope* that such arrangements will be made next year. As for franchises, we need first to set up the franchising authority and then to get the response from the marketplace and, I believe, management-employee bids from British Rail. Effectively, that will mean that we are thinking in terms of franchises from about April 1994 onwards. *HC Debs*, 14 July 1992, Vol 21, Col 982.

spite of the recalcitrance of some of industry's key individual actors. Central to this was Bob Reid, the BR Chairman, who made clear his objection to the programme which he believed to be fatally flawed and driven by a privatisation zealot, Christopher Foster.[11] Foster was undoubtedly a keen advocate of the new structure, but the decision to proceed, as we have seen, was not his.

6.21 The New Agencies (1): Office of Passenger Rail Franchising (OPRAF)

The office was established on 8 November 1993 as a non-ministerial government department with responsibility for letting the unspecified number of passenger franchises, and managing compliance once let.[12] At its head was Roger Salmon, appointed on 18 January 1993 by John MacGregor, originally in the capacity of special adviser.[13] As Chris Stokes notes, after his secondment from BR in April 1993 as Deputy Franchising Director, OPRAF comprised the two of them, and "almost a white sheet of paper, almost."[14] He recalls being presented with a number of broad policy documents prepared by the Department, but with no contractual structure to speak of, "there was a lot of policy to think through".[15]

Policy was not their only point of discussion. The office itself had to be constructed. The task provided Salmon with the opportunity to create what he perceived to be the perfect organisation - in this case, the optimal implementing agency. Crucial to its success was to be its personnel and the engendering of a new operational "can-do" culture.[16] Salmon appeared parsimonious believing the office could function on

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[11] Bob Reid was one of the people within BR identified by Charles Batchelor in the *Financial Times* (21 July 1996) as being "rock throwers". In his interview in *The Guardian*, 25 February 1995 Reid said: "This was the dogmatic argument of three or four years ago. We lost. It means we now have a structure, that is more complicated than necessary. Our view was subordinated to the view of one consultant, who had never run anything." He further discusses the failure of policy-makers to comprehend the operational imperatives in a further interview in *Today* (newspaper), 28 March 1995.

[12] Paper presented by Len Berkowitz to the *Rail Privatisation: the Legal Framework Conference*, 6-7th October 1994. The Franchising Director is a *corporation sole*; that is, a corporation constituted in a single person "who, in the right of some office or function, has corporate status."

[13] The Rail Regulator was appointed on the same day. Both were appointed the day after the railway privatisation paving bill completed its passage through the Lords, and four days before the publication of the Railways Bill.

[14] Chris Stokes, Interview with author, 13 December 1996. Stokes was not formally awarded the title "Deputy Franchising Director" until after the reorganisation prompted by the DoT-sponsored report by Samuel Montagu merchant bank (see below).

[15] Chris Stokes, Interview with author, 13 December 1996.

[16] To illustrate this, Chris Stokes contrasted his own experience at the former Network SouthEast where he spent a good amount of time "assembling empirical evidence about why things can't be done". In the recruitment process, OPRAF attracted a lot of "committed relatively young people...who, again, didn't understand in the sense

around 50 "brilliant" people organised in teams.[17] To that end, Salmon bought in some organisational expertise in the guise of consultant Penny Jones.[18] The shape of the organisation was of some concern to the Department, however. In particular, the question of the need for a Chief Operating Officer - perceived by Salmon as being somewhat inimical to the interests of the perfect office. The Department did intervene commissioning Samuel Montagu's director, Christopher Clark, to consider human resources within OPRAF and other structural questions. The report emerged in the summer of 1995 recommending structural changes in terms of responsibility, and the appointment of a Chief Operating Officer. These changes co-incided with both the announcement of the sale of Railtrack and increased sales activity within OPRAF.[19]

Notwithstanding the Department's intervention, the office was dependent on outside agencies for quite specific financial and legal advice; the ubiquitous Samuel Montagu merchant bank transferred from the Department to advise on the first six franchises, before being joined by a troupe of supporting City financial institutions. Likewise, legal advice was secured from Linklaters and Paines.[20]

The Franchising Director's statutory functions were defined in the Railways Act 1993;[21] and later augmented by a *Memorandum* issued by John MacGregor on 22 March 1994 in accordance with Section 5 of the Act. This document set out the Franchising Director's objectives, issued instructions (which he italicised) and offered guidance. The Franchising Director's interpretation of this document, in particular Section 18, was to provide the basis of a legal challenge by *Save our Railways* in December 1995.[22]

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of the sales process that these things couldn't be done." Interview with author, 13 December 1996.

[17] The Department's expectation was in the region of 175. By March 1996 the figure was 102. See Appendix 6 for a diagrammatical representation of agency's structure.

[18] Penny Jones remains with OPRAF having been retained by the new franchising director, John O'Brien, as the chief task shifted from selling to managing franchises.

[19] Chris Stokes, Interview with author, 13 December 1996.

[20] An indication of the extent of the task and the burden placed on individual companies engaged in such projects is illustrated by HSBC Samuel Montagu's decision that they did not have enough personnel to offer financial advice beyond the first six franchises. OPRAF then put the work out to tender securing, in the process, the services of Kleinwort Benson, KPMG Price Waterhouse, and Coopers and Lybrand. See National Audit Office, *Report of the Comptroller and Auditor General: The Award of the First Three Passenger Franchises*, HC 701, Session 1995-96, 23 October 1996, para 6.15, p62.

[21] Railways Act 1993, *inter alia*, Sections 5, 23-36, 37-58, 59-65; Schedule 1.

[22] The document is reproduced in the Franchising Director's first three annual reports.

Expressly, the Secretary of State delineated his expectation with regard to the transfer of franchises:

> *You are to formulate and submit to me by 5 April 1994 a programme for franchising BR's passenger services. This programme is to be consistent with meeting the targets of commencing the competitive process for the first six franchises by the end of 1994, awarding the first six franchises by the end of 1995 and securing that 51 per cent or more of the railway passenger services currently operated by BR are provided under franchise agreements by 1 April 1996. You are to update this programme from time to time.*[23]

6.22 The New Agencies (2): The Office of the Rail Regulator (ORR)

Again, irrespective of a change of ownership, some form of regulation was to govern the operation of the rail infrastructure in the event of any liberalisation either for passenger services or freight. Directive 91/440/EEC, for example, required some oversight of access rights independent of BR for international passenger services. The creation of Railtrack, vested with all of BR's infrastructure and stations and therefore operator of a natural monopoly, by definition, had to go hand in hand with regulation.[24]

Indeed, regulation is, as a result of the Government's privatisation (and subsequent liberalisation) programme, a feature of the political landscape. Moreover, the mechanisms of regulation, unlike for OPRAF, have some history. For Beesley and Littlechild,[25] the regulation of the utilities encompasses three main aims.

1 To ensure that all reasonable demands are met, and that licensees are able to finance the provision of these services;
2 to protect the interests of consumers with respect to prices and quality of service; and
3 to enable or to promote competition in the industry.

Primarily, the UK utility regulators are economic regulators and agree tariffs "with the formal aim of

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[23] Secretary of State's Memorandum, *Objectives, Instructions and Guidance for the Franchising Director*, 22 March 1994, Section 10.

[24] For a discussion on the meaning of natural monopoly and new technology's challenge to the traditional meaning of the concept, see John Ernst, *Whose Utility? The Social Impact of Public Utility Privatization and Regulation in Britain*, Open University Press, Buckingham, 1994, pp45-49.

[25] ME Beesley and SC Littlechild, "The Regulation of the Privatised Monopolies in the United Kingdom" in Cento Veljanovski *et al*, *Regulators and the Market*, IEA, London, 1991, p30.

maximising the present value of expected net benefits to consumers plus producers, subject to a minimum profit condition and to various constraints on the distribution of benefits to ensure Pareto efficiency (ie no major interest group is to be made worse off)."[26] The task befalling a utility regulator, argue Beesley and Littlechild, is to interpret this criterion and operationalise it. Regulators have to calculate in such a way as to balance the interest of present and *future* consumers against one another, set against a background of the interests of present and *future* producers; that is, their shareholders.[27]

Veljanovski, meanwhile, adds a crucial rider to Beesley and Littlechild's earlier point. "...it is," he argues, "a mistake to regard the formal legal framework as regulation. The legal framework provides only the scaffolding of regulation in practice...the law operates as the sanction of last resort against which compliance is sought through negotiation, bargaining and threats. *Regulation in practice is better understood as operating in the shadow of the law*; it is a complex interaction between politicians, civil servants, industry, consumers, interest groups and regulatory bodies." (emphasis in original).[28] This point is expanded by Swann in his distinction between *de jure* and *de facto* regulation. Such is the discretionary power of utility regulators that their policy may change even though the statute may be unchanged.[29] Majone, however, suggests caution for students of regulation:

> *To begin with, the term itself is often used differently on the two sides of the Atlantic. In Europe there is a tendency to identify regulation with the whole realm of regulation, governance and social control. The broad use of the term makes the study of regulation coextensive with law, economics, political science and sociology, and thus impedes the development of a theory of regulation as a distinct kind of policy-making.*[30]

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[26] Beesley and Littlechild (1991), p30.

[27] This, in the British example, is a consequence of what David Walker has described as the *ad hocery* that attended the creation of the first generation of regulatory agencies, "bereft...of policy analysis" and over-reliant on the advice of a single individual, economist Stephen Littlechild, having a "dogmatic, prescriptive, rather than analytical flavour." See David Walker, "Enter the Regulators" in *Parliamentary Affairs*, Vol 43(2), p150.

[28] Cento Veljanovski, "The Regulation Game", in Veljanovski (1991), p13.

[29] Dennis Swann, "The Regulatory Scene: An Overview" in Kenneth Button and Dennis Swann (eds), *The Age of Regulatory Reform*, Clarendon Press, Oxford, 1989, p7. Moreover, it should be noted that regulators are subject to judicial review. However, this leaves open major questions of accountability. See also, Kenneth Kilpatrick and Irvine Lapsey. "Trust Us - Regulators and the Governance of Privatised Utilities" in *Public Money and Management*, April/June 1996, p44.

[30] Giandomenico Majone (ed), *Deregulation or Re-Regulation? Regulatory Reform in Europe and the United States*, Pinter Publishers, London, 1990, p1.

Economic regulation is, however, the recognition of market failure and the empirically observed rational behaviour of monopoly providers maximizing revenue by the exploitation of market position. In addition, regulators have a function of specifying standards of service to customers which are equally vulnerable in the monopoly situation and, more importantly, in driving long-term capital investment, and consequential approaches to policy-making towards environmental and macro-economic imperatives. Whether or not the British model can achieve this through the RPI-X formula and in the absence of any statutory role *within* the regulated companies themselves is a point of debate but one which is beyond the scope of this work.[31]

Finally, to return to Veljanovski's discussion on the terms of compliance, regulators need to be aware of the informational asymmetries between the regulator and the regulated. Weyman-Jones argues that economic regulation is the playing of "The Principal Agent Game" where the principal agent is an information-hungry regulator who knows that to get the utility to play he/she must guarantee a minimum level of profit. Moreover, "it must be possible for the utility to respond to its regulations in a way that allows it to increase its own profits by altering its behaviour in a way that reveals the unknown information to the regulator. This incentive-compatible revelation will require that the utility receives a reward for giving up its monopoly of information."[32] Table 6.1 provides a quick guide as to types of regulation derived from Breyer's study of airline and telecommunications regulation in the USA.

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[31] See Ernst (1994), pp59-60.

[32] Thomas G Weyman-Jones, "Regulating the Privatized Electricity Utilities in the UK" in Thomas Clarke and Christos Pitelis (eds), *The Political Economy of Privatisation*, Routeledge, London, 1993, p99; See also, Kilpatrick and Lapsey (1996), p44; and Albert Weale, "Implementation Failure: A Suitable Case for Review" in Erik Lykke, *Achieving Environmental Goals: The Concept and Practice of Environmental Performance Review*, Belhaven Press, London, 1992, p57.

Table 6.1 Typology of Regulatory Methods

Method of Regulation	Main Features
Cost of service ratemaking	Traditional US style "rate of return" regulation. Regulator assesses the revenue requirement for the utility taking into consideration inter alia, operating costs, taxes, depreciation. Regulators then set rates deemed adequate to cover assessed costs and provide the rate of return.
Historically-based price setting	This method crudely establishes a base date and maintaining prices at that historical level. Regulated utilities can only increase prices if they can show that costs have increased such that they need to be passed on to consumers.
RPI-X	Conventional wisdom in UK whereby regulators make no assumptions about rate of return but establish prices at a level above or below the RPI after considering the ability of the regulated utility to invest and service its shareholders. It is usually set at a level which forces utilities to improve efficiency.
Allocation under public interest standard	Particularly used for the allocation of scarce resources such as television frequencies. Regulators specify the specific characteristics of the resource and then award the "commodity" to competing qualified bidders subject to a public interest quality.
Standard setting	This type of regulation involves setting standards for commodities or methods of operation encapsulating product safety, pollution standards, etc. It is information-intensive.
Historically-based standard setting	This method lends itself to crisis management and has a temporary life. Can be employed at times of shortage such as oil/water shortages where resources are allocated according to some historically-set usage.
Individualised screening	This is a micro-level activity employed where regulators fail to develop precise standards and have to start screening out individual contraveners such as unfit airline pilots, unsafe food additives and unreasonably toxic chemicals.

Derived from Stephen Breyer, "Regulation and Deregulation in the United States: Airlines, Telecommunications, and Anti-trust", in Majone (1990), and Beesley and Littlechild (1991).

Regulation in the rail industry is novel in a number of ways and alludes to some learning by Government from previous privatisations. First, the Regulator was appointed *prior* to the privatisation of the utility he regulates and, under Section 4(5) of the Railways Act 1993, the Regulator was required to take *into* account any guidance given to him by the Secretary of State for an initial period until 31 December 1996, and also "have regard to the financial position of the Franchising Director in discharging his functions."[33] The relationship between the Regulator and the Secretary of State is mediated through a memorandum issued on 31 March 1994. Within the confines of his statutory duties - what Charles Brown has called "the four corners of his functions and duties"[34] - the Regulator, prior to the point of independence, has acted with considerable discretion.

The Regulator's statutory requirement to "have regard to the financial position of the Franchising Director" needs to be read in conjunction with a further requirement contained in his guidance memorandum such that he "should not require or approve access agreements for passenger operations which may prejudice or significantly interfere with the Franchising Director's franchising programme..."[35] This reflects the fact that the Franchising Director was to be dependent, in the first instance, on the Regulator's approval of the access agreements (track and other network facilities) between TOCs and Railtrack. Moreover, the Regulator, in approving access agreements, was not only approving the legal propriety of the contracts, but also the level of charges levied which directly impinged on the Franchising Director's budget for the purchase of railway services.[36]

Utility regulators have become personalities in their own right. John Swift is no exception. They are not faceless bureaucrats, nor do they reflect a collective responsibility:

> *The Acts of Parliament which carried out the privatisations and established the powers of the regulatory agencies lay the various duties upon the Directors of the various industries and not upon the regulatory agencies as corporate bodies. Each agency is there to assist the Director and not legally to share in the decision-making.*[37]

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[33] Ian Jones, "Industry Structure and Regulation in the Rail Sector" in Dan Corry, *Regulating In The Public Interest: Looking To The Future, IPPR,* London, 1995, pp102-3. Jones, however, was a shade careless in his analysis in omitting the word "into" which, for power-maximising lawyers, turned out to have considerable currency.

[34] Charles Brown, *Regulating a Restructured Rail Industry,* paper to Chartered Institute of Public Finance and Accountancy, 13-16 June 1995.

[35] Guidance memorandum was reproduced in Office of the Rail Regulator, London, *Report of the Rail Regulator to the Secretary of State for Transport,* July 1995, Appendix 1, p53.

[36] At its most formal, the relationship between ORR and OPRAF was managed by means of fortnightly head-to-head meetings.

[37] House of Commons Library Research Division, "Background Paper. The Regulation of the Privatised Utility Companies", London, 1 July 1991, p1 quoted in Ernst (1994), p63.

The Rail Regulator, like the Franchising Director, surrounded himself with highly competent people. He established three directorates: Personnel, Finance and Administration under Peter Murphy; Network Regulation under Charles Brown, (responsible for approval of passenger and freight access agreements); and Passenger Services Regulation under John Rhodes, (responsible for the licensing of operators, promoting network benefits and competition and cooperation between passenger train operators and passenger protection policies). In addition, he established a group of specialists: one in law, [38] one in economics[39] and a Technical Advisory Services unit. Moreover, Swift also seconded to his Executive Committee, in a non-executive capacity, three consultants, Gordon Pettitt, former MD of Regional Railways, Sir Wilfrid Newton, former Chair of London Transport, and Dr Stephen Glaister, Cassel Reader in Economics at the LSE.[40] This constituted a formidable intellectual gathering assembled to work through the regulatory questions and providing checks and balances for his decision processes'[41] and, more discretely, to maximise the Regulator's power and influence over the other actors in the *emerging* industry. Unlike the Franchising Director, he was not subject to the dictates of the Secretary of State, nor the Department. He was, however, accountable to Parliament through both Select Committees, and, like the Franchising Director, was subject to judicial review. It is this latter sanction which most explicitly informed the Regulator's implementing method. For providing he acted legally, not irrationally, and/or with procedural propriety, he was virtually unimpeachable.[42]

The chief regulatory instrument of regulated private utilities was the licence. And so it was with the railways. All providers of services whether they be train operators, network owners (primarily Railtrack) or maintenance depot owners, were to require a licence to trade. This was a huge drafting operation which, like track access agreements, had to be completed before the sales process could commence. Moreover, licences could not be granted until BR's Train Operating Units had been vested. However, the Secretary of State issued licences to British Rail, Railtrack, European Passenger Services Ltd., and Gatwick Express

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[38] Legal expertise given by Tom Winsor seconded from Denton Hall, latterly, Michael Brocklehurst.

[39] Chris Bolt, as Chief Economic Adviser.

[40] Office of the Rail Regulator (July 1995), p53.

[41] Charles Brown, *Regulating a Restructured Rail Industry*, paper given to the Chartered Institute of Public Finance and Accountancy Conference, 13-16 June 1995, p16.

[42] Swift was implacable about his accountability - spelled out in his first Annual Report (1994/5), and reaffirmed in his second Annual Report. He could, however, be removed by the Secretary of State, but it would be very difficult to remove someone who behaves impeccably.

Ltd., on 31 March leaving the Regulator to issue licences to BR's subsidiaries as they were vested.[43] The licensing policy work was done through a small working group inside the Department of Transport with John Swift acting in his capacity as Special Adviser.[44]

6.3 Regulating Railtrack

The Regulator's chief dilemma in his first full year was the need to determine the basis on which he was going to regulate Railtrack's charges to the TOCs. Prior to the Regulator assuming responsibility for Railtrack's pricing, the Government imposed a financial discipline on it as it had done with BR before, through the External Finance Limit (EFL). The EFL was a blunt instrument wielded by the Treasury stipulating exactly how much BR could spend in any single year. To spend more than one's EFL meant that a hapless minister had to return to Parliament to ask for more. Prior to the reorganisation, the passenger service subsidy - known as the Pubic Service Obligation Grant (PSO) - was paid directly to BR. However, under the new subsidy arrangements, the PSO was abolished and subsidy payments were directed to the train operators *through* the Franchising Director. The subsidy was seen to increase under these new arrangements because both BR and Railtrack were expected to make a commercial return on assets employed which had to be returned in a rather byzantine money-go-round to the Treasury through External Finance contributions (EFCs). Railtrack did so through its charges to train operators. BR did so through its claim for subidy from the Franchising Director on behalf of its train operating companies, the level of which was set to guarantee the necessary return.

The Regulator went about this process with the utmost rectitude. In the public domain, he issued two consultation documents outlining his task. On the face of it he was constrained by the Government's imposition of a rate of return on the assets of Railtrack amounting to 5.1 per cent (Modern Equivalent Asset Values - MEAV),[45] rising to 8.0 per cent by 1997, which the Government stated, was to be achieved

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[43] Memorandum submitted from the Office of the Rail Regulator, *Transport Select Committee Fourth Report, Vol II Railway Finances, Minutes of Evidence and Appendices*, July 1995, para 24, p24.

[44] There is nothing innovatory about the licences as such. Their chief function is to protect end users (such as the requirement for adequate insurance) and to formalise relations between operators (such as defining predatory pricing). See Appendix 3 for a condition-by-condition breakdown. The power of the Regulator to issue licences is conferred upon him by means of *secondary* legislation which is subject to alteration by the Secretary of State at any time: *General Authority to the Rail Regulator*, drafted by Philip Wood and signed by the Secretary of State on 31 March 1994. It is reproduced in Office of the Rail Regulator (July 1995), pp54-56.

[45] Defined as "one which provides the same service potential as the existing asset, but takes account of up to date technology and the likely demand for future capacity." See, Office of the Rail Regulator, *Railtrack's Access Charges for Franchised Passenger Services: The Future Level of Charges*, January 1995, para 1.5. The valuation of Railtrack had been a major source of friction between the Department of Transport, Railtrack and the Treasury.

through efficiency gains rather than an increase in charges. The Regulator, however, had to satisfy himself that Railtrack's charges were affordable by franchisees.

To do this he sought the opinions of a number of bodies, including some which had been marginalised during the legislative process: Passenger Transport Executives (PTEs), rail consultative committees, as well as a host of "rail transport organisations". Opinions from these sources were contrasted with those from OPRAF, Railtrack and the Department of Transport, and the regulators of other utilities. Two issues in particular were of relevance to this calculation. Firstly, Railtrack's charging formula; and, secondly, the question of the suitability of MEAV as measurement of return. At the time of his deliberations, Railtrack was firmly rooted in the public sector with the Department and Treasury keen to reap whatever profits Railtrack could produce. The Regulator, however, evaluated the accounting method as if Railtrack was a quoted company.

6.31 The Formula

Railtrack's charging formula for operators of passenger services comprise four distinct elements:

(1) short-term variable costs which vary directly with the operator's level and pattern of activity (8%)
(2) the long run incremental cost of meeting the operator's specific requirements of the network (37%)
(3) an allocation of common costs (residuals) which cannot be directly attributed to a particular operator (43%);
(4) station and depot access charges, both fixed and variable (12%)

(1) and (4) are made up of avoidable costs, but together amount to a only one-fifth of overall costs. (2) represents costs directly attributable to specific Train Operating Companies (TOCs), and are levied for the purpose of maintaining the infrastructure at a modern equivalent level deemed necessary to meet the requirements of the TOC concerned. They are therefore fixed. Finally, (3) are common or residual costs which are shared by all operators, and are identified as sub-zonal, zonal, and national costs. Sub-zonal costs arise from operators' usage of bridges and other geographically-specific facilities and are charged on *planned* vehicle miles. Zonal and national charges cover such things as policing, administrative costs, and insurance rates and are charged on *estimated* revenue.

The Treasury was always keen to value Railtrack high - between £5 and £7 billion and to stipulate a return on investment of 8 per cent. The Department argued that this requirement would render access charges too high which in turn would jeopardise the franchising process.

The Regulator, in his consultation document, was noticeably unhappy about Railtrack's terms which were clearly constructed in a way that would ensure the company was able to meet its commitments and make the necessary return for the Government. Bearing in mind his duty to evaluate the fairness of access charges paid by TOCs to Railtrack, he intimated the charges were too opaque making it difficult for operators to plan services cost-effectively, and hence efficiently. Effectively, he concluded, access agreements would be approved, but only as an interim measure. In the longer term, a review of the "charging methodology" would be necessary.[46]

6.32 The MEAV Controversy

The concept of Modern Equivalent Asset Values as an accountancy tool suits the business of providing infrastructure because, for the network to run effectively, depreciation, unlike under historic valuations, must be made up if output is to remain constant.[47] Under this mechanism, it is estimated that Railtrack's depreciation charge amounts to some £650-700 million per annum.[48] With operating costs of approximately £1.5 billion, and the required rate of return of 5 per cent, Kleinwort Benson estimated that Railtrack would have to make an annual profit of some £300-350 million. Under normal historic cost accounting, that represented a return of some 35-40 per cent.

There seemed to be little dispute over the need to ensure that asset depreciation in the future is made good, and that the costs are covered by the charging system. What was challenged was the efficacy of a 5-8 per cent return on assets under MEAV and its effect on the charges levied on operators. To argue this point, Swift made reference to the water industry where shareholders' returns are measured against market capitalization which provides "a rate of return to investors which is more in line with their requirements", but is less than 1 per cent on MEAV.[49]

6.33 Open Access

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[46] The charging methodology, it will be recalled, was the work of Coopers and Lybrand.

[47] Replacement at MEAV is defined as that which provides the same service potential as the existing asset, but takes account of up-to-date technology and the likely demand for future capacity. It may not therefore involve a like-for-like replacement. Office of the Rail Regulator, (January 1995), para 1.5f. See also, Geoff Riddington, *The Economics of Scottish Railways*, Occasional Paper 8, Scottish Transport Studies Group, Glasgow Caledonian University, September, 1996, pp6-7.

[48] Chris Tarry, *The Privatisation of the Railway Industry*, Kleinwort Benson, November 1994, p29.

[49] Office of the Rail Regulator, *Framework for the Approval of Railtrack's Track Access Charges for Franchised Passenger Services*, July 1994, para 5.13.

Open access - "free" access to Railtrack's infrastructure[50] - was a primary objective of the Government's programme.[51] The Regulator is charged with promoting, and, initially, devising the means by which competition could be introduced. Such a statutory duty impinges directly on the Franchising Director's ability to negotiate franchise agreements as competition would, necessarily, reduce the value of franchises increasing in turn the level of subsidy from the Treasury. For Railtrack, open access means more revenue as operators compete through bids for train paths.

The issue was finally resolved by the Rail Regulator on 19 December 1994 when, hard on the heels of the Franchising Director's first generation franchise allocation proposals, he announced that regulatory controls were necessary to protect new franchisees from "open access" competition. He set a date of 31 March 1999 as the earliest date for any lifting of restrictions affecting the first generation of franchises.

6.34 Policy Statements

In line with expectation, the Regulator published a policy statement in November 1994 on the charging structure whilst promising a second statement in January 1995 on the issue of future levels of charging i.e. the level of X in reference to RPI-X. During the 3 months between the publication of the consultation document and the policy statement, the Regulator engaged in face-to-face consultation with BR and Railtrack, and with OPRAF and the DoT as observers, involving four formal sessions. A total of 50 written responses were received from other interested bodies including TOCs, putative franchise bidders, and trade unions.

The document's conclusions clearly illustrate the extent of the manoeuvrability afforded the Regulator on this issue. The Coopers and Lybrand formula, he concluded, should form the basis of access agreements with a limited amount of adjustment. He provided for franchisees to renegotiate certain clauses in their contracts in advance of any general reassessment of access charges. This position reflected the technical limitations of flexible charging. For example, in his assessment of short-run incremental costs - amounting to 3 per cent of overall charges, and the only traction-related charge which is truly avoidable (the other 4 per cent being made up of power costs) - the Regulator noted the limitations of the Railtrack's computer model (mini-MARPLAS) which was designed for engineering purposes, not pricing. With a deadline of 1 April 1995 to meet for agreeing access charges, the Regulator was forced to simply make provision for changes *some time in the future*.

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[50] Open access operators would still need to be licensed by the Regulator.

[51] See Cm 2012, para 59.

Another acute technical problem arose when the Regulator sought to introduce the concept of *value* into the pricing regime. This would have been a prerequisite for "open access" (see above). The Regulator noted: "It would be both impractical, and unhelpful at this early stage in the market for access, to attempt to develop *administered* charges for such access and quality premia..." (his emphasis).[52] Instead, the Regulator proposed to allow value-based charging to develop "within a clearly defined regulatory framework."[53] To facilitate this, the Regulator made a provision for arbitration in the event of a dispute between Railtrack and the operator; arbitration would be binding, though still subject to approval by the Regulator.

6.35 "What if" Analysis

The lack of transparency in Railtrack's charges, most especially in the allocation of common cost residuals, prompted the Regulator both to demand more information for operators, and also institute a "what if" facility to enable operators to examine charges that would be levied in the event of proposed changes to services without actually running trains. On this the Regulator indicated his intention to establish with Railtrack some guiding principles for the conduct of such studies.

6.36 RPI Guidelines

The second policy statement on charging was published on 17 January 1995. Its provisions were harsh for Railtrack, and in complete contrast to pricing regimes set by other utility regulators. The statement both rejected the *real* claims made by Railtrack over operators, and the level of return already determined by the Government. And again, the Regulator spelt out his commitment to protecting operators from excessive demands from a monopoly provider.

The Regulator's six-year pricing regime is estimated to save operators some £1.5 billion and took the form of a real 8 per cent cut in 1995/6, and a real 2 per cent cut in the subsequent five years. The shortfall, asserted the Regulator, should be made up by efficiency gains made from infrastructure renewal contracts and a greater exploitation of non-operational assets. This latter requirement can also be seen as the Regulator "ring-fencing" properties against the prospect of "asset stripping" after the sale of Railtrack.

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[52] Office of the Rail Regulator, *Railtrack's Track Access Charges for Franchised Passenger Services: Developing the Structure of Charges*, November 1994, para 4.3.

[53] Office of the Rail Regulator (November 1994), para 4.3.

Not surprisingly, the market substantially revalued Railtrack in light of this.[54]

In rejecting the principle of an 8 per cent return on MEAV, the Regulator argued that owing to the asymmetry of franchises against the long life expectancies of certain assets, MEAV, in most cases, should be substituted for *current cost* replacement thus reflecting true costs to operators at the present time. This decision is consistent with his desire to protect franchisees from financing infrastructural assets that are longer-lived than franchise agreements.

In anticipation of a backlash from the Government, he argued that under normal circumstances returns are calculated on employed capital, and his decision would not preclude future shareholders from achieving a market return on investment. The Regulator, however, did not relieve Railtrack of its obligation to invest in the infrastructure in MEAV terms, and gave notice to Railtrack that he would monitor investment to ensure that it is not compromised by profit demands. Indeed, upon the next review, in the event of Railtrack failing to maintain its investment programme, the Regulator is willing to consider imposing a financial penalty.[55]

6.4 British Rail Unpicks Itself

The vesting of Railtrack was, clearly, a watershed for all concerned. Bob Reid told the Transport Select Committee that the separation could not be done until the BRB had established "the geographical extent of the franchises and you know the depth of the franchises."[56] And equally importantly, franchises had to be constructed such that they would actually attract private-sector interest - a hitherto unknown variable. The Department of Transport, therefore, conducted a market-testing exercise with putative private-sector operators. The results, clearly, would inform implementation.[57] Moreover, this process had to be preceded by work to devise a pricing structure for access to the infrastructure. In the event it was done

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[54] Railtrack's notional value was £6.5 billion. Kleinwort Benson, for example, valued Railtrack at £3.3 - £4.3 billion, and estimated proceeds from the sale were incorporated into the budget of 29 November 1994. After the Rail Regulator's policy statement, the market value was revised downwards to £2 billion.

[55] Railtrack had a taste of this in December 1996 and January 1997 when the Regulator twice publicly rebuked the Railtrack board for its failure to meet investment targets "for which Railtrack is being paid." See Office of the Rail Regulator, *Press Notice*, ORR/97/02, 16 January 1997.

[56] TSC (1993), 20 April, p52.

[57] The market testing document was dispatched to prospective franchisees on 12 October 1992 for a one calendar month consultation and "undoubtedly followed by a period of evaluation and responses." John Welsby, TSC, 20 April 1993, para 161, p49 and para 178, p51; *Modern Railways*, November 1992, p578.

concurrently.[58] By July 1994, however, the BRB had accepted the inevitable and had established the necessary machinery to implement the sale of its speedily constructed businesses.[59]

Christopher Campbell was appointed as Board member responsible for the outputs of BR's sales vehicle, the Vendor Unit, which would execute the sale of all of 63 of BR's non-passenger units (that is, excluding TOCs and Railtrack) much to the delight of the inchoate critics.[60] More prosaically, the Board established, under the directorship of David Kirk, *The Information Exchange,* a conduit for information and a source of guidance.[61] Kirk himself moved from the Information Exchange to the Privatisation Team to work on licensing policy before assuming the directorship of the team in October 1994. The team was created out of John Palmer's *Privatisation Studies Group* which was established while he was acting as Bob Reid's special adviser on privatisation prior to the election of 1992.[62] After the election it became the *Restructuring Group* before assuming the explicit privatisation mantle transferring its line responsibility to the Chief Executive, John Welsby. The BR organisation was, prior to April 1994, inevitably busy with working groups. The passenger businesses, InterCity, Regional and Network SouthEast, for example, each devised a strategy for separating out the profit centres from their business units under three separate Restructuring Directors including divesting themselves of their infrastructural liabilities.[63]

The Privatisation Team acted as an organisational Clapham Junction coordinating BR's input to the Department's proliferating policy committees and overseeing the preparation for sale of many of the units, but particularly with regard to the TOCs for a quite perverse reason. The objective of OfQ was to devolve

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[58] Roger Freeman told the Planning Transport Research and Computation (PTRC) meeting in September 1992 that work on the access pricing mechanism would be complete by Spring 1993.

[59] BR Information Exchange, *Privatisation and Restructuring: Your Questions Answered,* July 1994, p1.

[60] Christopher Campbell was a former treasurer of the Tory Bow Group and a director of both Debenhams and Harvey Nichols retail companies, and Harrods Bank. There is nothing new in this kind of characterisation for incomers at BR. Philip Shirley, formally of Unilever and famous for frozen peas, arrived at the BRB in 1961 receiving similar treatment comparing train overcrowding to peas in a pod. See *The Guardian,* 29 January 1994; T.R. Gourvish, *British Rail: A Business History,* Oxford University Press, 1986, pp 326/7.

[61] The Information Exchange also sent an explanatory video to all 125,000 staff to explain pension rights and terms and conditions of employment.

[62] John Palmer, Interview with author, 28 March 1996; he had joined BR in 1989 to help with the preparations for Channel Tunnel Services and was asked in late 1991 to act in addition as the Chairman's special adviser on privatisation.

[63] BR and the Government agreed that the OfQ profit centres "would generally provide the most efficient and least disruptive unit size for franchises", BR Information Exchange (July 1994), p33, para 8.19 John Palmer, however, suggested that was subject to the Department's proviso that "mini-franchises" should not be ruled out. Interview with author, 28 March 1996.

responsibility to individual managers for the delivery of passenger services within the confines of the objectives set centrally by the Board. Although the new structure maintained the profit centres - minus the infrastructure - the Board was conscious that implementation of the Act was *its* responsibility, not the front-line managers who became both managing directors of the vested TOCs, and, as it proved, and without exception, bidders for the businesses. At the very least this generated a conflict of interest, but the question of contractual consistency would be compromised if access was managed at TOC level. As David Kirk explained, *"...if you had, for example, a completely free market in depot pricing it might have all sorts of interesting consequences: they'd have to make sure that it was within ORR guidance how depot services should be priced...but you would never get anything sorted out without some central guidance on a lot of these things."*[64] The Board, therefore, centralised power - divested the managers of much of their erstwhile (profit centre) autonomy, and made them directly responsible to the Board through the Group Managing Directors at BR HQ.[65]

Central to their concern was the content and propriety of the Track Access Conditions which, all parties agreed, were at the heart of the privatisation of train operation. The propriety was important because, for the first time, BR was negotiating access to the infrastructure with a separate legal entity, Railtrack. Although, as will be seen, there was a good degree of joint action, the stark reality was that both parties would have to live with the output of any deal struck and signed for the duration of any contract. The political consequences of an unfavourable deal would affect the ability of the Franchising Director to sell the franchise as the contract would be the primary asset of all TOCs. Such realities were well understood by the lawyers working on both sides. Moreover, later in the process, the TOCs' informational monopoly would need to be checked as they, in combination with the privatisation team, OPRAF, and the merchant bank advisers, composed the sales documentation.

The privatisation programme, for the Board, amounted to a significant departure from its own standard operating procedure. OfQ had had four years of development and implementation. Moreover, the Board envisaged a progressive transformation of the cost centres into subsidiary companies and further devolving of management decisions whilst maintaining responsibility to the Board. The privatisation programme, however, with the political imperative behind it, forced the Board to relinquish the incrementalist method. By the time substantive work had commenced on privatising train operation, work to separate Railtrack

[64] David Kirk, Interview with author, 19 June 1995

[65] John Nelson took responsibility for TOCs located in the south and east, including London Tilbury and Southend and South West Trains in the first batch of franchised operations; Dr Paul King chaperoned TOCs in the North and West, including Great Western Trains in the first batch. They in turn chaired the Boards of the vested TOCs.

from the Board was well advanced. The Board was also clear that *"...the aim of the Government was to achieve the privatisation before the following election and preferably to achieve it in good time so the benefits would be apparent...and so what was almost overriding at every stage was that all this had got to be done in the minimum time...the changes had to be as rapid as possible."*[66] This represented a significant challenge to BR's then Chief Executive, John Welsby. He spelled out the challenge to the Transport Select Committee on 4 November 1992: *"There is no question about trial running...That of course puts a very very considerable onus on the pre-planning of any changes that you are actually going to make. You have to be absolutely sure that it is right first time because there is not a second opportunity."*[67]

This, at the very least, slowed the process and shifted the sale timetable. The Government accepted that the sale of the first franchises would not take place before 1995. This was welcomed by *The Economist*, a perennial advocate of competition; it cautioned that devising a competitive structure for BR's train services needed to be evaluated carefully, rightly consuming politically-sensitive implementation time. Moreover, *The Economist* shared with John Palmer the belief that the new businesses "need to operate for a reasonable length of time before they are sold, both to ensure that they can offer safe and punctual services and provide a set of accounts for potential private buyers to evaluate," adding "[a]lthough 46 leading financial institutions turned up for a Department of Transport Seminar on privatisation earlier this month, the institutions need more concrete information before they can commit their investors' cash. Rush all this, and you really might get derailed."[68]

Although the franchise map bears a close similarity with the profit centres established under OfQ, there were some exceptions. Under the sole project management of the BRB, 25 franchises were constructed out of the 18 OfQ profit centres. In the twenty months prior to April 1994, there was considerable bargaining over form. Whilst the InterCity business unit held out for vertical integration, Network SouthEast's Managing Director, John Nelson, sought to secure a rational and practicable solution. This was done through representations to the Department. As he recalls:

> *There were rather more train companies than there were operating divisions, and I can remember we went through a process of trying to persuade the Department of Transport that they should*

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[66] John Palmer, interview with author, 28 March 1996.

[67] TSC (1993), 20 April, para 174, p50.

[68] *The Economist*, "Rail Privatisation: Late Departure", 26 March 1994, pp35-36.

not disaggregate it even further. I can remember a particular presentation that I gave to a group there early on the nonsensical idea of disagregating the South Western Division into, I think it was, eight companies.[69]

The Treasury certainly favoured the proliferation of operating companies and they were represented in discussions at the Department of Transport on this issue. *"We were able,"* observes John Nelson, *"I think in the end to persuade them of the logic of the argument because none of the more radical disagregations were ever followed through."*[70] The InterCity management, then under the tutelage of Chris Green, opted for a concerted lobby to maintain InterCity as a vertically integrated whole. In the end, it was this intransigence that contributed to the outright rejection of this option.[71] One reason for eventually establishing the TOCs on the basis of BR's former profit centres may well have been the difficulty in populating the new units with personnel of sufficient calibre. As it was, John Nelson had to recruit from outside commercial directors to fill positions in four of his putative train operating companies.[72] Again at NSE, the reorganisation was managed initially through an instrument created for OfQ under a Change Management Director, then Chris Tibbets.[73] A privatisation steering group was established which commissioned a study to generate a business planning strategy for the new units. The object for John Nelson was to take control of the process by evaluating the integrity of each business and identifying the particularly difficult ones, as dispassionately as they could.[74]

6.41 The Post-reorganisation Timetable

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[69] John Nelson, Interview with author, 20 January 1997.

[70] Interview with author, 20 January 1997. In the end, the South Western Division only lost its Isle of Wight services. Elsewhere in the NSE region, the Chiltern and Thames divisions were separated. The feeling in the Treasury was that more franchises equated with more competition and reduced public support. A franchise map is reproduced in Appendix 7.

[71] This opinion is shared by John Nelson, Brian Burdsall, Francis Maude and John MacGregor. Brian Burdsall captures it well: "My view would be that there were enormous tensions. They, I think, played it wrong...my impression would be that they played it wrong because...I think they misread politics. I think they misread the need to do something however daft. I'm not saying the outcome is daft, I'm just saying their line of argument struck me almost as "'they would say that wouldn't they?' would be the reception from the other end." Interview with author, 24 April 1996.

[72] John Nelson, Interview with author, 20 January 1997.

[73] Chris Tibbets later became MD of Cross Country and Chair of the Association of Train Operating Companies.

[74] This was important because of two major projects that would potentially affect the operations of some of the units; namely, the Thameslink 2000 project designed to quadruple the capacity of Thameslink, and the all-new CrossRail east-west link. This project has subsequently been lost.

Outwardly "shadow running" was the way in which the new TOCs acquired a track record. The Gatwick Express started shadow running in October 1993 but this was a chimera, it ran without track access contracts, though presenting "separate records of physical performance".[75] The OPRAF Franchising Group had to establish a sequence which was coterminous with that of other agencies' exigencies and that would deliver, as instructed by the Secretary of State in March 1994, the first six franchises by the close of 1995 and 51 per cent of train services run under franchising agreements by April 1996. A further six shadow franchises were announced on 2 February 1994 commencing April 1994. The announcement provided the outside world with its first glimpse of privatisation in action, and ammunition for objectors and media alike.[76] They gave, however, no clues as to the ease with which their assets could be defined and then incorporated. This was no small task.

The question of order, however, had much riding on it. Philip Pacey, Financial Director of BR's most recently modernised InterCity route, East Coast, and member of the management's buy-out team, rationalised the order thus:

> *[W]e were always clear that the vendor would like to have East Coast in Phase Two because the vendor thought that the first phase would warm the market up and it would get players in to play, it would get the City on side - there were deals to be done - get some sort of reaction, it would get education within the City about what the process was all about, and therefore the second phase auction would be the best place to have some of your best products to sell. It was a very natural place for the vendor to put it. So we were always clear, despite occasional words to the contrary that East Coast was going to be in Phase Two when the vendor thought that the auction had reached its zenith.*[77]

Additionally, there was the question of keenness on the part of TOC managers. The commitment required for those located in Phase One was to be huge; but there were unanticipated benefits, as will be seen, to be reaped by incumbent management teams willing to play. Finally, there was the question, alluded to in Philip Pacey's assessment, of learning. The mechanics of the sale process were untried. All interested parties, vendors, administrators, bankers, buyers (both participating and putative) and lawyers would treat

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[75] Bob Reid, British Railways Board, *Annual Report 1993/94, p9.*

[76] Chris Stokes indicated that shadow franchising did not reflect OPRAF's view of what was sensible. For example, the triumvirate arrangements where Passenger Transport Executives sponsored services in the major conurbations were, by definition, more complex and therefore militated against an early sale for such TOCs as ScotRail. Interview with author, 13 December 1996.

[77] Philip Pacey, Interview with author, 12 November 1996.

the first three as seminal experiences. Three franchises were eventually chosen to go forward from the first seven earmarked in April 1994[78]: one InterCity (Great Western), one small Network SouthEast unit (London, Tilbury and Southend), and one hybrid (South West Trains).[79] That said, the potential for "micro-franchising" - routes within a franchise - had not been settled.[80]

Roger Salmon, the Franchising Director, launched himself on an increasingly sceptical media on 14 December 1994 by announcing details for eight franchises to be moved into the private sector by the close of 1995. The new list included the InterCity operator, Midland Mainline, and another former NSE unit, Network SouthCentral. The Isle of Wight operator, Island Line, was dropped. Salmon confirmed, however, that his expectation was that franchises would be of seven years' duration. He also allowed himself to be drawn on the sticky topic of service cuts. First, he attempted to explain the concept of *Passenger Service Requirements* (PSRs), an issue that was to bring him before the High Court a year later, and his intention not to secure the Fort William Sleeper beyond May 1995. The Edinburgh Court of Session would have something to say about that (see below, Section 7.11).[81]

The timetable for implementation was soon in trouble. Three immediately intractable problems forced a reappraisal of the timetable that OPRAF had first submitted to the Secretary of State: TOC track access agreements with Railtrack, TOC leasing contracts with Rolling Stock Leasing Companies (ROSCOs) and insufficient competition for the Franchising Director to meet his value for money criterion for franchises. As a consequence, in May 1995, the targets were abandoned.[82] The contractual difficulties and the issue of competition for franchises will be discussed in Chapter 7. We should note also that there were some

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[78] The seven were: Gatwick Express, East Coast, Great Western, LT&S, South Western division of NSE, Isle of Wight, ScotRail. See also BRB *Annual Report*, 1993/94.

[79] South West Trains and LT&S were headed by keen privatising Managing Directors, Peter Field and Chris Kinchin-Smith respectively. GWT was the domain of Brian Scott, a keen Corporate InterCity man. Both SWT and GWT employed assets which were not in need of replacement in the lifetime of a seven-year franchise. LT&S employed aged stock and replacement was an issue, but was about to receive cascaded stock from West Anglia Great Northern to replace its life-expired slam-door stock. The term hybrid is used to reflect both its size and mix of services provided. It was not wholly commuter driven.

[80] Speaking at the Waterfront Legal conference, The Franchising Director indicated that his priority was the letting of complete franchises. Micro-franchising was not ruled out at this time, but it would, it was admitted, add greatly to the complexity of the new railway. See *Modern Railways*, November 1994, Vol 51 (554), p643.

[81] See *The Guardian*, 15 December 1994; The PSR was a device by which OPRAF could specify minimum services for tender for which subsidy would be available if required. PSRs were not meant to be a timetable. See Transport Select Committee, *Fourth Report: Railway Finances*, HMSO, London, 5 July 1995, pp122-124.

[82] National Audit Office (1996), paras 2.4 and 2.5 pp22-23.

major concerns within the Department of Transport over finance and personnel.[83]

[83] Based on a leaked document from the Department. See *The Guardian*, 15 December 1994.

Chapter 7
Lawyers' "Paradise"

7.1 Substantive Work

Gareth Davies of Simmons and Simmons, Railtrack's lawyers, headed a team of four commercial lawyers, each attempting to construct the package of contracts necessary for the sale of the first three franchises. Here, the human element of the implementation process is apparent:

> *For us as a team of lawyers, and for our client, it was almost the death of us. At that stage I had a team still of three main commercial lawyers, and gave each of them a contract while I kept on with the high policy myself, and you had lawyers who were no strangers to working all weekend, all night and all day, dying on their feet at the end of the first month. It was an incredibly arduous process. Really because we didn't have enough standard technologies - template documents - to be able to make rapid progress, we kept falling into the detail instead of sticking to the terms of the deal. The clients also were falling into the detail. No one really understood [what] the principles of a track access agreement should be at that stage. We had certain common denominators at that stage like the track access conditions, but frankly, if you look at those first three contracts each one is very different and yet, ignoring the fact that the trains run to different places and provide a different quality of service...ignoring that, they should be substantially similar contracts, but they're not. And what we learned from that was the need - the advantages of - standardisation.*[1]

The failure of sequentiality also hampered their efforts:

> *The other thing is we didn't have unlimited time. We started negotiations for these first three contracts before the summer [1994] really got going, we put them in to the Regulator, which meant they were really half-finished contracts in late autumn early winter, and yet, even though they were ready for the Regulator to comment on at that stage, we'd done four or five months' work and we didn't have a charging schedule, we didn't have a performance regime. Actually, in the time available we couldn't finish the job if we were negotiating the contract as a one-off contract. So we stepped back from this and we sat down and tried to work out what the common principles of the three deals were. And the common principles were you had to have a basic*

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[1] Gareth Davies, Interview with author, 23 October 1996.

contract which dealt with the warranties and indemnities - clearly you needed warranties and indemnities...We took the view, for example, though obviously discussed it with Railtrack, the quid pro quo for making progress efficiently and quickly in a disciplined fashion would be Railtrack give indemnities. They'd each give indemnities. Train operators, too. That's the example of how we sat down and started recognising there were trade-offs between getting a perfect deal and getting any deal at all.[2]

Time, agrees John Nelson, was the defining feature of the contracts: "We were looking at these for what they were, which was separate businesses with their own circumstances and their own preferred contractual regime."[3] The consequences of this resort to standard were keenly felt by some bidders. Roger McDonald, Managing Director of Thames Trains, who headed a successful buy-out bid, very much favoured the incentive mechanism which palpably drove "*...Railtrack into thinking about performance, but the benchmarks came out in the wrong place for us and were are paying more than we expected, even in quite poor months they still get money. So we're not happy with the way it is.*"[4]

7.11 A Test of Nerves

Opposition to the privatisation of the politically tangible rail assets, the Train Operators and Railtrack, was intense, imposing further strains on implementers. The first major challenge was fought over the symbolically important sleeper services into Scotland, most specifically The Fort William Sleeper (FWS) which was scheduled to run for the final time on 28 May 1995 after its omission from the published PSR for ScotRail, the operator of the service.[5] The FWS consumed £2.6 million of the Franchising Director's annual budget for what was perceived to be a non-essential service. It was, argued Roger Salmon,

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[2] Interview with author, 23 October 1996.

[3] The contracts between Railtrack and SWT and LT&S were originally "bespoke" but, on winning the franchise for SWT, Stagecoach renegotiated to standard, not least to incorporate a *force majeure* provision against industrial action. The LT&S contracts are therefore unique. Interview with author, 20 January 1997.

[4] Roger McDonald, Interview with author, 18 November 1996. McDonald's MEBO, Victory Railway Holdings Ltd, was a joint venture with the Go-Ahead group of bus companies which has bus operations in Oxford, one of Thames Trains' principal stations. In the bid, equity was to be shared 35/65. Despite the minority shareholding, management control was maintained by the incumbent management team. The apparent inequitable performance regime is a product of historical poor performance from Railtrack as a result of disruption caused by work on the Heathrow Express project being used as the benchmark.

[5] See, *inter alia*, *The Guardian*, 15 December 1994.

"disproportionately uneconomic"[6] and, elsewhere, "one of those cornerstones of British life that we never knew we needed until we were told it was to go."[7] Certainly for the regional authorities in Scotland, the impending sale of the ScotRail franchise was viewed with considerable suspicion, and the threat to the FWS spelled out those fears. In a concerted lobby, the conveners of the regional authorities, led by Duncan McPherson of Highland Regional Council, attempted to extract guarantees from the then Railways Minister, Roger Freeman. The lobby culminated in the Franchising Director's visit to Edinburgh on 25 October 1994 to meet with the Scottish Regional Council conveners. This resulted in the Franchising Director "undertaking ...to consult Regional Councils before specifying minimum service levels in the franchises."[8] Two months later, the FWS was lost prompting Charles Kennedy[9] to challenge the Secretary of State over "the Franchising Director's pre-emptive statement about the ending of the Fort William Service."[10] Lobbying continued in the Scottish Grand Committee,[11] and at Downing Street.[12]

The much feared resort to legalism suggested that the obvious arena for the regional authorities to pursue their case was the Edinburgh Court of Session. It emerged that the Fort William Sleeper had exclusive use of three sections of track near Glasgow - two each of less than 100 yards, and one of 5 ½ miles in length. To circumvent the need to initiate the statutory closure procedure, ScotRail proposed to run "ghost trains". Indeed, the BRB admitted to the court that one of the services "will be of little practical use...and that there is no conceivable use or benefit to the travelling public...apart from avoiding closure of the said section of line."[13]

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[6] The first indication of FWS-specific costs were received in the form of a Written Answer from Dr Brian Mawhinney to Brian Clappison. "The figure is £540 if infrastructure costs are allocated pro-rata to non-infrastructure costs. Using infrastructure charges specific to the Fort William service the figure becomes £453. The figures are based on British Rail's best estimates, using 1993-94 demand levels and 1994-95 price base." *HC Debs*, WA, 20 February 1995, Vol 255, Col 1. £2.6m amounted to £453 per passenger.

[7] Simon Jenkins, "The Fort William sleeper should have 'Vote for Me' blazoned along its side", *The Spectator*, Vol 274, 1 April 1995, p31. See also *The Economist*, 25 March 1995, p38.

[8] Jenkins (1995), p31. See also *The Economist*, 25 March 1995, p38.

[9] Liberal Democrat MP for Ross, Cromarty, and Skye.

[10] *HC Debs*, Oral Answer, 6 February 1995, Vol 254, Col 11.

[11] Highland Regional Council *Press Release*, 9 February 1995. See HC *Official Report*, Scottish Grand Committee, 8 February 1995.

[12] Highland Regional Council *Press Release*, 21 March 1995.

[13] *Opinion of Lord Kirkwood in Petition of Highland Regional Council*, Edinburgh Court of Session, 9 May 1995. p9.

Lord Kirkwood rejected the BRB's defence that it was obligated under the Transport Act 1968 to give due respect to the costs associated with providing services. Such considerations, he ruled, were not a matter for the court. Simply, the sole function of three services was "for the purpose of seeking to prevent the closure procedure coming into operation, and cannot properly be regarded as a 'railway passenger service' within the meaning of the Act."[14]

A month later the Franchising Director found himself back before the Court of Session facing a challenge to the draft PSR for ScotRail after considerable inter-authority debate (through the Convention of Scottish Local Authorities, CoSLA) about tactics and the seeming rigidities in the Franchising Director's programme, particularly over consultation. A request for more time was rejected which resulted in Highland Regional Council returning to the Court of Session to challenge the legality of the Franchising Director's consultation procedure.[15]

The Council petitioned the Court of Session on three counts with the aim of securing an interim interdict. Firstly, that the Franchising Director had not developed franchising criteria to satisfy the requirement laid down by the Secretary of State in his document *Objectives, Instructions and Guidance.*[16] Second, that the Franchising Director had acted irrationally in producing a draft PSR without first setting out the criteria on which it was based. And third, that Highland Regional Council had a legitimate expectation that the consultation process would be a fair one, and that by virtue of the fact that the Franchising Director had acted irrationally, it was unlikely to be so.

Adjudicating, Lord MacLean said that the Franchising Director was following the instructions of the Secretary of State in basing his draft PSR on the existing BR timetable. In addition, Lord MacLean ruled that "[i]t was not a precondition for the publication of the consultation draft that these criteria had to be set and agreed to by the Secretary of State.[17] Moreover, he noted:

I do not accept that the Director of Passenger Rail Franchising has acted irrationally by

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[14] *Lord Kirkwood*, Edinburgh Court of Session, 9 May 1995, p28; The BRB did lodge an appeal to the Inner House which was rejected on 7 June, leaving it with the single option of appealing to the House of Lords by 7 September. No appeal was lodged.

[15] Archie Roberts, Highland Regional Council, telephone conversation with author, 1 August 1995.

[16] Secretary of State to Franchising Director, 22 March 1994.

[17] *Opinion of Lord MacLean in petition of HIGHLAND REGIONAL COUNCIL, for Judicial Review of certain decisions of the DIRECTOR OF PASSENGER RAIL FRANCHISING*, Edinburgh Court of Session, 30 June 1995, p12.

publishing the consultation document in the terms he has. Nor do I accept that the consultation process upon which the Highland Region are engaged is an empty exercise because the Petitioners do not know what to propose or how best to influence the Respondent's mind with regard to the PSRs for ScotRail in their local government area.[18]

7.12 The Scottish Office

The Cabinet reshuffle of 5 July 1995 returned Michael Forsyth to the Scottish Office.[19] Forsyth intervened personally conceding publicly the FWS's national importance.[20] On 19 July, Forsyth convened a meeting with the new Transport Secretary, Sir George Young, John Ellis, ScotRail's Managing Director, and John Welsby, now BR's Chairman and Chief Executive. At a separate meeting he met the Franchising Director.[21] Meanwhile, John Boyle, ScotRail's Director of Corporate Affairs, had confirmed that the £2.6 million needed to run the service could be reduced substantially, and that ScotRail did have concrete proposals for doing so.[22] On 14 September, the PSR detailing ScotRail's non-PTE services was published. It was a triumph in many ways. Not only did it include the FWS[23] but in addition, it secured some 95 per cent of ScotRail's passenger service in direct contrast to PSRs published for the other seven first-tranche franchises.[24] It was this fact that was to lead to the most serious challenge to sales process in the immediate run up to the transfer of the first three franchises. As far as ScotRail was concerned, its sale prospects were diminishing. The FWS was symbolic. The obstacles presented by the Strathclyde Passenger Transport Authority, however, were real and will be discussed separately in Chapter 8.

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[18] *Lord MacLean*, Edinburgh Court of Session, 30 June 1995, p17.

[19] Michael Forsyth, MP for Stirling. He had previously served as Under Secretary and a Minister of State.

[20] *Scottish Lobby*, BBC, 23 July 1995.

[21] *The Herald*, 19 and 20 July 1995. At the press conference to launch the ScotRail PSR, an OPRAF Assistant Director, Gary Backler, conceded that the intervention of the Secretary of State for Scotland had been "a consideration." See *The Herald*, 15 September 1995.

[22] *The Herald*, 20 July 1995; A compromise was brokered whereby the Fort William Sleeper could be hauled by the Inverness and Aberdeen services and split at Edinburgh: one of the twelve sleeping coaches would continue on to Fort William over the three sections of disputed sleeper-only track.

[23] *ScotRail Railways Ltd., Passenger Service Requirement*, OPRAF, September 1995, Table A, pp10-11. Salmon announced that "...the incremental cash cost is about a quarter of the previous subsidy requirement - £580,000 compared with £2.3m - and the per passenger cost has been halved - from £157 to £75," but "I still consider this to be an exceptionally high level of subsidy. It is only justified by the special reasons for providing a service to Fort William - notably, remoteness of the destination and the absence of any other transport connections, especially by air." OPRAF *Press Release*, 14 September 1995.

[24] *The Guardian*, 15 December 1994.

7.13 The Ticketing Settlement

On 15 May 1995, observers were presented with the Franchising Director announcing, against his better judgement, a package of controls on fares, most particularly those affecting commuters into London. The price controls were a political decision and contrasted very much with his introduction of the Passenger Service Requirement in January designed specifically to import flexibility into service provision. Capping fares was a political expediency and was a response to opposition claims that fares would rise under privatisation.

The issue for the Franchising Director was how this would affect interest in his franchises. Fare capping, by definition, would take away from managers yet more control over costs already limited by virtue of access charges to Railtrack and leasing costs to ROSCOs. OPRAF had already been working on a price capping mechanism for commuter services delivered through a rather complex "tariff basket" measuring the average level of fares increases.[25] The Government's need, however, was for an explicit and transparent commitment which identified specific tickets subject to cap and RPI-X formula for the duration of a standard franchise. But it was not all gloomy; for in combination the PSRs and fare capping had a positive *quid pro quo* - funding guarantees from the Treasury:

> *I am delighted that the Government has been able to commit subsidy for this period, that is for over seven years for the protection of franchises, certainly for franchisees, and for the certainty and comfort and protection of passengers.*[26]

This was no mean achievement for OPRAF. At the time, such guarantees were thought to be expensive. John Dodgeson, for example, transport economist at Liverpool University, totted it up to adding an extra £25-50 million per annum.[27]

7.14 Closing the Deal

As already noted, the bidding process started on 14 December 1994 when interested parties were invited

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[25] The idea was articulated in an OPRAF document, *Fares Regulation for Franchised Passenger Services: An Explanatory Note* which is undated but was informing policy prior to April 1995.

[26] Roger Salmon speaking at the press conference 15 May 1995 and relayed on BBC *Newsnight*.

[27] John Dodgeson, BBC *Newsnight*, 15 May 1995.

to pre-qualify for the first eight franchises; this elicited 39 responses from 246 enquiries.[28] It wasn't until 28 July 1995 that successful pre-qualifying organisations were invited to present indicative bids leading to a shortlist being drawn up on 11 September.[29] The bidding process was being conducted with a paucity of detail. The assets of the train operating companies were exclusively the contracts, over which the negotiations had proved so problematic. Moreover, OPRAF itself had to do work on its own standards for the operation of franchises. Four key elements define this work: Passenger Service Requirements, Load Factors, the OPRAF performance regime with TOCs, and ATOC schemes. In addition, bidders sought details of the fare pricing mechanism. OPRAF established a PSR team located in one of the franchise sales teams (see fig. 7.1) to define the service commitments that would form the basis of any new operators' liabilities. In some respects it was often a mischievously misunderstood concept in which OPRAF officials found it difficult to maintain its "mission to explain".[30] Opponents had an interest in maintaining the opaque nature of the concept, for it seemed the surest indication that privatisation would result in fewer trains. Notwithstanding the failure of those outside the railway industry to understand the concept, OPRAF itself had difficulty - in the first instance - in defining practicable PSRs. Two of the first three were found to be unworkable had to be revised before bidding could commence.[31]

The first three PSRs were completed on 16 May 1995. The next day a press conference at Samuel Montagu's London offices was convened to announce the Invitations to Tender (ITTs) for the first three

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[28] Pre-qualification, as one OPRAF Assistant Director says, "...is about making sure that...the whole process is very expensive for the bidder. And you want to make sure that people only start down the road if they have a reasonable chance of being successful at the end of it. And that's why you have pre-qualification as I see it." Pre-qualification for MEBOs amounted to confirmation from a venture capital source of financial support. Rarely, however, did pre-qualification reflect the eventual bids placed. OPRAF *Press Release*, 19 December 1995. The NAO records some 36 responses, the discrepancy could be explained by the merger of companies engaged in the process. Certainly two bus companies - Badgerline and GRT merged to form FirstBus.

[29] The original timetable envisaged indicative bids being presented in April. Six bidders were eliminated at this stage. National Audit Office (1996), para 2.14, p25.

[30] The most animated exchange occurred between Peter Snow and Chris Stokes, the deputy franchising director on BBC *Newsnight*, 24 November 1995. Snow sent a barrage of questions: "In the case of the East Coast Main Line, for example, that's roughly half the current service. I'm not quite sure what you're saying - 34 from Doncaster at the moment, you only guarantee 16 trains...Who's going to believe that anybody is going to run more than 16 trains a day to Doncaster?"

[31] Constructing PSRs - certainly the first three - was a highly complex and novel process. Each PSR, according to Chris Stokes, presented OPRAF with a whole basket of policy questions that had to be worked through. Errors were always likely. At the time, however, OPRAF admitted to having published an unworkable PSR for the South West Trains franchise where they experienced difficulties with train slots out of Waterloo. The error was corrected before the bidding commenced. See *The Guardian*, 27 September 1995; there were similar difficulties over the LTS PSR, Gareth Davies, Interview with author, 23 October 1996.

franchises.[32] The timetable remained unsure. The reasons were obvious. According to Chris Stokes:

> *We were not expecting bidders for the first round to be compliant... We were expecting to end up in detailed negotiations on all sorts of aspects about franchising agreements...we took a firm line from Day One and...beyond a few detailed points we held the line on franchise agreements. One, because we could because we'd put the work in up front and it was solid and it was workable. Two, because there was a market at the time for it; and three, because that's the way we'd decided to handle it. And if we hadn't have done that our chances of surviving without dropping the most appalling clangers in a situation this autumn where we actually had twelve sales on the go at once, would have been nil.*[33]

Compliance most certainly helped, but this was the crucial interface with the private sector negotiating over unique contracts. It was anyone's guess how long it would take bidders - especially the inexperienced incumbent managers - to raise the necessary capital and for OPRAF to assess the bids, draw up a shortlist, permit due diligence, and select a preferred bidder before finally awarding the franchise. Initial internal estimates by the Franchising Director for completion of the first three were between 25 and 30 weeks to award the franchises, and a further 10 to 15 weeks to bring into operation.[34] Moreover, further leaked documents - a minute from the Project Control Group (see Appendix 1) - cast doubt on the efficacy of the process. The minute which proved to be an accurate reflection of feeling within the group that the bids reaching OPRAF were serious but "the submissions were of variable quality, which reflect bidders' immature understanding of the businesses concerned."[35]

With the consent of the Department, the timetable was allowed to drift as the emphasis shifted from incremental sale of BR's businesses to a proceeds-led, time-limited sales operation. The first hints of this were apparent in the 1994 budget when the rail industry EFL was reduced from £975m to £810m, with the shortfall being made up by proceeds from the sales.[36] But the true political value of Railtrack for the

[32] See *Modern Railways*, July 1995, Vol 52 (562), p398. The primary element of the ITT was the output of the TOC vesting process, the long-form report.

[33] Chris Stokes, Interview with author, 13 December 1996.

[34] National Audit Office (1996), paras 2.6, p23.

[35] *The Daily Telegraph*, 6 September 1995. McLeish gave this leak to the Telegraph to maximize its impact, continuing the doubts of the users of London's commuter trains over the security of their services and the possibility of their trains being run by people with an "immature understanding".

[36] See Department of Transport, *Transport Report 1995*, Cm 2806, HMSO, London, March 1995. It was by no means clear, however, how the sale of BR's subsidiaries would contribute to the industry EFL.

Government became apparent when two memorandums from the Chancellor of the Exchequer, Kenneth Clarke, and the Secretary of State for Transport, Dr Brian Mawhinney, to the Prime Minister were leaked to Labour's Henry McLeish. Clarke outlined the importance of the sale for the reaffirmation of the Government's commitment to the privatisation and, "[i]t is also an integral part of the budget arithmetic, so adherence to the timing...for the announcement is essential."[37] Clarke pushed for the sale in the first quarter of 1996. After the leak, the announcement of the impending flotation was made by Brian Mawhinney on 24 November 1995, though no date was set.

The announcement, however, was not well received. The *Financial Times* in its leader criticised the timing of the sale "before there exists a sensible mechanism for valuing it."[38] The decision, noted the leader, was taken in the absence of considerations of environmental and social utility. This criticism had previously been the preserve of transport academics.[39] Railtrack, moreover, had had an inauspicious first few months, though not entirely of its own making. The signal workers' dispute had its roots in the old BR regime predating Railtrack. In total the dispute generated a loss for the industry as a whole of some £200 million arising out of nineteen days of strikes over three months, and was a major factor in BR being unable to present bidders with reliable historical financial data that are part of the normal sales process.[40] It also represented an old-style utility strike involving the Government's own veto over the Railtrack management.[41] The consequences of this action for the sale of the passenger businesses were stark. At the very least it was to impede the efforts of the TOCs to establish a track record of their own.[42]

Additionally, Railtrack was being assaulted on the safety front. It was an ongoing debate within the Transport Select Committee examining at that time railway finances,[43] and a concerted campaign by the

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[37] Reported in *The Guardian*, 23 November 1995.

[38] *The Financial Times*, 25 November 1995.

[39] See, for example, Bill Bradshaw, *Rail Privatisation: Facts, Issues, and Opportunities*, Oxford Economic Research Associates, 1994, p11.

[40] *The Guardian*, 22 September 1994. It was eventually settled on 28 September 1994.

[41] In June 1994, the Government vetoed a 5.7 per cent pay and productivity deal.

[42] This is apparent in the Prism *Rights Issue documentation* (14 October 1996) for SW&W/Cardiff Railway: "Such ongoing changes to the contractual regime under which TOCs operate, combined with the effects of industrial action during 1994/95, mean that a track record of any TOC since 1 April 1994 should not be taken as a reliable guide to that TOC's future and operational performance." p15.

[43] TSC (1995). See evidence given by John Welsby, 8 February 1995, paras 66, 113-117, p8 and pp93-94 and 201-204.

Labour Party which had pledged to halt the sale. McLeish articulated his tactics:

> *We decided that we would try and target Railtrack, but Railtrack up until then was quite impenetrable as far as material is concerned. But then we got a golden leak which was the Rose safety document.*[44] *Interestingly enough, the psychology of leaks, the psychology of attacking an organisation if you get a big leak, then its like a floodgates. So what happened then was a cascade of incidents and accidents...*[45]

McLeish's predictions for the collapse of privatisation serve as a stark illustration of both the extraordinary implementation feat that the privatisation represents, and the gradual retreat of the opposition on the fundamental question of ownership. McLeish predicted only three franchises being let by April 1995, and possibly six by the time of the election. Moreover, he expected Railtrack's flotation timetable to slip, leaving it "dead in the water". Most significantly, however, the Labour assault hinged on a commitment to public ownership, a weapon McLeish used against potential investors by what he called *constructive intimidation.* This was itself to lay dead in the water as the time came for Labour to present its policy to the merchant bankers handling the sale for inclusion in the prospectus.[46] The City and a sceptical public was effectively won over by the unique offer of a dividend of 13.75p per share payable on 4 October 1996, based on profits earned *prior* to the sale.[47]

The sale of the ROSCOS, however, amounted to a silent privatisation of huge significance, both symbolically and in terms of asset transfers. The three ROSCOs - Eversholt Train Leasing, Porterbrook Leasing and Angel Train Contracts - were vested with BR's fleet of passenger rolling stock amounting to

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[44] The leaked memorandum was from Jack Rose, the safety assessment manager of Railtrack's Major Projects Department to Gil Howarth a Railtrack director. In it Rose raised his fears about personal liability for accidents in light of Railtrack's failure to put in place adequate procedures to deal with critical situations. See *The Guardian,* 14 August 1995.

[45] Henry McLeish, Interview with author, 17 October 1995.

[46] *The Railtrack Share Offer Prospectus,* SBC Warburg, 1 May 1996, pp101-104. By the publication of the prospectus Clare Short had taken over the transport portfolio for the opposition. The statement recognised that much of the rail industry would have been privatised by the time of the next election, but the authors fully appreciated the weakness of Railtrack vis-á-vis the Regulator. The primary policy commitment, therefore, was to rein back the Regulator; that is made "answerable to the Secretary of State to a far greater extent than is now the case." (page 102).

[47] SBC Warburg (1996), p14.

some 11,258 vehicles.[48] Their assets were defined by Hambros Bank which handled the sale and who also recruited the senior management and "put in place the lease and maintenance contracts which underlie the new market."[49] Work commenced in July 1993 and the companies were first presented to the market - for trade sale - on 30 October 1994. Hambros estimated that a shortlist would be drawn up in the third quarter of 1995.[50] A detailed account of their sale is beyond the scope of this work; however, the reputation of Hambros itself, which had missed out on much of the Government's privatisation work in the 1980s, was locked into the perceived success of this sale. Success landed Hambros with the kudos attached to managing the world's largest ever trade sale.[51]

The structure of these companies, however, was informed by two problems which were explored in depth in Section 5.31. First, the creation of a competitive market in rolling stock required at least three companies for the supply of rolling stock. Secondly, the question of residual value which, it was thought, would act against the successful sale of the train operating companies if they were vested with the stock; the risk attached to this residual value remained a crucial feature of OPRAF's sales process throughout. As the sales process entered its final push for completion, Chris Stokes noted that,

> *...the bidders are sufficiently confident that they're prepared to commit to doing what we want within a seven-year term where rolling stock replacement is not dominant and we properly, I think, are taking this at face value. They are breaching their franchises if they can't do it. And that's partly because we deliberately set out to shake up the rolling stock market...*[52]

For many, the ROSCOs amounted to the weakest link in the privatisation matrix.[53] They were, as was

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[48] Department of Transport *Press Release*, 9 November 1995.

[49] Department of Transport *Press Release*, 9 November 1995.

[50] Tony Mallin, Hambros Vice Chairman quoted in *The Guardian*, 31 October 1994.

[51] *The Financial Times*, 10 November 1995. For an account of the sale see *Modern Railways*, November 1995, Vol 52(566), pp672-673 and December 1995, Vol 52 (567) pp742-743.

[52] Interview with author, 13 December 1996. Under Section 54 of the Act, the Franchising Director had the power to share the purchasing risk of new rolling stock with franchisees to guarantee investment. OPRAF's strategy was to avoid offering Section 54 assistance, and in the later stages when OPRAF's confidence on such matters was high, to positively tell bidders that Section 54 assistance was not an option.

[53] Brian Burdsall, MD InterCity East Coast, polemically explained: 'They're [the Government] not going to get the real benefit because of the way they've privatised the railways. They're not going to get the real benefit because at least one of the ROSCOs will never invest a penny in new rolling stock. In other words, they'll get the higher charges, and they'll just pocket it. So the ROSCOs' money has just gone down the tubes. They've given them away cheap. The ROSCOs are just going to pocket the money and walk away from it. And if the rolling stock

discussed earlier, unregulated, lacked incentives to invest, and added considerably to the fixed costs of franchisees. Their dominance in the market which, in reality, was far from accessible to outsiders, actually impeded the growth of a viable leasing market. They were also sold, with hindsight, very cheaply.[54] In essence, train operating companies pay too much for leasing their trains.

7.2 Getting There

The sales process was conducted under very strict conditions of secrecy so as not to "compromise the integrity of the process". OPRAF wasn't prepared to discuss the sales process in public, announcing only how many pre-qualifiers were emerging as each tranche of TOCs were brought to the market. However, the bidders themselves were, in some cases, not so reticent. James Sherwood, the robust president of Sea Containers, and one of the crucial private-sector players, very publicly withdrew from the process complaining that the duration of the Great Western franchise was too short rendering it impossible to justify the necessary capital investment.[55] Sherwood told reporters that "the Government really only wants the network to be managed for the primary benefit of Railtrack and rolling-stock-owning companies which are being sold to private investors."[56] It also emerged that Stagecoach and the management team at Great Western Trains had been eliminated - the latter in a head-to-head with a new portfolio bidder, Resurgence

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falls apart, they'll say 'fine, no problem.' So, the public purse, instead of using that money for investment...and that's where it gets hooked on the dogma of privatisation." Interview with author, 25 April 1996.

[54] Porterbrook Leasing was purchased by the incumbent management for £527m in November 1995 and sold to Stagecoach Holdings for £825m on 31 July 1996 (see *Financial Times*, 1 August 1996). Chris Stokes' comments are germane: "I'm not sure whether selling the ROSCOs helped, it felt to us that the sale of the ROSCOs was a bit too single-minded, and if there is a flaw in the structure - a structural flaw - it's the rolling stock and I think it quite likely that they'll end up regulated which isn't going to be easy to do because if you like...if you're running class 455s on inner-suburban trains into Waterloo at the end of the first franchise you're going to need those same trains to hand on on the next Monday at the beginning of the second franchise; and the idea that there is some form of market...[where] the cost of those trains clears at a market price is so much baloney. The only price cap you've got is the price of new trains and actually the problem is that you do need them next Monday so you can't say, 'I don't want your trains, Porterbrook, Eversholt or Angel, I'm going to have some new ones' because in the meantime, you've got to keep the service running. Of course I think that's why Brian Souter ended up buying Porterbrook because he realised in the way the City didn't - the City is fairly good at making fairly large scale misjudgements pour money into Eurotunnel 'but the ROSCOs look dead iffy to us.' And Brian Souter realised that actually what he was betting on was the continued peak into Waterloo...continue the existence of a rail network with broadly the existing level of output. And if you've got reasonably good rolling-stock it's a pretty safe bet." Interview with author, 13 December 1996.

[55] Reported in *The Guardian*, 15 November 1995; It should also be noted that OPRAF's public response highlighted that the bidding process was equally about price: "We are continuing negotiations with bidders offering better deals for passengers and the tax payers. We have been rigorous in maintaining fair competition". In July 1992 Sherwood is reported as having made a "bid" for the South Western Division of NSE on a 60-year franchise. See *Financial Times*, 16 July 1992.

[56] Quoted in *The Herald*, 15 November 1995.

Railways.[57] Sea Containers made bids for two of the first three: South West Trains and the Great Western.[58] However, dominant bidders in the first round were not altogether welcome as OPRAF sought to use the first tranche as a shop window for the remaining 22 train operators.

The selection of Resurgence Railways as preferred bidder for the Great Western franchise epitomised for critics all that was wrong with privatisation. Resurgence's deputy chairman, Mike Jones, was an "official" in the Huntingdon Conservative Party, the Prime Minister's constituency.[59] Even worse, the Managing Director, John Ansdell, turned out to be a non-executive director of a collapsed double-glazing firm which crashed in May 1995 with debts of £57k. He had also been finance director of Trafalgar House when it had been reprimanded by the Finance Reporting Review Panel over poor accounts.[60] Much to the delight of the critics, however, the bid collapsed and the management team were elevated to preferred bidder, a process which vindicated OPRAF in its two-stage competitive method of sale.[61] Finance, however, was a problem for both of these companies. Great Western Holdings, the MBO, for example, had been a victim of the National Westminster Bank's premature exit from rail industry finance which left a hole in the financial arrangement for three other TOC bids, a rolling stock leasing company, and Rail Express Systems.[62]

Elsewhere, because of the closeness of the bids, the competition for the South West Trains franchise became a head-to-head between the management team supported by Compagnie Générale des Eaux (CGEA), the French utility company with train-operating interests in France, Portugal and Sweden, and Stagecoach. CGEA was indirectly canvassed by the Franchising Director who also introduced them to Peter Field, the then Managing Director of the BR-owned operating company.[63] The LT&S franchise was

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[57] The Great Western franchise enjoyed the attention of five bidders at indicative bid stage, and four at final bid stage in late October 1995.

[58] See *Modern Railways*, September 1995, Vol 52(564), p523.

[59] BBC *Newsnight*, 16 November 1995. Reporter Michael Crick.

[60] *The Guardian*, 24 and 25 November 1995; story originally broke in the *Financial Times*.

[61] Resurgence collapsed for none of these reasons, however. Resurgence was unable to satisfy the Franchising Director of the integrity of the performance bond which acts as an insurance and bulwark against failure. See also National Audit Office (1996), para 2.15, pp26-27.

[62] *The Financial Times*, 23 December 1995.

[63] Interview with Antoinne Hurrel, *Modern Railways*, December 1996, Vol 53(579), p766. Salmon addressed the French Parliament. See also the *Financial Times*, 18 November 1995, and *The Guardian*, 15 June 1995.

the most contested, attracting seven bids at the *indicative* stage and four at *final* bid. The LT&S bid arguably acted as a nursery. It was a logical franchise to be offered in the first tranche - it lacked complexity and was of modest size. It was the target for new less-well capitalised entrants, most notably Prism Developments a consortium of directors of four bus companies born out of the privatisation of the National Bus Company in 1986, plus an independent strategic thinker, the ubiquitous Kenneth Irvine.[64] The fortunes of Prism were to prove synonymous with those of the franchising process itself, and vice versa. Its growth will be chronicled below.

According to an OPRAF leak to the *Independent* of 11 November 1995, the shortlist for the LT&S franchise had been whittled down to five bidders, giving victory to the management at LT&S under MD Chris Kinchin-Smith, and pitting the management teams at SWT and Great Western against Stagecoach and Resurgence respectively.[65] By default, OPRAF were left with only the management team for Great Western, leaving the prospect of victory for the three incumbent management teams. Strategically this was not a good option for OPRAF. Although the Franchising Director was to promote the sale of franchises in which management and employees had substantial interests, he also had to realise value for money in the sales process. For this he needed a competitive environment; and to maintain private sector interest, he needed a well capitalised private-sector company to take at least one first-round franchise. The final allocation was, undoubtedly, strategically and legally sound, and unleashed a momentum no one truly anticipated.

7.3 Back to Court

The courts were to provide the privatisation opponents with yet another access point. Intent on stopping the sales process, Save our Railways sought leave on 24 November 1995 to seek judicial review of the sales process, in particular the definition of services vis-à-vis PSR specifications; in effect, to challenge the legality of PSRs. A full hearing was set for 7 December and with the prospect of either side appealing against the decision, franchise allocation could not realistically proceed. Save our Railways and the Southend-on-Sea Travellers Association argued that the Franchising Director's PSRs for Great Western, South West Trains and LT&S issued on 16 May 1995, coupled with the PSRs for InterCity East Coast, Gatwick Express, Midland Main Line and Network SouthCentral issued on 14 September 1995, were illegal as they contravened the Secretary of State's *Objectives, Instructions and Guidance to the*

[64] Other bidders were reported to be GB Railways, eventual victor at Anglia, and SB Holdings, the Strathclyde Buses holding company See *Modern Railways*, October 1995 Vol 52(565), p603.

[65] The shortlist for LT&S was actually four bidders.

Franchising Director issued on 22 March 1994. If, as the Secretary of State had instructed, the Franchising Director should seek to secure passenger services based on the timetable being operated by BR immediately prior to franchising, then the PSR should provide the safeguard. In some cases minimum services were far below this benchmark.[66]

The judgement was made by Mr Justice McPherson of Cluny on 8 December 1995. Interestingly, he identified the Franchising Director as an independent actor who was "not an agent of the Secretary of State"[67] with important discretionary powers which he exercised independent of Parliament, but in the context of the Secretary of State's *Guidance*. In which case, argued the judge, "[i]f the Secretary of State had wished to see a repetition he could have said so."[68] The PSRs were not timetables, and any room for manoeuvre the Franchising Director engineered into the process was a matter for him and only challengeable on grounds of "reasonableness". Moreover, the Secretary of State's *Guidance* document was an internal document, not a statutory one. Therefore, if the Secretary of State did not believe that the Franchising Director had disobeyed his instructions, and that clearly he had not ignored the instructions in their entirety, it was not appropriate for the courts to intervene. And finally, Mr Justice McPherson indicated that it would be entirely proper, should the court deem the instructions to be flawed, to order the Secretary of State to present fresh instructions to remedy any perceived flaw.

As expected, Save our Railways appealed. With OPRAF ready to announce the first three franchise agreements, the need to wait another seven days amounted to an irritation, but with the judicial review going in OPRAF's favour, Chris Stokes, at least, expressed his confidence that the appeal would vindicate the agency's franchising procedures.[69] It was not to be.

Three Law Lords presented their judgement on 15 December.[70] They disagreed with Justice McPherson's earlier dismissal of the meaning of the Secretary of State's *Guidance* document. Its laying before

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[66] The Gatwick Express franchise PSR was set at 45 per cent of BR's timetable; East Coast 71 per cent; LT&S 69 per cent. This was a crude calculation made by the courts, however. What it didn't capture, suggested Chris Stokes, was the additional burden placed on operators with regard to maximum contractual load factors which would necessitate some of the operators providing extra services to meet this requirement rendering the PSR a poor indicator of service security under the new regime.

[67] *The Times*, Law Report, 12 December 1995.

[68] *The Times*, Law Report, 12 December 1995.

[69] BBC *Newsnight*, 24 November 1995.

[70] Sir Thomas Bingham, Master of the Rolls, Lord Justice Waite and Lord Justice Otton.

Parliament and publication meant that it was plain that "a particular significance was attached to them".[71] It *was*, after all, a statutory document. Moreover, the words "based-on" provided for a certain latitude, but would not permit him to "depart significantly or substantially from it".[72] Indeed, anyone reading the *Guidance* document, argued the Master of the Rolls, could not have been expected to appreciate the way the franchising director was using the subsidy instrument to secure a comparable timetable to that run by BR. The PSR, therefore, under these circumstances, needed to reflect the service that would be provided and *not* the minimum.

However, the Law Lords accepted that the PSR for Great Western at 86 per cent of current services and South West Trains at 86-89 per cent of current services did not depart substantially from the requirements of the *Guidance* document. The PSRs for LT&S in the first round and InterCity East Coast, Network SouthCentral, Gatwick Express and Midland Main Line in the second, were unlawful. However, the claim against the LT&S franchise was dismissed because the appellants had waited too long to challenge the interpretation of the document. For the later PSRs, the judgement would stand, though it was noted again that the Secretary of State could, if he so chose, rewrite the *Guidance* document retrospectively to render the PSRs compliant.

The subsequent weekend was a frantic one for OPRAF. Having been shown to have acted unlawfully, but with three franchises ready to be announced to an already sceptical public, the franchising process reached a nadir. There were two problems to wrestle. Notwithstanding the exception of the first three franchises, could the sales go ahead? Was it politically feasible and how would it affect the successful bidders and their financial backers? What method of rectification should be employed regarding the PSRs? The most straightforward method was to take the advice of the Law Lords and rewrite the relevant paragraphs in the *Guidance* document. This could, Secretary of State willing, be done very quickly and have very little impact on the overall timetable. Alternatively, the PSRs would have to be rewritten necessitating another round of time-consuming consultation. Finally, OPRAF could appeal to the House of Lords to overturn the judgement.

Time was something that neither OPRAF nor the Government had. The future value of Railtrack, to be floated in the Spring of the following year, would be determined by the nature of its main customer - the franchisees - who contractually commit themselves to purchasing train paths. Selling Railtrack was always

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[71] *The Times*, Law Report, 18 December 1995.

[72] *The Times*, Law Report, 18 December 1995.

feasible, realising something approaching a fair return for the Treasury was less easy.[73] Acutely aware of this, Sir George Young put his name to a redraft of the *Guidance* document and presented himself to the potential wrath of Parliament on Monday 18 December. With the aid of a number conveniently placed "questions" from some of the more sanguine Conservative members, the appearance proved routine.[74]

Meanwhile, exercising Mr Justice McPherson's discretion, the team working on the South West Trains franchise concluded the sale terms with Stagecoach for the launch of the first private train operator on 19 December. Stagecoach, founded in 1980 by brother and sister Brian Souter and Ann Gloag, had been a player from the start.[75] Stagecoach was shortlisted for all three first-tranche franchises but in the latter stages of the process focused attention on South West Trains. The rewards were there to be had for those confident about the political risk. With infrastructure and rolling stock charges pegged below the rate of inflation, merely maintaining the variable costs (staff, predominantly) at the first year level would, reported the *Financial Times*, generate profit in 1998. To cut variable costs by 5 per cent could realise a profit for Stagecoach of between £30-40m.[76] But equally, Brian Cox, Stagecoach's Executive Director in charge of the company's rail subsidiary, is on record as saying "if a meltdown situation occurs we can survive it."[77]

Economic theory has provided us with a note of caution on this very question of bidding. Richard H Thaler has presented a thesis appropriately named, *The Winner's Curse*, for that very purpose.[78] This thesis argues that for competitive bids, if bidders behaved rationally, they would value a company or commodity and "bid for the target if and only if the estimated value exceeds the market value."[79] Bidders, it seems,

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[73] See Lex, *The Financial Times*, 16 December 1995.

[74] *HC debs*, 18 December 1995, Vol 268, Cols 1236-1246.

[75] For a company profile see "Stagecoach moves on to the rails", *The Financial Times*, 12 February 1996; For a chronology of the growth of the company see "Bus operators look for a new route to travel", The Financial Times, 7 December 1995.

[76] See Lex, *The Financial Times*, 21 December 1995; In reality, Stagecoach, in the first six months, returned a profit of £1.3m on a passenger revenue of £128m. South West Trains reduced costs by 5 per cent in the first six months and increased passenger journeys by 7 per cent. See *The Herald*, 29 November 1996. It's worth noting the nature of the guarantees given by Stagecoach which is a feature of franchising. Stagecoach provided OPRAF with £42m of bonds to secure the service. It is this bond which Resurgence had difficulty in securing. See *Stagecoach Press Release*, 19 December 1995.

[77] See *The Independent*, 20 December 1995.

[78] Richard H Thaler, "The Winner's Curse", *Journal of Economic Perspectives*, Vol 2(1), 1988, pp191-202.

[79] Thaler (1988), p198.

have a tendency to attempt to buck the market on a misplaced assumption that they can estimate the true value better than the market. This is known as the *Hubris Hypothesis*. This is irrational in as much as all bidders - and by implication the market - have the same information on which to base a bid. In essence, the theory suggests that winners have a tendency to pay considerably more than the true value of the object of their bid; but interestingly, the average of bids overall is considerably less than the true value. This, of course, has been tested experimentally, but out in the field, and when applied to rail franchising, it is somewhat more difficult to judge the true value of the rights sold by OPRAF.

Stagecoach's directors had learned much from their experience of bus privatisation first in England from 1986, and later in the sale of the Scottish Bus Group in 1989. Derek Scott, Stagecoach's then Finance Director, argues that successful portfolio bidders are at an advantage if they bid in the early rounds, and in the case of Stagecoach, are prepared to be used by vendors:

> *We know we are often used. People say, 'how do you have the resources to get on all the bids?' It's not too difficult because all are of a similar form, but the biggest problem for us usually is persuading those running the privatisation that we should be allowed to look at all of the bids because they can often have a preliminary cut based on indicative bids, and a number of other bidders have an approach of putting in a very attractive indicative bid and then dropping the price or whatever, in this case winding up the subsidy call once they get into the detail. We've always said we're pretty straight, we put in an indicative bid not that far away and we don't change it greatly as we go along. We have always...explained to the privatisation people that if they're struggling to get a bit of an auction going, it's in your interests to keep us in - our name gets dropped all over the place, we're associated with Docklands, we're associated with London Underground, it's a way of getting people's attention and getting more interest in these things. And by and large people running privatisations over the years have accepted that. They do say that other bidders do what they say they do, they put in bids and then they move away from them. Some of the bus privatisations all you had to do was write in a non-binding indicative bid - you could write any number you wanted. We were putting in a sensible valuation and some people would put in a high bid just to get through to the second round. In those circumstances we worked very very hard over the years to say, 'whatever your principles you should still leave Stagecoach in because we are a credible bidder, we have the money...'* [80]

Brian Souter, for quite instrumental reasons, was willing to be used by OPRAF in its tussle with Save Our

[80] Derek Scott, Interview with author, 19 June 1997.

Railways. In essence, the challenge represented one of the political risks associated with the privatisation programme. OPRAF had in Stagecoach a "preferred bidder" capable of evaluating risk - and acting - quickly. Derek Scott reasoned thus:

> *I suppose with the train operating companies, because for us it was just the tendering for a franchise for a number of years, at that point we hadn't committed any investment, the total cost of SWT to us was £156k - the legal fees, £100K that we had to put into SWT to beef up its balance sheet - if that's what we're committed to, it's a pretty small write-off if it does go horribly wrong because some legal challenge is successful, and the chances are it won't because we felt that the Government wanted to make this privatisation happen.* [81]

The award of the South West Trains franchise represented a defining moment, not because it was the first, but for what it said to the wider business community - both transport operators and finance houses alike. According to Derek Scott,

> *...as soon as we made a presentation to the City in December 1995 with SWT, the genie was out of the box. 'These guys have bought a £280m turnover business, they say they'll average a 9 per cent margin in seven years and they've bought it for a pound.' And quickly everyone thought, 'we must get one of these franchises'. We suddenly became very unsuccessful in bidding.*[82]

The Stagecoach share price, however, soared.[83] This fact alone meant that Stagecoach's competitors could not ignore rail privatisation as a means of enhancing the value of their stock, if not realising tangible dividend gains.[84] But equally, believes John Nelson, "*...the fact that the French utility company had failed to win was the other most significant thing that happened...Because what then happened was Connex were absolutely determined that they were going to get in...*" Connex's bid for neighbouring SouthCentral in the second tranche proved to be decisive and established a benchmark - a high benchmark

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[81] Derek Scott, Interview with author, 19 June 1997.

[82] Derek Scott, Interview with author, 19 June 1997.

[83] In the week of the franchise award, the Stagecoach share price increased from 273p to 320p (17 per cent) and up to 343p the following week, a further 7 per cent. The share price peaked at 338p on 8 January having increased some 24 per cent overall. The share price was similarly affected when Stagecoach bought Porterbrook Leasing in July 1996 rising 12.5 per cent in one day.

[84] To see this effect in practice, consider the FT's comment on FirstBus's share price which was trading at a discount compared with rivals such as Stagecoach and National Express due to its less well-developed rail interests. *Financial Times*, 26 November 1996.

- for the subsequent rounds of bidding.[85] This, naturally, was highly functional for OPRAF.

Equally functional, however, was the deal struck with Enterprise Rail, the MBO bid for LT&S. OPRAF invited non-compliant bids because of the aged nature of the rolling stock and the attendant poor reliability.[86] But it was also a small franchise within the grasp of medium sized enterprises such as the nascent Prism Developments. The maturity of the market and the process at this point in time, inadvertently, favoured incumbents. Kenneth Irvine, Prism's Development Director, compared Prism's bid with Enterprise's successful bid: *"The difference between the two of them was probably they had a greater idea of what costs they could get out of it. And the difference between our first bid and our second bid was that we had more information and a clearer idea of what we had to do to win. And we certainly had a much lower cost of capital the second time round."*[87]

Two things are important here. First, incumbents inevitably would have a superior knowledge of the cost base of the businesses they were running. There is no suggestion of subterfuge, but the fact remains an evaluation of costs in an immature market was a very difficult task. Second, the first round of franchise allocations would seem to have legitimised the process reducing the cost of capital for bidders enabling them in turn to reduce their costs. The playing field levelled out somewhat as a consequence.[88]

Despite NatWest's exit from rail franchising, Enterprise attracted financial backing from two venture capital houses for an ambitious investment programme amounting to the effective replacement of *all* old stock with new by 2002. The venture capital houses were to be key players in franchising, and their response to requests from MBOs was one of the unknown variables at the outset. Preparing management teams for the potential acquisition of the business was a function of the Board's managing directors of the passenger businesses. Roger McDonald, MD of the Thames Trains TOC recalls the Board's preparatory initiative:

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[85] John Nelson, Interview with author, 20 January 1997.

[86] Under the BR regime, rolling stock invariably cascaded through the network as new rolling stock entered service. For example, upon the modernisation of the East Coast route, the redundant High Speed Trains cascaded primarily to the Cross-Country routes. The BRB's "networker" project of which the WAGN profit centre was to be a beneficiary, would free 25 class 317 electric trains for cascading. The LT&S route was earmarked to receive them.

[87] Kenneth Irvine, Interview with author, 20 November 1996.

[88] Irvine believes that the cost of capital was not, however, a major factor in the first round. Derek Scott of Stagecoach was acutely aware that incumbent managements were partial in presenting their TOCs to bidders.

Included in delivering the privatisation process was to prepare the managements to be fit to run in the private sector. So there was a good deal of...coaching, team building and training given. We did a business game...and certainly in South and East that role was taken very seriously coaching people for the private sector.[89]

The Board also maintained an approved list of both financial and legal advisers. In addition, managers were given financial assistance in preparing their bids, though it was hopelessly inadequate, at least for the early bidders.[90] BR's incumbent managers found themselves doing three jobs. First, they had to run the railway; second, to prepare the business for sale; and third, to construct their bid to buy the business. The latter, naturally, generated concerns about a conflict of interest. It also stretched the incumbents to the limits of their physical capabilities. On the former point, the BRB instructed its managers to limit work on bids to after-hours activity with the BRB auditing managements' behaviours to secure compliance.[91] The assumed contradiction was, however, exploited by the Chair of Strathclyde PTA in his authority's extended tussle over control of services provided by ScotRail.[92]

The venture capital route to capitalising MBOs dominated the early efforts. Although there is no theory of venture capital as such, work conducted by academics at the Centre for Management Buy-Out Research at the University of Nottingham corroborates much of the advice given to managers by their advisers.

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[89] Roger McDonald, Interview with author, 18 November 1996. The reference to South and East refers to the South and East group of TOCs whose managing director was John Nelson. This group of companies was parallelled by North and West under Dr Paul King.

[90] Incumbent managers were entitled to 85 per cent of the first £10,000 spent on approved expenditure (such as the preparation of a business plan) for pre-qualification; and 75 per cent of advisory costs for qualified bidders to mount a full bid up to a maximum of £100,000 per bid. BRB Information Exchange (1994), Section 24.5, p96. The cost of bidding varied. Prism spent £358,000 between 19 July 1995 and 31 January 1996, most of which would be attributable to preparation and bidding for LT&S. Between 1 February 1996 and 17 August 1996, Prism spent a further £969,000 on bidding. In contrast, National Express' Deputy Chief Executive, Adam Mills, priced some of his company's bids at between £150-200,000. See *Financial Times*, 16 July 1996.

[91] Philip Pacey, Financial Director of InterCity East Coast, and participant in the MBO called Wenfordbray, provided an insight to their handling of the competing demands on their time: "*We told the senior team at East Coast that we were not going to be working on East Coast outside hours, we were going to be working for Wenfordbray and therefore there had to be a level of delegation we'd not seen before, and that they had to play their full part. And part of them helping us potentially win the bid was to take the load off us in terms of our day jobs. So we certainly delegated more. And hopefully some of the senior team responded and therefore took up the challenge and that eased the load off us. Remember there's virtually no investment in the business, no change, and frankly what senior management and directors do for much of their time is actually handle change. So one has to say that the change programme completely stopped and that we're really ticking over as a business, and therefore that created time in our diaries...*" Interview with author, 12 November 1996.

[92] The efforts to privatise ScotRail will be discussed below. However, Councillor Charles Gordon criticised John Ellis, ScotRail's Managing Director, on this very point.

Wright and Robbie's 1996 survey of the industry suggests that venture capitalists' evaluation of investees can be highly subjective. The key document is the business plan, especially the accounting statements held within, and critically, the venture capitalists' own due diligence report on the proposition. However, note Wright and Robbie, "[t]he most notable factors relating to the entrepreneur's personality and characteristics were, in order of importance: evidence of ability to evaluate and react to risk well; being capable of sustained intense effort; a clear desire to be wealthy and being articulate in discussing the venture; attention to detail; and seeking independence. The two most important features concerning the entrepreneur's experience were that the entrepreneur had demonstrated leadership/managerial ability in the past, and was thoroughly familiar with the market targeted by the venture."[93]

The process of capitalising an MBO was a shade more complex, however. Venture capitalists spread their risk and so investees may need to examine more than one source of venture capital. Moreover, venture houses interested in rail franchising have to consider their returns in terms of yields during the lifetime of the franchise rather than increasing the capital value of their investments.[94] The importation of mezzanine finance, also, shifts the evaluative variables. But financiers, equally, have to get on with one another. At InterCity East Coast, Wenfordbray was supported by 3i, Phildrew Ventures, The Royal Bank of Scotland and the Bank of Scotland (providing the performance bonds), and Intermediate Ventures providing mezzanine. There was also a major partner which the *Financial Times* identified as the CGEA subsidiary, Compangnie Generale d'Enterprise Automobiles.[95] But the key actor in most MBOs was 3i for reasons which Philip Pacey sought to exploit:

> *Basically 3i in Leeds desperately wanted the deal because InterCity East Coast is one of the top ten companies in Yorkshire. Any financier worth its salt wants to be involved in a company of that size and that importance because, remember, InterCity East Coast is serving the community of Yorkshire and the north-east of England and eastern Scotland. It's a fundamental part of the infrastructure of the economy. And therefore if you are involved in those companies you have*

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[93] Mike Wright and Ken Robbie, "Venture Capitalists, Unquoted Equity Investment Appraisal and the Role of Accounting Information" in *Accounting and Business Research*, Vol 25(2), p161.

[94] See, *The Financial Times Survey - "Private Equity Finance: Managers have been squeezed out"*, Charles Batchelor, 17 May 1997. Factoring in to explanations the role of banks and investment houses was considered by Charles Perrow in his consideration of Agency Theory and Transaction Cost Economics. See Charles Perrow, "Economic Theories of Organisation" in *Theory and Society*, Vol 15, p34.

[95] *The Financial Times*, 4 March 1996.

chances - opportunities - to make contact with other businesses of that profile.[96]

The first hurdle for incumbent managers was pre-qualification. The Thames Trains' management qualified with a letter from 3i offering 100 per cent funding, but their support changed radically as the bid progressed. In the later franchises, the joint venture became the dominant form. It was also preferred by OPRAF. In the Thames case, their financial advisers, Deloittes, introduced them, at the short-listing stage, to a new entrant private sector player, the Go-Ahead bus group.[97] The success of the bid enabled the Go-Ahead group to join the elite of portfolio bidders and launch their own joint venture with another French transport operator, VIA, to bid for some of the remaining franchises.

Thames Trains was the twelfth franchise to be let, though it entered the private sector on a raft of five.[98] For the Thames management team, what Roger McDonald called a *critical mass* was reached upon the realisation of three fundamental truths: first, that the process set in train was irreversible and happening; second, that control over the infrastructure no longer mattered; and third, that winning the franchise was indeed a desirable outcome. These truths were mediated through observing the sale of the first three franchises, two of which went to companies headed by former BR senior managers. Moreover, there was the growing feeling that the least best option was to be a public-sector train operator in a predominantly private-sector industry.[99] In addition, weariness was undoubtedly a factor. For people in the business of running and developing train services, privatisation had generated an unwelcome hiatus.[100] Momentum gathered on the intervention of this unexpected ally. However, there was one final shock to the franchising process before completion could be contemplated - the collapse of the Enterprise bid.

7.31 Débâcle

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[96] Interview with author 12 November 1996. The managers at East Coast were affected by the withdrawal of NatWest Ventures from supporting rail businesses. 3i also had a stake in the successful Great Western Holdings bid and Enterprise Rail.

[97] Other potential suitors were entering the field but, for Roger McDonald, suitors had to be evaluated according to the management's established criteria for bidding; namely, keeping one's job, maintaining control, and making money. Although Go-Ahead held 65 per cent of the equity of their bid vehicle, Victory Railways, they were minority members of the Board with five incumbents and three from Go-Ahead.

[98] Thames had to be split from the Chiltern operation in the first instance, and the effects of major projects factored into the process. In Thames' case, CrossRail project imposed itself on the franchise, though it was subsequently abandoned.

[99] This was shared by John Ellis, MD of ScotRail, interview with author, 6 June 1996.

[100] John Nelson, interview with author, 20 January 1997.

In the dark early morning of 2 February, two new private-sector train operators formally took over the running of train services in the UK for the first time since nationalisation in 1947. To avoid embarrassment, the Transport Secretary was at Waterloo to welcome Stagecoach's first train and not on the bus at Fishguard which replaced Great Western Holdings' scheduled first train because of engineering, leaving that to his Minister, John Watts. Transfer of the operation of the LT&S franchise was stopped three days earlier after officials at BR's Business Systems subsidiary and the Association of Train Operating Companies (ATOC) discovered a rather crude ticketing scam which, in effect, defrauded London Underground of revenue under the ticketing revenue allocation formula between the two operators.[101] The first casualty of the discovery was the Commercial Director, Colin Andrews, and later a retailing manager, Ian Burton and five other unnamed members of staff. BR launched an inquiry, as did the Rail Regulator.[102]

OPRAF, meanwhile, was keen to proceed with the transfer, Enterprise having been purged of its more ambitious personnel.[103] A statement by Sir George Young in the Commons on 5 February rejected opposition claims for Enterprise to be stripped of the franchise pending the result of the inquiries, but with a debate on privatisation itself in the House scheduled for 7 February, opponents were in a position to besmirch publicly the Government and question the integrity of the process and, more widely, privatisation.[104] As the week progressed, the integrity of the bid was undermined, and after six days the Government pulled the bid, though it was left to the Franchising Director to announce the re-tendering exercise. Chris Kinchin-Smith, LT&S' MD and Financial Director Roger Turner, were redeployed at BR HQ, and David Burton, Privatisation Director under John Nelson, stepped in to keep the trains running as the bidding was reopened.[105]

The Enterprise deal was for OPRAF a golden deal capturing in one contract both reduced subsidy and new rolling stock. It had attracted considerable support from the City, the effect on which was less clear. *The Financial Times* reported that, "[t]he sudden decision to halt could do more to deter City investors from

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[101] See *The Financial Times*, 5 February 1996; See also Secretary of State for Transport in *HC Debs*, 7 February 1996, Vol 271, Col 339.

[102] Neither are public documents.

[103] The Franchising Director indicated that he was not contemplating re-tendering, though he would await the outcome of the investigations. See *The Herald*, 6 February 1996; The Government's intervention was confirmed to the author by a senior civil servant in the Department.

[104] *HC Debs*, Vol 271, Cols 337-393.

[105] John Nelson himself recalls being severely affected by the LT&S events. The collapse was also to ruin the exonerated remaining members of the management team.

backing buyouts than the original discovery of the alleged fraud." The FT also sought comment from Enterprise's two venture capital bidders. Trevor Jones, MD of Gresham Trust said the decision to halt the sale "was not the response you would expect, particularly when you look at the supportive comments which had been made," and Hugh Richards, head of 3i's London Office suggested that the situation was a "bit bald" but left it to a unnamed source to comment on future rail investment: "We have backed managements from the public sector for many years and we don't see any reason to change our policy just because of this."[106] Others were not so sure, however. The managers at East Coast were not unaffected:

> *The disaster of course was LTS. Because politically the LTS situation undermined the management teams in BR full stop. That was an absolutely disastrous moment for us, and if it was on a political knife-edge at any point, that would work against us in our view. So I have to say that was not a good moment in the whole process.*[107]

7.32 The Prism Phenomenon

Prism Developments, as noted above, entered the franchise competition in the first tranche bidding for the LT&S route. It epitomises the entrepreneurialism the Government attempted to foster in the 1980s. Kenneth Irvine, as we have seen, had been a keen advocate of franchising and sought to realise his ideas first through British Bus which attempted to buy BR's loss-making parcels business in 1993, and then through his own vehicle, Prism. Through his participation in a group known as the *Prospective Rail Operators' Forum*, Irvine tapped into the enthusiasm shown by two of bus deregulation's most durable players, Godfrey Burley of the East Yorkshire Motor Services Group, and Bob Howells of the Lynton Travel Group. Once the seeds of the joint venture had germinated, Burley and Howells introduced Len Wright, Chairman of Q Drive, and Giles Fearnley Chairman of Blazefield - all bus operators - to the project.[108] Their motivations are interesting. Burley, for example, in a profile in *The Daily Telegraph*, told Andrew Cave that railways were "a challenge I wanted to take on. I want to achieve things...we did not need to do Prism. We just wanted to."[109]

This challenge reflects the way the company, incorporated in 1994, was capitalised in the first instance.

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[106] *The Financial Times*, 10 February 1996.

[107] Interview with author, 12 November 1996; The effects on the Thames management was less discernible, according to Roger McDonald. Interview with author, 18 November 1996.

[108] There were 10 personal shareholders on incorporation on 11 July 1995.

[109] *The Daily Telegraph*, "Saturday Profile: The train set's lead signalman..." 21 September 1996.

The four directors used their own money - not derived from the bus companies - to raise the necessary finance to embark on their ultimately very successful bidding career. They anticipated a £4m start-up cost and a range of options for financing the franchises should they be successful.

Irvine and his assistant, Andy Heslop the ex-commercial director of European Passenger Services, worked from a small cluttered office near Farringdon Station. The shareholders remained with their bus operations waiting to be appointed as Chair of the companies they effectively bought. Irvine concedes that being in the first tranche was, despite its cost, beneficial to the overall outcome in terms of the portfolio. *"The amount of time you were given to bid for the first round franchises is considerably longer than you are getting now, and certainly in terms of getting to grips with the contractual matrix and understanding the contract documentation, then the amount of time we had for LT&S was extremely valuable."*[110] Prism's bid for LT&S first time round was, like that of Enterprise before them, for 15 years and with rolling stock replacement on the table, bidding for a 15-year franchise was no longer seen as non-compliance.

Capitalisation, however, was another matter. In the first instance, Prism sought a venture capital partnership, but the failed bid for LT&S jeopardised the relationship and bidding aspirations and with the second tranche well underway (Prism intended to bid for Gatwick Express and Midland Main Line), this was a major problem. It was solved by accepting the financial advice from a partner at Solomon Hare to float on the Alternative Investment Market (AIM). Further endorsement came from William de Broe stockbrokers (who also acted as underwriters for this and their subsequent Rights Issues), leading to a speedy preparation for listing on the back of a second shot at LT&S which was relaunched on 26 February 1996 after the collapse of the Enterprise venture. Although Prism had guarantees which satisfied the Franchising Director, Prism continued and their now crucial participation in the sales process hinged on the float. OPRAF's complicity, therefore, was also a feature of the sales process.

Prism Rail's shares debuted on the AIM on 29 May 1996 after an oversubscribed placing of £8m worth of shares with institutional investors a week earlier (completed on 23 May).[111] Indeed, the reported placing with, *inter alia,* Mercury Asset Management, Schroders, and Morgan Grenfell represented a welcome endorsement by the City of rail privatisation.[112] With hindsight, these were shrewd investors, and Prism's directors equally so, though they played arguably a much riskier game. After just 24 hours the shares,

[110] Kenneth Irvine, interview with author, 20 November 1996.

[111] *The Financial Times*, 28 May 1997; stockbrokers "place" shares with willing investors prior to flotation who take a risk with new stock.

[112] There were 22 institutional investors in total.

issued at 100p each, doubled in value closing at 205p. And although the directors were to receive no remuneration from Prism, a complex *ratchet* mechanism rewarded them by presenting them with options of 25 per cent of any new shares offered for sale in any rights issues to fund the capital requirements of future franchises. However the company developed, the founders' share of the equity was not to fall below 25 per cent.[113]

The LT&S deal between the Franchising Director and Prism, both parties agree, proved somewhat more robust than the failed Enterprise bid. Again, practicabilities affect the outward perception. In order to secure a truly competitive tendering process for the promised rolling-stock, OPRAF had to leave Prism with a get-out to the effect that rolling-stock procurement was not a condition of the franchise *per se*, only a 15-year franchise.[114] But crucially for OPRAF, the Enterprise deal provided the benchmark for re-tendering, which, suggests Chris Stokes, was accepted not only for LT&S but also throughout the process, and by the end of the sales process, rolling-stock was being secured on 7-year franchises.[115]

The rights issues did indeed flow as the franchise portfolio expanded. The Franchising Director introduced the South Wales and West (SW&W) and Cardiff Valleys TOCs to the market on 23 January 1996 leading to an award on 17 September.[116] Prism's share price continued to rise advancing by a third peaking in the

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[113] The AIM float left them with 38.5 per cent of the equity. See *The Daily Telegraph*, 18 September 1996.

[114] The procurement process revealed some very interesting features of the behaviour of the actors whose primary interest is rolling stock. Prism put out a tender inviting bids to supply 44 new four-coach trains rather than securing the stock through one of the rolling-stock leasing companies which currently own all of the former BR passenger stock. The response to the tender by the railway supply industry indicated its preparedness to extend leasing arrangements to buyers in both in competition, and in partnership with the ROSCOs. The franchise agreement, moreover, specified that Prism had to sign a procurement agreement by mid-January to secure delivery by November 1999 otherwise the franchise would revert to 7 years. See *The Financial Times*, 8 November 1996. The announcement of a leasing deal for 44 new trains involving rolling-stock manufacturer Adtranz, the ROSCO Porterbrook Leasing, and Prism was finally made on 4 March 1997. See, *The Financial Times*, 5 March 1997.

[115] Chris Stokes, interview with author, 13 December 1996; For example, the deal for Regional Railways North East secured from MTL Trust Holdings 16 new 3-car electric multiple units, and at neighbouring North West Regional Railways, Great Western Holdings promised to introduce 70 new diesel multiple units.

[116] The Cardiff Valleys lines were, under OfQ, part of the South Wales and West Regional Railways profit centre. However, on reorganisation they amounted to a quite discrete commuter network, providing the opportunity to create a small franchise. Prism bid for them both, though separately. Prism beat Great Western Holdings, the MBO, and MTL Trust Holdings for the SW&W franchise, and the MBO (Cambrian Transport Holdings), Stagecoach and surprise new entrants, Halcrow, after shortlisting (See Modern Railways, September 1996, Vol 53(576), p562. SW&W was the first Regional Railways TOC to be sold giving an indication of the kind interest the less lucrative parts of the network might generate and the savings to be achieved. Crucially, there were no PTE-sponsored services to negotiate.

two weeks of preferred bidder status and the award, and continued to do so as the new issue approached.[117] By late December, Prism possessed four franchises, having added West Anglia Great Northern (WAGN) to its portfolio. The franchise award heralded yet another rights issue to realise £12m. This time it was 5 shares for every 28 issued at 330p. The share price reached 445p on 16 December 1996. In addition, Barclays, now satisfied that Prism was a secure growth-seeking business, extended loan facilities to fund the balance of £7m demanded by the Franchising Director for the WAGN franchise.[118]

The bidding process was a frantic affair, however. All parties for their own different reasons wanted the process to be completed with as much haste as was practicable, but that didn't mean that the regime did not put enormous strain on bidders and vendors alike. The Stagecoach managers, for example, had a particularly difficult time in terms of human resources in 1996 which resulted in their bid for Network SouthCentral in the second tranche being a partnership with the management despite Stagecoach's prioritisation for this franchise. The failure to secure Network SouthCentral which was attractive because of the potential for cost sharing with SWT and the other target franchise, South Eastern, generated a change in behaviour. Brian Souter developed the group's interest in owning a ROSCO. If scale economies were impossible within a TOC, the ROSCOs offered an opportunity to cascade to all 25 TOCs, a tactic the company employed throughout its bus operations. This logic was not new, however. Stagecoach had bid for Angel Train Contracts in 1995 in partnership with Montagu Private Equity.[119] Derek Scott indicated that: *"We took over SWT in February 1996 and almost immediately afterwards we were talking to all three ROSCOs to see who was interested. Our initial position wasn't any different from 1995, not to buy them outright, but we'd like to have more of a say in the investment of this industry, we felt the ROSCOs were a way of getting to economies of scale on size."*[120] It was this interest in owning stock as well as running trains that set Stagecoach apart from its competitors and challenged the move against vertical integration which provided the core rationale of the Railways Act 1993.

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[117] Prism issued 5½m new shares (1.83 m earmarked for the directors under the ratchet arrangement) at 240p each issuing 11 new shares for every 26 held. See *The Financial Times,* 15 October 1996.

[118] See WAGN Rights Issue documentation, 14 October 1996, p12. Prism also announced an "illustrative pre-tax profit projection" for the 12 months up to March 1998 of £11m after £9m of restructuring costs on a predicted turnover of £450m. For the 20 weeks up to 12 October, an £829,000 operating profit was announced but after interest earnings and £1.8m restructuring and acquisition costs, a pre-tax loss of £549,000 resulted. Prism had negotiated the loss of 66 drivers from the LT&S operation. See Rights Issue brochure. The FT's commentator described Prism's shares as "an interesting proposition for investors with strong nerves." See *The Financial Times,* 17 December 1996.

[119] Stagecoach had not been seen as a bidder by Hambros who were handling the ROSCO sales. Montagu Private Equity was originally in partnership with the incumbent managers before contacting Stagecoach with whom they had worked in a joint venture in Portugal in the past.

[120] Derek Scott, Interview with author, 19 June 1997.

The fraught chaos that defined the early part of the sales process effectively organised itself towards the end as bidders joined the network on clear terms with clear ambition. It had become routinized and efficient. The sales process was effectively immune from political intervention - OPRAF, for whatever reason, was delivering. The opposition presented by the Scottish political elite was to prove an unexpected and highly effective force. It is to this colonial problem that we now turn.

Chapter 8
Sweeping up: The problem in the Colonies

8.1 The ScotRail Franchise

Rail Services in Scotland were put into a single TOC on reorganisation in 1994. The ScotRail franchise was an early contender for privatisation - a discrete network the sale of which would make a significant contribution to the attainment of the Franchising Director's objective of 51 per cent of passenger services in the private sector by April 1996.[1] The company was also reunited with one of BR's most dynamic managers, Chris Green. In letting the franchise, two franchising directors (Roger Salmon and his successor, John O'Brien) encountered this privatisation's most effective statutory obstacle, Strathclyde Passenger Transport Authority. ScotRail was the last of the 25 train operators to be sold - eventually on 25 February 1997. Councillor Charles Gordon, Strathclyde PTA's Chairman explained why (in a rather unorthodox fashion) in the Franchising Director's own press release:

> *In the three years in which Strathclyde Passenger Transport Authority (SPTA) has been negotiating with OPRAF over the details of the ScotRail franchise, I have repeatedly made it clear that we are not being deliberately obstructionist for ideological reasons, but that we were trying to give proper effect to Ministerial assurances that the consequences of the 1993 Railways Act would not adversely affect the interests of the travelling public represented by SPTA, or indeed impact adversely on Council Tax payers of the West of Scotland.*
>
> *The negotiations have been lengthy, though, and at times, tense.*[2]

8.11 New Railway Politics

Chris Green was one of BR's more visible managers. He joined BR's Scottish Region in 1979 and became General Manager five years later. He bears some responsibility for Strathclyde's accelerated interest in

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[1] It should also be noted that the ScotRail management under the Divisional Manager, Cyril Bleasdale, promoted a speedy privatisation on the grounds that delay would jeopardise long-term funding for ScotRail's services. This indeed turned out to be a very real fear as only services provided under franchise agreements were in the end financially secured. All funding for non-franchised services was to remain discretionary to HM Government providing yet another incentive for franchise owners to complete the privatisation process. *Prism Rights Document* (14 October 1996), letter from the Chairman, p18; Dr Paul Prescott, Director, Railtrack Scotland Zone, interview with author, 3 June 1996. *The Guardian*, 29 May 1993.

[2] OPRAF press release, 25 February 1997. This contrasts very much with the rather prosaic statements emanating from other PTA/PTEs accompanying announcements of franchise awards.

the network by means of a pact: he would deliver efficiency if SPTE would invest.[3] In 1986 he moved south to take control of the London and South East network which became Network SouthEast under his tutelage. From there he moved to managing the InterCity business from 1992 to its dissolution in 1994 when he returned to Scotland.[4] He, like many of his divisional directors, were critical of InterCity's demise as a vertically integrated business unit and advocated its retention.

Green's misgivings, however, were not limited to InterCity. Indeed, he went public over the ScotRail project in an interview in *The Herald* on 12 January 1995 in which he confirmed his expectation that the incumbent management would launch a bid for the franchise in April leading to an award in November, despite having over a thousand contracts still outstanding. Moreover, reported *The Herald*, "he had been told to reduce costs by at least 5 per cent from April with similar savings expected in the following years because Government subsidy is being slashed." Speaking before BR's External Financing Limit settlement for the financial year 1994/5, this was not without foundation. Describing his financial targets as "near impossible", he suggested that the Government would get "the cheapest railway, not the best," a railway at "minimum cost and without investment." He went on to warn of the loss of sleeper services when they were transferred from InterCity West Coast to ScotRail later in the year.[5]

Green's candour had not been appreciated by the British Railways Board. *The Guardian* reported that BR's then Chief Executive, John Welsby, had written to all 25 managing directors of the TOUs instructing them not to "speak directly to the press unless it benefits the company." The Guardian went on to speculate that ministers were behind the letter out of a concern that "certain factions within BR ...have been trying to sabotage the sale."[6] Less than a month later on 17 February, Chris Green resigned his post at ScotRail to become Chief Executive at English Heritage.[7] He was replaced by John Ellis, then Production Director at Railtrack.

8.2 Passenger Transport Executives (PTEs) and the Strathclyde Phenomenon

The PTEs were creations of Barbara Castle's Transport Act of 1968. Their function was to fund and

[3] Between 1975 and 1994 SPTE invested some £400 million in the ScotRail network.

[4] For a profile see *Rail*, No. 293, 4 December 1996, pp29-31.

[5] This rather apocalyptic image should be contrasted with the performance of his successor, John Ellis. For example, see *The Herald*, 25 February 1997.

[6] *The Guardian*, 25 January 1995.

[7] He subsequently resigned from English Heritage after eighteen months after disagreements with the Chairman, Jocelyn Stevens. See *Rail*, No. 293, 4 December 1996, p29; See also, *The Financial Times*, 20 July 1996.

coordinate public transport in the large conurbations and metropolitan areas outside London. They were, in effect, the executive agencies of the (political) Passenger Transport Authorities. Five were created in the first instance (Merseyside, Greater Manchester, West Yorkshire, West Midlands and Strathclyde), two others were constituted in 1974 (South Yorkshire and Tyne and Wear). Strathclyde PTE differed from the six English PTEs in a number of ways. Firstly, it was funded by the Scottish Office and not the Department of Transport. Secondly, the PTA and the PTE were coterminous with one another - a state which had previously been enjoyed by the English PTEs before the abolition of the metropolitan counties in 1986.

The privatisation timetable and ScotRail's position within it brought the Strathclyde actors (the PTE and the PTA) into the sale process very early on - the sale was contingent on the PTA's approval and the PTE's money. Strathclyde, therefore, was the first PTE to be involved in negotiations with the Franchising Director over PSRs under Section 34 of the Railways Act 1993. Strathclyde PTA, meanwhile, made clear its intention, before the publication of ScotRail's draft PSRs, that it would not accept any diminution of the PTE's rights over service specification; OPRAF had sought this in an effort to encourage innovation in the bidding competition: rigid PSRs were deemed to be antithetical to this aim and effectively depressed the cash value of the franchise. Strathclyde proved to be an effective tactical actor. The PTE acted promptly to receipt of the Franchising Director's s34(5) notice inviting the submission of its PSR. The PTE did this forcefully specifying its purchasing requirements, timings, standards and fares providing considerable grist for OPRAF to work on. The consultation procedure provided for by the Railways Act 1993 is laid down in Section 34 - see Panel 8.1

Panel 8.1 How it Works - Statutory Procedure

Under the Act (Section 34(4) and (5)) the Franchising Director must give notice to the PTE of his intentions: (a) regarding franchise specifications; (b) to offer an *invitation to tender*; and/or to enter into a franchising agreement. The PTE then has 60 days in which to submit a statement. Sub-section 6 states that the statement "shall specify the services for the carriage of passengers by railway which the Passenger Transport Authority for the area in question considers it appropriate to secure to meet any public transport requirements within that area, so far as relating to the provision of services of the same description as those in respect of which the Franchising Director proposes - (i) to issue the invitation to tender... or (ii) enter into a franchising agreement. The statement should also state the minimum level of quality for services and fare levels.

These service specifications are then included in the Franchising Director's service specifications which form the basis of an invitation to tender. A contract is then be drawn up between the Franchising Director, the PTE (with PTA approval) and the franchisee for the provision of services. Under Sub-section 13, the PTE then pays the Franchising Director an agreed sum for its guaranteed services.[8]

Although PTEs can alter from time to time their commitment to passenger services, their being party to a franchising agreement would effectively bind signatories to providing the requisite funding for the lifetime of the franchise. Providing this financial guarantee struck at the heart of the politics of local government finance. It was particularly acute, however, for Strathclyde. The PTEs watched the developments with considerable interest. Martin Harrison, for example, the Rail Officer at Merseyside PTE, describes the process:

> *There [were] all sorts of debates and there were papers coming out. You could see the way the debate was going - the Equivalent Asset Value...they started talking about that sort of charging and the allocation of full costs to PTEs reflecting full costs of administration which were being floated around and thrown out the window by the PTEs. So, we'd already got the inkling about what was coming as soon as Railtrack was going to be set up. There were a lot of consultation papers - well they weren't consultation papers, they were diktats. You could see the discussion papers and you could see how they would pan out.*[9]

[8] In fact, this provision was never used. In all cases, PTEs pay directly to franchise operators for services.

[9] Martin Harrison, Interview with author, 5 February 1997.

In Scotland, the new financial regime after April 1994 increased the cost of support for SPTE-sponsored services from £30 million to £112 million - one-third of ScotRail's revenue.[10] The Metropolitan Railway Grant (MRG) provided a short-term solution to the funding gap experienced by PTEs used to paying marginal costs for access to BR's network and avoided the PTEs relinquishing their funding obligations towards the railways altogether. It was, however, temporary - available for one year until a new funding formula could be devised.

Table 8.1 Increased Costs for PTEs Attributable to New Financial Regime 1993/94-1994/95

Authority	Support 1993/94 (£m)	Support 1994/95 (£m)	% increase
Greater Manchester	28	74	164.4
Merseyside	25	60	140.0
South Yorkshire	9	20	122.2
Strathclyde*	32	111	246.9
Tyne and Wear	11	17	54.5
West Midlands	18	40	122.2
West Yorkshire	20	51	155.0

Derived from Transport Report 1996 (Department of Transport), Figure 27, p63

* Estimated figures derived from PTE Group submission to Transport Select Committee. TSC(1995), pp50/51

Prior to April 1994, the PTEs contracted directly with BR to supply train services by means of money channelled to them through the Revenue Support Grant, colloquially known as the "Section 20 Bolt-on".[11] However, the new formula sought to incorporate the additional costs into the Department of the Environment's Standard Spending Assessment (SSA) for local authorities.[12] Until 1990, the PTAs were precepting bodies,[13] but the Local Government Finance Act 1988 relieved the PTEs of these powers.[14] There were two articulated reasons for the change. Firstly, it was argued that it would enhance accountability of member districts; and secondly, it would act as a further inducement for districts to secede

[10] TSC (1995), p110. Also *Financial Times*, 17 February 1995. In aggregate, the £350 million provided by the PTEs collectively represented one quarter of BR's total revenue.

[11] Transport Act 1968 and amended as Section 57 of the Transport Act 1985.

[12] The Scottish equivalent is Grant-Aided Expenditure.

[13] See David Wilson and Chris Game, *Local Government in the United Kingdom*, Macmillan, Basingstoke, 1994, Chapter 9, esp. pp141-2.

[14] Local Government Finance Act 1988, s74; s117; s144.

from the PTA (a mechanism was provided for in the Local Government Act 1985, but the existence of the precept militated against this happening).[15]

As a result of the Community Charge débâcle, the offending legislation was repealed in 1992, but the metropolitan authorities did not regain their precepting powers on the introduction of the Council Tax. After the abolition of the Metropolitan authorities in 1986, PTAs were recast as purchasers of transport services for separate unitary district authorities - constituted as joint boards.[16] South Yorkshire PTE, for example, is made up of four districts, while the Greater Manchester PTA represents some twelve districts. While the South Yorkshire boundaries are coterminous with the boundary of the PTA/PTE, the Manchester authorities straddle the boundaries confusing funding responsibilities. Local government reorganisation in Scotland in April 1996 reconstituted the Strathclyde PTA as just such a joint board populated by representatives of 12 unitary authorities.[17] Prior to this legislation, the issue of precepting did not affect Strathclyde PTA by virtue of coterminate geography with the regional council.[18]

The English PTEs/PTAs were left with what has been described as "the Marsham Street problem",[19] though strictly speaking, in the case of Strathclyde, the Scottish Office bears a certain complicity. The new funding arrangements reflected a conflict between the Department of Transport (DoT) and the Department of the Environment (DoE). While the DoT preferred a transparent allocation of railway monies to the districts to be levied by the PTE, the DoE sought to maintain a high element of local accountability for spending in the metropolitan areas. The levying process was just such a mechanism. However, under the original formula, railway support money was to come - through the districts - from a miscellaneous "other services block" of grant (covering 31 different services). The Districts, moreover, were not statutorily

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[15] Consultation over this change proved minimal. The Association of Metropolitan Authorities (AMA) received a copy of a discussion document from the Department of Transport on 22 January 1988 which was followed up with a meeting on 4 March. The document was seen by the AMA as a *fait accompli*, and was not anticipated. It was suggested that the amendment was Treasury-inspired. see HL *Debs*, 7 June 1988, Vol 497, Cols 1371-2. The Bill was amended by the Government on 24 April 1988 at Commons Report and Third Reading. Also, *HC Debs*, Written Answer, Vol 125, Col 850. Additional information from AMA - discussion with Phil Swan, 5 September 1995.

[16] For a discussion on policy effects of this change see Steve Leach, Howard Davis, Chris Game and Chris Skelcher, *After Abolition: the Operation of the Post-1986 Metropolitan Government System in England*, University of Birmingham Institute of Local Government Studies, 1991, pp110-111.

[17] Measures in the Local Government etc. (Scotland) Act 1994.

[18] It functioned as the Roads and Transportation Committee of Strathclyde Council; the area covered by the PTA, however, was not equal to Strathclyde geographical reach.

[19] TSC (1995), para 252, p113.

obligated to pass this on to PTEs: money earmarked for railway services could, instead, have been transferred to other local authority budgets.

However, the complications did not stop there. Under levying, PTA expenditure counts against Council Tax capping limits leading to an anticipated breach in most districts' budgets.[20] The Department of Transport's response to criticism from the AMA was to argue that "Central government would...aim to make the necessary adjustments to the capping regime to ensure that the new arrangements would not increase the likelihood of MDCs being capped."[21] The Department of Transport's assurances did not, however, satisfy the AMA, even less the PTAs.

One further obstacle to a settlement was heard by the Select Committee from John Jenkins, Finance Officer for the West Midlands PTA. Jenkins argued that the "bolt-on" did not provide 100 per cent funding, only 78 per cent. The remaining 22 per cent has to be found locally which would, he claimed, result in a competition for resources when the districts set their budgets. "Unless they rework a formula which delivers 100 per cent it goes to pieces."[22]

And finally, there is the unintended consequence of investment uncertainty. PTEs had invested heavily in rolling stock and infrastructure. This was now put in jeopardy for three reasons. Firstly, costs on existing projects had escalated, and new investment was expected to be costed substantially higher because work undertaken by a commercial Railtrack would no longer be charged at a marginal cost rate; secondly, there were no guarantees that infrastructure would be used for the purpose for which it was intended for the duration of its life; and thirdly, it was not clear whether the PTEs would be charged for using infrastructure in which they had invested,[23] and whether there would be compensation or rents due when assets were used by other train operators.

In Strathclyde, the PTE had provided 100 per cent capital grants for the purchase of the most recent diesel

[20] Memorandum from Association of Metropolitan Authorities in TSC (1995), pp226 - 228. See also Wilson and Game (1994), pp152-156.

[21] Further Memorandum from the Department of Transport to the TSC (dated 14 March 1995), TSC (1995), para 4, p224.

[22] TSC (1995), para 579, p163.

[23] TSC (1995), AMA Memorandum, p228.

and electric units. These had been transferred to ScotRail for insurance reasons.[24] On reorganisation, these units became the property of two of the BR-owned rolling stock leasing companies, Angel Train Contracts Ltd., and Eversholt Train Leasing Ltd. The transfer of assets was a problem facing all PTEs in the run up to April 1994. It was an inexact accounting procedure. Martin Harrison, again:

> *In effect we were being asked by the BRB - but basically our records don't actually enable us to identify...we can actually track every invoice but in some cases we didn't know what it was, even at a local level. Nobody actually had a record of that, but in fact we had because we had invoices going back to the ark. We did an exercise in going through all those - packaging them...we came up with a list of all the investment that we put in. Eventually they were able to come back and say 'we've looked at your list and some records which...' a lot of it was taken on trust. I suppose we could have inflated the investment to actually generate more income stream coming back in terms of deeds of assumption payments, but we're honest people.*[25]

Strathclyde's own negotiations with Railtrack over *Assumption Deed Payments* extended beyond the vesting of Railtrack.

With these complications in mind, it was not surprising that the Franchising Director's published PSR for ScotRail - issued on 14 September 1995 - omitted all services within the Strathclyde PTE area indicating both his failure to resolve the funding dispute, and Strathclyde PTE's resolve on the issue of service specification - threatening a "Polo mint privatisation."[26] However, the PSR was generous as it secured 95 per cent of ScotRail's non-Strathclyde services - considerably more than any other published PSR at the time. This graphically illustrated ScotRail's dependence on subsidy and the limited scope for service innovation once in the private sector. In implementation terms, the publication of a draft PSR generally heralded a six to eight week consultation exercise followed closely by two months of bidding on or around it. PSRs, therefore, were ordinarily reliable indicators of progress in the sale process.

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[24] This was a question of risk. Strathclyde PTE transferred - along with the assets - all operational risk on to ScotRail: their staff, their trains. However, SPTE maintained control over the *deployment* of the trains. Councillor Charles Gordon, Interview with author, 18 June 1997.

[25] Martin Harrison, Interview with author, 5 February 1997. In some cases, Deeds of Assumptions were agreed to repay PTEs over a 33 year period and amounted to loans worth £118m (1994/95). See BRB *Annual Report* 1995/96, p64.

[26] OPRAF is reported as having set 18 July 1995 on which to issue a further four ITTs (*Financial Times*, 5 June 1995). By late July, however, OPRAF's position was that the ScotRail PSR would not be published until "the late summer" (*The Herald*, 27 July 1995). An interim PSR for ScotRail was published on 14 September, though a further four ITTs were issued on 26 September, ScotRail was not among them.

Strathclyde PTA, through its principal officers, sought to secure guarantees from the Government over funding aware that the proposals would impinge greatly on the PTE's activities and that they were not going to be invited to make a substantive contribution to the policy debate.[27] The then Chair of the PTA, Councillor Malcolm Waugh, wrote to the Secretary of State on 5 February 1993 to get a formal written assurance that the proposals would not prejudice the PTE's extant powers to invest in and specify service provision. Acceptable assurances were given by the Minister for Public Transport, Roger Freeman, in a letter dated 2 March.[28]

The Chair of the Committee had considerable decision-making powers delegated to him. He was authorised - through the Chair's sub-committee - "to take appropriate action in relation to Section 20 Agreement[s]...[and] in relation to the proposed franchising of ScotRail passenger services and agreements relating thereto."[29] The Chair was also the nominated negotiator on privatisation issues on behalf of the Committee.[30] Such was the pace of implementation at the time that the full committee expected to be in a position to consider the franchise agreement in November 1994 with substantive work having been done by means of an officer group made up of representatives of the Chief Executive's Office, the PTE, and Departments of Finance and Legal Services.[31] As we have seen, there were no franchises on the market in November 1994.

Meanwhile, OPRAF's senior officials realised that ScotRail was different and required a radical approach if progress was to be made after a fourteen month interregnum. Although the franchising process would match that successfully deployed south of the border, the work was to be done in Edinburgh and Glasgow. In October 1995 Patrick Hetherington, a Scottish Office civil servant with considerable experience of privatisation, Scottish local government and transport provision, was seconded to OPRAF and took up residence with his then franchise executive, James Watson, in the office of the project's financial advisers

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[27] The PTE was engaged in discussions with the DoT but these were concerned with clarification of issues relating to Section 20 payments after the publication of the White Paper, *New Opportunities for the Railways*, Cm 2012. Roads and Transportation Committee, *Minutes*, 6 August 1992, 12(2).

[28] Attached to report by the Director General SPTE, *Railways Bill and Related Developments*, 12 March 1993. Noted by the Roads and Transportation Committee, *Minutes* 18 March 1993, 45(5)(I).

[29] Roads and Transportation Committee, *Minutes*, 23 June 1994 13(2) (a) and (b). These were extensions to earlier authorisations.

[30] For example, face-to-face discussions with the Chairman of Railtrack, Robert Horton over inflated track access charges resulting in a 10 per cent reduction in access charges for PTE-supported services.

[31] Roads and Transportation Committee, *Minutes*, 11th August 1994 15(2)(ii) and (iii).

Quale Munro.[32] The ScotRail team were bound to the central organisation by their membership of a team headed by Gary Backler whose responsibility ScotRail had been up to that time, and Neil McDonald, the PTE expert seconded from the Department of Transport whose job it was to work towards a common policy for all PTE franchises and ensure congruence.[33] That said, Patrick Hetherington reported directly to Chris Stokes.

8.3 Reorganisation

Local government reorganisation was a unique affliction for Strathclyde PTA/E, and exacerbated by the Scottish Office's apparent sloth regarding confirming the "designated area" over which the PTE would have funding responsibilities. It took a Cabinet reshuffle to finalise the boundaries, though the result was messy.[34] The Designated Area was, in the end, defined so as to include all of the services supported prior to reorganisation. Administratively, however, things were set to get more complex: seven member authorities straddled the boundaries. In addition, for the final year of Strathclyde Region commencing April 1995, there was dual functioning with a shadow and inexperienced 34-member PTA. Such an arrangement was never likely to be conducive to detailed decision-making involving the transfer of considerable financial resources. Much of the apparent pedantry of the sales process can partly be explained as over-caution on the part of senior officers keen to ensure that members of the PTA were not being asked to commit their member authorities to obligations for which the consequences were not wholly understood.

8.31 Section 20 and the MRG

The truth about implementing complex new structures for the provision of ongoing public services means that implementers have to be expert jugglers if consumers are to be unaffected by transitionary measures. Prior to franchising, the BRB was placed in the onerous position of being legally responsible for providing

[32] Patrick Hetherington was an economist with experience of the privatisation of the Scottish Bus Group. He was also well known to Strathclyde PTE officers. As Iain Wylie noted, "[H]e knew the political system. It was an issue about power and he understood that, and he knew how to access the ministerial machine." Interview with author, 18 June 1997. Both Patrick Hetherington and James Watson worked predominantly from OPRAF's London HQ in London until Watson's successor, George Houston, established the Edinburgh office in January 1996.

[33] The other link was, naturally, email.

[34] As a senior executive at the PTE noted, "...he [Ian Lang] certainly whittled through the legislation defining the new PTA, for which we are pretty grateful." Interview with author, 4 and 5 June 1996. The Scottish Office's other contribution to the privatisation question was to argue a special case for ScotRail to be privatised as a vertically integrated railway, much to the annoyance of officials in the Treasury and DoT. See the *Financial Times*, 29 December 1993.

the services without necessarily having the funds to provide them. The MRG secured services for one year, but, as the financial year progressed, all of the PTEs had to commit themselves to further support with no guarantees that they could provide the money. In Strathclyde, the Chair's sub-committee had the task of evaluating the funding dilemma. In discussions with the BRB on 21 March 1995 - approaching the end of the first year of MRG - it was recognised that the PTE could not enter into long-term funding commitments and that funding would be provided on a month-by-month basis until the outstanding issues had been resolved.[35]

For most PTEs, the outstanding issue was securing funding guarantees beyond the MRG.[36] Despite this extension, time was in acute short supply. Under Section 20, PTEs were required to give the BRB ten months notice of withdrawal of funds. All PTEs, therefore, had to secure funding from their PTAs by 31 May 1995 if they were to contract with BR for services beyond the year 31 March 1996. It was an onerous responsibility. However, the PTEs were armed with a comfort letter from the Minister for Railways and Roads, John Watts, that the new arrangements would not prejudice the PTEs' funding commitments. It was adequate for six of the PTAs to agree a contract with BR. Greater Manchester, much to the surprise and chagrin of the other six, withdrew and transferred their service commitments to the Franchising Director despite the deadline being extended by one month.[37]

8.32 Attrition

Strathclyde PTA was by this time chaired by Councillor Charles Gordon, a shrewd political actor and former NUR official.[38] Although Strathclyde kept control over its rail services along with the remaining five English PTEs, the PTA Chair sought to extract maximum concessions out of the Government in return for his signature on the ScotRail franchise. Local government reorganisation gave him and the Executive a strategic cushion somewhat beyond OPRAF's control and influence.

The Authority then, through the courts, set about testing the assurances given by John Watts. The first shot represented a challenge to the exclusivity of track access negotions between ScotRail and Railtrack which culminated in an operating contract. The PTE went to the Edinburgh Court of Session in June 1995 to

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[35] SPTA Chair's Sub-committee, *minutes*, 23 March 1995.

[36] The MRG was extended for a second financial year 1995/6 pending a durable (agreed) settlement with recipients.

[37] See, *Local Government Chronicle*, 2 June 1995.

[38] For a profile, see *Scotland on Sunday*, 25 August 1996.

argue that the agreement was insufficient to guarantee "the service pattern which it [the PTE] had stipulated for those railway passenger services which it supported."[39] The PTE was unsuccessful in the challenge, but the key outcome was the realisation that it was for the Rail Regulator to agree the terms of track access agreements, and that the appropriate means of remedy was through him and not the courts.

The PTE, however, was invited by the Regulator to comment when it came for him to consider ScotRail's track access agreement. However, on 3 August 1995, the Regulator assembled all interested parties - amounting to some 45 individuals in Edinburgh to discuss access agreements affecting train movements north of the border.[40] Roger Ford's rather flippant account in *Modern Railways* - seemingly accurate - is a testimony to both the complexity of the process and the semanticism of translating behaviour into a series of unambiguous contracts. It confirmed that the access agreements, in many cases, were having to be approved in an incomplete form - short of Schedules 4 (track possessions by Railtrack) and 8 (performance regimes). Moreover, we witness the conflict[41] between operators, the PTE and OPRAF seeking "firm contractual rights", and Railtrack, and to a lesser extent the Regulator, wishing to maintain some flexibility giving regard to "subvening impossibility". Councillor Gordon, unimpressed by such semantics, told the meeting that "[w]hat we are looking for, and what we have always enjoyed, is the ability to control the timing of every train down to the last minute and that is what we want."[42] This meeting, however, represented a major coup for the PTE/A in its attempt to "buy" into decision-making. In the first instance, the Regulator recognised that the track access agreement should not "disable" Section 20 agreements; this was duly reported back to the PTA through the Chief Executive's report of 17 August 1995.

Strathclyde also examined the potential for a challenge to the inadvertent incorporation of PTE-purchased rolling stock (worth some £67m) into the train leasing companies as a result of the legal "ownership" arrangement between ScotRail and the PTE which did not respect the source of the original funds. With an apparent shortage of rolling stock in Scotland and the flexibility of the stock purchased by SPTE for use on its supported services, the PTE was concerned that the stock could be transferred without its consent

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[39] Roads and Transportation Committee, *Railways Act: Progress. Report by Chief Executive*, 17 August 1995.

[40] A 50-page transcript of this meeting was leaked to *The Herald*, and later translated by Roger Ford in *Modern Railways*, October 1995, Vol 52 (565), p597.

[41] The Regulator was to assume a mediating role in the continued dispute over the franchising agreement. He visited Glasgow in January 1996 calling for improved relations between the parties concerned. See *The Herald*, 24 January 1996.

[42] *Modern Railways*, October 1995, Vol 52 (565), p598.

to other parts of the network, not just in Scotland.[43] The Authority was seeking a legally-binding commitment from the Department of Transport that the stock could not be used outside its area without the sanction of the PTE.[44]

Next on Strathclyde's list for testing was ministerial assurances over the funding of capital projects. In February 1996 it emerged that there were concerns within the Authority about the legality of such transfer payments.[45] In a trenchant statement to *The Herald*, Councillor Gordon said: "*...our QC has found the legislation [Railways Act 1993] is incomplete. PTAs have no legal powers to make grants to Railtrack...If the Railtrack flotation price is predicated on future investment and that is not available, it will have an effect on the sale. In the coming years, PTAs could account for £1000m in grants to Railtrack, and that sum must be taken into account on Railtrack's sale price.*"[46] In this new offensive, the PTE/A was once again isolated - this view was not shared by any of the English authorities, but it was suitably timed to focus minds at the Department of Transport which was some ten weeks away from floating Railtrack on the Stock Market.

Whatever the limitations of the case, the threat of the "resort to legalism" delivered in a petition to the to the Edinburgh Court of Session on 16 May (four days before the Railtrack flotation) precipitated fresh guarantees being granted to the Authority after hastily arranged meetings the next day. When it came to the petition, however, the real issue surrounded the unsatisfactory arrangements for the disposal of Railtrack's obligations to the PTEs regarding property in light of the guarantees stipulated in Roger Freeman's earlier letter to Councillor Waugh. The PTEs had received notification from the Department of Transport on 25 March that, in order to expedite the sale of Railtrack, payments of Deed of Assumption would be channelled through an asset-free company, DoA Ltd. This then provided the basis of the threatened challenge backed by an assurance from their Counsel, Neil Brailsford. The Authority secured a Treasury guarantee that payments would be met whilst Railtrack pledged, under seal, to share any development gains with the Authority for properties in which the PTE had invested, and "to develop fresh, constructive and mutually beneficial working relationships with Strathclyde PTE."[47]

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[43] See *Modern Railways*, February 1996, Vol 53(569), p70.

[44] *The Financial Times*, 9 January 1996.

[45] The PTE sought the opinion of Counsel, Edinburgh QC Philip Brodie, before petitioning the Court of Session.

[46] *The Herald* and *The Guardian*, 29 February 1996; *The Herald*, 26 April 1996.

[47] Letter quoted in *The Herald*, 18 May 1996. Also, *Modern Railways*, July 1996, Vol 53 (574), p423.

8.33 Settlement of the MRG

The final veto open to the PTEs was over the terms of the MRG. Without a settlement over the MRG, OPRAF could not complete the franchising programme. PTEs were to be signatories to franchise agreements covering services provided by ScotRail, North West Regional Railways, Regional Railways North East and Central Trains. There were by this stage no shortage of potential buyers. A senior official at the Department of Transport admitted that the SSA arrangement did not work and that the Department had to concede a permanent MRG. OPRAF, meanwhile, had been reminding the Department about the implications of an unsatisfactory funding mechanism. Undoubtedly, the PTEs were fortunate. Chris Stokes was later to reason that,

> *[o]ne thing that made it palatable to the Treasury has actually been the success of our programme. The other reason is that the PTE TOCs won't show the same dramatic subsidy reduction as [Network SouthEast] TOCs of course the income is much less and much of the subsidy reduction is driven by growth in income and indeed in the majority of cases the PTEs are hanging on to the revenue risk.*[48]

Martin Harrison, Rail Officer at Merseyside PTE, recalls the loss of the MRG and its incorporation into the SSA:

> *It was a bit of a surprise that it disappeared. We really wondered what was the point of actually removing it. Why would they want to upset us at actually a key period in the franchising process. They dumped MRG and have now come back with SRG*[49] *which is really 100 per cent funding. My personal feeling was - I kept touching myself, why are they doing this? - well they must be absolutely desperate and scared stiff that in fact we are not going to cooperate with their efforts as the Railways Act 1993 says we have to do. It must be a bribe, of course it must. I can't think of any other reason. 100 per cent? Why 100 per cent? Why not 50 per cent, 30 per cent? It's amazing. In terms of bringing back MRG, what did MRG cover? It covered the increase in costs, but this is the gap between total costs and revenue, takings from the stations. Somebody must have made a decision. We had a budget shortfall of £4.9 million which we went into the 1996/97 financial year with built into the budget but with a letter of comfort from the Department of Transport that they would somehow sort it out. That letter was shared with District Audit, but*

[48] Chris Stokes, Interview with author, 13 December 1996.

[49] Special Railway Grant.

they approved the budget and took the DoT offer as having some validity.[50]

The 100 per cent funding was, it seems, directly attributable to negotiations over the ScotRail franchise. Strathclyde took the view that privatisation represented an opportunity to make good "Section-20" losses incurred over successive years as it was not index-linked. The PTE had seen some £33 million added to the local tax burden as a result. Funding to 100 per cent, therefore, was their guarantee against further burdening local taxpayers. However, all the PTEs wanted was hypothecation. As Charles Gordon argued: *"I'm a statutory transport authority, I don't want to go back cap-in-hand to local authorities to discharge my statutory function...give me my money direct."*[51] OPRAF's counter to this was equally compelling. According to Patrick Hetherington, *"...once the franchising agreement has been signed it is a legally binding contract and the authorities have no option but to fund [the PTE]. The Scottish local government legislation requires the constituent authorities to provide the necessary funding for Strathclyde PTA for it to meet its obligations".*[52] Moreover, where member authorities cannot agree the proportions, the Secretary of State for Scotland has powers to impose a settlement, presumably in the favour of the PTA. But, as in any settlement, there are no guarantees.

In contrast to track access agreements, the PTEs were granted equal status at selection. The franchise for Merseyrail Electrics was the first sale with a PTE signature. Martin Harrison found himself a *de facto* OPRAF team member bestowed with what he saw as considerable autonomy having assured the PTA that he could deliver what they wanted. For Harrison and OPRAF this was ideal because letting franchises doesn't lend itself well to multiple-actor participation. The franchise agreement itself has a density such that only participants really appreciate its contents, and the pace with which negotiations over detail were handled militated against incremental ratification by PTA members.[53]

OPRAF conceded one further qualification to the PTEs - retention of revenue risk. In his guidance to the Franchising Director, the Secretary of State for Transport had made clear that the transfer of all risk to the

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[50] Martin Harrison, Interview with author, 5 February 1997.

[51] Charles Gordon, Interview with author, 18 June 1997.

[52] It should be noted too that this meant that the PTE would not sign the franchise agreement *unless* they were satisfied about funding. Patrick Hetherington, Interview with author, 19 June 1997.

[53] This situation enabled the Merseyrail Electrics franchise to be let in a mere three months from ITT. Harrison was also party to the North West Regional Railways franchise along with Greater Manchester PTE whose input involved both the PTE and the PTA until OPRAF vetoed it.

private sector was of value to the Exchequer "and you should take full account of it in your assessment."[54] The issue of risk transfer split the PTEs. However, both Merseyside and Strathclyde sought to retain revenue risk - the operator would surrender farebox revenue to the PTE in exchange for a guaranteed subsidy. But with OPRAF's incentive regime geared towards operators increasing their fare revenue, where revenue risk was retained, an alternative incentive regime had to be formulated.[55]

The timetable for the sale of ScotRail was getting tight. There were fears that it would survive the effective dissolution of the BRB with the closure of its Euston HQ on 31 March 1997.[56] The PTA remained hawkish threatening to veto bids from Stagecoach, FirstBus and National Express by advocating a referral to the MMC, as all had substantial bus interests in Scotland - particularly FirstBus which had recently acquired the PTE's former Glasgow-based bus operation, SB Holdings. With a transfer deadline of 31 March, this threat was a real one. OPRAF advised both Stagecoach and National Express to seek guidance from the Office of Fair Trading before proceeding.[57] However, John Taylor, Corporate and Consumer Affairs Minister at the Department of Trade and Industry intervened and announced the DTI's intention to refer Stagecoach to the MMC should it win the competition.[58] Meanwhile, the PTA convened a special franchising meeting on 30 August to detail its passenger service requirements after receiving a s34(5) notice from the Franchising Director earlier in the month with the objective of issuing an ITT on 9 September. The Strathclyde PSR - or Section 34 statement - was not actually approved by the PTA until 4 October which effectively prevented OPRAF issuing an ITT under Section 34 of the Railways Act 1993. Instead, OPRAF issued an Indicative Bid Invitation (IBI) on 18 September which gave pre-qualifiers a

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[54] *Objectives, Instructions and Guidance for the Franchising Director*, John MacGregor, 22 March 1994, para 34(ii).

[55] The PTE rail managers' forum established working groups to discuss revenue risk. Martin Harrison believes that retention facilitated the PTE in getting a good price for the services. Immediately prior to franchising, the underground tunnels around Liverpool had experienced flooding leading to poor performance and a drop in revenue. Bidders with revenue risk, it was thought, were liable to place high bids that would be borne by the PTE if successful. Under a system where revenue risk is retained, improved patronage generates a net cash benefit to the PTE. Revenue risk was retained by Merseytravel, Strathclyde PTE, South Yorkshire PTE and Tyne and Wear PTE. Both the Greater Manchester and West Yorkshire PTEs opted to transfer risk. OPRAF retained, however, risk on only one franchise, Merseyrail Electrics.

[56] The BRB did not dissolve on 31 March 1997. It still had ownership of Railfreight Distribution and a number of other concerns such as the British Transport Police and the BRB Records Centre.

[57] Stagecoach regularly made pre-emptory approaches to the OFT where competition and mergers problems were envisaged. It is often possible, suggests Derek Scott, to agree divestment undertakings prior to the completion of any sale or auction. Interview with author, 19 June 1997.

[58] *The Herald*, 29 January 1997. DTI *Press Release*, p/97/74, 27 January 1997.

week to present their bids.[59] This was the nadir in relations between OPRAF and the PTE.

Strathclyde PTA consciously opted out of further negotiations with OPRAF over the terms of the franchise agreement between August and October 1996. Again, Counsel's opinion was sought.[60] By November, however, there was a new imperative informing Charles Gordon's and the PTE's participation. This was the realisation that only franchising could deliver the new rolling stock that the Authority sought for its services, and that failure to complete the franchise process would potentially leave ScotRail as a rump public-sector operator subject to normal public-sector financial constraints. Essentially, the interests of the PTA were now best served by a private-sector ScotRail.

A re-opening of negotiations between OPRAF and the PTE also co-incided with the appointment of a new Franchising Director, John O'Brien, albeit an internal appointment. At the very least Charles Gordon perceived him to be highly personable, a skilled negotiator, *and* a diplomat. John O'Brien and Charles Gordon met privately on 3 December 1996. It was here that the final concessions were made to the PTE clearing the way for a swift completion of the bidding. Final bids were received on 21 January 1997 and National Express was announced as preferred bidder on 10 February. The agreement of the PTA, however, remained to be secured. A meeting scheduled for 7 February was put back as the PTE waited for an assessment of the deal by KPMG, the Authority's financial advisers. The report recommended acceptance of the National Express offer and satisfied the PTE sufficiently for it to be laid before the members of the PTA at the "finalisation" meeting of 21 February with the formal award four days later. The franchising programme was now complete.

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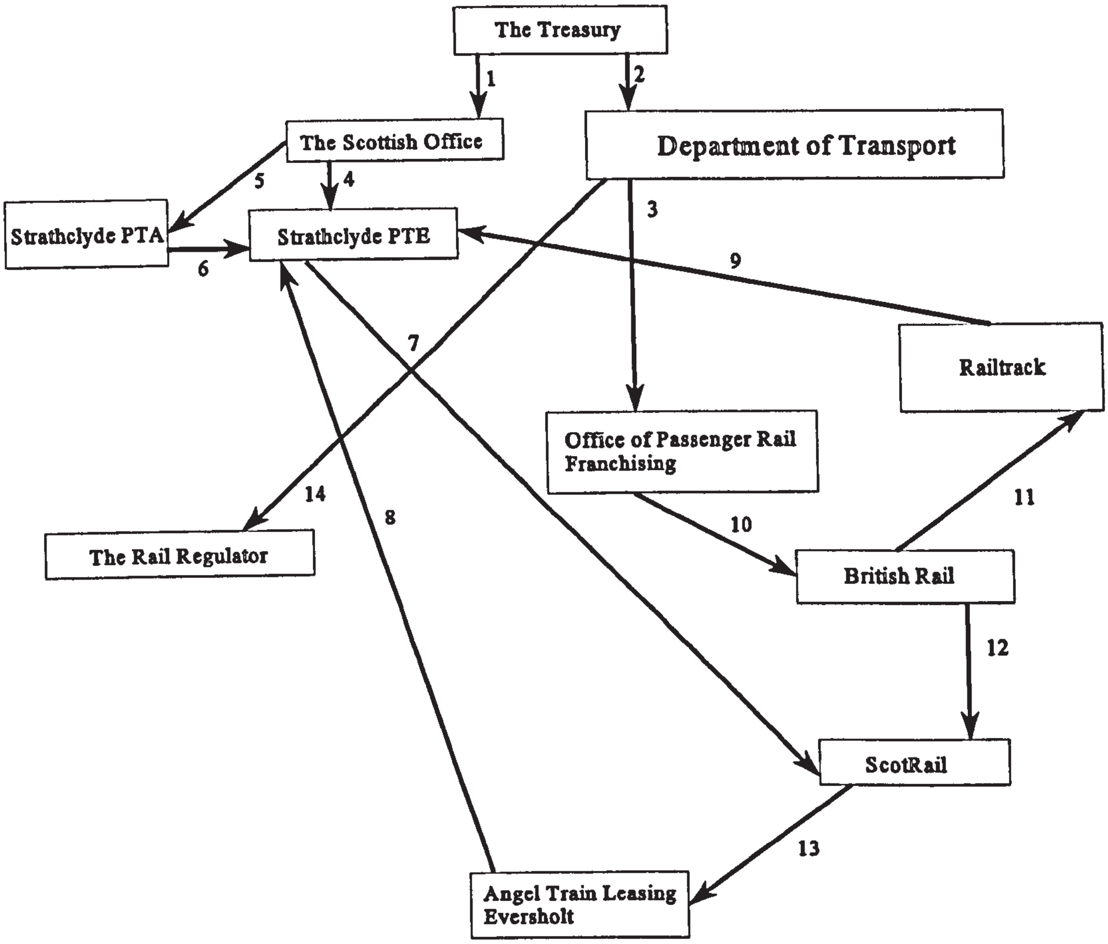
[59] Strathclyde sought to prevent this by seeking the intervention of the Secretary of State. Suffice to say he declined the invitation.

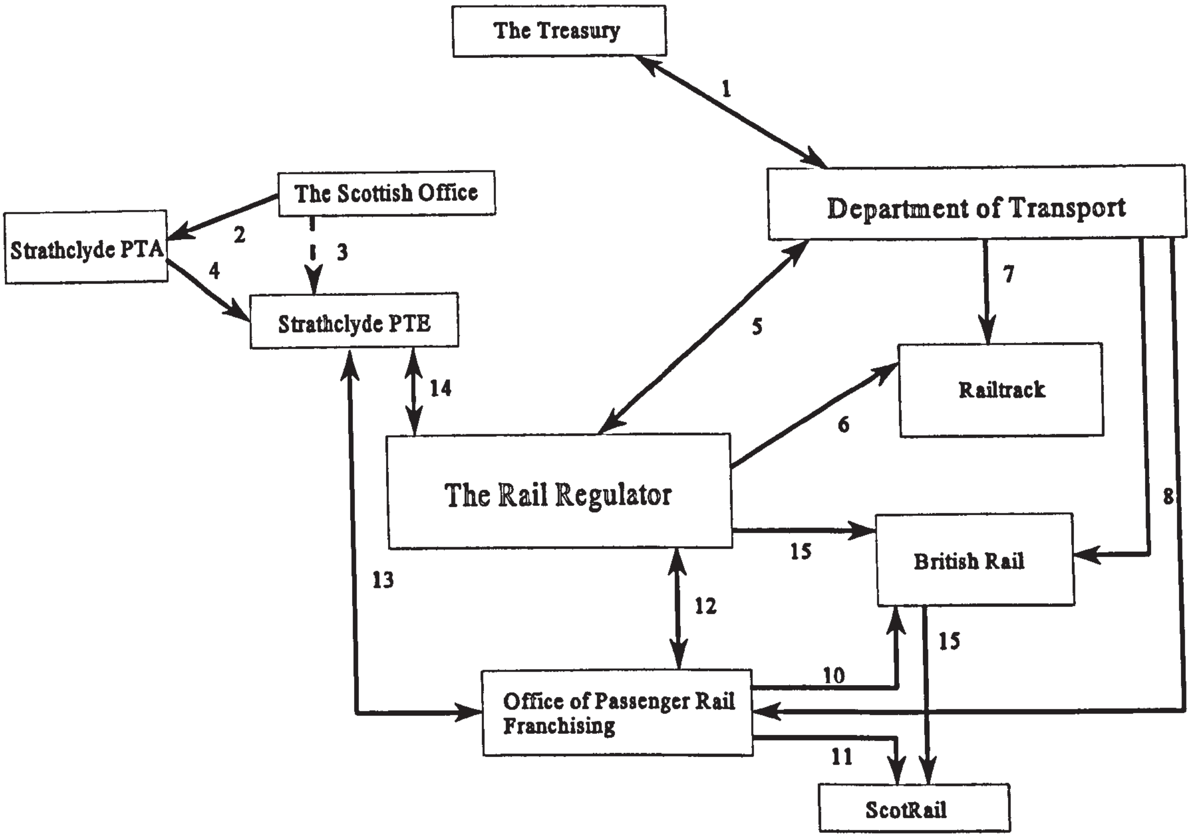
[60] See minutes, Strathclyde Passenger Transport Authority, 4 October 1996 (Item 9).

Figure 8.1: ScotRail Privatisation Dependency Relationship - Finance



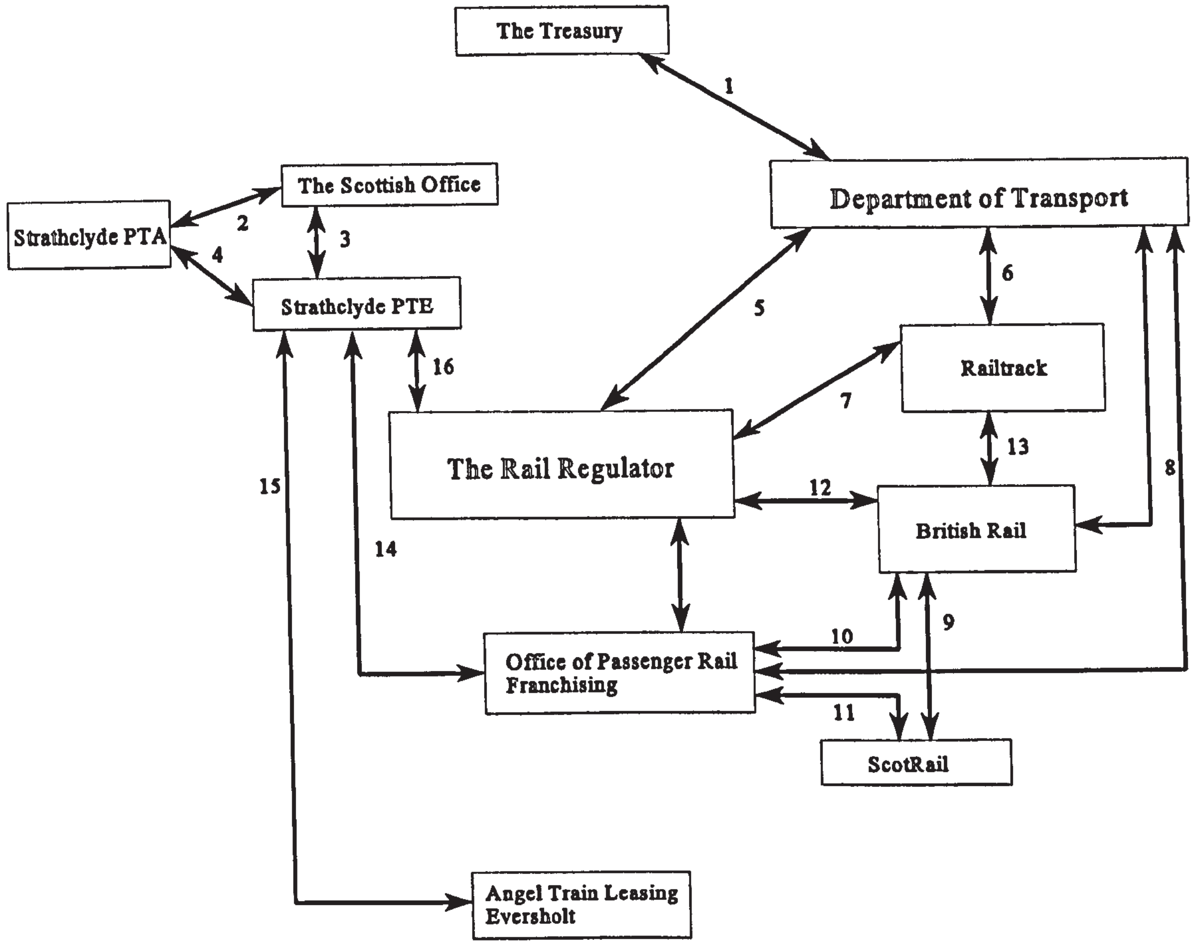
The financial money-go-round that delivered and now sustains rail operation originates with the Treasury (1) and (2). The resources were mediated through the departments of state on to the executant agencies. OPRAF's dependence on the DoT was absolute, while BR, notwithstanding (10) had farebox, property and local authority grants, too. Perhaps the most important regarding the privatisation of ScotRail was (7) which represented one-third of ScotRail's income and guaranteed SPTE its place in the network. Relationships (8) and (9) are peripheral, though the process by which the relationship was negotiated provided a useful veto for SPTE. The Rail Regulator's financial dependence on the Department was negligible (see below).

Figure 8.2: ScotRail Privatisation Dependency Relationship - Command



The Command relationships emanate from the centre and the dominance of the Rail Regulator as the key nodal agency. Relationships (5) and (12) are reciprocal for the purposes of the Act, though the power relations are not necessarily equal. The Regulator dominates Railtrack and BR (6) and (15) in the approval of track access agreements and over licensing. As far as BR is concerned, (10) reflects OPRAF's control over the sales process, while (1) represents the subsidiary status of ScotRail. Relationships (2), (3) and (4) are largely legal/administrative. Relationship (13) reflects the PTE's eventual partnership with OPRAF over the franchise contract. Relationship (14), however, although not an equal relationship, suggests the PTE's ability to get the Regulator to mediate over contract detail/dispute.

Figure 8.3: ScotRail Privatisation Dependency Relationship - Informational



The informational dependencies are by far the most complex and least tangible. The apparent reciprocal relationships above belie the power that underpins the network as a whole. For example, the relationship between the Regulator and Railtrack (7) represents the Regulators ability to demand information from Railtrack, and Railtrack's dependence on the Regulator's articulation of demands. This relationship is largely managed through Railtrack's annual network statement (a condition of its licence), and the pricing mechanism. Once again, therefore, the Regulator is the important nodal agency with the Treasury a somewhat peripheral agency. This does not undermine, however, the reality of a highly interdependent informational network. Again, (2), (3) and (4) are largely legal/administrative.

Summary and Conclusion

Chapters 5 to 8 have detailed the process which delivered the successful implementation of the political idea of privatisation of the railway industry. In doing so, it was possible to trace through the operationalisation of the core idea (privatisation and liberalisation of a loss-making highly integrated public service) both strategies for securing the policy and its implementation. As more actors enter the fray, the task of management becomes so much more difficult. Opposition forces in their attempts to defeat the policy at implementation test the extent of implementers' anticipation of implementation difficulties and the contingencies they award themselves. In Scotland, the implementers failed to anticipate the difficulties they would encounter over ScotRail. What is clear from this hugely complex saga is the need for some way of ordering our understanding of events. Chapter 9 has this as its central objective. However, before pursuing this interest, it is worth just considering how much the implementation programme cost relative to receipts. What is clear is that the Government did release considerable financial resources for the task.

8.4 How Much did it Cost?

The issue of the cost to the taxpayer of selling BR's assets was a cudgel brandished by opponents of the sale. It was always going to be an expensive process - but how much is too much? The Labour Party kept abreast of the costs by asking frequent questions of ministers through Commons Written Answers. They were also well into speculation which was functional for their campaigning. In February 1995, for example, The Labour Party issued an NEC Action Advice Note inciting Labour groups to campaign locally against the privatisation. In it, the then Shadow Transport Secretary, Michael Meacher, claimed £700m had been spent - £303m on redundancy payments; £282m on the break-up of BR; £48m on administration costs for the Department and £52m spent by OPRAF.[61]

Sir George Young at Question Time in the Commons on 10 February costed the programme at £630m over the six years since 1990-91: £91.7m incurred by the Department of Transport; £417.2m by BR and Railtrack; and £121m by OPRAF and the Rail Regulator. The costs were defended as representing a mere 2 to 3 per cent of the total railway industry turnover over the six year period, and a fraction of the total proceeds amounting to more than £5bn.[62]

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[61] *The Great Train Robbery: Tory Rail Privatisation Plans*, The Labour Party, Circular No. 5/95, February 1995.

[62] *HC Debs*, 10 February 1997, Vol 290, Col 10.

OPRAF was a voracious spender, especially in terms of purchasing expertise.

Table 8.2: OPRAF Expenditure 1993/94 - 1995-96

Expenditure (£000)	1993/94 outturn	1994/95 outturn	1995/96* outturn
Running Costs	746	3,411	6,154
Capital Expenditure	147	296	1,496**
Advisers	1,562	14,395	31,205
Total	2,455	18,102	38,855

* Extracted from OPRAF Annual Report 1995-96. Amounts had yet to be audited by the NAO.
** Costs associated with relocating.

The Rail Regulator was a modest spender in comparison.

Table 8.3: Office of the Rail Regulator Expenditure 1993/94 - 1995/96

Expenditure (£m)	1993-94	1994-95	1995-96
Running Costs	1	9	10

The sales process did take its toll on the BR organisation. In the year to 31 March 1995, BR spent £85m towards meeting fundamental restructuring costs for privatisation. This rose to £101.3m in the year to March 1996, each net of grants.[63] However, even at this stage, the Board had to secure additional funds to secure against current and future liabilities to enable the accountants to audit BR as a going concern![64]

[63] BRB *Annual Report* 1995/96, p59.

[64] BRB *Annual Report* 1995/96, p36.

Chapter 9
Delivering Implementation:
Managing a Differentiated Implementation Network

Introduction

The privatisation of the railway industry has its origins in the heady days of utility privatisations that seemed to promise the Conservative Government, *inter alia*, the ultimate means of securing popular capitalism, protection for the PSBR, mortally wounding the public-sector unions, and dismantling a number of huge monopoly utilities which embodied the failed consensus of the post-war years. Privatisation (public flotations) proved, notwithstanding a few hiccups, popular. It delivered a (albeit fleeting) share-owning population on the back of guaranteed profits. A change of ownership, however, was not to adversely affect the consumer who was protected by independent regulators deriving their power from the privatisation statute.

The privatisation of the railway industry was not seriously considered until after the successful transfer of the electricity industry to the private sector in 1989. That is not to suggest that privatisation was not contemplated, merely that there were other priorities. Perhaps more crucially, what one might term, the intellectual technology, simply did not exist prior to 1989. Effectively, no one knew *how* to implement such an idea. British Rail differed from other utility public corporations in that it was hugely reliant on the Exchequer for subsidies to run the majority of its passenger businesses. With considerable efficiencies being delivered by the BRB under its business-sector reform programme OforQ, there were no perceived benefits to any sale. For some, however, privatisation was a "solution" to the railway problem in a Garbage Can sense. The application of the privatisation "solution" to the Electricity Supply Industry provided the economic liberals in Government with a template, however imperfect. It also left the Treasury with an opportunity arising out of the confirmed belief that efficiencies in the private sector were greater than anything that could be achieved in the public sector. By contracting out passenger services, even greater efficiencies could be achieved with a net benefit to both the Exchequer and the taxpayer.

The immediate task for this chapter will be to simplify the framework for analysis discussed in Chapters 3 and 4 above. Then, applying the model, the analysis will attempt to pinpoint the line of causality through the networks that collectively deliver the policy from the first policy deliberations to the effective winding up of the residual operating company that BR eventually became. The analysis will show that the interdependencies were so numerous that project management in a linear bureaucratic sense was virtually impossible. Essential to our understanding of the process is an appreciation of the necessary sequentiality both within and without the decision arena; both anticipated and unanticipated.

In addition, the territory was unchartered such that the implementation arena presented statutory authorities with numerous policy options that would affect outcomes to a very large extent. Secondary legislation is a feature of this process which explains both the slippage in delivering outputs, and also its eventual success, as perverse as such an assertion may seem. First it is necessary to consider the framework encapsulated within the concepts of *programme, networks, phases, veto points and environment.*

9.1 Framework for Analysis

9.11 Programme

Invoking Rose, the concept of the programme will be used to delimit our interest such that we can focus on the desired outputs, the resources allocated to achieving them, and the relations between actors charged with the execution of the policy. Moreover, the programme has a dynamic element. There exists a definable sequentiality which must be satisfied for progress to be made. Actors - statutory, incorporated and unincorporated - form groups around particular interests over which they have either expertise, statutory responsibility, or in the latter stages, some objection. They may work in parallel with other groups leading to an aggregated output, or act on the outputs of such an aggregation such that they become part of the execution of the programme as it moves through phases. The effective management of this sequentiality is a key variable.

9.12 Networks

The groups which form around particular interests constitute networks which are in turn part of a larger programme network. Of primary importance is the decision *arena* which is subject to some form of management - either sanction of some kind, an incentive, etc. The arena is defined exclusively by statutory actors, and has a "constitution" which limits aberrant behaviour. It enshrines the essential frame of reference for actors. Networks, however, form around particular interests sometimes wholly within the arena; others are wholly outside, ie non-statutory actors. Programme managers seek to close off and control activity within the decision arena, and limit access to implementation networks by imposing conditions of access. Successful closure enhances the chances of realising the desired output because it limits access of veto-bearing agencies. That said, it would be wrong to argue that network actors have a common commitment to programmes; they may be working to quite different overall (micro) objectives. Network actors do, by virtue of their membership, have dependency relationships - resources, information, authority (command), etc. The key limiting factor, however, is the tractability of any problem and/or task assuming, that is, members are qualified/competent and have the necessary resources.

9.13 Phases

Phases are to some extent arbitrary and are used here to order the analysis. There are very few absolute transitions from one phase to another because of unavoidable overlap. One might suggest, however, that the successful passage of a Bill through Parliament (or at least completion of its Committee Stage) represents such a transition. Identifying other phases is more problematic. Phases do, however, represent critical clearance points for programme managers and function as markers for meeting programme targets. They are also "moments" for reflection, for adjusting programme trajectories, and for preparing management strategies for the subsequent phases.

9.14 Veto Points

Good programme management involves outflanking veto-bearing actors by, in the first instance, legislating away anticipated vetoes. Where this cannot be done, a formalisation of use of the veto can mitigate its effects. Where vetoes are internally generated within the framework of largely formal standard operating procedures, such as within the civil service or a bureaucracy, the Star Chamber mechanism can neuter a veto. The externally-generated veto may be more problematic.

9.15 Environment

The Environment is a macro concept encapsulating the external factors - exogenous to the programme - that affect in some capacity the behaviour of actors functioning within the arena. Where public policy is concerned, it is at its most acute in the media's interpretation of the programme and its effects. For more chronic examples one could isolate socio-economic conditions, and an obsolescence of the original intention where programmes are of extended duration. It is these environmental factors that unincorporated actors attempt to alter to realise concessions. Abandonment at this level is rarely achievable, however.

9.2 Phase One: Policy

9.21 Entrepreneurs

The significant factor of the policy phase is the fact that British Rail was not privatised because it was perceived as being a conceptually-intractable problem offering the policy maker very limited utility from such an investment of resources. With the successful privatisation of the ESI, its intractability was lessened and the practicabilities of implementing such a measure assumed an importance in the policy process.

The policy process was managed in a series of policy networks largely working independently of one another. We have traced the origins of the policy from its first public outing in 1984[1] to its adoption by the Conservative Government in 1992. The conundrum of how to privatise British Rail occupied the minds of a few entrepreneurs - particularly Kenneth Irvine writing under the auspices of the ASI, and the CPS's Andrew Gritten, both of whom remained features of the railway geography post-privatisation. The ideas touted by these individuals informed members of the substantive policy networks which were constructed within the executive and the Treasury.

Both of these small networks had different motivations: the Ministerial network - serviced by Department of Transport officials - considered the feasibility of privatisation in light of experience of the privatisation of the ESI, but more importantly, to keep the privatisation momentum going. In many respects it was easier to not privatise BR bearing in mind the technical, not to say logistical, difficulties associated with doing so. The Treasury's objectives were, by contrast, rather crude. The railway industry continued to contribute to the PSBR (largely due to Channel Tunnel investment) which could be improved dramatically by privatising BR. Furthermore, Treasury officials believed the scope for operating efficiency to be greater if passenger train operation was transferred to the private sector thus reducing the subsidy call on the Exchequer. BR was performing reasonably well, but the BR organisation itself was seen as an inertial force impeding the realisation of true economies. Again, informed by the experience of the ESI, a Treasury policy network examined the potential for privatisation in this context.

Perhaps most significantly, however, was the change of Prime Minister. John Major sought to maintain the Conservative Government's economic radicalism which rendered his Policy Unit, headed by Sarah Hogg,[2] open to persuasion. The groundwork done by Francis Maude *et al.* and the Treasury was sufficient to earn a place in the election manifesto. One should also recognise BR's own Privatisation Unit working under the auspices of *OforQ* with a remit to further expand privatisation objectives whilst maintaining the integrity of the rail network for both efficiency and safety reasons.[3] The BR organisation, therefore, had aims that were to prove antithetical to those of both the Government and the Treasury.

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[1] Starkie (1984), pp16-19.

[2] Jonathan Hill, too, is a key individual here. He was close to Francis Maude, by this time himself at the Treasury.

[3] Note also that the Department of Transport effectively sponsored the OforQ exercise.

9.22 Working on Form

As already noted, privatisation was not the issue that divided the actors. It was the form that was contested. The Treasury made the final decision regarding the creation of a track authority and separate train operating units having overpowered, and in some cases overruled, objectors within BR seeking to maintain the link between infrastructure and operation. The logic of efficiency appealed more to the Treasury than did the logic of operation where competition would be infeasible and therefore efficiencies limited. In turn this appealed to the new Secretary of State, John MacGregor, whose commitment to a radical privatisation backed by the Treasury effectively squashed the BR/Department of Transport *policy* veto.

Our analysis needs to reflect for a moment on the railway organisation at this point. The forces of opposition within BR to a major disaggregation were substantial. The integrity of the network, represented by the fundamental link between infrastructure and operation, was at the heart of the railway organisation and had recently been endorsed by a new Chairman who came to the railways from the oil industry. Equally, the sectorisation of the industry was at the heart of the management strategy for the development of the industry and had been shown to work. Both of these core beliefs within the industry were challenged and disputed by these parallel networks.

Despair and recalcitrance there certainly was, the latter famously expressed by Nick Montagu as manifested by the actions of the "rock throwers". But, as John Nelson's testimony indicates, every defeat is an opportunity. As Managing Director of Network SouthEast under OforQ, Nelson - at variance with his colleagues at InterCity - sought to ensure the best available outcome based on his team's best understanding of the mood of the policy makers who were rapidly moving into territory which was beyond their competence; namely, the physical running of trains. The profit centres established under OforQ were his preferred level of operation and provided the policy makers with a practicable option. Treasury aspirations for a greater operational disaggregation were defeated as the issues became ever more technical. The railway management in effect conceded over questions of structure - but fought in the policy arena over substantive operational matters beyond the competence of non-industry actors. What proves important for managers within the railway industry are not political questions, though naturally they and the Department of Transport defended the concept of a corporate BR, but operational questions such that they seek to maintain operational control irrespective of political decisions over the industry. John Nelson and his management team at Network SouthEast were driven by this objective. Nelson identified the key individual actors and impressed upon them - over breakfast - his operational reasoning. The policy outcome suggests that this strategy was successful and emulated in other BR passenger businesses.

This success in the policy debate precipitated the establishment of a rudimentary implementation network to work on the substantive practicabilities of the emerging structure, not least the establishment of a number of semi-autonomous management groupings for each "profit centre" primarily established to manage the railway rather than take over the railway, though appointments were eventually made very much with this in mind.

The other crucial policy question to be resolved was that over ownership of rolling stock. As we have seen, the problem of residual value was anticipated, throughout the policy arena, to act as a disincentive to the private sector. This had to be resolved prior to the start of substantive work on implementing the franchising provisions of the Bill, though not necessarily prior to the passage of the Bill itself. As we have seen, the Department of Transport eventually published a paper outlining how residual value would be managed through leasing companies. The eventual output of the Departmental working group bears the hallmarks of a classic consultative exercise. Putative bidders were invited into the policy arena to explicate their preferred options. As the evidence put before the Transport Select Committee indicates, there was little consensus on the issue. The crucial variable, however, was the decision on the ideal duration of a franchise. Extended franchises made outright ownership possible; short franchises necessitated limiting entry and exit costs. As the prospects for "on-track" competition diminished (see below), competition for franchise contracts became the core policy question rendering the residual value problem a central policy question. This technical question was eventually subcontracted to Hambros Bank, the merchant bank which handled the sale.

9.3 Phase Two: Groundwork

9.31 Regulation

After the passage of the Railways Bill in November 1993, the Regulator, acting in his capacity as Special Adviser to the Secretary of State, became a statutory actor in the implementation arena. His task was twofold. First, to compose a body of law sufficient to regulate the industry; and second, to establish an office in his own image to execute those functions both as part of the wider implementation of the policy programme and later the mature railway industry. He negotiated for himself a unique statutory autonomy over the implementation process itself. With this autonomy he sought to internalise dependencies and to maximize his own discretion over secondary legislation which effectively defines Phase Two of the implementation of the policy.

The evidence makes clear that John Swift successfully closed the regulatory network. Moreover, internally it represented an opportunity network in three ways. First, it was a true policy network/community and its outputs would define the future operation of the rail industry. Second, the regulatory matrix would offer participants a substantial intellectual challenge. Third, some members of the network would benefit from the accrued knowledge which would be derivable only from active participation. The Office of the Rail Regulator was constructed to be the paramount nodal agency in the programme and beyond. Of particular note was this network's influence over the activities of Railtrack. The Regulator assumed - and was sanctioned by the Department of Transport - absolute discretion over Railtrack's charging policy, unique amongst regulators of utilities. The Regulator's network predominated in the decision arena over policy towards Railtrack which was disadvantaged by its proximity to the sponsoring department whose key members, not surprisingly, saw the Department's interests best served by a powerful regulator vis-à-vis the monopoly supplier. Equally, however, the Regulator's preparations for laying claim to undecided policy (the secondary legislation) was sufficiently refined for some adroit outflanking in the decision arena. With the Regulator being the referee between Railtrack and the train operators, the degree of his control over the monopoly provider imported some confidence into the sales process for potential buyers.

In addition to composing a considerable volume of secondary legislation - licences, access conditions, and the pricing regime - the Regulator also decided competition policy. His decision to restrict severely "on-track" competition for the first generation of franchises put paid to the Government's own policy objective. Equally, however, it enhanced the attractiveness of the franchises to be offered later by the Franchising Director. This was to prove acceptable to a beleaguered government.

9.32 The Contractual Matrix

The composition of the contractual matrix was a much less containable body of work, and by definition, contestable within the implementation arena. The responsibility for contracts pertaining to operating passenger services fell to British Rail and Railtrack. The Franchising Director was to be a recipient of the Regulator-audited outputs of these two networks. Moreover, these networks were themselves further disaggregated by an intervening legal network acting as agents for the two statutory actors. The legal teams functioned as separate networks to the extent that they had their own frames of reference. They acted as corporate lawyers unfamiliar with modes of operation of their clients and unprepared for the demands imposed by the public service requirement of a high-density train operation.

Railtrack's lawyers, as the case study shows, struggled to encapsulate the intricacies of train operation in three selected TOCs. The management of the task required considerable additional intellectual input which eventually precipitated a substantial shift from the original objective of "bespoke" contracts to templating. Their decision to advocate considerable indemnities into the contracts also reflects their receptivity to more broader implementation noises emanating from OPRAF and ultimately the sponsoring agency, the Department of Transport. One should also recognise that the Department was the sole shareholder in Railtrack, which, out of some frustration with the slippage that was occurring, intervened directly both informally through personal contact, and formally through joint working groups established by the Department.[4]

The nodality of the Regulator's office is well captured by Gareth Davies' account of their attempts to secure his approval for their first three contracts. They were hampered by the failure of other actors to deliver charging and a performance regimes; but even when the contracts were ready for submission, the Regulator used the exercise to test his own as yet untried procedures against their work. As Davies said, "the Regulator was investing a lot in creating his own credibility and his own processes...we felt as if we were on trial, it was an awful process."[5] Davies and his team left the Regulator's offices armed with a basket of necessary changes to their contracts.

9.33 Train Operating Companies

Davies' work was itself dependent on the outputs of the BRB. Its train operating units, whose businesses would eventually be secured by the contracts, had to define themselves first. Their "long-form" reports effectively catalogued the businesses, describing in minute detail the essence of the company, including the physical running of trains. The work fell to the TOU managers acting under instruction from the Franchising Director. This was yet another example of an iterative exercise the workload from which largely fell to the newly-confirmed BR management teams.

The motivations of the individual managers warrants some comment. Certainly they were selected for their experience of train operation under the previous regime. Some of the TOC managers were effectively promoted as the existing profit centres were fewer in number than were the TOCs. Moreover, each required a self-contained management team with the range of "company" skills some of which were scarce within the existing BR organisation. These had to be procured from elsewhere. The motivations within TOCs were of different order. Those at the head of the queue exhibited a keenness that was not found in the more problematic operations, especially the former Regional Railways. And yet, the Managing Director of GWT

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[4] See Appendix 1.

[5] Gareth Davies, interview with author, 23 October 1996.

was a leading opponent of the break-up of InterCity.

Amitai Etzioni provided us with a useful typology of motivations found within complex organisations: remunerative, normative and coercive. The normative motivation seemed at the start of the project the most appropriate. The organisation provided its employees with a professional identity which itself fostered a sense of loyalty and commitment. In the old railway organisation this enjoys a considerable plausibility. In a programme which explicitly dismantles that organisation, such motivations would suggest some form of opposition. The evidence offered above, however, suggests another motivation; that of control. This was seen in the policy stage by John Nelson's influence over operational policy. It carried on into implementation and explains the momentum that built up around the sales. Their industry - and the majority were career railwaymen - was under siege. Having accepted the inevitability of the break-up, they sought to control the new industry irrespective of ownership. They colonized the strategic, if a little immature, ATOC, itself a major secondary legislator, and used their incumbent's knowledge to purchase the franchises. Collectively they achieved an understanding of the dynamics of the process of which they formed a central part. Not surprisingly, ATOC was viewed from outside with some concern. More specifically, as Philip Pacey indicated,[6] it was known within the BR organisation that the first three franchises were likely to be the least contested and attract the most conservative bids. The first three management teams, therefore, sought to expedite the sale so as to capitalise on this phenomenon. The railway managers, therefore, were not veto-bearing agents as one might have expected, and viewed the process as an opportunity that perversely could further their railway interests.

9.34 The Office of Passenger Rail Franchising

OPRAF was a statutory actor occupying an unenviable position in the decision arena. Unlike their "partners" at the Office of the Rail Regulator, the core of OPRAF had a somewhat circumscribed autonomy. As agents of the Department of Transport, they found themselves subject to considerable political guidance. Nodality, however, was secured through OPRAF's control over subsidy payments to train operators which the Railways Act transferred from the DoT on 1 April 1994. Furthermore, it was recognised within the Department that their statutory task could not have been realistically internalised even if the Government had contemplated such a thing. The successful candidate for the post of Franchising Director was, however, to construct a discrete and unique organisation to perform a difficult and uncertain task. Significantly, it was a reputation-building task.

[6] See above Section 6.41.

Roger Salmon, the first Franchising Director, represented the iconoclast favoured by the Secretary of State, John MacGregor. Ideas of a "can-do" agency working to a private-sector model and with explicit shake-up objectives over and above the basic selling remit suitably impressed. With hindsight, its strength was also its weakness - it *was* a public-sector agency, dealing with a unique commodity, railway services, acting in a highly-charged political environment. Salmon's original blueprint was operationalised by the highly-functional pairing of Salmon and his intellectual and cultural antithesis, Chris Stokes. Both, however, were minimalists attempting to contain the project within a small team-dominated, multi-skilling "perfect office".

We must not view this as failure, however. We should not forget that the OPRAF organisation delivered the sale of all 25 of the TOCs by the end of March 1997 against most expectations.[7] The operating procedures devised in this closed network - "groundwork" according to Chris Stokes - delivered the sales, though not without considerable slippage requiring some fundamental interventions by the Department after it assumed a more aggressive project management role in the summer of 1995.

So why was OPRAF seen to be failing and by whom? First, slippage occurred because of the failure of sequentiality. Nodality is a poisoned chalice in the sense that nodal agencies devise systems which are used by other actors which in the scheme of things return to the nodal agency. The OPRAF organisation had to devise the sales mechanism, compile the detail, and then invite participation. Unlike the Regulator's office, OPRAF was unable to internalise its dependencies. OPRAF was dependent on the BR organisation in constructing the very businesses which it would offer for sale, including the essential details of the businesses themselves. OPRAF was also dependent on the Railtrack organisation's negotiations with BR in the formulation of track access agreements *and* their approval by the Regulator. These, as we have seen, took longer than anticipated. In particular, the tractability of the detail of the tripartite incentive regime between operators, Railtrack and OPRAF, was such its referral to the Centre amounted to an imposition of conditions.

Moreover, OPRAF suffered the effects of both intervening and external variables. We have only hints about the effects of less-than-whole commitment by some in the residual BR. In the course of the empirical work, this proved impossible to confirm. However, in the early stages, so soon after the failure of some managers to secure vertical integration, a full commitment to the programme would have been unlikely. Chris Green's departure from the implementation arena in February 1995 is the best indicator of this.

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[7] See Roger Ford's analyses. For example, *Modern Railways*, August 1995, Vol 52 (563), pp462-463; *Modern Railways*, September 1995, Vol 52 (564), pp528-529.

9.35 Intervening and External Variables

OPRAF was, however, plagued by judicial review which at times threatened to topple the edifice. OPRAF spent a considerable amount of time and effort in defending itself against attacks that originated from outside the arena. Here we must consider the importance of the policy stage. Judicial review amounts to a challenge to the interpretation of the statute and the secondary guidance that it sanctions. Ambiguity, so functional for the passage of legislation, can have a significant effect at implementation. The Franchising Director - who had to bear the sole responsibility for the outputs of his organisation - was seen to have acted unlawfully inasmuch as his interpretation of his statutory guidance was incorrect. In many respects it wasn't the effects of the judges' review that was damaging because, as we have seen, the solution was relatively simple;[8] the real damage was done to the public perception of the competence of implementers and the success one particular group of unincorporated actors had on exploiting the public's ignorance about the privatisation process *per se*. OPRAF failed in its public relations more than it did in its procedural management. *Save our Railways*, as unincorporated actors bringing court action, exploited a statutory access point, namely the so-called "resort to legalism". This in turn fuelled and intensified media scrutiny which discernibly affected an already-weakened public support for the programme.

We may now ask what saved the sales process from absolute ignominy. The ultimate answer is political. The empirical study offers no insight on Cabinet direction of the programme. Ministers remain coy about Cabinet direction of the programme. As will be seen from the historical case study that examines the implementation of the Beeching reforms below, the Cabinet constructed committees of both ministers and, separately, senior civil servants. What is clear, however, is that actors in the decision arena perceived considerable resolve on the part of the Centre - throughout the difficulties - to execute the policy in the agreed form. The visibility of the political will to pursue the policy was perceived by the media as at best incompetence and at worst dogma. Rarely were observers confronted with the possibility of belief in the sagacity of the policy itself.

We have to view the decision to sell, probably prematurely, the ROSCOs as a demonstration of this political resolve. The transfer of some £6 billion worth of assets from the state sector to the private sector is, in anyone's book, a major transaction. It represented a huge symbolic gesture which simultaneously bought OPRAF time to get its procedures into manageable form. Moreover, as pointed out above, the decision to float Railtrack in the summer of 1996 - which was not a manifesto commitment of the Government -

[8] Judicial review does not substitute one opinion for that of the judges. It merely forces the original authority, on this occasion OPRAF, to reconsider a decision.

precipitated concerted project management effort on the part of the Department of Transport. The successful flotation of Railtrack carried with it significant reputational liabilities. The announcement of the sale forced the Department into pursuing the expedition of the TOC sales process for the simple reason that Railtrack's main customer was, at that time, the residual BR. This fact depressed the attractiveness of Railtrack necessitating remedial action.

9.36 The Opportunity Network

The Opportunity network was largely populated by *incorporated* actors. That said, it necessarily also contained statutory actors "wearing different hats", and secondary incorporated actors who advised and provided finance for the realisation of the ambitions of those actors. Let us properly identify them. The statutory actors in this network were the BR managers who constructed bids to purchase the franchises. As we have seen, they were instrumental in touting the businesses around the City in search of finance. They also employed lawyers and financial advisers in the construction of their bids.

The incorporated actors were the external bidders, many of whom had been identified by both OPRAF and earlier the Department as potential bidders. Suffice to say, there were few surprise entrants. What was clear, however, was that their own problems in raising the necessary finance had to be factored into the bidding process. This is particularly true of the Prism phenomenon where flotation on the AIM was the primary vehicle for raising capital.

As Philip Pacey recalled, the sale of the first three franchises was to act as a shop window for the rest of the process. The "plum" franchises were to follow in the second tranche as a consequence. Equally, as Derek Scott suggested, "portfolio" bidders such as Stagecoach would use the process to learn the ropes to gain an advantage for subsequent rounds. With many of the bidders being highly acquisitive bus operators, however, the process of bidding was second nature. The Stagecoach strategy - carried forward from experience over the sale of public-sector bus operations between 1986 and 1990 - was to get in early while the prices were low, and the process immature.

For bidders like the inchoate Prism, however, the experience was very much one of learning. Prism was a high-risk venture played out with the personal wealth of some of the beneficiaries of the sale of the National Bus Company - medium-sized operators who saw a joint-venture opportunity to make money. In addition, and confirmed by Godfrey Burley above, the venture's partners sought a further business challenge that was lacking in the ever-stabilising bus industry. Perhaps more surprisingly, the City liked the venture, risky though it was. Prism's share price on flotation and after each subsequent bidding success is a testament to that.

This network, however, was the most curious in terms of properties. In defining it, one selects the shared desire to acquire successfully a franchise to run train services. For some actors seeking access to the network, that meant co-operation. In aggregate, however, the network was a somewhat hostile environment. Its main feature was its instability and constant shifting. The bidding competitions precipitated deal making on a huge scale as actors sought to maximize opportunities often by "buying" their way in to bidding consortiums. This was especially true in the management buy-outs where joint ventures became the dominant and preferred model. Bids changed on what seemed like a daily basis as bidders attempted to outflank their opponents and where more risky business/investment plans became incorporated into the constitution of the network imposed by an ebullient Franchising Director.

At this point we should just comment on the closure of the deals securing the sale of the first three franchises. We should note that the network that formed at this point was small and somewhat conservative. In two cases, the deals - SWT and GWT - were extraordinarily generous for the successful bidders. The deal by Enterprise Rail to run LT&S was somewhat different as rolling stock investment was an implicit pre-requisite for success. The management team put together a bid which was unmatched. The collapse of that bid, although seen as yet another failure for the process overall, proved functional for the final outcome in Prism's later success. The sale of the first three brought to an end the second phase of the privatisation process. From that point on, OPRAF took control of the process confident in the sagacity of its now robust sales procedure, and a knowledge of what the market could and would bear. OPRAF was confident that the *opportunity network* would deliver favourable bids which were compliant with OPRAF's sales documentation, and deliver in volume. Where it took a year to sell the first three, the remaining 22 would be sold in the subsequent 15 months.

We should not forget that the *opportunity network* was populated by veto-bearing agencies who did exercise their vetoes. NatWest Ventures withdrew support from a number ventures (and parent NatWest over the sale of Railtrack). In addition, James Sherwood's rather public exit from the bidding for GWT threatened to leave the Franchising Director with insufficient bidders for considerably more problematic capital-intensive franchises; in particular, the West Coast route.

9.4 Phase Three: The Political Network

In the early discussions within the decision arena, a loose order of franchise sales was agreed and made public by the Franchising Director at the close of 1994. This was then used by interests outside the formal implementation networks to affect the implementation environment. As an implementation marker, this was not an unreasonable activity. The inclusion of ScotRail in the first two phases suggests a failure on the part of actors to comprehend the extent of the *political* veto sanctioned by the Railways Act by its incorporation of Passenger Transport Authorities into the decision arena itself. The veto, however, assumed different functions as the programme progressed.

Although the PTAs/PTEs were statutory actors, their participation in the policy phase was strictly limited. As administrators, their primary concern focused on the security of their funding arrangements which had, as they saw it, progressively deteriorated since the abolition of the Metropolitan Counties in 1986. The new pricing regime for access to Railtrack's network precipitated a raft of legitimate concerns over the new funding deficit (plugged temporarily by the MRG), and the wider question of funding asymmetries likely to arise out of an signing of franchising agreements. Although the PTEs had their own inter-county networks (both formal and informal) for managing and evaluating change, the uncertainties and risks were not shared. Greater Manchester relinquished control over its passenger services in response to perceived uncertainties.

Elsewhere, the risk was viewed somewhat less seriously, particularly for those authorities where train services were the core of their functions. Strathclyde, naturally, is the pre-eminent example. While the Franchising Director was on a roll with the franchising programme, exorcising all of the vetoes wielded by Strathclyde was beyond his competence. Moreover, to understand Strathclyde's "game", one has to fully appreciate the ramifications of the evolution of the Scottish network and its symbolic - overtly political - significance, especially at a time when the Strathclyde regional authority itself had been legislated out of existence by a predominantly English parliament. Thus administrative problems - defining the new authority - added to the Franchising Director's woes. The Franchising Director found himself dependent on both Scottish Office procedures for the management of another programme in a separate and different decision arena, and the Department of Transport attempting to settle the MRG question. Slippage was inevitable.

The essential reflexivity of the progressing implementation informed the actors' strategies. Primarily the momentum generated forced the Strathclyde core actors - Charles Gordon, Ian Wylie and Stephen Loxley, amongst others - saw their game in terms of an opportunity rather than a threat. Elsewhere, the Strathclyde grouping saw privatisation delivering enviable rolling stock investment commitments that in the new fiscal environment they knew they would not be able to fund internally. The strategy demanded, however, that their apparent oppositional stance was maintained. Their willingness to go to law at extremely sensitive moments in the wider programme implementation was part of that strategy. Couched in the language of protecting the taxpayer, this was a political entity exploiting its statutory access; exploiting the programme dynamic; and maximizing its influence over both the output and the structure which would support it *over the longer term.* In effect, they negotiated along with the franchise agreement their own statutory existence well into the next millennium.

9.5 Causal Theory

Our model incorporated Sabatier's concept of the adequate causal theory as an important indicator of implementation success. It provides, I have argued, the internal coherence for programme such that it infects the frames that inform, if not govern, the behaviour of network actors. Tracing the causal theory, therefore, may have some value when we come to assess the sustainability of the outputs of the implementation programme. We want to make some comment about *outcomes.* There are two strands worth considering. First, the veracity of the economic arguments proffered by the policy advocates back in Phase One. It is their job to ensure the adequacy of the causal theory. We should examine their output, however briefly, to gauge their receptivity to this criterion. Second, we should consider the more structural questions about the rational basis of the form that became the programme.

9.51 Economics

The BR organisation had been hugely receptive to the imperatives of the new economic environment precipitated by the ascendency of the Conservative Government in 1979. Sir Robert Reid, BR's chairman from 1983 to 1989, manoeuvred the organisation's business policy in such a way as to keep the issue off the political agenda. The Treasury, however, managing the economy under its monetary frame, was itself receptive to privatisation as a means of importing even greater efficiency into the organisation and effecting a reduced burden on the Exchequer. With enviable margins producing substantial dividends for investors in the former state-run National Bus Company, the Treasury saw no reason why this success could not be replicated in the railway industry.

As the programme progressed through its various phases, the efficiencies did not seem overly apparent. The Transport Select Committee of 1995 produced a damning report indicating that not only had substantial money been spent by the Department in preparing the industry for privatisation, but the new access regime would result in a haemorrhaging of public funds from the "money-go-round" the new structure had created. But the bids submitted to the Franchising Director to run services surprised everyone including senior executives in OPRAF itself. The privatisation process, in spite of the initial hiking of costs borne by the Exchequer, will produce significant savings over the period of the first generation of franchises. In economic terms, therefore, it would seem that there were substantial efficiencies to be extracted from the railway industry. The critics were wrong.

That said, we should question the economic sustainability of the secured contracts. As noted earlier, the theory of *The Winner's Curse* suggests that successful bids are inherently unsustainable. To win a franchise competition one has to overvalue the contractual rights one is attempting to purchase. The empirical evidence presented in this thesis indicates that this is not universally true. In the case of Stagecoach, for example, the South West Trains franchise was purchased at way below its true "value", and the company's subsequent failure to secure franchises despite bidding for all of them, indicates an appreciation on their part that winning can be expensive. Perhaps shareholder value is not maximized by running a non-profit making train operation. It is recognised in the industry that some train operators will fail as the subsidy levels fall (in some cases exponentially) over the lifetime of franchises. Of course, OPRAF has contingencies for failure - private-sector providers, as we have seen, only work because they *can* fail, as perverse as it may seem. The Exchequer will not lose out in the short term as it is indemnified against loss as part of the franchise contract. The risk is borne by, largely, high-street banks. In the longer term, however, failures will undermine the confidence in the whole edifice that has been constructed by implementing agencies.

9.52 Recession

Not unrelated to the economic theory which underpins the disaggregation, rail services are peculiarly susceptible to the effects of economic downturns. In the recession of 1990, the railway suffered and the risk was borne by the Exchequer. Even so, the InterCity management returned profits. With most of the franchise bids assuming considerable growth in patronage, any downturn will impact greatly on their prospects.

9.53 Integrity of the Network

Our final consideration under the heading of the causal theory, is the integrity of the network. The railway has been run since nationalisation as an integrated whole. The sectorisation of the network from 1983 onwards presented a few problems such as InterCity's withdrawal from marginal routes, and connections at interchange stations. Ticketing, however, was not a problem, and generally the railway was perceived as being a "walk-on" service.

Under a disaggregated system - and this is recognised in the statute - companies compete for revenue.

Partiality has emerged, and the ticketing structure has become considerably more complex. On the train connections issue, the Central Rail Users' Consultative Committee expresses concern over contractual ambiguities which affect connecting services; indeed, some InterCity operators now provide competing coach services to connect with trunk services, bypassing the more rural operators altogether.[9] This was sanctioned by the Franchising Director. At the very least this will affect revenues as trunk operators attempt to secure *all* of the value of a ticket rather than a substantial portion of its value. At worst it will put pressure on operators of marginal services to press for closure. The integrity of the network, therefore, will be an issue for the coming years and will be an indicator of the robustness of any causal theory supporting the implementation of this policy.

Summary and Conclusion

This chapter has attempted to apply the network analytical model articulated in Chapter 3 above. It has not been exhaustive: there is more data than can fruitfully be subjected to detail scrutiny. Moreover, the chapters dealing with the case study act not just as data for analysis, but also as a contemporary record of a major policy "event" at least in terms of the second Major Government, 1992-97.

At the start of my work on collecting data for the case study, I was troubled by how one could explain what I thought then would be a failure to meet the programme's core implementation objectives. One could not see quite how the complexity would and could be managed. It was difficult not to see veto points and a raft of statutory actors keen to exploit them. It seems ironic that they were indeed exploited, but to a different end. The disaggregation which provided policy-makers and implementers alike with the problem of complexity also, on reflection, made implementation so much easier.

This privatisation was the antithesis of the "Top down" assumption that implementation is most efficient where clear lines of command can be established and sustained. Not only do we find the necessary incorporation of private-sector actors (not just advisers) generating a "mixed economy", but we also find a Whitehall department itself having to concede policy space to autonomous agencies in a knowledge-deficient statutory decision arena. The extent of the learning particularly in Phase One and Phase Two was considerable. Managers in the rail industry had never seriously considered the question of how to translate their train services into contractual obligations.

As programmes mature, however, the implementation network expands. In this case, private-sector actors

[9] See, for example, *Central Rail Users' Consultative Committee Annual Report 1996/97*, pp27-28.

entered to express their interest in taking on the risk represented by the contracts with which they were presented. It was the threat of the private sector's entry into the implementation network which contributed substantially to the dynamic which delivered the policy outputs. In terms of incentives, BR's managers, armed with essential knowledge of the industry, sought to maximize their own control over the process in the knowledge that if they did not, they would simply be usurped. The resolve expressed by the Government focused the strategy. The strategy itself was dynamic. It moved from thoughts of securing one's future on one's own terms, to gaining control over businesses and, despite the contractual obligations and the high fixed costs, enjoying the prospect of managerial autonomy over future decisions and possibly a capital gain. Privatisation became an opportunity for BR managers in contrast to the expansionary opportunities seen by external bidders.

The uncertainties surrounding the interest by the City proved unfounded. With the release of capital amounting to an external audit of the policy makers' ideas, the feasibility of the sales improved. The actual levels of bids which experienced an enviable inflation are a function of private-sector interest and the competitive bidding process on terms which were far from alien to most participants.

Finally, if we consider motives, they are many. Making money proved to be a necessary motive for those seeking capital; but the intellectual challenge was the primary motive for those inhabiting the decision arena. The extent to which this is congruent with Etzioni's normative framework is a matter of discussion. I suspect it transcends Etzioni's meaning. Senior managers like nothing more than to manage change. Routine is unappealing. This final attribute provides a powerful dynamic to an earlier period of policy making towards the railways. It is to that period that we now turn.

Chapter 10
A Short History of the Railways to Beeching

10.1 Why Nationalise?

The postwar majority Labour Government with some inevitably nationalised the transport industries, including the railways, through legislation presented in 1947. Herbert Morrison, building on his experience of the reorganisation of transport undertakings in London (establishing the London Passenger Transport Board) during his time at the London County Council, had advocated public ownership first in his book, *Socialisation and Transport,* published in 1933.[1] His case was clear:

> *If the railways carry loads which are below their capacity to such an extent that they cannot adequately meet their fixed capital and running charges, some or all of the following consequences will eventuate in due time: the charges to the passengers and industries wishing or compelled to use the railway are increased; wages, salaries, and working conditions of staff and employees are brought down; the standard of the maintenance of the undertaking deteriorates; the profits are so low and the credit of the undertaking is so shaken that it is impossible to raise additional capital for modernisation and development; the steady fall in maintenance standards and efficiency further accentuates the difficulties indicated, resulting in a tendency towards open crisis. If and when the point is reached when it is fully established that private enterprise in railways under competitive conditions is unprofitable, we may be sure the Conservatives will become Socialists of sorts and - if only for military reasons - will put the nationalisation of the railways in the forefront of their policy!*[2]

The inter-war years, notwithstanding the Southern Railway's extensive electrification programme under Sir Herbert Walker, had not seen any real investment.[3] Indeed, by 1932 some £260m of railway capital carried no dividend for shareholders; only the Great Western paid anything at all to *ordinary* shareholders,

[1] Morrison had served as Minister for Transport in the MacDonald Government of 1929-31.

[2] Herbert Morrison, *Socialisation and Transport*, Constable and Company Ltd, London, 1933, p88.

[3] Morrison praised him in his book but was particularly complementary about the attendant improvement in station visibility. Morrison (1933), p83. See also, David Henshaw, *The Great Railway Conspiracy*, Leading Edge, Hawes, 1994, p25; Derek H Aldcroft, *British Railways in Transition*, Macmillan, London, 1968, pp71-77.

and then only from reserves.[4]

There is considerable debate surrounding the "inevitability" of the Attlee Government's nationalisation programme. The Conservatives themselves had established, in the name of economic rationalisation and efficiency, a number of statutory public enterprises including the Central Electricity Board in 1926 and Morrison's model London Passenger Transport Board in 1933. Moreover, the *etatiste* wing of the party led by Harold Macmillan, advocated nationalisation as a means of managing the "life cycle" of industries, eliminating wasteful excess capacity and fostering better coordination within and between a host of industries.[5]

It would not, therefore, be accurate to describe the nationalisations as necessarily ideological, with the possible exception of Iron and Steel (which was promptly returned to the private sector when the Conservatives took office in 1951) and coal. The railways had been subject to state control for many years prior to their nationalisation, such were their strategic importance.[6] In addition, as the Royal Commission on Transport report of 1930 was to note: "This is the age of big businesses. Throughout the world mammoth organisations are found concerned with the production and marketing of materials, with manufacture, distribution, and communications which were looked upon as utopian thirty years ago."[7] This realisation was not lost on the politicians.

Nationalisation was not an end for the new Labour Government, but a means to facilitate economic

[4] Gerald Crompton, "The Railway Companies, 1920-50" in Robert Millward and John Singleton, *The Political Economy of Nationalisation in Britain, 1920-50*, Cambridge University Press, 1995, p124. Although the same point is made by Michael Bonavia, he also suggests that the railway companies were far from bankrupt and were sufficiently geared up after the war to exploit their resources providing they were freed of much of state control on fares and rates and could develop their road haulage and bus interests. Michael R Bonavia, *The Birth of British Rail*, George Allen and Unwin, London, 1979, p102. See also Henshaw (1994), p31.

[5] See John Singleton, "Labour, the Conservatives and Nationalisation" in Millward and Singleton (1995), p19; Harold Macmillan, *The Middle Way*, Macmillan, London, 1966, pp232-237.

[6] Prior to nationalisation, the railways had twice before been operated as a unified system - 1914 to 1921 and 1939 until 1948. However, even after the amalgamation of the 150 or so railway companies forming the four great railway companies of the inter-war years, they were highly regulated on price by the statutory Railway Rates Tribunal. See "The Organisation of British Railways" in *Public Administration*, Volume 30, 1952, p263.

[7] Royal Commission on Transport report, "The Coordination and Development of Transport", December 1930, Cmnd 3751, cited in HA Clegg and TE Chester, *The Future of Nationalisation*, Basil Blackwell, Oxford, 1955, p141. The Commission noted, interestingly, that no coordination would be feasible without *unified* ownership.

planning, redistribute profits and improve industry's efficiency.[8] These criteria go some way to explaining why some industries were nationalised and others not. For the railways, the longstanding objective of nationalisation had been the coordination of inland transportation. This was to be achieved through the establishment of a coordinating authority - The British Transport Commission - responsible to the Minister, and a host of centralised executives to run them. The railway companies' assets were therefore transferred to the ownership of the BTC, and managed by the Railway Executive. Not all inland transport was nationalised, however. Some road haulage interests remained in the private sector to compete directly with the BTC's road haulage and railway operations.[9]

Significantly also, as Terry Gourvish was to find, "...an examination of the public records indicates that *detailed* plans were rather scarce in 1945, but more importantly reveals that business advisers and leading civil servants played a decisive role in shaping the initial organisations of the nationalised industries."[10] Indeed, one of these civil servants, Sir Cyril Hurcomb, was to become the first Chairman of the BTC.[11] In addition, amidst the haste to nationalise, there was little effort made to involve senior managers in decision-making, and the adoption of Morrison's public corporation model effectively excluded worker participation in any substantive way.[12] For some, the new structures were too centralised to be managed effectively. Super corporations need exceptional personnel to manage them. Experience at the time suggested that such men were few in number.[13]

The promise of investment after nationalisation proved chimeric. According to Gwilliam and Mackie, "It had not been the original intention of the postwar government to delay the reconstruction of the transport sector...In the event, the transport sector bore the brunt of the cuts in public expenditure necessitated by

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[8] See Jim Tomlinson, *Government and the Enterprise since 1900: The Changing Problem of Efficiency*, Clarendon Press, Oxford, 1994, pp190-1.

[9] British Electric Traction, one of the three bus combines, refused to sell also.

[10] TR Gourvish, "The Rise (and Fall?) of State-Owned Enterprise" in Terry Gourvish and Alan O'Day, *Britain Since 1945*, Macmillan, Basingstoke, 1991, p119.

[11] Hurcomb had previously been Chairman of the Electricity Commissioners 1938-47 and Director General of the Ministry of War Transport from 1941. According to Gourvish he "did much to restrain the enthusiasm for a radical post-war solution for inland transport..." Gourvish, (1991), p119.

[12] See Tomlinson (1994), p199.

[13] Clegg and Chester, in their influential critique of nationalisation, argued that the absence of a decentralised management structure would leave "one of the greatest economic problems of twentieth-century Britain" unsolved. More specifically, it would provide for the necessary autonomy of regional management decision-making enhancing the status of management positions and in turn attract "the right sort of men". See, Clegg and Chester (1955), p166.

the postwar economic crisis."[14] The estimated disinvestment in the railways between 1937 and 1953 was some £440m.[15] The immediate postwar economy's thirst for dollars and attendant shocks such as the balance of payments crisis of 1947, forced the Government to push manufacturers towards export growth to earn dollars at the expense railway renewals.[16]

10.2 Modernisation

The railways limped on until the new Conservative Government's reorganisation of the transport sector in 1953 which returned much of the road haulage industry to the private sector and brought the railway industry under the tutelage of the British Transport Commission after dissolving the Railway Executive. This change eliminated cross-subsidisation between road and rail, and introduced market solutions to the allocation of freight traffic between modes. Modal competition would develop.[17] It also deprived the railways of executive and discrete business management - later recognised as a major flaw in the Transport Bill.[18]

The Commission instructed Daril Watson, its Chief of General Services, to investigate options for an ambitious investment programme for the railways which would make good the century's chronic under-investment/disinvestment and, amongst other things, electrify the major trunk routes.[19] Nevertheless, it was, primarily, a modernisation plan which aimed, over 15 years' of investment, to embrace new technology as a means of staving off anticipated operating deficits (at the time losses were limited to capital account).

The plan was launched in January 1955 proposing an expenditure of £1,240m (increased to £1,660m in

[14] KM Gwilliam and PJ Mackie, *Economics and Transport Policy*, George Allen and Unwin Ltd, London, 1975, p37.

[15] CD Foster, *The Transport Problem*, Croom Helm Ltd., London, 1975, p97. Stewart Joy, *The Train that Ran Away: A Business History of British Railways 1948-1968*, Ian Allan, London, 1973, p44.

[16] Joy (1973), p44. For a concise discussion on the wider economic crisis see Sidney Pollard, *The Development of the British Economy 1914-80*, Edward Arnold, London, 1983, pp236-238.

[17] Gwilliam and Mackie (1975), p37.

[18] *Report of Select Committee on Nationalised Industries British Railways* HC254, HMSO, London, 1960. Chairman, Sir Toby Low. para 22 and para 358.

[19] Gourvish (1986), p259. The published plan tempered the electrification proposals substituting a diesel replacement programme.

1957 after accounting for the effects of inflation).[20] However, it was put together with considerable haste under pressure from the Treasury leaving the detailed justification of major projects for future deliberation. It was quite literally a "'lumping together of a large number of projects, which on first examination, appear desirable'. 'Plan' was therefore a misnomer: 'Modernisation Policy' would have been a more apt description of what was put together."[21]

The subsequent criticisms of the Commission's plan have exposed it as a hugely flawed programme based on false premises and eclectic accountancy procedures. One of the more enthusiastic critics was the Oxford economist, Christopher Foster.[22] Foster's critical appraisal of the Modernisation Plan sought both to highlight the flaws and explain them. One thing was certain, however, without modernisation the Commission could only see for the railways either closure or growing decrepitude. But "[i]t did not have the necessary costing and revenue data to tell with any accuracy just what should be modernised, what closed and what to allow to decay. At times it tended towards a non-economic solution: thorough modernisation of most of the system as a social need whatever the profitability or loss."[23] Moreover, The Commission was unable to measure profitability of routes because the railway regions submitted their financial results in aggregate. The Commission, therefore, was unable before the Select Committee on Nationalised Industries in 1960, to vouch for the improved performance of modernised routes. In addition, the Commission, in calculating its rate of return omitted replacement costs emphasising that unless routes were to be closed, such costs would accrue in any case.

Stewart Joy, another hard-hitting critic, suggested that the reasoning of the BTC was incoherent. On the one hand the BTC was claiming that railway assets had a written-down book value of £1,500m, but that their *real* value was dependent on fares and charges permitted by government and the obligations which it carried. In effect the assets were worthless.

> *The BTC showed no preparedness to consider them in this way. But from this dead end, it turned and marched right over the precipice by claiming that the replacement value of assets was over £4,000m...But as the whole tenor of the modernisation plan was that the present assets would only*

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[20] Foster (1975), p97.

[21] Bonavia quoted from internal memo cited in Gourvish (1986), p264.

[22] Barbara Castle appointed him as Director General of Economic Planning in January 1966. She recalls in her diary that on their first meeting she thought he was a bit "young and brash" and would "take a bit of breaking in". See Barbara Castle, *The Castle Daiaries 1964-70*, Weidenfeld and Nicolson, London, 1984, p89.

[23] Foster (1975), p104.

have required replacement if a further sum, far greater than the current capital debt, were to be invested to work with them, their value was dependent solely on the net financial effect of the new investment. And that, believe it or not, was bound to be negative.[24]

In other words, the BTC was looking for investment to *reduce* losses, not eradicate them. For Joy, 1948 and 1954 were two missed opportunities for the railways in terms of real investment and restructuring. None occurred after nationalisation, and 1954 was the wrong kind of investment in assets that were obsolete and would provide no return. It was clear in 1954 that a huge rationalisation programme was necessary.[25]

As for the Government's failure, Gourvish indicates that there was no shortage of critical documents circulating within the Treasury. The plan was approved, however, by the Cabinet on 20 January 1955. The railways had become an element of the strategy to stimulate economic growth and the management of industrial relations. Moreover, the Government sought to avoid the necessity of writing off accumulated deficits for which it felt partially responsible. The long-term prospects were enough to satisfy the Cabinet that a return would be forthcoming.[26]

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[24] Joy (1973), p47.

[25] All railway commentators acknowledge that the managers were wedded to returning the railways to their 1939 levels of efficiency which included antiquated steam traction and a belief that both freight and passenger traffic would increase after completion of the investment programme. It took no account of the practicability of procurement (41 different untested diesel locomotives were purchased many of which had to be scrapped after ten years' operation because of failures and high maintenance costs) and rising wage costs. See Joy (1973), pp48-51; G. Freeman-Allan, *British Rail After Beeching*, Ian Allan, 1966, pp6-10; Gourvish (1986), p264.

[26] Gourvish (1986), p272.

Figure 10.1: The Modernisation Liability

There is little doubt that the Modernisation Plan, or more specifically, its implementation, was a key contributor to the deficit that so disturbed the Treasury. In its first outing the plan was costed at £1,240m, two-thirds of which would have to be raised externally. The Select Committee noted the blessing given by the Ministry and the misgivings of the Treasury which saw it as a "hotch-potch of things that the Commission was saying it was desirable to achieve by 1970, ill-qualified and not really readily explainable."[27] Costs escalated, and fifteen months after the first report, a re-examination of the plan was published.[28] This report presented much more detail and, crucially, estimates on returns expected from that investment. A year later, both the returns and the cost estimates (now £1,660m) were called into question. A further report was published in 1959.[29] The contents of this report led the Ministry's permanent secretary to comment to the committee: "I find it difficult to understand how the whole of the modernisation scheme could possibly have the economic results forecast by the B.T.C..."[30]

10.21 Select Committee on Nationalised Industries

The Select Committee on Nationalised Industries, having just completed an inquiry on the nationalised air corporations, set to work on a study of the financial liabilities of the railway division of the British Transport Commission. The Select Committee's eventual report, composed after hearings held between 4 December 1959 and 11 July 1960, was a clinical assessment of the financial arrangements that kept the trains running. It is worth examining for three reasons. First, it further illustrates the extraordinarily limited knowledge base (for all concerned) on which the industry was run and investment decisions made. Secondly, it provides the best indication of the kind of information at the disposal of the Stedeford (non-parliamentary planning board) Committee from which Richard Beeching sprang. And third, it was the work of the committee which informed the authors of the White Paper on nationalised industries that redefined the objectives of public sector industries (discussed below).

Crucial to any understanding of the railways is the remit - what, by law, should be provided. On its

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[27] *Report from SC on NIs, British Railways, HC254,* (1960), para 164.

[28] Cmd 9880, *Proposals for the Railways,* September 1956.

[29] Cmnd 813, *The British Transport Commission, Reappraisal of the Plan for the Modernisation and re-equipment of British Railways,* 24 June 1959.

[30] *Report from SC on NIs* (1960), para 170.

inception in 1948, the nationalised Commission was compelled to provide "adequate railway services". Under the 1953 Act, the BTC's responsibility was to provide "such services as they considered expedient".[31]

The Committee laid bare the inadequacy of the organisational arrangements. The railways, by far the largest of the Commission's undertakings, had no executive management. It was a division (sub-commission) and executive decisions were made at regional level (six in all) by a general manager responsible to a non-executive Area Board, the Chairmen of which were members of the BTC.[32]

Notwithstanding the organisational concerns of the Committee, a sense of horror was expressed in their consideration of financial arrangements. The executive regions[33] did not present annual profit and loss accounts. This, argued the Commission, reflected the complexity of the railway business and the artificiality of the accounts presented by the erstwhile four "great" railway companies which relied on pooling arrangements believed to be based on a number of broad assumptions about traffics and representing some 70 per cent of exchanges between the companies, and a highly bureaucratic clearing system. With the advent of nationalisation, cross-boundary movements had increased, rendering the above arrangements even more artificial.[34]

10.3 The Ministry of Transport

The Ministry's supervision (in conjunction with the Treasury) began to change dramatically under its new Permanent Secretary, LJ Dunnett. The Ministry admitted that both it and the Commission had underestimated the growth in motor transport which had led to inappropriate investment decisions. The Committee learned that the Ministry had two responsibilities over the Commission. First, a legal one; and second, "because they have a broader duty of seeing that the decisions of the Commission conform to the public good".[35]

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[31] *Report from SC on NIs* (1960), para 9.

[32] *Report from SC on NIs* (1960), para 22 and para 358.

[33] The regions had the authority to authorise investment up to £100k for any single project before having to seek the agreement of the Commission. *Report from SC on NIs* (1960), para 33.

[34] *Report of SC on NIs* (1960), paras 44 and 45. We did learn of the moves by some of the regions to move towards a profit and loss account. In the vanguard was Eastern Region - para 53.

[35] *Report from SC on NIs* (1960), para 66.

Under Sections 4(2) and 88 of the 1947 Act, the Ministry, acting as the Commission's bankers, exercised a "considerable tactical hold" over its investment decisions.[36] However, until the later years of the Modernisation Plan, this had not been exercised diligently. 1956, in terms of net receipts, was the pivotal year. The trends can be seen in the table below:

Table10.1: Net Receipts and Working Deficits of Railways Division of BTC[37]

Year	Net Receipts (£m)	Working Surplus (£m)*
1948	23.8	-8.2
1949	10.6	-23.4
1952	38.7	3.7
1956	-16.5	-
1957	-27.1	-68.1
1958	-48.1	-90.1
1959	-42.0	-84.0

* The working surplus took account of the BTC's central charges.

And, such were the accounting techniques employed by the BTC, the Permanent Secretary had to admit that, "[w]e find one of the most difficult things in the Ministry is to discover where the money is actually being lost..."[38] These were huge sums. And despite the downturn in freight traffics,[39] the deficits were clearly attributable to the passenger railway, and in particular, "stopping trains".

In the first instance, it had to be recognised that railway rates including fares were controlled by the Transport Tribunal and, notwithstanding the delays incurred in implementing fares increases referred to the Tribunal, the eventual increases remained well below inflation at a time when costs had increased

[36] *Report from SC on NIs* (1960), para 73.

[37] Taken from *Report from SC on NIs* (1960), paras 130 and 131. The working surplus takes into consideration the Commission's central charges.

[38] *Report from SC on NIs* (1960),para 132.

[39] It has to be remembered that the BTC's rail network was essentially a freight network. Freight receipts in 1958 were £323m compared to £138m for passenger services. This conceivably meant that passenger services should be provided at marginal cost because freight trains were the primary users (*Report from SC on NIs* (1960), paras 99 and 123). More seriously, "[i]t was the dramatic fall in freight traffic that precipitated the Commission's present financial troubles and led to the Reappraisal of the Modernisation Plan in 1959" (para 106). In particular it was coal and coke traffics that were seriously affected. In effect, passenger services used to be subsidized by freight movements. More recently, however, by the Treasury (para 377).

somewhat faster.[40]

The report indicates quite clearly that by 1959 the members of the Commission were keen to relieve themselves of the liability presented by stopping trains. As the report notes, the Commission intended a "marked reduction in the stopping and branch line services which are little used by the public and which, on any dispassionate view of the situation, should be largely handed over to road transport."[41] The extent of the problem could be seen clearly in *load factor* data provided by the Commission:

Table 10.2: Average Number of Passengers per Train[42]

1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959
102	96	91	97	95	95	96	97	96	101	97	98

In essence, these figures showed that on average trains were only one quarter full. In reality, they showed that many trains were simply empty. And extrapolated from the figures, it was argued that it would take an increase in patronage of 4 per cent. to fill each additional seat.

10.31 Liabilities and Bank Accounts

Fund raising arrangements in the railway industry had always been complex but after nationalisation it resembled a juggling exhibition. What follows is not exhaustive, but offers a flavour of the management of the impending financial crisis.

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40 *Report from SC on NIs* (1960), para 86 and 103. Since 1938 prices had risen generally by 171 per cent, whilst passenger fares and freight rates had increased by 145 and 144 per cent respectively. Gibbins calculates these as 108 and 147 per cent respectively. The Tribunal presented the BTC (and later the BRB) with a major logistical headache. Bids for fare increases were invariably tempered. As Gibbins notes, "[i]n the 20 years in which the Tribunal had powers in respect of fares, there were 17 applications, all of which were subject to the approval of the Transport Tribunal. They reduced BTC submitted proposals in 9 cases. The MoT rejected their decision once...and the BTC twice withdrew submissions to the Tribunal 'at the request of the MoT'" EA Gibbins, *Blueprints for Bankruptcy*, Leisure Products, Stoke on Trent, 1993, p88. The Committee noted that the Prime Minister's statement of 10 March 1960 (HC Vol 619, Cols 642-652) had altered the Commission's attitude formally governed by considerations of social service to one of commercially-based decision-making which had led in turn to more robust claims being put to the Transport Tribunal (*Report from SC on NIs* (1960), para 376). In the end the Committee recommended that the Tribunal should be restricted to consideration of fare increases in London only (para 412). The Transport Tribunal succeeded the Railway Rates Tribunal in this task in 1953. See also Joy (1973), p18 who rejects Gibbins' analysis. The deficit, argues Joy, was primarily due to the misapplication of investment capital.

41 *Report from SC on NIs* (1960), para 228. See also para 91.

42 *Report from SC on NIs* (1960), para 324.

Having lost the ability to issue transport stock (guaranteed by the Treasury) in 1956,[43] the Commission was restricted to borrowing from the Minister. Successive appeals for a more creative approach to financing were ignored.[44] Deficit financing [45] became the primary mechanism for money transfers to the railways' revenue account.[46] The special revenue account established for this purpose had, by the end of 1959, accumulated deficits of £368.4m (interest on this and capital advances amounted to £48.4m). Unfortunately, the luxury of the special revenue account was to cease in 1965 and interest charges on deficit advances would then become chargeable to the revenue account. However, the BTC had to start repayments of deficit advances in 1963.[47] As will be seen later, this was never likely to be achievable. To make matters worse, the BTC had been exploiting the superannuation fund to the tune of some £113m; in effect, expanding the resource base of the Commission. These loans were not, however, secured by the Treasury.

Yet another account, the Capital Redemption Account, drew money from the Revenue Account calculated to the amount of total stock over 90 years. This added another £3$^1/_4$m to the annual deficit.[48] But, as the Modernisation Plan had illustrated, the difference between current replacement costs and book value depreciation, helped maintain the deficit on Capital Account. It was estimated that due to this, depreciation had provided for a mere one quarter of the costs of modernisation.[49] Moreover, by 1960,[50] the BTC's railway capital liabilities amounted to £1769.5 million itself attracting an annual interest charge of £52.5 million.

[43] Finance Act 1956, Section 42(1).

[44] For example, issuing equipment bonds and "hire-purchase".

[45] Transport (Railway Finances) Act 1957, Section 1 (b)(i). The reasons for this change were examined by a Treasury Committee chaired by Lord Radcliffe, *The Working of the Monetary System* (Cmnd 827, August 1959). Essentially, the industries' investment needs were too heavy to be carried by the market which had resulted in the Treasury's Issuing Department being left with (particularly) BTC stock leaving the Treasury to raise the capital externally. In addition, investors saw the industries as increasingly being too close to government to be seen as "independent financial concerns"(paras 84-87). *The Financial Obligations of the Nationalised Industries*, Cmnd 1337, April 1961, para 27.

[46] Even this was accompanied by a certain creativity with the deficit for 1960 being made good by a "supplementary estimate". See *HC deb* 622 Written Answer, col 22, 28 April 1960.

[47] *Report from SC on NIs* (1960), para 145.

[48] *Report from SC on NIs* (1960), para 155.

[49] By definition, a depreciation account should cover for replacements. See Joy (1973), p14.

[50] Ministry of Transport paper to the Special Advisory Group, PRO MT 124/96 (see footnote 57).

Concluding its report, the Committee stressed the need for Parliament to be the arbiter of the social good and allocate specific funds as it saw fit for such provision. The task of the Commission was to run a profitable commercial railway and not to decide on the basis of social need without reference to Parliament.

10.32 The Guillebaud Equation

The Treasury's interest in operational railway policy grew steadily as the deficits mounted. As Gourvish notes, the ASLEF's claim for a substantial pay increase for members of 10 per cent in November 1957 just threatened to exacerbate the deficit problem.[51] Macmillan was at the Treasury and Macleod presided over the Ministry of Labour, and suppressing wage demands became central to their anti-inflation strategy. The railways were to provide the benchmark for the forthcoming public-sector pay round. The claim was eventually settled in June 1958 after the unions accepted 3 per cent on the condition that the British Transport Commission (BTC) establish an independent inquiry to consider the structure and grading of railwaymens' wages and their comparability with other industries in both the public and private sector.[52]

Gourvish suggests that the establishment of an inquiry was timely, for the volatility of the pay claim mechanism was such that the pay structure invited "leapfrog" claims which fuelled both public-sector and railway wage inflation. Moreover, further claims of the need for comparability by the unions were cumulatively legitimised by an assortment of tribunals and committees that examined the railwaymens' claims.[53] Moreover, it was apparent to the BTC that improved pay was necessary if the BTC was to recruit satisfactorily to the industry - particularly graduate engineers.[54]

The BTC found Guillebaud Committee's report disturbing and expensive reading.[55] Their report, 15 months in the making, was published on 2 March 1960. In the short term it was good news for railway workers recommending as it did rises of between 5 and 18 per cent. Prime Minister Macmillan told the Commons on 10 March 1960 that the Government accepted "the objective underlying the report..." but

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[51] Gourvish (1986), p233.

[52] Philip Bagwell, *The Railwaymen*, George Allen and Unwin, London, 1963, p655.

[53] Bagwell (1963), p237, *inter alia*, Railways Staff National Tribunal; Railway Staff Conference.

[54] RHN Hardy, *Beeching: Champion of the Railway?* Ian Allan, London, 1989, p28; *Report from SC on NIs* (1960), paras 289 and 290.

[55] CW Guillebaud was Emeritus Reader in Economics at the University of Cambridge; the other two members were H A Clegg, Fellow of Nuffield College, Oxford, and Edward Bishop. The Guillebaud settlement for 1961 was anticipated by the Ministry to add £15million to the revenue deficit. PRO MT 124/96.

its implementation would require an acceptance of "corresponding obligations".[56] In that same speech, MP's learned of the appointment of a "planning board"[57] and the anticipated changes to the structure of the BTC. The members of the BTC had to wait until their meeting of 31 March to learn of the details. They were not overly enlightened, however, when the Chairman delivered a deferential homily:

> *It was the announcement of a decision taken by the Government which, of course, they had every right to take, since the publication of the Guillebaud Committee's report had made abundantly clear that the Government's financial aid on a substantial scale must now be given to the to the Commission's undertakings, particularly in respect of British Railways...everybody should be quite clear that, on behalf of the Commission, he had given the Government the Commission's unreserved assurance that they would cooperate in the execution of the Government's decision.*[58]

That said, Robertson clearly felt aggrieved that the Commission's (Ministry approved) efforts to decentralise the railway operations had not been recognised by the Government. He urged the Area Board Chairmen and Regional General Managers to press ahead with the decentralisation programme despite the likelihood of the new legislation amounting to "...the complete dismantling of the Transport Acts of 1947 and 1953",[59] and hence the break up of the BTC.

10.33 The Financial Obligations of the Nationalised Industries - Cmnd 1337

At the turn of the decade the nationalised industries were suffering a severe identity crisis. Denationalisation may not have been on the agenda, but some form of economic identity needed to be assumed "because, unless this is sound and practical, their performance and morale were bound to be impaired. The Government considered that the time had now come to clarify the financial responsibilities of the nationalised industries in order to establish a firmer foundation for their future operations."[60] In addition, one needs to see this paper in the context of the crisis at the Treasury over the recent inadequacy of its control over the spending activities of Departments. The Treasury used the nationalised industries

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[56] *HC Debs*, 10 March 1960, Vol 619, Col 643.

[57] Known as the Special Advisory Group. *HC Debs*, 10 March 1960, Vol 619, Col 644; Ernest Marples identified its members in the Commons on 6 April 1960. *HC Debs*, Vol 621, Cols 393-399.

[58] BTC minutes, 31 March 1960. PRO AN85/15.

[59] BTC minutes, 31 March 1960. PRO AN85/15.

[60] Cmnd 1337, para 3.

and the defence budget as a means of reasserting its erstwhile control on public expenditure that had been undermined by the Keynesian consensus that had imported into Whitehall a departmental bullishness in spending matters.[61]

The paper itself took as its starting point the reports of the Select Committee on Nationalised Industries which had, as noted above, collected evidence on four industries.[62] The Government feared that the rate of return offered by the nationalised industries was unduly low and would, in time, have a serious effect on the economy as a whole. In essence, further haemorrhaging would necessitate extended government borrowing or higher taxation. The paper identified both the growth in non-commercial activity and an inability on the part of the industry to bear the cost of such activity as the main problem.[63]

The paper articulated what amounted to a "new deal" for the industries in the form of a new contract with the Ministry, the Treasury, and ultimately Parliament. On the revenue side, adequate surpluses should in future be earned to cover deficits over a *5-year period*. This included interest and depreciation on the historic cost basis. However, the industries would now be required to generate revenue to cover the excess of depreciation calculated on replacement cost basis over that at historic cost. Such was the experience of the failure of the accounting method as it applied to highly capital intensive industries.[64] "In normal circumstances, the desirable level of reserves should be related to the amount of capital employed in the business."[65] Essentially, highly capital intensive public industries had tended to underestimate replacement cost to the detriment of the public purse.

Moreover, the Government stated its intention to monitor the investment programmes of the industries more thoroughly than previously. The Government imposed a 5-year investment plan with the added ingredient of an investment ceiling two years ahead, and would scrutinise closely any investment plans that

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[61] Heclo and Wildavsky identify this phase as crucial to understanding the Treasury's dominance in matters of public expenditure post-1961. The outward manifestation of this struggle was the establishment of the Committee on the Control of Public Expenditure, chaired by Lord Plowden. Interestingly, both David Serpell and Matthew Stevenson, two key individuals in asserting a new fiscal discipline at the Ministry of Transport, we equally effective at this crucial time at the Treasury. See, Heclo and Wildavsky (1981), pp202-216.

[62] North of Scotland Hydro-Electric Board, the National Coal Board, the Air Corporations and British Railways.

[63] Cmnd 1337, para 16.

[64] Cmnd 1337, paras 19(a) and (b).

[65] Cmnd 1337, para 22.

were "expected to yield a relatively low return."[66] More revealingly, however, the paper introduced the notion of commercial risk and presented the case for a build up of reserves "to deal with contingencies which may effect [sic] their capital as well as their revenue accounts."[67]

And finally on prices and costs, the Government sought to scotch any notions that increased prices would be the necessary corollary of the new financial regime. It was recognised, and this was particularly true of the railways, that previous investment, upon fructification, would yield productivity increases and greater efficiency which should be reflected in financial results. However, the Government did recognise that prices had been kept artificially low and that the respective Boards should be given their autonomy on pricing policy.

However, most tellingly for the railways was the statement on costs. The authors recognised that the industries had been historically burdened with commercially unprofitable activities. Under the new regime the industries would be compensated for such social provision. The problem for the BTC and its railway division was how to cost these services.

10.4 The (Stedeford) Special Advisory Group (SAG)

Critical though the Select Committee was to be, the Ministry, Marples, Macmillan and by implication the Cabinet were looking for something much more concrete with which to challenge the existing organisational model and base for future legislation. They found it in the outputs of the Special Advisory Group chaired by Sir Ivan Stedeford, Chairman and Chief Executive of Tube Investments. Stedeford was joined by a fellow member of the UK Atomic Energy Authority and joint managing director of Courtaulds, Frank Kearton, Henry Benson, partner in Cooper Brothers the City accountancy firm, and Dr Richard Beeching, Chairman of the Metals Division of ICI. From the Treasury, the group was serviced by a Treasury Under Secretary, Matthew Stevenson, and the Ministry of Transport's Deputy Secretary, David Serpell.[68] There was no representation from the BTC or the unions.

The Special Advisory Group's six months of deliberation (12 April - 3 October 1960) generated no report. The group effectively split into two: Stedeford and Kearton in one camp and Benson and Beeching in the

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[66] Cmnd 1337, para 24 (iv).

[67] Cmnd 1337, para 22.

[68] Gourvish (1986), pp308-309.

other; even the mediation skills enjoyed by Serpell were insufficient to achieve agreement.[69] Gourvish's unearthing of the Committee's papers held by the BRB show just how fundamental were the differences, and why Beeching would be asked by Marples to execute the preferred plan.[70] The Committee worked at an impressive rate. Stedeford met with Marples on 10 May to present a verbal interim report outlining the Group's main areas of concern. As industrialists, they were clearly flabbergasted by the Modernisation Plan's lack of economic rationality. But their own impeccable rationality was to be a cause for concern within the Ministry itself. As PR Sheaf, the Secretary to the SAG, was to note in a memo to KT Harrison, *"I know we ourselves have a quite justified megalomania on this subject and it is most valuable to have SAG backing. But I think the group would look more thorough, more impartial and less like hatchet-faced tycoons if they showed that they recognise that there may be other reasons for keeping rail services going."*[71]

The primary area of disagreement was the fundamental question of organisation. Not surprisingly, the Group initially drew comparisons between the railways and the successful electricity industry. To that end they held a meeting with representatives of the power industry then organised in the three-tier structure.[72] Fortunately for the Ministry's officers, Beeching particularly was of the view that what was needed was a root-and-branch assessment and understanding of railway economics and a grafting of a matching executive organisation. For him, this would be the British Railways Board constituted by ten full-time and four part-time members each with functional responsibilities. Stedeford and Kearton envisaged a much more decentralised Board made up of functional members and Chairmen of the executive regional Boards vested with railway assets. Presiding over all of this would be a 6-12 member British Transport Corporation, an advisory holding company with responsibilities to both the Minister and constituent bodies including the Railways Board.[73]

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[69] Serpell conceded this point to Marples at a meeting on 15 September 1960. Minutes, PRO MT 124/208.

[70] PRO MT 124/96; The papers also show that Stedeford was anxious to avoid any association of his name with the Beeching organisational scheme should it find favour with the government. At the ministry officials were acutely aware that a personal snub was imminent, see minute from EW Godfrey to ECV Goad (undated) MT 124/208.

[71] PR Sheaf minute 11 August 1960, PRO MT 124/96.

[72] A non-executive council, the Central Electricity Generating Board, and Area Boards.

[73] Gourvish (1986), pp314-315. The Ministry "managed" the SAG with some skill. The SAG, for example, received only factual papers from officers. Within the ministry itself, however, critical papers circulated which discussed their musings. It is clear that officials had misgivings over the Electricity model. PR Sheaf, PRO MT 124/96.

The members of the BTC, with the exception of Sir Leonard Sinclair, John Ratter, and the Modernisation Plan's chief internal critic, HP Barker, rejected the Beeching/Benson scheme as presented.[74] The primary concern was over the centralisation of management marking a return to the failed regime under the Railways Executive.

Summary

With hindsight, the objectives of the Labour Government's nationalisation of the transport industries - co-ordination and efficiency were honourable though a quantum leap from the success Morrison experienced with the London Passenger Transport Board. Without the investment capital and an eager adoption of new technology coupled with appropriate fiscal techniques applied to all transport modes, such aims were mere fantasy. What is perhaps most interesting about the Modernisation Plan is not what happened, but more what might have happened had it been done earlier or in the event of a Labour victory in 1951. The transfer of much of the road haulage industry back into the private sector seriously challenged the BTC's rail freight operations, though under a rational coordination project, this would have happened anyway. It was always going to be cheaper to transport small items by road, though some form of equitable pricing of access to the roads vis-à-vis rail should have been effected.

As it was, the BTC, harried by the Treasury, and agreed by a guilt-ridden Cabinet, allowed one of the state's most outrageous public investment programmes to collapse heaping ignominy on its architects and minders. The nationalised industries did, as a whole, receive considerable attention from independent bodies (the coal industry had, for example, experienced the Fleck Committee). The Special Advisory Committee, free of partial interests, and chivvied along by an aspiring minister and a coterie of "can-do" civil servants, inevitably challenged the cosiness of a huge production-led industry. Richard Beeching, elevated to the helm to implement a radical restructuring sanctioned under the Transport Act 1962, was about to discover the limitations of top-down management in the public sector.

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[74] Gourvish (1986), p318.

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[74] Gourvish (1986), p318.

The Beeching Reforms: Chronology

January 1955	Publication of the BTC's Modernisation Plan for the Railways
September 1956	First reappraisal of the Modernisation Plan (Cmd 9880 - *Proposals for the Railways*)
October 1959	Marples becomes Minister of Transport
June 1959	Second reappraisal of the Modernisation Plan (Cmnd 813 - *The BTC Reappraisal of the Plan for the Modernisation and Re-equipment of British Railways*)
Dec 1959 - July 1960	Select Committee on Nationalised Industries inquiry into railway finances
2 March 1960	The Guillebaud Committee reports on railway wages
10 March 1960	Macmillan announces to the Commons a radical change in policy towards the railways and the establishment of a planning board
December 1960	Cmnd 1248 - *The Reorganisation of the Nationalised Transport Undertakings* published
April - October 1960	The Special Advisory Committee examines the railways with a view to recommending organisational change to arrest the deficits
February - August 1961	Reorganisation of the Nationalised Transport working party (RENT) established in the Ministry
April 1961	Cmnd 1337 - Financial Obligations of the NIs published
11 May 1961	Beeching joins the British Transport Commission
20 July 1962	Transport Act 1962 completes its passage through Parliament
13 September 1962	LH Williams appointed to BTC
11 October 1962	Philip Shirley appointed to BTC
19 September 1962	Workshop Plan finalised
1 January 1963	British Railways Board constituted
27 March 1963	*Reshaping of British Railways* report published
January - April 1963	Railways Interdepartmental Working Party - IDR
September 1963	Beeching establishes the BR Management Committee as a forum for discussion between the BRB and its General Managers
October 1963	Sir Alec Douglas Home becomes PM
October 1964	General Election - Labour victory; Tom Fraser becomes Minister of Transport
11 February 1965	*Development of the Trunk Routes* report published
1 June 1965	Raymond succeeds Beeching as Chairman of the BRB
22 December 1965	Barbara Castle succeeds Fraser as Minister of Transport
16 February 1966	The BRB repudiates *Reshaping* at its meeting with Barbara Castle

Chapter 11
Beeching: A Different Kind of Railway

11.1 Beyond the Special Advisory Group

The Special Advisory Group acted as a cathartic palliative for the Ministry. By the time of the group's inception, Ministry officials had firm views on what needed to be done; the SAG usefully legitimised their internal prognosis. Action was to be swift and clinical in its execution. The objective was to institute the necessary changes to the nationalised transport undertakings in the least possible time: a White Paper by December 1960; legislation by the close of 1962, and a major closure programme to give effect to the Act's provisions to be largely complete within two years.

Personnel was, of course, very important. Serpell and Dunnett, both convinced reformers at the Ministry were in place to manage the inevitable "huge legislative problem" the transport industries presented.[1] Later they would navigate the railway industry to its preferred state. The BTC's personnel were, however, viewed within the Ministry as very much part of the problem. Sir Brian Robertson,[2] who had chaired the BTC since relieving Cyril Hurcomb in 1953, was a military administrator, a qualification now deemed inappropriate for running the railway industry. Marples insisted that the BTC had been incompetent both financially and technically having "failed to make a proper approach to the job".[3] Robertson, as noted above, was aware that change was likely, though he was clearly looking for a position for himself in the new organisation. Moreover, continued support was sought until the new management could be placed. For example, Robertson saw the draft of the White Paper, *Reorganisation of the National Transport Undertakings*,[4] a mere 20 minutes before his meeting with the Minister at which it was to be discussed. Marples calculated that this would be enough to keep him "on board". In any event, the Prime Minister was willing to see him.[5]

As for Beeching, a meeting at Admiralty House on 22 December 1960 between Macmillan, Marples and

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[1] Memo David Serpell to TF Bird, Under-Secretary, Railways and Canals Group, MoT, 13 January 1961, PRO MT124/210.

[2] For a profile see Hardy (1989), pp35-37.

[3] PRO PREM11/4028.

[4] Cmnd 1248, December 1960.

[5] Minutes of meeting between Ernest Marples and the Prime Minister, 12 December 1960 in advance of the publication of the White Paper. PRO PREM11/4028.

Lord Mills, the then Paymaster General, confirmed his appointment. Mills, not surprisingly, was concerned about the salary to be offered; he also had a lower opinion of the man himself than did Marples.[6] More tellingly, Marples was "satisfied that Mr Beeching [sic] would be able to put new life into the railways on the managerial, technical and financial aspects. He could not, however, deal with the question of manpower himself. He would need strong government backing on this and that early in the new year Ministers collectively were to consider the possibility of a major row leading to a railway strike."[7]

11.2 All Dancing to the Ministry's Tune

As already noted, Serpell's transfer to the Ministry of Transport was in recognition of his conversion to the new fiscal imperatives at the Treasury. His experience of the Stedeford Group (shared with Matthew Stevenson who was to compose the Treasury's debt policy towards the new railways board[8]) suitably prepared him for the task of preparing the statute to give effect to the Committee's ideas.

Serpell selected OF Gingell, an assistant secretary, to take charge of the composition of the bill, working with TF Bird and RLA Hankey (Principal Assistant Solicitor, Minstry of Transport Branch, HM Treasury) in a small working group to coordinate the Ministry's work. A similar committee was established at the Commission.[9] Serpell's genius was to manage the Bill's composition through a series of working groups that were on the one hand functionally inclusive whilst being quite exclusive in nature. Essentially, he sought to exclude the Commission as much as possible without alienating its members. Liaison between the Commission and the Ministry, therefore, was managed largely informally. A joint policy and progress group met every fortnight or so which also grafted on further representatives of the Treasury. Moreover, the deliberations of Ministry working groups were immediately translated into policy by means of instructions from Serpell to Parliamentary Counsel, responsible for drafting the bill. Serpell used his discretion on these matters, having access to both members of the BTC and the Cabinet committees.

The important policy forum, however, was the Reorganisation of the Nationalised Transport Undertakings

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[6] See, Richard Lamb, *The Macmillan Government 1957-63: The Emerging Truth*, John Murray, London, 1995, pp433-435.

[7] PRO PREM11/4028.

[8] His thinking on issues arising from the White Paper such as debt write-off, future debt provision and transport stock is expressed in a minute to Serpell of 26 January 1961. PRO MT124/210

[9] Minute, Serpell to Gilmour (BTC), 22 February 1961. PRO MT124/210.

working party, known as RENT, chaired by David Serpell.[10] RENT sat from 2 February to 10 August 1961 and had a peripatetic membership.[11] Although the discussions were largely banal and organisational in their emphasis, Serpell keenly discussed meanings with the Treasury's Ministry of Transport Branch Senior Legal Assistant, Maurice Abrahams, in a bid to avoid ascribing unnecessary powers to the new Board. For example, in the Ministry's guidance to Parliamentary Counsel, words had to be found that would give the BRB sufficient autonomy to adjust services "to such an extent as the Board sees fit" without at the same sanctioning "above capacity" provision by the Board.[12]

11.21 Consultation

The rationalisation of the passenger railway was politically sensitive. The Ministry's efforts to anticipate the actions of "veto-bearing" agencies were sound and effective, though they were of course let down horribly in the end by the politicians. The Ministry had steered the BTC through a period of change which resulted in the abolition of the organisation itself. A bloodless coup, one might suggest. A complex statute gave effect to the ideas of the Stedeford group's renegades.

Implementation is a multi-faceted activity involving outflanking strategies, or just essential consultative activity - or both together. Intelligence is the currency of successful implementation and is often the foundation for the next round of changes. The Ministry therefore drew up a list of consultees at the various stages of policy formation. Table 11.1 tabulates the organisations which were invited into the policy discussion prior to the passage of the Transport Act 1962. The table locates their centrality to the Ministry's programme in terms of core, need-to-know and periphery. The Whitehall players, naturally form a core at the policy stage, though the BTC had a somewhat ambiguous status of being a core player only after Beeching's ascendency, and even then access was restricted to reliable key individuals such as FC Margetts and the Board Secretary, Major General Wansbrough-Jones.

The statutory actors, such as the Transport Tribunal, and the consumer committees occupied a finite space in the policy arena and were easy to manage, though well able to both extract concessions at policy and implementation stage, in spite of the best attempts of the Ministry to limit them.

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[10] It should be recognised that the RENT group had to consider the complete divestment of the BTC of its assets and reallocate them to new executive boards. Their discussions were not limited to railways.

[11] RENT worked under considerable pressure from May onwards. RA Butler, Chairman of the Cabinet's Future Legislation Committee wrote to WJ Sharp, Secretary to Gingell's coordinating committee, insisting that "I think I am right in saying, you have obtained all the policy clearance you need from the Cabinet." PRO MT124/210.

[12] Guidance note to Parliamentary Counsel, 17 May 1961. PRO MT124/210.

Table 11.1: Corporate Actors in Policy/Implementation Network 1960-65[13]

Organisation type	Consultees	Location in Network
Sponsoring Department (MoT)	n/a	Policy core/implementation core
Government Departments	Treasury Ministry of Labour Ministry of Housing, Local Government and Welsh Affairs The Scottish Office Ministry of Aviation	Policy core/implementation core Policy core/implementation core
Trades Unions	NUR; T&G; TSSA; ASLEF	Policy need-to-know/implementation core
Nationalised Industry	The BTC	Policy core/implementation core
Industry	Iron and Steel Federation National Union of Farmers Locomotive manufacturers Rolling Stock Manufacturers British Chambers of Commerce	Policy need-to-know/implementation periphery Policy need-to-know/implementation periphery Policy need-to-know/implementation periphery Policy need-to-know/implementation periphery Policy need-to-know/implementation periphery
Local Government	Municipal Passenger Transport Assn.	Policy need-to-know/implementation periphery
Consumer Interests	CTCC/TUCCs	Policy need-to-know/implementation core (statutory function)
Regulators	Transport Tribunal	Policy need-to-know/implementation core (statutory function)
Road Interests	Public Road Transport Assn Passenger Vehicle Operators' Assn	Policy and implementation periphery Policy and implementation periphery

As we have seen, some of the encounters were somewhat disingenuous and wholly functional for the Ministry such as consultation with members of the CTCC and representatives of the unions. The industry bodies, such as the National Farmers' Union, whose members were declining customers of the BTC were sufficiently close to government to be natural candidates for consultation. Immediately after the publication of the *Reshaping* Report, a second round of consultations were conducted through the auspices of the non-ministerial *Interdepartmental Working Party*[14] enjoying a wide-ranging membership across Whitehall, including the Treasury. Consultation was of the "what do you think?" variety with the last day for submission being 18 April 1963 - a shade impracticable for many organisations. The responses that

[13] Location in network: Category split into two components, policy and implementation which are further subdivided into core, need-to-know and periphery. These are illustrative categories indicating the degree of incorporation by the Ministry.

[14] The inter-departmental working party was referred to as IDR; however, an early memo from ECV Goad to CP Scott-Malden considered the difficulty associated with naming it. "There are too many consonants in interdepartmental railway working party to form a convenient mnemonic. Mr Serpell suggested semi-humorously the other evening that we might use RID." PRO MT124/930.

were received were largely anticipated, something on which the Ministry of Transport prided itself.[15]

Table 11.2: Inter-departmental Working Party Consultations on Implementation of Transport Act 1962

Consultees	Comments
Metropolitan Boroughs' Standing Joint Committee	Unhappy about congestion in Bethnall Green, Camberwell, Deptford, Fulham, Greenwich, Hampstead and Islington.
Urban District Councils Association	Urged research into consequences for car-parking, bus services, holiday resorts, terms of reference for TUCCs.
Counties and Cities Association	"The Report takes little or no account of local and national planning policies particularly in its assumptions about long-term trends in the location of industry and population."
Association of County Councils (Scotland)	"In particular, Scotland is harshly dealt with. Hardship and other social factors in certain areas should be considered, and special standards of comparison applied. "A Sudden removal of services would be unjust; and it appears that Scotland is to lose proportionately more passenger services than England and Wales, though the operating deficits incurred do not seem to warrant this."
County Councils Association	"A number of towns which appear on county development plans approved by the Minister for Housing and Local Government, as scheduled for a large increase in population, are on the list for withdrawal of passenger services. In such cases there should be consultation with the local authorities before a decision is taken." Called for discussions on closures to be held with local planning, highway and civil defence authorities.
Road Haulage Association	"Before authorizing the spending of £250m of new investment, the Government should consider the history of previous rail expenditure and its relationship to spending on other types of transport. "The investment by the Board will presumably be at preferential interest rates, but previous government expenditure of this kind has produced no return at all."
Others (MoT): London Transport Board, British Transport Docks Board, British Waterways Board, Tillings/Scottish/BET buses; Municipal Passenger Transport Association; British Road Services; Traders' Road Transport Association; General Council for British Shipping; Association of British Chambers of Commerce; Docks and Harbours Association; FBI; National Association of British Manufacturers; Council of Scottish Chambers of Commerce; Scottish Council (Development and Industry); Industrial Association of Wales and Monmouthshire; the TUC; the STUC; UK Atomic Energy Authority; AA, RAC and the Scottish Automobile Club; British Travel and Holidays Association; Scottish Tourist Board.	
Others (other departments) British European Airlines; BOAC; British Independent Air Transport Association; National Coal Board; Gas Council; Electricity Council; British Iron and Steel Federation; Chamber of Coal Traders; Petroleum Industry Advisory Committee; Iron and Steel Board; Regional Boards of Trade; Forestry Commission; National Farmers' Union; Milk Marketing Board; Central Milk Distributive Committee; British Trawlers Federation; Federation of British Port Wholesale Fish Merchants; National Federation of Corn and Agricultural Merchants; National Federation of Corn Trade Association and Compound Animal Feeding-stuffs Manufacturers' Association.	

[15] Minutes of ninth meeting of the IDR, 25 April 1963. PRO MT124/930. Responses were considered by the IDR on 13 August 1963.

11.3 Strategy

The Transport Act 1962, complex though it was, sufficiently claimed back territory ceded by the Ministry through the period of indifference that culminated in the dreadful mistakes of the Modernisation Plan. In constructing the Bill, the Ministry team led by Serpell and working through the usual labyrinth of working groups and committees, were re-writing the rules of engagement to the advantage of central administrators. Sometimes this was done subtly, others not. With the mechanics of closure a key variable in the restructuring plan, the consumer committees needed to be reined in.

11.31 Consumer Committees

The BTC's Annual Report of 1954 claimed only limited progress on "freeing the undertaking from the heavy burden of uneconomic categories of passenger services", but crucially, "[a] survey of train services clearly shows many slow and stopping services fail to cover direct costs by many millions of pounds per annum, there is no remedy except withdrawal and substitution of road services. Local opposition to this is still very great."[16] The BTC's resolve was, however, fitful, and exacerbated by an unreceptive regional management which eventually led to the Commission stressing the importance of introducing light-weight diesel railcars as an alternative to closure on many unremunerative branch lines.[17]

Progress was made on reducing the time taken to close lines. By 1958 the closure procedure had been reduced from an average of ten months to nine weeks.[18] Caution, however, dictated closure policy. The growing debate about the "social" railway clouded the closure process which resulted in the BTC maintaining the social responsibility for the provision of passenger services, albeit by subsidising bus substitution initiatives. It was for the BTC to fund these subsidies, eroding the value of savings derived from any closure programme. Beeching sought to limit this by arguing that bus services "[t]aken as a whole...have enough spare capacity to absorb the traffic which will be displaced from the railways, which will do no more than replace the bus traffic which has been lost over the last decade, and which will provide a very welcome addition to the revenue of the bus operators."[19] More importantly, however, was

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[16] BTC Annual Report 1954, quoted in Gibbins (1993), p43.

[17] Gourvish (1986), pp206-207.

[18] Gourvish (1986), p207.

[19] The British Railways Board, *The Reshaping of British Railways*, HMSO, London, 1963, p19. Beeching, interestingly, did not discuss where these bus passengers had gone.

the scope afforded objectors in what were essentially operational decisions. Attempts to close the *Bluebell Line* (Lewes - East Grinstead) in August 1956 were thwarted by a petty legal challenge after the line had actually closed. The BTC was found to have acted unlawfully in not seeking Parliament's sanction under an Act of 1878 which stipulated that the operator should provide at least four trains per day *in perpetuity*.

The wrangling over the Bluebell Line brought to the fore the contradictions in the closure process. The BTC's case for closure hinged on long-term costs, contrasting with the users' committees' emphasis on short-term avoidable costs. In June 1958 the Commission, in return for streamlining the closure process, agreed to provide the committees with more detailed financial information. In addition, the agreed focus shifted to identifiable net savings and projected renewal savings limited to five years' hence. The latter being a measure designed to avoid over-emphasising the savings.[20] The BTC also conceded the concept of contributory revenue as an useful indicator for the committees.[21] But, as Gourvish notes, "[b]y giving more information the Commission was in danger of exposing itself to attack from well prepared protesters."[22]

11.32 Consumers

Consumers of transport services, both passenger and freight, were represented by ten area Transport Users' Consultative Committees (TUCCs) and nationally through the Central Transport Consultative Committee (CTCC). The decisions of the TUCCs were subject to review by the CTCC. There were two exceptions, however. Both the Scottish and Welsh Committees were autonomous. The BTC's closure programme had suffered at the hands of the CTCC which continued to insist on securing alternative services for those affected as a condition of support. In effect, the CTCC exercised a veto despite the membership of BTC officers. It was this veto that Serpell sought to exorcise. The task fell to ECV Goad, a key Ministry Official located in Railways B Division.

The Ministry viewed the TUCCs somewhat more favourably. They did represent a check on executive decision-making but they were also functional. Their integrality to the implementation of any programme of service rationalisation was never seriously questioned. However, the volume of anticipated closures was

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[20] These were renewals on ways and structures. To project savings over an extended period would tend to inflate the presented figures.

[21] Contributory revenue is that lost to other (mainly trunk) routes as a result of closure of an unremunerative branch line.

[22] Gourvish (1986), p211.

expected to cause an overload on the voluntary committees but, "[t]he Minister must rely on them to exercise discretion to ensure that, while fulfilling their duty to look after users' interests, they proceed as expeditiously as possible."[23]

Expedite in this context meant three things: to limit the scope of the TUCCs when holding hearings on closure proposals, to deliver their reports directly to the Minister bypassing the Central Committee, and to ensure that the committees were presented not with individual closure proposals but bundles that could be processed in one sitting.[24] On the first point, the Committees were to be limited to considering the *degree of hardship* caused to users by proposed closures, which was an improvement on the original concept of *undue hardship*.[25] This was a semantic exercise in limiting judgement as well as the nature of hardship. However, it was a major diminution of responsibility for the TUCCs which had, as noted earlier, brokered a deal with the BTC to be provided with detailed financial information.

The Ministry sought to withdraw this concession for four reasons. First there was the time limitation. Second, such financial information, it was thought, would be exploited by objectors. Third, it was thought that committee Chairmen would be influenced if they knew whether the outcome of a Committee decision would result in a small or large saving to the Railways Board. Fourth, Committee deliberation over such information would undermine the managerial capacities of the proposed executive Area Boards. Indeed, an over-zealous Committee Chairman might be inclined to question the Area Boards' right to propose closure in the first place.[26]

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[23] Draft Policy on consultative committees, Railways B, 4 December 1961. PRO MT 124/189

[24] Beeching in his report was, by his standards, scathing on the issue of the negative effect of the closure machinery prior to the new Act. See, The BRB (1963), p52. The Cabinet established a Committee on the Reorganisation of the Railways under the chairmanship of RA Butler. The line closure machinery featured high in their early discussions as they presented the greatest test for ministers in Parliament. The route packaging idea, not surprisingly, garnered much favour amongst members. See Cabinet minutes, 14 March 1963 - PRO CAB 128 (37), item 7(e), p120. Additionally, it was argued by Serpell that he needed to protect his minister in standing committee after Parliament was assured that figures would be available. The packaging of routes, it seemed at the time, might make it easier for the BRB to present meaningful figures. Minute, Serpell to Wansbrough-Jones, 12 March 1962. PRO MT 124/189.

[25] Loose minute from LJ Dunnett to Minister seeking authority to "proceed accordingly". 1 September 1961, PRO MT124/189.

[26] Draft submission on TUCCs based on Serpell's discussions with officials of the Ministry's Railway Divisions, 2 August 1961. PRO MT124/189. After negotiations with the Ministry and the CTCC and the commissioning of a report by Sir William Carrington of Whinney, Smith and Whinney chartered accountants, TUCCs were supplied with data encapsulating revenue on direct movement and terminal costs (on a basis that excluded interest and providing for renewal at historic rather than replacement cost), together with track and signalling costs attributable to passenger and train working. In addition, Carrington advised that the TUCCs be given details of expected maintenance and renewal costs for the subsequent five years. See, Gourvish (1986), pp436-437;

The Central Committee was a strong candidate for abolition. This was favoured by the BTC, though the Ministry saw dangers in outright abolition. The Central Committee had assumed the role of *Court of Second Instance* "varying the findings of the Area Committee without themselves rehearsing the evidence on which the Area Committee's findings were based..."[27] Their meeting every two months further threatened any coherent programme of closures. A deputation from the Central Committee met with Serpell and three other officials to argue for retention, but with the area committees being promised autonomy and their Chairmen guaranteed *ex-officio* membership of a reconstituted Central Committee, they were short of allies.[28] The Central Committee's protestations were only heard so as to negotiate a rather messy two-speed transition caused by the need for the CTCC to clear a backlog of work that could not be transferred to any successor.

Carrington's report can be found in the minutes of the British Transport Commission (Official) Committee chaired by Sir Frank Lee - PRO CAB 134/2426.

[27] Draft of proposals for Central Committee, 1 January 1962. PRO MT124/189.

[28] Serpell, Scott-Malden, Goad, Davies (Principal, Inland Transport Planning, MoT); Sir Ronald Garrett, EG Whitaker, DH Joyce and JC Chambers (CTCC), 10 January 1962. PRO MT124/189.

Figure 11.1: Consumer Committees: A Guide

The consumer committees were designed to represent the interests of transport users faced with dealing with a monopolist provider, the BTC. They were the product of the nationalisation Act of 1947, but were nearly abolished in 1953 when the BTC's monopoly was compromised by the Conservative government. It was thought, however, politically unwise to tamper with them.

The committees all had similar memberships which were governed by the legislation. All had representatives of business and commerce, shipping, agriculture, local government, labour, the BTC and "independents" appointed by the Ministry of Transport. In 1960, for example, the Central Committee was chaired by Sir Ronald Garrett. His closest allies, EG Whitaker and DH Joyce were eminent businessmen with a clutch of directorships and seats on business committees (Whitaker, for example, was chairman of the industry Transport Users' Policy Committee and advised the Board of Unilever on transport issues). They had, without doubt, an incentive to resist the reorganisation of the railways on the grounds of keeping costs down for their respective industries.

The regional committees mirrored this structure. The key personnel were the Chairmen - two in particular were influential to the extent that they were singled out by the Permanent Secretary, Sir James Dunnett, after observing them at the annual meeting of Committee chairmen in 1960. The minutes of the meeting (found in PRO MT124/186) record the following discussion on thoughts about changing the complexion of the committees:

> *The quality of nominees varied considerably from time to time, and one or two chairmen felt that some members with wider experience would be welcome; that members appointed by the minister were generally better in quality than those nominated by various associations who were sometimes very parochial in their outlook. On the other hand some chairmen had some excellent members in the latter category, and were anxious that this would not be overlooked in any general statement. Mr Street [chairman, Wales and Monmouthshire Committee] said that by keeping in touch with the Ministry, it was possible to influence the composition of the committees, and he felt this method was preferable to any major alteration which would require legislation.*

The opinion within the ministry was that the committees' members were generally of low quality and it was difficult to find good chairmen.

11.33 The Employment Question

The trades unions' collective veto presented yet another variable to be managed. The veto was multi-faceted ranging from the absolute use of the strike weapon to the more corporate manoeuvrings over severance payments. The reduction in personnel was of crucial importance in the battle against costs representing some 60 per cent of railway expenditure. The Guillebaud settlement threatened to wipe out any savings filtering through from the *Reshaping* plan. All parties were acutely conscious of the strength of the unions' bargaining position.

Beeching's approach to these problems illustrate his political naivety. His *Reshaping* report estimated that some 16,200 jobs would be lost as a direct result of the closure plan which amounted to a reduction in route mileage of some 5,000 miles and a train mileage of 68 million.[29] In addition, he indicated that

[29] This would result in lost revenue amounting to £15m including £3m of contributory revenue yielding a net annual saving of £18m. BRB (1963), p19.

indirect losses would at least match those directly attributable to the closure proposals. He also made clear the need to implement the plan as quickly as possible.[30]

The redundancies arising out of the closure programme were to prove unproblematic. By the time the publication of the *Reshaping* report, the British Railways Board had conceded quite generous redundancy arrangements, much to the chagrin of the Ministry and the Cabinet. The first hurdle, however, was the management of the consequences of implementing the earlier *Workshop Plan* arising out of the overcapacity in BR's engineering division and affecting some 20,000 jobs.[31] However, according to Bagwell, the NUR's one-day strike of political opposition to the workshop closures held on 3 October 1962 was "principally...a lever with which to obtain better redundancy payments for displaced railwaymen. A complete *volte face* in government policy was not envisaged."[32] Moreover, the success of the *Workshop Plan* was strategically important for the Board because it was hoped that for redundancy purposes it would provide a template for the wider restructuring under the *Reshaping* proposals.

Beeching was clearly not accustomed to negotiating with public-sector unions. The workshop "deal" was presented in September 1962 after consultation with the unions' leaders *and* shopfloor workers. In effect the union leaders found themselves unable to bargain over the detail because the shopfloor workers knew exactly what the Board proposed and any bargaining would inevitably lead to one group of workers losing out to another. Under normal bargaining arrangements "settlement" details were kept secret until the process was exhausted. Beeching failed to appreciate that the rail unions were ordinarily responsible for "delivering" their members in bargaining situations.[33]

Running simultaneously with negotiations over the workshop redundancies was the pay round reflecting the Guillebaud settlement. Beeching's mishandling of the redundancy issue put the unions on the defensive. Over wages, Beeching was a victim of his own decency and sense of fairness. The unions, moreover, found themselves unable to exploit this as his "generosity" simply wasn't recognised. And for the Ministry and the Government, Beeching was a man to watch very carefully.

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[30] BRB (1963) p52.

[31] Minister of Transport reporting to Cabinet, 13 September 1962. PRO CAB 128/36 Pt2 p399 (5(a)). The Workshop Plan dates from 19 September 1962 and pre-dates the *Reshaping* plan by six months.

[32] Bagwell (1982), p142.

[33] Cabinet minutes, 4 October 1962, PRO CAB 128/36 Pt2 p410 (1). Beeching was to admit to Marples that he had mishandled the negotiations. Marples reported this to the Cabinet 25 October 1962, PRO CAB128/36 Pt2 p443, (1).

Marples told the Cabinet on 4 October that "he was anxious not to jeopardise the plan for reorganisation, which would open the possibility for substantial relief to the Exchequer."[34] However, Beeching in accepting the findings of the Guillebaud Committee was in danger of breaching public-sector pay guidelines which threatened a knock-on effect in other industries. The Government was seeking to renege on the Guillebaud recommendations on which Beeching's own calculations and sense of fairness were based.[35] Moreover, the Cabinet learned on 13 September that a high settlement might equally inflate severance payments.

In March 1960 the Guillebaud settlement was instituted placing railway workers' rates of pay at the median level in relation to the twelve industries compared by Guillebaud, but after two years the differentials opened up once more.[36] With the Government's "pay pause" effective from July 1961,[37] it was always going to be a tough pay round.[38] The NUR, seeking a "substantial increase" rejected Beeching's offer of first 2.5 per cent and later 3 per cent which was imposed on Beeching by Marples.[39] The unions agreed an interim payment of 3 per cent after being persuaded by Macmillan after "much consumption of whisky" at a Downing Street meeting on 14 February 1962.[40]

After the settlement, overt ministerial intervention had to be avoided as it undermined Beeching's authority when the reorganisation was incipient, and ran the risk of the unions focusing on the Government as the enemy enhancing the risk of strike action. The Cabinet's interest in reorganisation, however, did not

[34] Cabinet minutes, 4 October 1962, PRO CAB 128/36 Pt2, p410 (1).

[35] The White Paper, *The Next Step*, Cmnd 1626, February 1962 was to blame comparability for fuelling wage inflation and was consequently judged to be against the national interest.

[36] Bagwell (1982), p163.

[37] Later modified as White Paper, Cmnd. 1626 operative from 31 March. Macmillan expressed the White Paper's objectives as setting "...down the criteria by which the Government intended to judge, and meant others including arbitration tribunals to judge, wage demands according to the national interest. Thus increases in the cost of living would by themselves be no justification for wage rises (an attempt to cut into one of the chief inflationary spirals of the post-war period); increased productivity in an industry would not be sufficient reason unless it had been achieved by people accepting more exacting work, or more onerous conditions, or by renunciation of restrictive practices; the principle of comparability would no longer be acceptable, since it meant that one inflationary increase would promptly be followed by others; and industries should think of the national pattern before bidding up the price for labour." Harold Macmillan, *At the End of the Day: 1961-63*, Macmillan, London, 1973, p52.

[38] The Government's aim was to limit public-sector pay increases to an average of 2.5 per cent. See Cabinet Minutes, 4 January 1962. PRO CAB 128/36 Pt1 p30 (1(a)).

[39] Bagwell (1982), pp165-6

[40] See Macmillan (1973), p53.

subside. The Cabinet Wages Committee chaired by the Chancellor of the Exchequer sketched out the bargaining strategy in light of the NUR's claim of between 11.5-12.7 per cent, and ASLEF's and the TSSA's 7 per cent claim in a report submitted to Cabinet on 4 October 1962. The Wages Committee sought to open negotiations at 3 per cent and close at 4 per cent if the unions were prepared to accept redundancy within the workshops. The Cabinet learned that Beeching was of the belief that this constraint "conflicted with his ideas of the requirements of good management..."[41] Under these constraints, the Prime Minister once again put himself at the disposal of the negotiating machinery. In the meantime, the Chancellor of the Exchequer wrote to Beeching to inform him that his proposal to open negotiations at 6 per cent was wholly unacceptable to the Government.[42]

The letter from the Chancellor was not received well by Beeching. In his response Beeching criticised the Government's wages policy and threatened to show any letters of guidance to the rail unions leaving the Government to negotiate with the unions directly. The outcome, however, amounted to a classic win/win solution. Beeching was given a budget of £16m calculated to be equivalent to 4 per cent. If he chose to go higher, he would have to fund it internally. This proved to be compatible with "good management".[43] Beeching opened negotiations at 5 per cent on 5 November (rejected by the unions), raising it by 1 per cent two days later to achieve a settlement.

11.34 Happier Times

Where the Cabinet expressed misgivings about Beeching's negotiating skills with public-sector unions, they were clearly impressed by the draft of Beeching's *Reshaping* report.[44] They were not sure, however, whether Beeching would, on launching his report, make the appropriate emphasis on key aspects of the plan: relief for the Exchequer, the statutory closure procedure, renewed co-ordination, the development

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[41] Cabinet Minutes, 25 October 1962. PRO CAB128/36 Pt2 p443 (1).

[42] Cabinet Minutes, 1 November 1962. PRO CAB128/36 Pt2 p466 (2).

[43] Cabinet 1 November 1962. Bagwell (1982), p165.

[44] The report first went to the BRB on 28 February 1963 (see BRB Minutes, 63/73. BRB Records Centre). It then progressed to the Cabinet Committee on the Reorganisation of the Railways chaired at that point by RA Butler, and presented to Cabinet on 14 March 1963 two weeks before its publication. The Committee's other members were: the Secretary of State at Home Department, Henry Brooke; Chancellor of the Exchequer, Reginald Maudling; Chancellor of the Duchy of Lancaster, Iain Macleod; Minister of Labour, John Hare; Secretary of State for Scotland, Michael Noble; Minister for Housing, Welsh Affairs and Local Government, Keith Joseph; Minister without Portfolio, William Deedes; Minister of Power, Richard Wood. In reality many attended by proxy.

of the road network and the modernisation (of Britain).[45] Serpell himself was a shade disappointed that the savings estimated in the report seemed modest and were liable to be interpreted as negligible and therefore not worth the effort.[46]

With regard to the unions, the Ministry applied a "divide-and-rule" tactic in the knowledge that the rail unions were weak when isolated. The closure programme, unlike the Workshop Plan, had the potential to garner support from both other unions and campaigning groups. George Woodcock, General Secretary of the TUC, who had already had an audience with Beeching, was courted by Marples on 5 April 1963 with the object of stressing the discredit due to the Trades Union Movement as a whole should strike action be contemplated over the *Reshaping* plan.[47]

For the Cabinet, its Committee on Reorganisation of the Railways' primary task was to establish an implementation timetable and a strategy for managing political disquiet both within and without of Parliament. Although objections to closure were anticipated, the Cabinet Secretary, Burke Trend, was of the opinion that "the trouble will be local and sporadic."[48] The Committee anticipated, however, the closure process to be largely completed by the end of 1964.

The Labour opposition saw much that was admirable in the *Reshaping* report. It was a fine piece of work

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[45] Marples noted in a minute to Prime Minister of 25 March 1963, however, that Beeching had a good adviser in SK Garratt, the former PR adviser at Shell International Chemicals. PRO PREM11/4548.

[46] Minutes of the fourth meeting of the inter-departmental working party on the implementation of the *Reshaping* plan, IDR, 5 March 1963. This exposed Beeching once again as a conservative who believed in the absolute truth and veracity of figures. FC Margetts, who became a trusted "fixer" within the Ministry, in addressing this same forum on 1 March 1963 was at pains to explain how the savings would be much greater than those in the report, and was able to present the figures of £11-13 million above the direct savings estimated in the report.

[47] Loose minute from CP Scot-Malden to IDR on meeting between Beeching and unions. PRO MT 124/930.

[48] Burke Trend report to Cabinet Committee on Reorganisation of the Railways, 15 February 1963. PRO PREM11/4548. Trend was proved right, but where feelings ran high the TUCCs found themselves under severe pressure. For example, the East Midlands Committee, Chaired by the outspoken Professor Robert Peers, had its work cut out in April 1964 when the General Manager of the LMR, Henry Johnson, suggested they get a move on. Peers wrote: "Objections to the Lincolnshire proposals now number 1,506 with others still to come on the closing date tomorrow [2 May 1964]; and this does not include the 2,000 held for us by the Mablethorpe Council, or 200 held by Alford. All these have to be carefully summarised, queries by objectors have to be answered and doubtful points cleared up. Then all who wish have to be sent copies of the Heads of Information and all this is happening also in connection with other important proposals...If we tried to deal with your proposal in July, we could only do so by cancelling hearings in connection with earlier proposals; and this would be resented, apart from the fact that some joint cases with other TUCCs which are working to dates which are already fixed." Peers to Johnson, 29 April 1964. MT124/186.

by an able technocrat, as one MP described Dr Beeching in the debate on the report.[49] The Labour Party's concerns over the report were carried forward from the original opposition to the Transport Act which preceded it. Dr. Beeching's project was self-contained and devised in the absence of any political context - the need for integration, protection for displaced workers and a firm grasp of the consequences for the rest of the economy. GR Strauss, Labour's front-bench spokesman, moved an amendment to the eulogistic motion on the order paper. It called "upon Her Majesty's Government to defer making decisions on the major rail closure proposals contained in the Report of the British Railways Board until such time as a thorough survey of the nations other transport services and facilities has been completed, and a national transport plan devised."[50] It was the failure to promote integration, coupled with the implicit intention of the Government to divest the transport interests transferred from the BTC into the Holding Company - the remaining road haulage interests and the bus operations - that Labour pursued in opposition. In addition, the likes of Strauss pursued the argument that a reduction in the capacity of the railways would lead to congestion (for which they already blamed the Conservative government after the partial privatisation of the road haulage industry in 1953), and the shifting of financial risk onto other parts of the public sector. Congestion generated a demand for more road capacity which would undoubtedly be met by the Exchequer. New forms of freight handling, moreover, shifted the burden of wagon manufacture and maintenance onto the National Coal Board and other public-sector users of rail. Wherever possible, therefore, the BRB would reduce its own costs at the expense of some other economic interest which might look fine on the BRB's balance sheet, but would do little for overall economic efficiency. Dr Beeching was effectively depoliticising the railways.

11.35 Organisational Change Under Beeching

Beeching attended his first meeting of the Commission as a part-time member on 11 May 1961.[51] He made an immediate impression criticising both the Commission's seeming preoccupation with balancing costings of various classes of traffic with expenditure, and its failure to contrast its own freight operations with those of other modes.[52] Beeching recognised that certain classes of traffic would inevitably pass to road

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[49] Held over the two days of 29/30 April 1963. George Russell Strauss, 29 April 1963, *HC debs* Vol 676, Col 745.

[50] *HC Debs*, Vol 676, Col 742. 29 April 1963.

[51] Beeching joined first as a part-time member on Serpell's recommendation. David Serpell, interview with author, 12 July 1996.

[52] BTC Minutes, 11 May 1961, minute 14/163. PRO AN85/16.

when a more commercial rate was charged for their carriage.[53] A month later Beeching was in the chair and quickly began to centralise and streamline headquarters activity. Meetings of the Commission were reduced to two per month with fewer attending. Beeching also made a number of strategic appointments to the Commission in preparation for the establishment of the British Railways Board which functioned in shadow form as a Committee of the Commission for the eight months leading to vesting on 1 January 1963. Beeching also moved quickly towards regional accounting first by empowering the Area Boards to construct their own investment plans (covering five years), guided by new economic criteria and specifically restricting HQ involvement at the planning stage. Final plans remained subject to both BTC and Ministry approval.[54]

On the appointments side, Beeching began to infuse the Commission with "fixers", many from outside. LH Williams from Shell was appointed on 13 September, closely followed by Philip Shirley on 11 October an accountant seconded from Unilever. In their subsequent collaboration, both were to challenge radically the BTC's financial ground-rules starting with clerical efficiency at HQ. Beeching prepared the Area Boards for the future role by appointing a raft of reformers to the extraordinarily influential Regional General Manager posts including two future Chairmen of the BRB itself, Stanley Raymond in the West and Henry Johnson for the London Midland Region. Another putative central "fixer", FC Margetts, headed to the North East Region.[55] Shirley then implemented a partial form of regional accounting "to pursue the development of management control of information, with a change in emphasis from total regional figures to management or business unit figures..."[56]

The Board was structured to be crudely functional. The emphasis was on functional responsibility (see Figure 11.2 below). Lines of responsibility were also carved leading from the Board to the regional

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[53] Of particular concern was the sundries traffic which incurred particularly high handling costs. The British Railways Committee (the shadow Board constituted prior to vesting of the BRB), for example, recorded on the 22 November 1962 that Margetts should undertake a study of the costs and revenue estimates with a view to establishing whether sundries traffic could be made profitable. However, the Committee decided that "the [railway] Regions should be pressed to go ahead with the closure of certain depots..." Minute 68, British Railways Committee, 22 November 1962. BRB Records Centre.

[54] Accompanying papers to BTC Minutes, report, "Procedure for Handling Capital Expenditure", 13 July 1961. PRO AN 85/54. This was a little confused, however. When the Finance Department presented its revenue budget for 1965 to the Board (18 November 1965), the concept of "responsibility" was introduced which attributed certain receipts to the centre rather than the Regions with the aim holding functional members of the Board responsible for them. "The only relevant figures of profitability in the budgets are those for the railways as a whole. The Regional figures are compiled in a form suitable for control; they are not meant to be Regional Profit and Loss accounts." BRB Management Committee papers, BRB Records Centre.

[55] BTC Minutes, 13 December 1961, minute 14/407. PRO AN85/16.

[56] BTC Minutes, 7 March 1962, minute 15/54. PRO AN85/16.

management, particularly to the General Managers - the articulation of central policy was, in future, to bypass the Area Boards, with the possible exception of the Chairmen.[57]

FC Margetts took his place on the BRB at its inception on 1 January 1963. A lifelong railwayman nearing the end of his career (he was 57 on his appointment), Margetts was on the face of it an unlikely reformer. In tandem with his influence over the Board's Planning Committee, in July 1963 he headed the newly-created Central Planning Unit at the BR HQ with responsibility for the implementation of the *Reshaping* plan.[58] But as Gourvish notes, the planning objective at the centre was a confused arena to inhabit. Margetts' function impinged on James Ness's appointment to the Board as the functional member for planning and the concept of planning in an environment characterised by uncertainty proved unhelpful.[59] Planning was an important aspect of the *Reshaping* programme and encapsulated not only line closure but equally less tangible variables such as wider economic variables that might affect the viability of the railway in the future. Rational planning was the essence of the Beeching "revolution".

[57] BTC Minutes, 11 July 1961, minute 15/180. PRO AN85/16.

[58] He was assisted in this task by another disciplined railwayman, HR Hammond. Other key members were WA Clegg, P Keen and P Phillips. The Planning Unit also had responsibility for Liner Train development, the National Wagon Authority and the Sundries Plan. Margetts was extraordinarily prolific in his output to the Planning Committee on aspects of these programmes.

[59] Gourvish (1986), pp347-8.

Figure 11.2: The Regional Boards

The Regional Boards established under the 1962 Transport Act were, by contrast to the BRB, far from functional in their form. The General Manager of the region enjoyed an *ex officio* membership, and in some cases, Assistant General Managers sat on them, too. Stanley Raymond, Henry Johnson and David McKenna acted as Chairmen of their committees - Western Region, LMR, and Southern respectively.

The additional members, however, were drawn largely from business. Sir Richard Summers of the LMR was typically well-endowed with directorships including United Steel Companies Ltd., District Bank Ltd., Royal Insurance, etc. Others, in addition to their business interests, were also members of other nationalised boards. Sir Kenneth Preston of the Southern Board was a director of *inter alia* Midland Bank, Avery and the South-Eastern Electricity Board. John Ryan, a member of the Western Region Board, in addition to his directorships, sat on the South-Eastern Electricity Board.

Other members had odd associations. RF Hanks, a member of the Western Region Board was a trained engineer who had started his career in the Great Western Railway's locomotive works in Swindon before graduating to the Oxford City and North Wilts Technical School. He had very close associations with the motor industry having been a director of the British Motor Corporation 1947-61, the National Advisory Council for the Motor Industry (1951-55), and was vice-president of the Society of Motor Manufacturers and Traders. His primary qualification may well have been his hobby: model railways.

In assessing the outputs of the Boards, one has to consider the nature of their business. Much of their work involved approving routine works in the region - anything from bridge painting to new track layouts. On occasions their deliberations were less-than routine. The LMR, for example, spent many hours considering the detail of the rebuilding work associated with the new Euston Station and the attendant infrastructural investment. But equally, the BRB took an interest in this work, too. The real influence, both in terms of policy and engineering remained with the General Managers and the control over financial resources by the engineers who monopolised the technical expertise which maintained the rail network.

More curious was the enhancement of the power located in the fiefdoms of the General Managers. Despite the centralisation of power in HQ, the Regional General Managers enjoyed considerable management autonomy in combination with their control over policy in their capacity as Chairmen of the Regional Boards.[60] The efficient implementation of the closure programme was effectively in their hands. Beeching formalised the relationship between the General Managers and the Board after the informal mechanisms proved unsatisfactory. The formal *British Railways Management Board* constituted in September 1963 was his initiative and which he chaired to exercise control over the general managers. The minutes of this committee give some insight into their failings such that they were. In November 1963 Margetts gave them a dressing down for allowing the rate of publication of (closure) intentions to fall behind target (which was effectively his deal with the Ministry). Moreover, they were criticised for proposing too many

[60] This was a deliberate objective, though Beeching explicitly sought to exclude General Managers from the BRB on the grounds that they would constitute a block interest that could act as a veto on issues regarded as inimical to regional interests. See minutes of meeting between the PM and Beeching, 10 May 1961. PRO PREM11/4028.

modifications to routes as opposed to outright closure.[61] In a minute to James Ness, Margetts once again vented his anger:

> *There are still too many stopping trains of doubtful financial adequacy running about which the General Managers did not include in their submissions for withdrawal, curtailment, and modification. As things stand at present it seems to rest with me to pursue with the General Managers the question of viability of remaining stopping services, and to submit the outcomes to the Board.*[62]

The General Managers did have a significant effect on implementation. For example, Gerard Fiennes who, as General Manager of the Western Region, embarked upon a regional challenge to the Beeching methodology by emphasising efficient working rather than withdrawal where the savings appeared small. Fiennes caught the contributory revenue bug which the central administration tried unsuccessfully to expunge from the railway lexicon.[63] He was also influential over the decision-making affecting the future of the old Southern Railway route to Exeter via Salisbury. His strategy[64] encapsulated two elements. First, he aimed to use local media sources to highlight the threats and communicate the fact that railways close if not adequately patronised; and second, to further reduce costs by simplification of track, signalling and staff.[65] Fiennes was assisted very greatly by the storm which erupted over closure plans. Eight local authorities supported the campaign directly - the struggle came to the attention of the PM because of its perceived electoral impact in Dorset.[66]

In many ways this is a good example of the hyperbole that surrounded much of the closure programme. Because of the haphazard evolution of the railway, the BRB inherited and operated a number of "duplicate" routes. Exeter could be reached by the Salisbury route or, more quickly, by the Western

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[61] Minutes of the BR Management Committee, 27 November 1963, minute 63/15. BRB Records Centre.

[62] Loose minute 16 December 1963. Supporting papers to the BR Management Committee, BRB Records Centre.

[63] Gourvish (1986), p448.

[64] Fiennes was a "critical" loyalist. He was as much an empiricist as Beeching, but to a different end. He constructed a "fact-finding body" to investigate the Exeter routes and provide him with the raw data to salvage some kind of railway. See copy of letter between Fiennes and Richard Glyn MP (the recent Labour victor in the 1962 Dorset North By-election), 7 February 1964. PRO PREM 11/5167.

[65] GF Fiennes, *I Tried to Run a Railway*, Ian Allan, London, 1967, pp100-101.

[66] Marples to PM (by this time Alec Douglas Home), 11 December 1963, reporting on protest meeting over the plans. PRO PREM11/5166.

Region route via Westbury. At the time of the *Reshaping* report, the question of duplicate routes had not been satisfactorily addressed. In 1962 a series of inter-regional working parties were established to consider the question of duplicate routes in preparation for "Beeching 2", an evaluation of the trunk route network which was eventually published in February 1965 under the authorship of James Ness.

On the question of the Exeter routes, the BRB had been embarrassed by some loose talk at district level within the respective regions which had alerted local interests - and the media - to the threat to the route which undoubtedly affected the outcome, but not as much as is generally believed. The British Railways Management Committee considered a study conducted by one of the two inter-regional working parties established which comprised regional traffic managers and planning officers from the Board working under guidance of the Chief Operating Officer in February 1964. The results positively startled RA Long, the then chief commercial officer who reported the findings to the Management Committee in a report.[67] He reported that: "The proposal is contrary to the belief that major savings only accrue when all traffic is removed from a route" (emphasis in original). This led to the conclusion that the Salisbury route, if simplified (extensive single tracking, appropriate stock utilisation, etc.) could return a profit (or at the very least a negligible loss). The conclusions were the product of substantive investigation and were accepted by the Board after further checking of the veracity of the figures.

[67] RA Long, 13 February 1964. The Chief Operating Officer, Lance Ibbotson, also submitted a report. Supporting papers to the Management Committee, BRB Records Centre.

Figure 11.3: Key Personnel in the British Rail Organisation, 1962

The British Railways Board, 1963

Name	Function	Membership
Dr Richard Beeching	Chairman	1961-65
Sir Steuart Mitchell	BR Workshops	1961-64
Maj Gen GN Russell	Estate and Rating	1959-68
PH Shirley	Vice-Chair/Finance	1961-68
LH Williams	Commercial	1961-66
AR Dunbar	Industrial Relations	1962-68
John Ratter	Engineering	1958-70
FC Margetts	Operating	1962-68
SE Raymond	Commercial	1963-67
J Ness	Planning	1960-66
Part-time members		
HP Barker	n\a	1951-67
Lt-Col Donald Cameron of Lochiel	n\a	1954-64
F Donachy	Police Committee	1959-67
F Hayday	Trades Union member	1962-75
J MacNaughton Sidey	Shipping and International	1962-68
MHB Gilmour	Chief Solicitor and Legal Adviser	
Maj. Gen. Wansbrough-Jones	Secretary to the Board	

Figure 11.4: Who's Who in Departments of State 1961-64

Name	Position/Division	Department
Burke Trend	Secretary to Cabinet	Cabinet Office
Sir Frank Lee	Joint Permanent Secretary	HM Treasury
Sir Thomas Padmore	Second Secretary	HM Treasury
	Permanent Secretary (1964)	Min of Transport
Sir Laurence Helsby	Permanent Secretary	Min of Labour
Sir James Dunnett	Permanent Secretary	Min of Transport
DR Serpell	Deputy Secretary	Min of Transport
TF Bird	Under Secretary,Rlwys and Canals Grp	Min of Transport
JBR Davies	Principal, Inland Transport Planning, Road Transport Division	Min of Transport
OF Gingell	Assistant Secretary, Railways C	Min of Transport
	Under Secretary (1962)	Min of Transport
ECV Goad	Assistant Secretary, Railways B	Min of Transport
EW Godfrey	Assistant Secretary, Rates and	Min of Transport
	Charges/Railways C (1962)	Min of Transport
KT Harrison	Nationalised Transport A	Min of Transport
	Assistant Secretary, Railways A (1962)	Min of Transport
JM Moore	Assistant Secretary, Road Transport Division	Min of Transport
CP Scott-Malden	Principal (Establishment and Organisation Officer) - Establishment, Organisation and General Group	Min of Transport
	Under Secretary (1962)	Min of Transport
WJ Sharp	Principal, Marine Division	Min of Transport
	Principal, Railways C (1962)	Min of Transport
PR Sheaf	Principal, Railways B	Min of Transport
	Assistant Secretary Railways A (1962)	Min of Transport
JR Madge	Private Secretary to Minister	Min of Transport
CN Tebay	ditto (1962)	Min of Transport
Maurice Abrahams	Senior Legal Assistant	Ministry of Transport Branch, HM Treasury
RLA Hankey	Principal Assistant Solicitor	Ministry of Transport Branch, HM Treasury

11.4 The Scottish Dimension

Objections to closure, although lodged against all but a few closures, were essentially episodic, symbolic and too late.[68] The Conservative Government and the Railways Board had successfully outflanked opponents. There were regional variations, however. In Scotland Beeching had earmarked 435 stations for closure and the loss of 1,385 route miles under the *Reshaping* plan.[69] Beeching's ahistoricalism understandably failed to take account of Scotland's political, geographical and, in some cases, meteorological circumstances. Nowhere else (with the possible exception of some routes in Wales and the South West of England) did the railways represent such a fundamental question of mobility for the population. The modernisation of the economy - of which the *Reshaping* plan was very much part - meant something different entirely in Scotland.

Running parallel to the *Reshaping* report - though not in tandem - was a study of transport infrastructure in the Highlands and Islands.[70] The inquiry considered each threatened line in turn. It was recognised that historically Scotland's railways had been split between the LNER and the LMS "...in order that revenue from the traffic in the south might maintain the Scottish 'peripheral' lines."[71] Moreover, a number of Scottish routes had been built only after financial assistance from the Government in the 1880s. The Ministry of Transport was aware that the Highlands and Islands inquiry had been denied information by the BTC. An exchange between officials in the Scottish Office and the Ministry of Transport highlights the degree of information "management" thought necessary: *"...my impression is that the Scottish railway people refuse to contemplate a radical change in the Scottish system. But I have written to Lord Cameron and advised him strongly that the report must be realistic on this point if it is to be worth anything, and it would be helpful if you could direct me to anything quotable about the purpose and extent of the Beeching studies that would serve the same purpose."*[72] The IDR had discussed the Scottish dimension but only in the context its disproportionate impact on employment and the attendant risk of industrial trouble.

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[68] The heavyweights in this game were Professor ER Hondelink and Roger Calvert. Their most celebrated contribution to the closure debate was a report on an investigation into the costs of 95 of the closure proposals contained in the *Reshaping* report. They concluded that 42 of them could and should be profitable. See Henshaw (1994), p163. Hondelink was Chair of the National Council on Inland Transport which was remarkably successful in recruiting disgruntled railwaymen to its ranks. See Gourvish (1986), p456.

[69] The BRB (1963), pp122-126. This number amounted to 18 per cent of the total, and 66 per cent of all Scottish stations.

[70] Consisting of representatives of the Advisory Panel on Highlands and Islands and the Scottish Transport Council, assisted by the Scottish Industry Working Party. Their earlier (1961) enquiry considered bus services. PRO MT 124/913.

[71] Draft Highland and Island Inquiry Report, December 1961. PRO MT 124/913.

[72] Minute attached to draft of H&I report, June 1962, RH Law (Department of Fisheries and Agriculture for Scotland) to JR Madge, Ministry of Transport. PRO MT 124/913.

More problematic were the objections emanating from within government, not least the Scottish Development Department which submitted to the Ministry its misgivings on 22 April. The objections presented in the report once again lay bare the limitations of Beeching's figures. It should also be noted that three of the five routes highlighted in this report were eventually reprieved.[73] The report indicated that unlike in England, the railway continued to be integral to local development plans, and essential for some industries attracted to the Highlands by the prospect of cheap energy and water.

For many of the communities located by railway lines, the alternatives were few. Along the Inverness - Wick-Thurso route the language of bus substitution was a nonsense. The roads were simply inadequate and prone to blocking in the winter (though this was often exaggerated).[74] Serpell, however, remained implacable: "Against the contention made that the railways should be maintained as a social service, it should be clearly pointed out that, over a third of the railway system, this claim was not justified by the use made of it."[75]

The practicabilities in Scotland worsened as time passed. Decision-making became somewhat on the hoof and adversarial between departments. The Secretary of State for Scotland, Michael Noble, was reported in the *Scotsman* newspaper in February 1964 as saying: "There is no question of Dr. Beeching dictating to the Government what is to happen." The report continued, "Mr Noble has given the go-ahead to organisations such as the Scottish Council...and the Transport Conference of Scotland to prepare social and economic arguments for submission to him. There is little Mr. Marples can do to reverse that..."[76] Marples' attitude, however, very much reflected that of his officials. The Inverness - Kyle route was yet another candidate for using the track bed for road construction.[77]

By this time, Macmillan had resigned as Prime Minister and had been succeeded by Sir Alec Douglas

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[73] Edinburgh Waverley to Carlisle via Galisheils and Hawick (survives as a bus link); Stranraer - Dumfries was closed; the absolute survivors were: Ayr - Stranraer; Inverness - Wick; Inverness - Kyle.

[74] This route was in fact reprieved by Marples along with that linking Inverness and Kyle. A Report to the Scottish Regional Board by the regional Chief Mechanical Engineer (7 October 1964), however, spelled out the price to be paid for its reprieve. He reported that the route could be maintained for 15-20 years with virtually no renewals to a standard that was "formerly considered unacceptable" having the effect of reducing annual maintenance costs by some £92,000. He conceded that if the line was still functioning after 20 years, major work would be necessary. Papers to the Scottish Regional Board, BRB Records Centre.

[75] David Serpell addressing the ninth meeting of the IDR, 25 April 1963. PRO MT124/913.

[76] PRO PREM11/5167.

[77] PRO PREM11/5167.

Home. He entered the railway fray conscious of the impending General Election; the closure programme in turn was in danger of being seriously compromised. McLeod's *Road and Rail Transport* Cabinet Committee (which succeeded the Reorganisation of the Railways committee chaired by Viscount Blakenham - see below, Section 11.52) incensed the Ministry of Transport by indicating a preference for the deferment of decisions on the most embarrassing routes which, it was estimated, would deprive the Board of some 20 per cent of estimated savings. "Apart from the practical impossibility of persuading the Board to accept intervention on this scale," wrote Burke Trend to the PM, "the government would be exposed to the charge of having withdrawn their support from the Board's plans to make the railways pay."[78]

More parochially, John C George MP, Chairman of the Unionist Party in Scotland, sought to impress upon ministers Scottish Tories' misgivings about the statutory procedure. In effect, they were looking for a way out of the hole that Beeching had constructed. In a letter to the Prime Minister, George reported that "[n]o one believes that the lines in fact will be closed, but all are distressed and dismayed that we are giving our opponents such a long run to flay us mercilessly."[79] George had a point. The hearing for the North of Scotland route, one of those he didn't believe could or would be closed, attracted more than 1,000 statutory objections.

The Prime Minister proved sympathetic to this view. In a personal annotation, he suggested that the hearings would have to go ahead, but as a Scottish MP himself he could not conceive of closure and that "...they should be cleared as soon as possible after the TUCC hearing."[80] This infuriated Marples. In a terse letter he reminded the Prime Minister that: *"The Government's line has always been that the decision on a closure proposal cannot be made until all the evidence has been examined. None of these major Scottish cases is yet before me. But I do know enough about them to be sure that there will be a very strong case for closure of some of them at least."* The letter continued: *"On the Inverness - Wick line, for instance, the annual loss to the railway on passenger and freight working combined, is of the order of £$^1/_4$ million, and it seems likely that both passenger and freight traffic could be handled by road."* The inevitable consequence of this, supposed Marples, would be an undermining of the closure programme as a whole.[81]

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[78] PRO PREM11/5166, loose minute, 16 January 1964.

[79] Letter 16 January 1964. PRO PREM11/5167. See also Freeman-Allen (1966), p35.

[80] Loose minute from Charles Tebay (secretary to Marples) to Malcolm Reid (PM's Office) undated (either 27 or 28 February 1964). PRO PREM11/5167.

[81] Marples to Prime Minister, 27 February 1964. PREM11/5167.

In the event, Marples was wrong. Both the TUCC[82] and the Highland Transport Board recommended retention of the North of Scotland route. The Highland Transport Board did, however, reject the closure on the grounds that the roads, reduced to 16ft in places despite their trunk status, were inadequate for fast buses. An improved road was necessary anyway, but the use of the track bed would reduce costs by some £2m. The Secretary of State for Scotland soon, not surprisingly, endorsed the reports. In a memo to Viscount Blakenham, the Prime Minister concluded that, "[a]part from the merits of the case, consent would cause severe political damage. It would be impossible to give reasons to the public which were remotely convincing."[83] However, John Boyd-Carpenter, the First Secretary, made known the Treasury's view that the reprieve should be temporary pending road improvements. The savings were just too great to be ignored.[84]

11.5 Shifting Agendas

The *Reshaping* Report, argues Gourvish, "must not be seen merely as a matter of working through a list of planned closures given in Appendix 2 [of the *Reshaping* report]...Nearly a quarter (104) of the 424 closures introduced from June 1963 had not appeared in the report but were the result of subsequent planning."[85] It is worth examining the success of the closure programme in terms of closure "consents" issued by the Department based on evidence presented by the TUCCs and the BRB. The political risks were also considered.

Gourvish compiled (with some difficulty) data for this task.[86] To measure the success of the closure programme in absolute terms, Gourvish had to resort to the British Railways Board's annual report and accounts.

[82] The TUCC met 9/10 March 1964 and reported ten days later.

[83] Minute 14 April 1964. PRO PREM11/5167.

[84] Minute to PM, 15 April 1964. PRO PREM11/5167

[85] Gourvish (1986), p440. The Board did not, after the publication of the *Reshaping* report, anticipate any reconsideration of those routes listed in Appendix 2 of the report; however, the Board believed there was considerable scope for expanding it. See BRB Minutes, 23 May 1963, minute 63/200. BRB Records Centre.

[86] He notes that much of the data was stored regionally and did not survive. Nor did the HQ closure files. He was denied access to the Ministry files which in any case were incomplete, too. His data was, therefore, derived from a number of sources the most comprehensive being that from the TUCCs. Gourvish (1986), p438.

Table 11.3: Rationalisation of Passenger Facilities, 1962-73[87]

Date: end of	Passenger stations open	Route-mileage open to passengers	Index 1962 = 100 Passenger stations	Index 1962 = 100 Route-mileage open
1962	4,306	12,915	100	100
1965	3,161	10,884	73	84
1968	2,616	9,471	61	73
1970	2,423	9,095	56	70
1973	2,355	8,932	55	69

What we see clearly is that significant closures did occur not only up to Beeching's departure from the railway, but beyond both his successor and the subsequent Castle era. Over this extended period, therefore, we can see that the Board, despite a number of high-profile losses, was largely successful in slimming down the route-mileage open to passengers, and more significantly, reducing station facilities and by implication cutting out stopping services that were such loss makers. Gourvish's data also shows that the most important years for closure were the 18 months June 1963 - December 1965 when the Board presented 68 per cent of the 482 cases eventually examined which led to 258 closures being effected in the 3 years of 1964-66. This amounted to a reduction of 2,350 route miles with an estimated maximum saving of £10.5 million.[88]

This contrasts interestingly with the closures made on the freight side of the business where the Board had complete discretion over closures provided the closure of a freight facility did not have a knock-on effect on passenger services which would result in its referral to a TUCC. Again, Gourvish's data is insightful.

[87] Gourvish (1986), p437.

[88] Gourvish (1986), pp438-440.

Table 11.4: Rationalisation of Freight Facilities and Equipment, 1962-73[89]

Date: end of	Freight- only stations and depots	Freight stations and depots: All	Marshalling yards	Route-mileage open to freight	Freight vehicles: Merchandise	Freight vehicles: All
1962	2,479 (100)	5,175 (100)	602 (100)	17,481 (100)	325,407 (100)	862,640 (100)
1965	1,109 (45)	1,934 (37)	378 (63)	14,920 (85)	204,344 (63)	610,998 (71)
1968	598 (24)	912 (18)	184 (31)	12,447 (71)	135,632 (42)	437,412 (51)
1970	422 (17)	646 (12)	146 (24)	11,799 (67)	111,355 (34)	370,917 (43)
1973	364 (15)	542 (10)	124 (21)	10,801 (62)	62,229 (19)	248,682 (29)

figures in brackets are index numbers where 1962=100.

The table starkly illustrates the rate at which the Board, in exercising its *executive* authority, took flight from freight. The first two columns show the extent to which the railways had been burdened by its obligation to carry unremunerative loads. In the first three years nearly two-thirds of the freight-accepting stations ceased to handle freight. This flight enabled the Board to reduce its wagon fleet by one-third and rationalise its marshalling operation. These changes hardly generated a ripple of concern amongst customers. The unions, equally, saw the prospects for expanding the road haulage industry which, in general, was a satisfactory outcome.

The fact that the closure programme as published in the *Reshaping* report was subject to considerable amendment should not surprise us. As Gourvish points out, the *Reshaping* report itself was reliant on extant data provided by the BTC's Costing Division for the reappraisal of the *Modernisation Plan* in 1959. Moreover, the reappraisal promised a 10 per cent reduction in route mileage which was further extended in 1960 after Ministerial pressure.[90] The passenger densities were based on traffic studies conducted over one week in April 1961, though additional work had to be done especially on the politically-sensitive seaside routes which were seasonally profitable but managed poor stock utilisation.[91]

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[89] Gourvish (1986), p427.

[90] Gourvish (1986), p402.

[91] The BRB (1963), p10; Henshaw (1994), p148; See also, A Flexman (Railways A Division) reflecting on departmental meeting with the Railways Board (Margetts *et al*) on 23 April 1963, items 9 and 10. Memo indicates that the Board were to undertake a survey in the summer of 1962 to evaluate patronage, but more importantly, the demands for stock. Flexman was impressed with Margetts' rejection of broad assumptions being made about the behaviour of holiday passengers and the likelihood that they would transfer to buses. PRO MT

It is also unsatisfactory to argue that the closure programme was hatched centrally. The LMR, for example, had constructed an extensive closure programme consisting of over 120 partial/total closures or modifications drawn up by the Line Traffic Managers located in Crewe, Manchester and Derby.[92]

Figure 11.5: Procedure for Drawing up Closure List for Unremunerative Services, 1962 (pre-BRB)

* Line Traffic Managers identify unremunerative routes both passenger and freight.
* District Commercial Mangers submit received information to Divisional Traffic Managers in the form of answers to questions in a standard questionnaire.
* Divisional Traffic Managers vet results and obtain additional accounting information and operating and engineering savings, and put proposals forward to the Line Traffic Managers.
* Line Traffic Managers make recommendations to the General Managers.
* If General Manager approves, recommendations carried forward to the Area Board or, if a major closure, additionally to the BTC.
* If approved, Line Traffic Managers submit closure to the Transport Users' Consultative Committee.

The Southern Region, moreover, established a closure Working Party under TRV Bolland (then Line Manager for its South Eastern Division). At their meeting of 30 August 1962 the Board approved a report authored by Bolland which presented proposals for the complete closure of 51 sections of the Southern Region system as well as the withdrawal of passenger services from other unspecified stretches. In reply the Chairman, J MacNaughton Sidey, said that "these financial estimates were based on "short cut" calculations in view of the pressure of time, and much more detailed financial information would be needed when proposals for detailed closures were put forward."[93] The financial surveys were conducted in response to Margetts' letter to all the General Managers of 19 July 1962 requesting the information - the day before the Railways Board published a series of traffic density maps by way of a public introduction to his thinking.[94]

The success of the closure programme in the first instance owes much to the efforts of both Stanley

124/664.

[92] J Royston, MGE Lambert, and RLE Lawrence respectively.

[93] Minutes of the Board of the Southern Region of British Railways, 30 August 1962, minute 62/185. PRO AN103/26.

[94] See *The Economist*, 21 July 1962, pp253-255.

Raymond[95] and his successor at Marylebone, FC Margetts. Margetts, as already noted, presided over the Board's Central Planning Unit on its inception in July 1963 and was also a member of the supervisory Planning Committee chaired by James Ness. Margetts was the Board's chief link with the Ministry from October 1962 liaising directly with David Serpell on closure policy. This was a warm and fruitful relationship with both formal and personal dimensions to it. Serpell clearly trusted Margetts to deliver and was a man who understood the Ministry's political functions and the need for strategy. Largely this fell into three categories: bus replacement; highway capacity; and suburban services. In addition, Margetts was to present the financial case for closure that was "testable and valid" to facilitate Ministers handling of the backlash in Parliament.[96]

The bus replacement debate in the implementation phase was a classic example of outflanking tactics by the Ministry. The TUCCs, Serpell concluded, could be placated by the provision of adequate alternatives, primarily bus services. Some of the withdrawal proposals amounted to opportunities for bus operators which suited the Ministry because such services could be provided at no cost to the Exchequer. They could be commercial ventures. But even where bus services were unlikely to be attractive, the Ministry had discovered that the BRB had inherited from the former railway companies a substantial shareholding in the regional companies which, post-nationalisation, gave them some powers of compulsion they had to date never exploited.[97]

Equally strategic was the potential ally found in the Divisional Road Engineers (DREs) who, it was thought, might be interested in the use of track bed such that it would avoid their having to engineer expensive bridge work in the building of new roads.[98] However, their cooperation needed to be achieved without their reference to the local highway authorities for which they worked. This was because the authorities were generally opposed to closure and, therefore, it was thought, likely to inflate the cost of the

[95] Raymond was Traffic Adviser and Chief Traffic Officer at the BTC's Marylebone HQ from July 1961 until his appointment at General Manager of the Western Region in January 1962. He later returned to the HQ in October 1963 as the Board member with functional responsibility for passenger and organisational matters.

[96] Serpell minute to Margetts, 20 November 1962. PRO MT124/664.

[97] Agreements made under the Transport Act 1928 and Transport Act 1962 Section 4(1)(b). The original intention was to allow the railway companies to defend their market against bus operators by the provision of road services "in any district to which access was afforded by its railway system". However, the companies' preferred option was to take an equal shareholding in bus companies and compose "working agreements" thereunder. The Board, however, sought to abandon these agreements just at the time when the Ministry saw them as functional for the procurement of replacement bus services at little or no cost to the Board. See report to BRB by the Secretary General, Wansbrough-Jones, 26 September 1963. BRB Records Centre.

[98] This certainly proved to be the case in the closure of sections of the Great Central line (see below) where the track bed and bridges were offered to two local authorities in preference to a private railway company.

roads needed to compensate for the loss of the railway. The DREs were thought to have no such objections.

The final area of concern for Serpell was the inclusion of suburban services in the "first wave" of closures because of their political sensitivity located as they were in the South East, Manchester, Edinburgh and Glasgow. Indeed, Serpell discussed with Margetts the lessons of the rather clumsy closure of the Westerham-Dunton Green branch in Kent, the case for which was taken apart by local users resulting in the TUCC reversing its decision to recommend closure. Marples himself had to wade in to push through the closure. The track bed eventually formed part of the M25.[99]

11.51 Further Intelligence

The Ministry proved to be a major intelligence gatherer. CP Scott-Malden worked closely with Serpell on this particular function of his closure team. It was recognised that the key implementers were the line managers for the railway regions. Time was a limiting factor and Scott-Malden sought to gauge the practicability of the empirical task facing the regions. In a discussion with one such manager working in the London Midland Region, Scott-Malden reported that:

> *Mr Pearson voiced what he said was a general feeling among line managers and their staffs that either the supporting information for the proposals to be included in the Beeching Plan would take at least six or nine months to prepare, or it would be very sketchy and unreliable and would not stand up to detailed scrutiny. I said that this surprised me from contacts which we already had with the Commission on the subject, and Mr Pearson emphasised that he had no direct knowledge and was only reporting general feelings and rumours. I doubt therefore whether we need to take this too seriously, but Mr Serpell and Mr Goad will wish to be aware of what Mr Pearson has said as background to our continuing discussions with Mr Margetts.*[100]

A month later, this time reporting on the core issue of work being conducted into the BRB's efforts to win back certain freight traffics by deploying new technology and thus reducing costs, Scott-Malden reported to Serpell that "officers in the field" were "left to make their own estimates...without any general guidance.

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99 Gourvish (1986), p211.

100 CP Scott-Malden, loose minute, 22 November 1962. PRO MT124/664.

The conclusions which have been published are little more than the sum of these estimates."[101]

These concerns set a few alarm bells ringing, leading Serpell to get tough with Margetts. The Board's circumspection over savings attributable to closures began to irritate the Ministry. By agreement the Ministry was furnished with the same financial information as were the TUCCs when they considered particular closures to prevent them from going beyond their remit under the 1962 Act. Beeching admitted that the figures given covering earnings, direct costs, and capital expenditure were of "very limited value, and that they do not give a reliable guide to the financial consequences of closure."[102] They were, for Beeching, "beyond dispute". Beeching feared that if more comprehensive data were made available, on the face of it, as we saw earlier, savings may seem negligible as a percentage of the whole. The true value was in the aggregate closure programme, not individual closures.

Marples was coming under pressure both from colleagues and in the Commons after the publication of the *Reshaping* report in March 1963. At a meeting with Beeching on 17 July 1963, Marples employed one of Scott-Malden's rather forthright *aide memoires* to demand more data from the Board. Beeching had, it seems, hung himself in his own report. In his mission to explain he had presented an example of his calculations in action. Using the case of the Gleneagles-Crieff-Comrie route, the Report quantified the costs and earning, but it also showed the "contributory revenue" that would be lost to the network as a whole after withdrawal. This showed the savings to be a rather paltry £8,400 pa. This was a big stick with which to hit ministers with.[103]

11.52 Realpolitik

The Cabinet's Committee on the Reorganisation of the Railways was re-constituted in December 1963 to monitor the consents issued by the Ministry of Transport as the closure procedure entered its period of maximum activity. The Committee was chaired by the then Chancellor of the Duchy of Lancaster, Viscount Blakenham. Ernest Marples joined while Michael Noble and William Deedes carried forward

[101] CP Scott-Malden, loose minute, 5 December 1962. PRO MT 124/664.

[102] Beeching minute to Marples, 4 July 1963. PRO MT 124/664.

[103] CP Scott-Malden *aide memoire* for Dunnett/Marples for meeting of 17 July 1963. PRO MT 124/664. For the calculation see, The BRB (1963), Appendix 2, pp97-101.

their membership.[104] The Committee's task was to measure the Ministry of Transport's desire to close routes against the wider political interests of the Government. The deliberations of the Committee were perhaps beyond Beeching's comprehension. And despite Serpell's best efforts to marginalise the TUCCs, they still had the scope for embarrassing the government.

Consider, for example, their discussion over the Board's attempt to close the Woodside - Sanderstead branch.[105] The London TUCC's report to Marples had recommended retention on hardship grounds; though, argued Marples, "this particular committee were inclined to exaggerate the difficulties likely to result from closure."[106] Marples rejected the report but expressed his concern that he had already rejected a report from this committee, and another so soon would be embarrassing. Moreover, the Committee was now forced to consider Buchanan's recent report, *Traffic in Towns*, where suburban closures were proposed. Not surprisingly, therefore, the closure of this branch was deferred. Deferment, however, had its own problems. The Government might be seen as shying away from making difficult decisions for political reasons. To get round this, the Committee recommended a deferment of 3 years awaiting the publication of yet another report, this time by London Transport.

Another area of difficulty for the Committee was the "seaside" trains. Quite reasonably, seasonal services were seen by the Board as a particular burden being remunerative for short periods only, and requiring the employment of under-utilised stock. The Committee highlighted some 40 or 50 such routes, the first of which was Pyle-Porthcawl in Wales. Moreover, many of the resorts were in transition. Increasingly their patrons were coming by road, but some 20 per cent of visitors were still dependent on trains. The Committee recognised the need to improve the road system, but this could not be done "out of turn", so in the short term the Committee had to consider the consequences for the prosperity of certain resorts and the costs associated with improving the roads. Such information was not available to the Committee. The seaside resort problem, however, did raise the possibility of local authorities subsidising services in the future, though under the 1962 Act they had no powers to do so.

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[104] The other members were: Keith Joseph, Minister for Housing, Local Government and Welsh Affairs; Selwyn Lloyd, Lord Privy Seal; John Boyd Carpenter, First Secretary and Paymaster General; David Price, Parliamentary Secretary to the Board of Trade.

[105] This closure proposals predated the *Reshaping* report.

[106] Minutes of Committee on Reorganisation of the Railways, first meeting, 2 December 1963. See also Cabinet Sub-committee on Railway Passenger Closures PRO CAB 134/2429 meeting of 10 October 1963 where exclusive consideration was given to this difficult consent. Marples was adamant, however, that the committee had mistaken inconvenience for hardship. The savings were small, though: £7,100 per annum and £36,000 renewals over 5 years. See PRO CAB 134/2452 (9)(iv).

11.6 The New Government

The election created a serious hiatus for the Board's closure programme. Publication of proposals for closure were suspended in September 1964, but the Regions were advised not to let up on the *preparation* for closure.[107] The election of the Labour Government the following month on a policy suspending "major" closures pending a study of road and rail coordination seriously upset the closure programme which was only half completed. Tom Fraser succeeded Marples as Minister of Transport an appointment which, with hindsight, Harold Wilson regretted almost immediately. He accepted Fraser's assessment that the new government had no powers to rescind closures already consented to under the Transport Act 1962. He was also satisfied with Fraser's two amendments to the closure procedure whereby the Board could not lift the track on any closed line until the "study" had been done, giving birth to the "early sift" which allowed the minister to view closure procedures *before* they were referred to the TUCCs in a bid to prevent any "non-starters" from getting through. Moreover, the new government sought guidance on closure from the Regional Economic Planning Councils adding to the delay in the Board effecting closure.[108]

However, the closure programme became the responsibility of the Economic Development Sub-Committee on Road and Rail Transport under the Chairmanship of the Chancellor of the Duchy of Lancaster. Wilson was dismayed by what he read in the minutes of the meeting which met of 15 February 1965. He annotated: "Now we seem to be going much further - the Aylesbury Great Central Line really is a major closure and we do not appear to be halting it...has the time not come to review the whole policy at Cabinet?"[109]

Severing the Great Central trunk route which connected Sheffield with London's Marylebone was not included in the original *Reshaping* plan, but the savings to be harvested were far in excess of anything seen before.[110] Hence Wilson's concern over the meaning of "major" in the context of rail closures. Clearly aware of this, Henry Johnson, Chairman (and General Manager) of the London Midland Region Board cautioned: "Creating the right sort of atmosphere and conditions conducive to a favourable reaction by

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[107] Comments by Dr Beeching, 23 September 1964, recorded in minutes of the British Railways Planning Committee, minute 64/54. BRB Records Centre.

[108] The Board did at least nominate transport representatives to the councils even if the Board had little idea about the nature of their decision-making apparatus.

[109] Harold Wilson annotation to minutes of Economic Development Sub-committee on Road and Rail, 15 February 1965. PRO PREM13/647.

[110] The Board of the London Midland Region estimated the savings to be some £2½m pa.

parties concerned could not be underestimated."[111] Within a month, and prior to the early sift, the LMR had diverted all freight running over the route in accordance with the BRB's absolute discretion over freight options.[112]

Douglas Houghton, The Chancellor of the Duchy of Lancaster, responded to Wilson in terms which perhaps reveal most about the progress of the closure programme beyond both Marples and Beeching.

> *The Committee have been under the strongest pressure from the Treasury to agree to closures that will not involve undue hardship but will help reduce the British Railways deficit.*
>
> *The implications of <u>halting</u> closures, in particular as regards arrears of maintenance costs, should be gone into. The distinction between "major" and other closures reflects itself (unfortunately) in the difference between the "major" and the minor financial <u>savings</u>. The more "major" the proposed closure, the stronger the financial pressures to agree to it.*[113]

Fraser followed this up with a call to work to convince the party of the merits of the closure programme emphasising safeguards in place to prevent hardship, the size of the deficit, equating closure with modernisation both in the context of the railway and the economy in general, and the desirability of spending this money elsewhere.[114] The Cabinet Secretary, Burke Trend, too, waded in with an equally trenchant appeal to the Cabinet of 11 March 1965 where he argued that the benefits were evident with manpower down by 16 per cent and the Board had absorbed some £40m of wage increases, whilst reducing the deficit by £30m. The 200 or so closures still to be implemented were worth £40m.[115]

11.7 Epilogue

The story of Beeching's resignation is told elsewhere.[116] His successor was Stanley Raymond whose only serious competitor was Philip Shirley. Raymond had the advantage of being a known Labour

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[111] LMR Minutes, 3 March 1965, minute 65/36. PRO AN116/32.

[112] LMR Minutes, 5 May 1965, minute 65/70. PRO AN116/32.

[113] Undated loose minute, Houghton to Wilson. PRO PREM 13/647.

[114] Loose minute, Fraser to Wilson 26 February 1965. PRO PREM13/647.

[115] PRO PREM13/647. See also CAB 128/39 Part 2, 6(a).

[116] *Inter alia*, Hardy (1989).

sympathiser.[117] Now at the helm, and despite his assiduous work implementing the *Reshaping* plan, Raymond was far from convinced of the efficacy of the project in light of the later publication of *Development of the Major Trunk Routes* (see Section 11.35). The report recommended the retention of some 3,000 miles of trunk route and 5,000 miles of feeder routes. Under the *Trunk Routes* plan, even by 1966, a considerable closure programme lay ahead. Fraser, meanwhile, had been dropped from the Government and was replaced by Barbara Castle in December 1965.

The first substantive meeting between the new Ministry team and the BRB by was held on 16 February 1966. It was here that the Board informed Castle that Raymond, with the authority of the Board, repudiated the contents of the *Trunk Routes* plan. The minutes record: "Raymond said that under normal accounting methods, Beeching's railway would not be viable and that the minister should look to a route mileage of 11,000 miles."[118] Chief architect of the new programme was again FC Margetts who presented Castle with a series of maps featuring the now infamous Black, Red, and Green routes for development, retention and closure respectively. The new programme, however, demanded new investment in rolling stock particularly for commuter services in and around London, and signalling investment to increase both track capacity and reduce manpower. There were also ambitious electrification plans, not least completing the disputed electrification up the West Coast route to Glasgow. Raymond estimated that the Board would record an operating loss of £65m and interest charges of £60m in 1966 though predicated on the belief that the Board would reasonably hope to break even on operating account in 1970.

Castle was a shade taken aback and reminded Raymond of both the money already spent on propping up the railway and the huge debt write-off seen just three years previously. But Castle, notwithstanding her coolness towards Raymond, was out to use her portfolio to establish her credentials necessary to satisfy her ambition to head a major economic ministry. By 1968 she had repealed the 1962 Act and brought into being Passenger Transport Authorities and Executives. She had also sacked Raymond. The railways were not safe in her hands as the bargaining over the Great Central suggest;[119] but the railway's passenger-

[117] Raymond was appointed by Tom Fraser. Raymond was not, however, elated by his elevation. In a personal note Raymond reflected: "In my case I was being asked to accept a very vulnerable and exposed job at age 52 after a career which seems to have been successful but with no security after age 57 which would leave at least five years and probably eight before I would normally retire under my existing conditions of service. I said that I was probably the first nationalised industry chairman to be put in this position and that it could never have been intended that when career men came to the top they should be put at risk in this way. Mr Fraser was sympathetic to the views I expressed but said that he could not deal with them but would ask the permanent secretary to do so." Handwritten note in Raymond's personal archive.

[118] Minutes of meeting between the BRB and Barbara Castle, 16 February 1966. Raymond's personal archive.

[119] See Gourvish (1986), p447.

carrying function was formally recognised and protected by some innovative accounting techniques.

Conclusion

By 1960 the railways, then managed by the dinosaur BTC, represented the antithesis of the modernisation project of successive governments. The private car, coupled with the deregulation of road freight, had rendered the railways as "carrier of last resort". There was just too much railway capacity. Beeching effectively wrote his own job description whilst on secondment to the Special Advisory Group. The Ministry supplied the salary.

The job ahead, executed with some aplomb by a coterie of appointees, not least FC Margetts and Stanley Raymond, demanded discipline, innovation and above all management skill. It was a project not only about closure, it was also about development and modernisation within the context of the modernising economy. The closure programme was ultimately successful despite the problems imposed by the politicians. External interference was managed adequately through the reformed TUCCs, and the unions were largely accepting providing redundancy terms were sufficiently generous. It is this management that is the subject of the next chapter.

Notwithstanding the changes through this period, the railway deficit remained leading to yet another reorganisation in 1968 when suburban routes were externally supported by Passenger Transport Executives, and the plan to fund separately unremunerative rural routes was hatched. Despite the big idea of road and rail coordination, the reality was different. There remained no overall strategy, no discernible transport policy.

Chapter 12
Delivering Implementation: The Omnipotent Sponsoring Agency

Introduction

The delivery of the reforms under Beeching seem on the face of it to be explainable by the simple employment of a top-down, command model. Dr. Beeching was the architect, his appointees operationalised the ideas, and the drones working at the operational level implemented their plans. This approach is given further impetus if we accept that Beeching's early initiatives were dominated by moves to centralise power and allocate quite explicit functional responsibilities to his Board which were in turn replicated at Regional level. He reined in the General Managers whose fiefdoms were perceived as bearing some responsibility for the financial crisis he inherited; they were singularly incapable of making sound commercial decisions and had a penchant for over-production (over investment).

Whatever Dr. Beeching's motives, the reality was somewhat more complex. First there is the question of Whitehall's interests. Beeching found his project effectively appropriated by Whitehall and the Government, and his deliberations became public property. The network that delivered the outcomes progressively expanded to encapsulate a series of largely political actors who failed to respond as Beeching had anticipated to his rational prognoses.

Dr. Beeching was not a railwayman; indeed, he knew little about the public sector and its *modus operandi.* He was politically naive. His Reshaping report remains a classic though; a model of reasoned advocacy being both technically proficient and accessible (too accessible, as it turned out).[1] In essence, the *Reshaping* report was a framework, not a blueprint. It was contestable, and was contested. There were challenges to its separate and discrete proposals (largely closures, but not exclusively so), and equally, it presented an opportunity for implementers. It is my intention in what follows to employ once again the framework used in Chapter 9; namely, programmes, phases, networks, veto points and environment. The essential relationships between actors in the arena (and the subsequent emergent implementation network) will be isolated. I will discuss the mode of their management, factor in the effects of the intervening variables and emphasise the sequentiality of the developments. I will then discuss the nature of the outcome and its bearing on the railway industry that was to be inherited by the Government that finally abolished its public-sector guardian.

[1] It sold over 20,000 copies at a cover price of 20/-.

12.1 Phase One: The Railway Problem

In Chapter 10 we discussed the origins of the Beeching reforms. The disastrous modernisation post-1955 and more generally the Treasury's perceived loss of control over public spending which threatened to undermine its own credibility and contributed to the railway industry being isolated as a significant long-term drain on public resources. The Treasury's desire to reassert its authority over spending ministries should not surprise us and is well documented by Heclo and Wildavsky[2]; but this internal struggle had its own champions whose success in the Treasury "community" found them posted out to the very spending ministries that had so damaged the Treasury's reputation. David Serpell and LJ Dunnett are the two most obvious emigres; Matthew Stevenson remained in the Treasury, but was no less a significant member of the policy network that sponsored the changes.

A new team at St Christopher House[3] was not, however, enough. The project they had in mind was a highly political one. A public sector railway industry, as we have seen, was the cornerstone of the post-war programme of nationalisation some thirteen years previously. Although there was never any prospect of transferring it back to the private sector, support for it was not unconditional, not least because the railway's difficulties were largely attributable to the growth in motor transport which could only get worse as the Ministry's own emphasis shifted to road building to cater for traffic growth. The remoulding was, therefore, to require the services of a skilled political manager who was accustomed to handling quite sensitive public policy initiatives. Ernest Marples' work at the Ministry of Housing was of such a nature. He completed the small network of "permanent" political actors who set in train a radical (hypothesised) future for the industry.

12.11 The Special Advisory Group

The next link in the chain was the establishment of the Special Advisory Group (SAG) chaired by Sir Ivan Stedeford. There was nothing unusual about such committees in Whitehall, although the members of the SAG may have enjoyed a freer hand in light of the Ministry's and the Treasury's doubts over the BTC's *Reappraisal of the Modernisation Plan.*[4] More specifically, they were four businessmen given a far-reaching remit to examine "the structure, finance and working" of the BTC with a view to advising the

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[2] Heclo and Wildavsky (1981), pp203-209.

[3] St Christopher House was the Ministry's Whitehall home.

[4] See, Gourvish (1986), p300.

Minister on how to give effect to the Prime Minister's statement of 10 March 1960. Whitehall's input was mediated through Serpell and Stevenson. In spite of Serpell's efforts to maintain the unity of the group, Benson and Beeching's organisational model differed radically from the Chairman's. The split, although embarrassing, proved suitably functional for the Ministry. Not only did it present a working model for a new executive railway board, but it threw up a new chairman whose ambitions within ICI could potentially be realised after a public-sector secondment. The SAG was, however, a policy network (community). Crucially, Beeching was the only member of the SAG with no prior experience of Government/Whitehall committees. The implementation of the recommendation spawned by the SAG was not of concern to its non-governmental members.

All reforms where existing services have to be maintained throughout periods of high uncertainty and investigation present their own problems. The Special Advisory Group, notwithstanding its members' failure to reach a consensus, had little that was good to say about the BTC's management of the railways. The criticisms were not limited to the SAG, however. The parallel *Select Committee on Nationalised Industries* came to a similar conclusion. The members of the BTC took the criticism in resigned fashion, a point which is captured in Robertson's lamentations to the Commission.[5] Two things explain this. First, Robertson's own constitution. His military background engendered a stoicism that delivered both himself and his fellow Commission members to the Ministry. Equally important was the Ministry deft exploitation of these features, and the exercise of Macmillan's own warm, informal links with him. Moreover, the members of the BTC recognised that the two inquiries were of a different order to what had gone before.

12.12 The British Transport Commission: A Place in the Policy Network

The Commission itself, by definition, significantly (far) removed from the operation of the railway which it notionally managed, was not, therefore, a difficult proposition for a project management network at the Ministry. It was quite another thing, however, to legislate the railway managers into order whilst simultaneously fostering a sense of partnership with the rail unions and their allies in the TUC whose veto was perhaps the most unpredictable. It was deemed impossible to exclude the unions from the decision arena if the trains were to be kept running and the eventual closure programme was not to founder on the rocks of industrial strife.

Serpell realised that the rail unions needed to be isolated so that, in the event of industrial action for political ends, the TUC would not lend its support to such apparent recklessness. Marples' cordiality to

[5] See above Section 10.32

the TUC General Secretary, George Woodcock, should be seen in this light. The BTC quite rightly saw the delivery of the unions as largely dependent on suitably-generous payments to members, honouring Guillebaud, and "meaningful" consultation over changes. The Ministry perceived Beeching's redundancy terms as a shade generous, and sought in future to extricate the new Railways Board from the Guillebaud terms, but on the whole the unions were satisfied. The continued incorporation of the unions, therefore, was never threatened, and the lack of any pretensions by the unions to any form of worker participation in the management of change - over and above consultation and the maintenance of the token trades union seat on the respective boards - contained the exercise of their substantial veto. The Ministry had negotiated compliance.

Beeching's arrival at Marylebone in May 1961 ensured speedy adoption of quite robust financial objectives. He set to work immediately reconstituting the new BTC prior to his constructing the first British Railways Board in May 1962. To a very large extent he appointed like-minded outsiders who perceived the world much as he did. Philip Shirley, a comparable pedant, saw the railways as an unenviable balance sheet with much scope for improvement. LH Williams too joined Beeching's board with similar ambitions. In FC Margetts, by contrast, he had a career railwayman with considerable conviction; and in Raymond, an austere public servant willingly co-opted to the project. The shake-up amongst the crucial regional General Managers, for our purposes, completed the incorporation of individuals perceived to have a commitment to the putative programme. They were a group of men who enjoyed a shared frame of reference congruent with the new era.

12.13 The Operational and the Legislative

At this point we have to make a distinction between operational and legislative changes. Beeching and Benson's SAG model required legislation to implement. This too was a contested arena for it would define the relationship between the BTC's successor and the Ministry. The BTC's full incorporation into the decision-arena, therefore, was crucial if some degree of political autonomy was to be retained. Operationally, however, the Commission had executive power to fashion itself within the terms of the Transport Acts of 1947 and 1953. Williams and Shirley used their ceded discretion to impose tighter financial controls and introduce rudimentary (by today's standards) costing formulae as well as orchestrate a wholesale slimming down of the BTC's central bureaucracy and instil in the general managers similar aspirations for the regional organisation.[6]

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[6] This proved to be, in some cases at least, unsatisfactory. In Scotland, for example, WG Thorpe reported to his Board (31 January 1964) that failure to reduce the number of clerical staff was giving cause for concern such that an officer, DF Gowen, was seconded from the BRB HQ to undertake the necessary work. The pressure on the

The crucial starting point was the closure of excess workshop capacity both for the immediate benefit of the bottom line and the learning potential it presented in terms of what might be the expected reaction to line closures still some eighteen months hence. Indeed, the Board were lucky - their ineptitude over the terms of workshop closures could have irredeemably alienated the unions and jeopardised the more lucrative savings earmarked under *Reshaping*.[7]

12.14 The Ministry of Transport: Closing the Network

The Ministry had, after the deliberations of the SAG, an organisational blueprint for the nationalised transport undertakings. Sure of their own competence, Dunnett, through his chief agent David Serpell, sought to consolidate the Ministry's power over the industry and to compose a bill that would enable the Board to execute swiftly any closure programme under the putative *Reshaping*. The Bill was, however, something more than just an instrument to be used by the Board to give legal effect to an internal reorganisation. It was also a major financial reconstruction of the railway industry. In addition it gave effect to the railway's divorce from the other nationalised transport undertakings and a move away from the integration of transport modes.

The railway divisions within the Ministry, therefore, became components of an extended policy network charged with constructing this complex piece of legislation with some haste. The legislation should not be seen as an end in any real sense. The Transport Bill for the Ministry was an instrument of implementation, a necessary part of the sequence that delivers outcomes (line of causality). Legislation is an output much like any other. Its contents, often enabling in form (and hence vague), reflect a necessary discretion in the post-legislative phase, and/or a tight framework which safeguards some public interest and is therefore inviolable. We should view the Act as marking the end of Phase One of the programme.

Where Beeching had selected his team, Serpell too selected a trusted coterie of agents, principally OF Gingell, to coordinate the outputs of component groups in the network. The principal recipient of Gingell's work was RENT - Reorganisation of the Nationalised Transport Undertakings Working Group - whose membership was deliberately exclusive, keenly staffed by the Treasury acting as a Star Chamber

regional managers, he suggested, was too much to allow for the release of a qualified officer from within. Papers to the Scottish Regional Board, BRB Records Centre.

[7] The evidence suggests the culpability lies wholly with Beeching, but it is inconceivable that he would not have received and accepted some guidance from the experienced railwaymen on the Board, at the very least AR Dunbar, the functional member for industrial relations.

when solutions proved elusive. What is apparent in all of these discussions is the emphasis on the mechanics of implementation. Policy formation is easy, one could argue, in comparison to anticipating (and framing legislation accordingly) the practicabilities of implementation (both political and administrative).

The TUCC (policy) network illustrates this phenomenon rather well.[8] Serpell himself presided over this largely informal grouping with Railways B Division under-secretaries at its core, especially ECV Goad who was particularly close to Serpell.[9] Highly iterative deliberations started in July 1961 and continued into January 1962 beyond the Bill's Committee Stage which commenced on 30 November. The future work and structure of the TUCCs was recognised to have a major bearing on the Commission's ability to close lines. The policy objective, one should remember, was to cut the railway deficit. A significant reduction in passenger capacity was perceived to be the means to that end. The ideal, therefore, would have been to have been to abolish the committees and for the Railways Board to be given executive authority to close passenger services at will in a similar fashion to its excess freight capacity. The political risks, however, demanded there to be a *perception* of due process and public consultation.

Serpell excluded from substantive discussions (which were largely held in his office) on the form of the appeals procedure members of the CTCC (who had shown their willingness to exercise a considerable veto over closure); TUCC members (who would be expected to hear a large volume of cases for closure), and the BTC (whose members at that time sat on the TUCCs). Members of the CTCC were invited to make representation, largely in written form, against abolition, but the real agenda was for the Ministry to find a way of placating CTCC members to the extent that they would expedite the outstanding closure cases before them allowing for a neat legislative option. Similarly with the TUCCs, Serpell and his team sought to remove their hard-won concessions over information on which to base their decisions and replace it with a "hardship" remit. The new TUCC structure, therefore, illustrates that policy may not be defined by what necessarily makes rational/instrumental policy, but by what is practicable policy - more what managers believe will deliver outcomes beyond the confines of Whitehall's rooms however much they may import uncertainty into the implementation process.

Phase One was completed on time leading to legislation in October 1962 and legal effect to the formal vesting of the British Railways Board on 1 January 1963. The legislative stage had successfully drawn

[8] The TUCC network was one of many working on the Bill. The key points to note, however, are shared memberships, informational dependencies, and hence parallel working.

[9] Other members were KT Harrison; TF Bird; WJ Sharpe; CP Scott-Malden; JM Moore; OF Gingell.

the anticipated vetoes whilst satisfying Parliament's anticipated call for consultation/due process. The Treasury proved satisfied with the financial reconstruction on the condition of extensive operational changes designed to contribute to a significant reduction in the annual deficit. The Treasury did not, however, vacate the decision arena at this point. There was insufficient detail for the Treasury to do so with any confidence.

12.2 Phase Two: Implementing the Statute

As noted above, the statute gave legal effect to the disaggregation of the BTC's operational units which was already well advanced under RENT. Implementation in Phase Two had two quite distinct elements to it. Firstly, there was much that was unfinished on the question of disaggregation. This was a somewhat mechanical process which became the primary task of the Ministry from October 1962 onwards. Secondly, the new Railways Board had further internal operational changes to make: structure, personnel, and crucially, capacity. On the latter, the Ministry and the Treasury sought to exercise vetoes over future investment (bolstered by Plowden), closures affecting suburban services, and consultations with the unions.

The sequentiality was maintained by the establishment of the strategic Inter-departmental Working Party, the IDR, which presented a short-term test of the robustness of the project, acting as a rigorous policy and project management forum. The Board's efforts in the three months before the publication of the *Reshaping* report were subject to constant scrutiny under IDR. The Treasury retained a small monitoring group which, as we have seen, did not shy away from challenging the very basis of the Board's costs as expressed in the *Reshaping* report.[10] Of particular concern was the generalised nature of the figures presented and the apparent weakness in the Board's forecasting. Moreover, the IDR kept a very tight rein on the implementation timetable with programmes of work and allocations being revised after each meeting.

The IDR had a short life and project management reverted to the Ministry in April 1963 after its consultative (intelligence gathering) function had been completed. IDR was not problematic in the sense of opening up the arena to veto-bearing agencies. Closure was maintained easily. The Treasury was an invaluable contributor providing critical insights of considerable future utility for the Ministry. Concerns

[10] FRP Vinter (Under-Secretary, Treasury), RF Bretherton (Under-Secretary, Treasury), J Littlewood (Treasury Principal), JL Carr (Economic Adviser, Treasury), Miss L Bristow (Treasury Principal), and mysteriously, KC Macdonald (Principal, Air Ministry). See Minutes of meeting between Treasury officials and CP Scott-Malden of 19 March 1961. PRO MT 124/930.

over the BTC's figures naturally persisted and the Ministry soon realised that there was a very limited working knowledge of the costings within the new railway organisation.[11] In essence, the Railways Board were implementing a programme in which the costing techniques employed were little understood outside of the Railways Board. A curious implementation gap had materialised. The line closure programme, however, was unaffected to the extent that it was axiomatic that savings would accrue from reduced capacity. The poor composition of figures simply irritated the Ministry which needed them to manage the political aspects of the programme.

This kind of exchange was relatively straightforward. The Board produced papers and the Treasury/Ministry examined them and offered criticism. Beyond the IDR, actors occupied a considerably more contested arena. A finance network, for example, bargained over the Board's "live debt" which was important because of the direct effect the agreed amount would have on future interest payments made by the Board. The Treasury Solicitor advised the Ministry on interpretations of Section 40 of the Act; and consultants *Binder Hamlyn* were commissioned to offer some guidance on this new territory. Equally important was the evolution of subsidy policy which had a rudimentary form in Phase One.

One should not dismiss the more personal dimension to project management. While the Minister had regular formal audiences with the Chairman, the crucial inter-organisational relationship was that between Serpell and Margetts. Margetts was the sole non-Ministry recipient of Serpell's honest evaluation of the programme. Margetts was accepted into the core project management network. He acted as a nodal agent within the BRB as the head of the Planning Unit, a position which would ordinarily have granted him *de facto* membership of the project management network. The relationship between the two men, however, went far beyond the functional relationship. Margetts, therefore, took the responsibility for the delivery of many of the technical aspects of the programme, whilst simultaneously shouldering a considerable portion of the political expectations. He was a trusted fixer who carried the programme.

12.3 Phase Three: Beyond Policy

12.31 The Policy-Implementation Interface: Line Closure Policy

The Ministry's policy network made certain assumptions in its consideration of line closures. Primary amongst them was the ability of the newly-created British Railways Board to deliver a programme of closures for submission to the TUCCs under the modified procedure. This proved to be optimistic for it

[11] Loose minute, PR Sheaf to CP Scott-Malden, 8 April 1963. PRO MT124/930.

was predicated on the view of the railways as a unitary authority whose agents enjoyed some commitment to the programme. In fact, the line closure programme itself harboured a whole series of dependency relationships requiring skilled management. Considerable additional work was required to prepare the named routes for closure. Notwithstanding the accolades, the *Reshaping* report was based on some crude figures collated by regional line managers working with some haste sufficient to satisfy the Centre's need for tangible outputs. The preparatory work would be left to regional line managers who were somewhat insulated from the political pressures felt at the Board. They did not themselves enter the arena and were, first and foremost, traffic managers. As CP Scott-Malden reported,[12] the political timetable contrasted somewhat with their own sense of reality. The General Managers acted as nodal points for all matters relating to closure. The Board communicated its concern through them, and the details passed through the General Managers (and the Regional Boards) to the BRB. There is no evidence of Railways B civil servants maintaining functional links with these managers.

Moreover, as the case of the duplicate routes indicates, the General Managers themselves were key data collectors both inter-regionally and in partnership with the centre. These groups must be seen as *opportunity networks* (in this case for General Managers) - networks where substantive policy was and could be made. Consider the findings of the group investigating the options for routes to Exeter. They pulled what at first was an unwelcome rabbit out of the hat - figures showing that savings were not necessarily maximized by closing routes. This finding challenged the central tenet of *Reshaping*. There is no doubting that the General Manager concerned, Gerard Fiennes, found something deeply satisfying in this conclusion. Others too, like Lance Ibbotson, the Board's Chief Operating Officer, were keen to lend their authority to such conclusions in contrast to RA Long the HQ Chief Commercial Officer, for example, who expressed a need to verify the findings. The result enabled the railway managers to manage an active railway rather than merely implement a programme of closure. Equally, these regional power bases (General Managers) should not be seen as necessarily being primarily motivated by a desire to maintain volume. Where the London Midland Region fought to save the capital-intensive electrification programme between Euston and Glasgow which was threatened under *Reshaping*, the Region quite freely prepared for the closure of one of its other trunk routes, the Great Central.

12.32 Statutory Access

The Ministry, as noted above, legislated in such a way so as to limit the scope for the rejection of proposals put forward by Regional Boards to the TUCCs. Due process, by definition, prevented the complete closure

[12] See above, Section 11.51

of the network. Virtually all of the passenger closure proposals put forward elicited sufficient objection to precipitate the staging of public hearings. TUCC hearings proved to be local spectacles championed by local authorities.[13] They were on the whole extremely well attended and were extensively reported on by local media. Dorset County Council, for example, was a lead objector to the proposal to discontinue passenger services beyond Salisbury (to Exeter) which Marples recognised as a threat to the Government's prospects in the county as the 1964 General Election approached. Moreover, Liverpool Corporation,[14] in advance of the publication of Colin Buchanan's study of traffic in towns,[15] had undertaken its own transport survey which encapsulated two *Reshaping* routes into a long-term transport development plan for the city forcing not only a reappraisal of the closure proposal, but also the question of conurbations as special cases with alternative funding arrangements.[16]

The TUCC hearings were the cornerstone of due process - a statutory access point for unincorporated organisations. The intervention of local authorities served the Ministry well, despite the unexpected zeal with which they objected in some cases.[17] First, local authorities never challenged the authority of the TUCCs and their terms of reference. Second, individual objectors tended to cede their own rights to speak to the local authority officials. With the aggregate savings spelled out in the *Reshaping* report being somewhat on the modest side, the veracity of some of the closure proposals may well have been reasonable discussion points. In the case of Buxton-Manchester closure, protesters did manage to get the TUCC to hear an alternative economic case which resulted in a reprieve for the line, but, suggests David Henshaw, it merely resulted in the Ministry impressing even further upon the TUCC chairman that economic questions were *ultra vires*.[18]

12.33 Cabinet Committees

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[13] This was of course anticipated by the Ministry in its consultation, but the degree of involvement certainly was unexpected.

[14] With the Ministry of Transport as sponsor.

[15] The influential report by Colin Buchanan's Government-appointed working group which examined the growing problem of traffic congestion in urban centres. It was comparative in form, not only between cities in the UK, but also in continental Europe and the USA.

[16] In particular, Glasgow and Manchester (road surveys); Tyneside (road and public transport).

[17] Reluctantly I should direct readers to Andrew Grantham, "How to Save a Railway" in *Backtrack*, Volume 9(2), February 1995, pp89-93.

[18] The case is presented in Henshaw (1994), pp157-161.

The TUCCs when it came to it managed the volume of objections under the Act with some ease. They produced their reports which, in the majority of cases, found the hardship claims generally unsustainable. Furthermore, in the absence of the CTCC veto they delivered their reports to the Minister[19] whose statutory task it was to make the final decision. Marples, as we discovered, proved to be the most reticent of the three Ministers who dealt with *Reshaping* to grant the Board the consents they sought. Despite all of the efforts at the policy stage to expedite due process, Marples was an unexpected weak link in the closure process. The necessary attention to TUCC reports, many of which needed to be decoded and contextualised, was a time-consuming operation.[20] Moreover, the political ramifications were all too apparent such that he referred many of them to the Cabinet Committee on the Reorganisation of the Railways chaired by RA Butler, and later its successors.

The Cabinet Committees proved integral to the programme considering in turn the most difficult consents. Unfortunately they offered a substantive platform to ministers with particular territorial interests. Michael Noble, the then Secretary of State for Scotland, used his membership to push his departmental interests against Scottish closures. This further inflamed his relationship with Marples which was already the subject of media speculation. Equally, the Committee's deliberations - in the absence of any railway representatives - viewed the railway lines in constituency terms, and later on the electoral consequences of granting particular consents. At the very least, the Cabinet Committees delayed the BRB's implementation of line closures. Consequently the BRB kept a tally of what they believed to be the losses attributable to Ministerial delay in granting consents. Ministers viewed closures on a line-by-line basis instead of - as in the case of the BRB - the aggregate necessary if they were to deliver the promised savings.

Having said that, refusals were few, though the requirement for the Board to provide adequate bus services tended to erode the modest savings presented by the Railways Board. The Treasury, however, maintained its close scrutiny of the programme and as Wilson's intervention indicates,[21] the programme was to a large extent Minister-proof. The incoming government had no powers to reverse or override consents; while the Treasury itself insisted on the irreversibility of the process. Ministers were restricted to placing further restrictions on the Board such as the "early sift" and their inability to realise savings by lifting track. This

[19] Ernest Marples (until October 1964), Tom Fraser (until December 1965), and Barbara Castle (until April 1968).

[20] Such as the recommendation of the Southern Committee to reject closure of Woodside - Sanderstead route - see above Section 11.52

[21] See above Section 11.6

clearly infuriated the British Railways Board.

12.34 The Scottish Question

The Scottish line closures were ever likely to test the Ministry's project management talents to the full. As we saw in Chapter 11, a significant veto-bearing agency had statutory access to the arena. The Scottish Office's interests were not served by line closures. The Secretary of State, moreover, would bear the responsibility should an extensive line closure programme be realised north of the border. Beeching applied his cool empirical logic to Scotland's loss-making routes as he did in England and Wales. At stake was, amongst others things, the existence of the north and west of Scotland routes which were long, expensive, poorly patronised and many miles away from both Whitehall and even the Regional Board HQ. The line closure network was occupied by the usual actors using the statutory consultation machinery to object to closure. Again, the Ministry had anticipated the need to gauge the opinion of the local authorities at the policy stage.

The territorial ministry, however, was another matter. Not only was there room for political embarrassment but the Scottish Office could - as a statutory actor - legitimately challenge the rectitude of the Railways Board's figures. The Scottish Office was also a sponsor of various quasi-independent research bodies. Of particular utility at this time was the output of a Department-sponsored inquiry into the impact of line closures on the Highlands and Islands economy.[22] The delivery of this report significantly undermined the case for an extensive line closure programme in Scotland, a fact which didn't escape Serpell and his management team. Despite this the Ministry did not intervene over publication of closure notices; and the cases were considered before the Scottish TUCC. The admission that Scotland's roads had limited capacity, objectors could employ the hardship argument at TUCC hearings with some degree of confidence. Bus substitution arguments were meaningless in such an environment and abortive attempts at advocating utilisation of the track bed for new roads proved impracticable. For such closures to be effected, future road building would have to incorporate measures to compensate for the potential loss of certain rail routes.

12.4 Was the Policy Implemented Successfully?

There is little doubt that the rail policy hatched out of the ruins of the Modernisation Plan was successfully

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[22] Made up of representatives of the Scottish Transport Council, the Advisory Panel on Highlands and Islands and a co-opted industry working party. The Highlands and Islands Inquiry reported to its sponsors in December 1961.

implemented in terms of outputs. The Nationalised Transport Undertakings were demerged as planned. The British Railways Board and six regional boards were established. The debt was rescheduled and the necessary remedial action to arrest the deficit was formulated, and the machinery provided by the Ministry was used to give a semblance of accountability to the Railway Board on decisions directly affecting passengers. This machinery proved immune to serious challenge by unincorporated groups who accepted it as their sole access point. Likewise the members of the TUCCs had accepted the revised statutory terms, and in most cases their chairmen conducted hearings strictly in accordance with the Ministry's guidelines. They delivered their reports to the Minister who then, after further consideration, granted consents. The Board acted swiftly on these and withdrew services and removed the infrastructure. However, the deficit, as we have seen, remained. The outcome was at variance to that which was anticipated. Why?

12.41 Causal Theory

The Modernisation Plan was predicated on the assumption that the appearance of an operating deficit in 1956 was attributable to a failure to invest in new plant in the immediate post-war period. New equipment and the near-universal "dieselisation" of locomotion in the industry with attendant reduced maintenance costs would both arrest the deficit and attract new business. Less satisfactory for the Plan's critics, however, was the BTC's emphasis on reducing losses, not eradicating them, and the Government's desire to use modernisation as a tool of economic management. That said, the Modernisation Plan's causal theory was not altogether unsound, it was just very shaky and risk-laden. The Plan's real failure was in execution. Costs escalated and the new equipment amounted to untried technology which was overpriced, of dubious quality and expensive to operate and maintain. These problems were clear failures of implementation (procurement) with the consequence of actually accelerating the rate of growth of the railway deficit. Of particular concern to the Ministry, and highlighted by all those who evaluated the Modernisation Plan in later years, was the poor quality of the costings leading to the BTC's unwarranted bullishness in its claims for returns on this investment.

Beeching's approach, by contrast, was ahistorical. In the first instance, the project was the conversion of the railway from a freight network to a passenger network without fully comprehending the viability of such a change. Freight had always subsidised passenger services; the deficit was a consequence of competition from road transport and the onerous requirement for the railway to carry any package at a pre-advertised rate - the so-called "common carrier" liability. Consequently, the railways had been subsidising road freight for many years.

The line closure programme was therefore an inappropriate response to this situation. The non-commercial, largely rural parts of the network were isolated and closed at a time of demographic change (new town developments, suburbanisation) and when travel itself was increasing. The willingness of Government to subsidise the necessary increase in road capacity simply fuelled the flight from rail. The Government and the BTC/BRB sought solutions to manage a declining industry rather than use the policy to compensate for the changed economics of transportation. The flight from rail could only continue after the withdrawal of rural passenger services. The bus industry's own fortunes, moreover, could not reasonably be enhanced by the prospect of fewer trains. In public transport terms, buses were not viable alternatives to trains. Contributory revenue, moreover, was important; travelling by bus to railheads to join trunk services was an unreasonable assumption. The car was more likely to substitute over whole journeys.

The causal theory was, therefore, false. The Board under Raymond (in 1965) recognised this after the publication of James Ness's *Trunk Routes* report. So too did Barbara Castle whose revisionary Transport Act of 1968 gave local authorities powers to subsidise socially necessary services and also laid the foundations for the creation of the Public Service Obligation Grant in 1974. Finally, of course, the deficit responded negatively because of the increase in labour costs after Guillebaud which obliterated any savings achieved by the reductions in manpower.

12.42 Dependency Relationships

The dependency relationships are less acute than in the previous case. The Treasury's intense interest in the project defines the central dependency relationship. The finance network, described above, brokered a deal in the implementation (second phase) stage, establishing a *de facto* contract. The return for the Treasury was a concerted attack on non-commercial activities of the Railways Board. Beeching's own reputation was at stake - the Board's regular bulletins to the Ministry detailing the gains lost by the Minister's delay in issuing consents goes some way to illustrate the potency of the relationship. The Railways Board would continue to have an operational dependency on the Treasury until at least 1970 when Beeching estimated some degree of solvency for the railways. Moreover, the programme was not exclusively concerned with line closures. Certain parts of the network were earmarked for development, and the Treasury would be the banker for such projects.[23] The Ministry too was mortgaged on the success of the programme. Though Serpell at heart was a Treasury man, the dependencies at the level of the individual were mutual.

[23] Again, the major project was the electrification of the West Coast route to Glasgow, despite Beeching's early misgivings about its viability beyond Manchester.

The Informational relationships were obvious. The Railways Board had a near-monopoly over information; though its poor costing techniques and reliance on its regional organisation to supply what data could be mustered, certainly weakened the Board vis-à-vis the Ministry. Furthermore, the Ministry was less-than convinced about the veracity of the savings presented by the Board: on the one hand, the Board was modest about savings to be derived from the line closure programme (£18m), while on the other, investment plans were invariably over-optimistic. It would not be unfair to suggest that everyone was in the dark most of the time.

As far as project management is concerned, the data points to two sources of information regarding the efficiency of the implementation programme. FC Margetts was a nodal figure at the Railways Board, and his effective incorporation into the Ministry secured a flow of intelligence of some reliability. In addition, Serpell's agents, particularly CP Scott-Malden, took the liberty of assessing the practicability of the task by bypassing official channels and spoke directly to the key line managers in the regional organisations. There is no evidence, however, that these contacts were in any way sustained, but the intelligence was indicative of the control deficits experienced by the Board in their relations with the Regions.

The TUCCs were creatures of statute and behaved accordingly. They were information gathers, and their reports certainly influenced Marples. The "hardship" question was essentially a political question, and became progressively more so as the general election approached. They were not entitled to much financial information from the Board, and that they were privy to was *ultra vires* when it came to drawing conclusions. They were supremely good, however, at highlighting the "difficult consents" much to the benefit of the Minister.

The statutory/command relationship was quite pervasive. The sponsoring agency, as Robertson noted, could ask almost anything of the BTC and expect it to be done, including preparing for its own abolition. Within the Railways Board, the Chairman used his authority to construct a central board of like-minded people with an appropriate knowledge of the programme to be implemented. He similarly selected the nodal General Managers, albeit from within the railway industry. In formalising the relationships between the Board and the cabal of the General Managers, Beeching established a command line. Margetts found, however, that their autonomy remained problematic which necessitated personal intervention from himself to maintain the pace of change.

Conclusion

The implementation of the Transport Act 1962 and the structural changes it presaged in the railway industry is a model of bureaucratic efficiency. This was a time-limited project. The Ministry had to isolate the problem after the groundwork of the reappraisals of the Modernisation Plan and in the context of changed objectives for the Nationalised Industries. The SAG was surprisingly functional - it worked quickly; on the whole told the Ministry what it wanted and threw up a candidate for managing the changes in the industry itself.

The Ministry, organised in a tight formation around a project leader, David Serpell, managed the programme with considerable skill and foresight. The prosaic elements of the change could be incorporated into the routine of the Ministry's sections; the overtly political elements had to be confronted and exorcised prior to the completion of the legislative stage. The legislation itself had to be sufficiently robust to manage the interventions of veto-bearing agencies likely to enter the arena as it expanded to incorporate all of the actors engaged in the project including those whose interests were adversely affected. The Trades Unions' interests, in particular, were astutely managed by the Ministry, less so by Beeching himself. This was a very important output in the implementation sequence. Once their veto had been sufficiently blunted, the programme could progress.

Serpell incorporated key actors to the implementation network as and when it was necessary. Local authorities, in particular, were granted access over and above the normal consultative requirement. Equally, the Ministry had to manage the BRB's implementation of its own plan: managing the rate of line-closure submissions, whilst vetoing some of the proposals for explicitly political reasons which were largely incomprehensible to the Railways Board. The important exception was FC Margetts whose incorporation into the core project management network provided a crucial and reliable link.

What is apparent from the study is that it is not helpful to analyse events in explicitly linear terms. When implementation enters the operational domain and is executed by technicians whose commitment and motives prove difficult to secure and interpret, controlling the outputs becomes ever-more problematic. No amount of Central manoeuvring at the policy stage can secure compliance at this level. Compliance, it seems, is achieved by actors perceiving their own control over the process. There may well be a coincidence of such perceptions with the objectives of sponsoring agencies, and in such cases implementation proceeds.

Environmental shocks, equally, disturb linearity. The intervention of a territorial ministry turned a sensitive issue into a gaping sore that the Ministry and the BRB were bound to lose. The Cabinet too, far from providing the necessary political defence of the Board's programme, quibbled over individual closures in spite of protestations by the Board. The Board later found itself managing a new government with a slightly different agenda which, although not abandoning the closure programme, rendered it episodic effectively extending the duration of the pain. Finally, the interest of the local media and sub-central actors coupled with the failure of the Board's PR at this level exacerbated an already difficult task. Slippage, by the time of the election of the Labour Government, was having a chronic effect on the implementation of the programme. The Treasury's resolve to thwart the Government's attempts at abandonment were themselves undermined by the consequences of an inadequate causal theory and new economic thinking about how people used the passenger railway. Our difficulty as analysts is to ask exactly what constituted the programme. So dynamic was its definition that it would be wrong to suggest that the programme was abandoned, for it had been successfully implemented. What was abandoned, however, were the central ideas that informed Beeching's outlook.

What was abundantly clear, however, by 1966 was the fact that the railways would not, on its then trajectory, achieve solvency. Beeching's entreaties to consider the line closure programme in aggregate as opposed to over single routes, progressively diminished as his tenure progressed. As has been argued, the *Reshaping* plan fundamentally misperceived the cause of the deficits. There was indeed bad management and poor use of resources. Equally, there was a macro cause that the *Reshaping* plan could not have addressed. It is ironic that Beeching left the public sector after being asked to compose a report on precisely this question. The subsidy given to the private motorist and the road haulage industry both generated and maintained the railway's deficit. The implementation outcome, therefore, amounted to failure and the rural passenger network that remained was as non-rational as that which the Board had attempted to rationalise in 1962.

Chapter 13
Reflections on the Model and Matters Arising

13.1 Demands Imposed by the Model

In chapters 2 and 3, some sweeping claims were made for the network model as an alternative to the unsatisfactory dominant models of backward and forward mapping. The conviction arose out of a knowledge that multi-actor arenas or networks do not lend themselves to explanation in the absence of linear command structures. Moreover, if we consider the backward mapping approach, there is no tangible service delivery to a client. We are left with no starting point. This is simply an inappropriate way to proceed for policies which have statutes at their core, are notionally managed by a central sponsoring agency, and involve the transfer of capital assets which harbour "pragmatic" and "perceptual" motives in the core executive.[1]

It was clear, however, such a model might meet its match if used to explore the dynamics of policy delivery in the historical case study where, on the face of it, a command model offers considerable utility to the analyst. It has to be said, however, that, as the data amassed, the model itself raised questions which may have been neglected had a command model been employed.

This chapter will review the model in light of its application to the two case studies. In particular I will argue that it successfully captures the essence of the environment in which actors perform the implementation task both from bureaucratic and political/tactical perspectives. I will also discuss its utility with regard to isolating the essential dynamics which govern actor behaviour and the extent to which they may appear self-organising as the market delivers outputs. This is the essential difference between the historical and contemporary case studies. I will then discuss, in more general terms than in chapters 9 and 12, the nature of success in the context of (implementation) outputs and outcomes. Finally, the chapter will attempt to formalise the concepts that have been introduced and operationalised in the empirical chapters. I will offer a typology of implementation networks (contrasted with Rhodes' policy networks) and adapt Klijn's definition of policy network for the purpose of securing a viable definition of implementation networks.

[1] See references to Henig and Feigenbaum discussed in Section 5.12.

13.11 Structures and Policy

The network model works at two levels. First at the level of structure(s), and second at the level of the individual who responds to environmental stimuli mediated through structure. The structures are not easily captured (in prose). There exists in both case studies a dominant bureau. Our understanding of a particular bureau's operating procedures enables us to make certain presumptions about expected behaviour. But in the implementation of policy, dominance does not mean control. Bureaus are at their most effective when procedures are routinized. By definition, implementation upsets routinized behavioural forms. Although the core executive of Whitehall bureaus are defined by their ability to manage change, the uncertainty surrounding new procedures and the responses of target groups ensure that outputs are negotiated and are not determinate.

As soon as it becomes apparent that outputs are negotiated, we then appreciate the pluralistic nature of the implementation procedure. Naturally, the plurality is highly circumscribed. Dominant actors attempt to define new structures in such a way as to maximize their own control over the process. This is done largely at the policy stage. The model insists that we examine actor behaviour prior to legislative sanction and the release of the necessary resources. Moreover, we discover that policy comes in three varieties: the political; the bureaucratic; and post-legislative. Political policy-making has political motives at its core. It is ideological, idealistic and has a propensity to impracticability. It is defined by political desires and ambition and is constructed by actors who, largely, are unconcerned by the mechanics of the implementation process. Bureaucratic policy-making necessarily concerns itself with transforming the core ideas into statute law. It draws on experience and precedent and it necessarily involves the construction of an implementation framework. Post-legislative policy-making is the process of policy-making-through-implementation and reflects the capacities of central actors when considerations of operational viability become necessary. Policy-making at this stage can seriously alter policy outputs and ultimately outcomes. The policy/implementation dichotomy therefore struggles to retain its authority. Outcomes are explained by implementation strategies devised throughout the policy process. Equally, key actors are carried forward through these phases in recognition of the fact that expertise is a scarce resource.

13.12 Sequentiality

Unravelling the mystery of sequentiality is another key component of the model. Andrew Dunsire's identification of two kinds of sequentiality in the implementation process, the *developmental* and *aggregative*, demonstrates the importance of sequentiality. The concepts themselves enable us to order our thoughts when considering "events" in the implementation calendar. Where the process is developmental, vetoes are a potent force. Where implementation is aggregative, strategies can be devised for obviating problems of sequentiality. In complex implementation systems, an aggregative model can be hugely beneficial inasmuch as it can provide opportunities denied where developmental imperatives rigidly define the sequence. As Dunsire notes, however, most implementation programmes encapsulate both developmental and aggregative features, and this is certainly true in both of the case studies above. In the contemporary case study, for example, the outputs of the Regulator's office are developmental in nature, "biologically" defining subsequent activity. This is true equally of the sales process which was absolutely dependent on the composition of the contractual matrix. Activity within opportunity networks proved, by contrast, largely aggregative. This was a non-statutory network occupied by a group of disparate actors aiming to win contracts to run train services in return for payment or the prospect of profit. Although they needed to submit bids in a legal form, the strategy employed by each was dynamic and non-replicable. Joint ventures were constructed in response to amassed intelligence while the cost of bidding fell as the wider finance network reappraised the risk. Again in the contemporary case study, attempts at outflanking the courts illustrate this well. The Franchising Director and the Secretary of State had at their disposal a number of options allowing for an assessment of the consequences of choosing a particular "solution" to the Franchising Director's earlier illegal action. Clearly, had such "events" been developmental in character - where illegal activity equates directly with starting the process all over again - major implementation slippage would have occurred.

The historical case study has many examples on which to draw. The structural aspects are developmental. The divestment of the BTC and the establishment of the BRB represent largely technocratic/administrative exercises. There could, however, be no closure programme without a BRB and a reconstructed TUCC procedure. The developmental nature of the process ensured that the BRB could not close lines because of the procedural constraint imposed by the statute, and Harold Wilson's incoming Labour government was unable to reverse the line closure decisions (not that it ever wished a reconsideration of the closures already effected) because the line closure process was itself rigidly *protected* in law. However, the *Reshaping* plan itself, loosely defined and subject to considerable revision as environmental factors impinged upon the smooth sequentiality originally envisaged, became a strategy rather than a programme in the strictest sense. The trade-off between the Great Central and the politically-sensitive seaside routes is probably the most overt example.

What is crucial for students of implementation to resolve, however, is what form might a suitable mechanism for achieving a coincidence of member-agency outputs take? Agencies engaged in constitutive work for nodal agencies need to work simultaneously and deliver outputs collectively to nodal agencies so they can optimise their internal decision mechanisms. However, when the form of an output is largely unknown and "policy" has to be negotiated prior to generating the output, such a normative assertion may be impossible (or at the very least improbable).

13.13 Dependency Relationships

The dependency relationships are far more prevalent than the largely visible relationship between nodal agencies and other independent actors who provide the sustenance. The dependencies take many forms, and some crucial ones are subtle to say the least. Searching for these dependencies is a key empirical task. Discovery of an informal dependency can supply the researcher with a valuable explanatory variable. The working relationship between Chris Stokes and Roger Salmon, for example, proved definitive. Not only did their skills complement one another, but Stokes was able to liaise with the Department over their outputs much more effectively than could Salmon. Stokes was a man the Department could do business with; Salmon, by contrast, spoke in a distinctly different idiom. This is a stark example of a clash of cultures. Salmon the iconoclast unquestionably struggled to interpret the words and actions of the Department of Transport as it attempted to impose particular values on a new agency established expressly to challenge those organisational values. Both were only partially successful imposing their own operational values on the other. We should not doubt that OPRAF is a unique and unconventional agency; nor should we underestimate the challenge it represented for the DoT, but the DoT's interventions mid-way through 1995 indicate the nature of the power relations between the two.

That same dynamic is visible historically, too. In the same phase of implementation, defined by operational decision-making, FC Margetts and David Serpell established a level of understanding and trust which nourished the intellectual dimension of the task, and also engendered a normative commitment on the part of Margetts to deliver within the sphere of his own considerable influence and competences. At the operational level, therefore, frames of reference are vulnerable to interference; it is the informal links that help to sustain normative commitment. Margetts, however, was no iconoclast. His mentor, Dr Beeching, in the contemporary context, fell short of fulfilling this sobriquet, too. Though the concept of commercialisation was challenging and the changes substantial, it was essentially incrementalist.

13.14 Arenas and Networks

Dependency relationships form around interests and tasks within and between actors in arenas and networks. The two case studies illustrate how statutory actors in the decision arena attempt to control the behaviour of actors both within the subsequent implementation network, and those outside the networks who enjoy some interest in the implementation programme. Attempts at closure are evident throughout both studies. Successful closure diminishes as decisions are delegated to operational non-core actors such as those located in the target institution, in this case, the British Rail organisation.

Moreover, the political imperative, that of due process, inevitably limits core actors' success in the closure "game". David Serpell successfully managed his internal decision networks involved in both policy formation and implementing the Transport Act 1962, but he suitably - and legitimately - closed the space occupied by unincorporated actors - objectors - who largely accepted the appeals machinery. Closure was less successful in the context of the contemporary case study. The policy originated in the Treasury and was opposed by the Department. The policy decision arena was closed off while the composition of the Bill proceeded. Closure at implementation, however, trapped within the decision arena a statutory actor - British Rail - which threatened to exercise a potent veto over quite fundamental structural questions. However, the plurality of the implementation network that emerged engendered a plurality within the BR organisation as new imperatives and motives changed actor behaviour.

The unincorporated actors were outflanked, too. Although the *Save our Railways* campaign was a major thorn in the side of OPRAF and came very close successfully to sabotaging implementation, its strategy was wholly constitutional. Whilst the statute provided for objectors to use the legal process to challenge implementers' interpretation of the statute, they were constrained in their effectiveness by the process of judicial review which, in effect, provides a certain immunity to implementing agencies. A successful appeal merely forces agencies to adjust procedures, not to abandon them (or the policy). This realisation affected at least one other agency, Railtrack, in its relationship with the Regulator.

13.15 The Environment

The environment is, as has been shown, infested with distorting forces that are largely unmanageable in a project management sense. Both rail privatisation and the reorganisation in 1962 were executed in what was expected to be a hostile environment. No amount of planning or intelligence gathering can prepare implementers for environmental effects. Closure is only ever incomplete when changes are perceived by target groups as being politically motivated. In both cases media management was deemed crucial. In the historical study, the Ministry insisted that Dr Beeching be expertly advised on presentation. The public relations team at the BRB successfully managed the coverage nationally, but proved weak at handling the local media when they focused on individual lines and local campaigns against closures.

In the contemporary study, news management largely failed. Collectively the media viewed privatisation as wrong and a symptom of a failing and dogmatic government. This made the job of both political objectors, such as The Labour Party in Henry McLeish, and Save our Railways, so much easier; they enjoyed almost uninhibited access to all media in their attempts to undermine the integrity of the policy. The perceived success of the opposition precipitated the generation of unofficial leaks from the statutory actors which selectively portrayed the implementation programme as foundering.

The implementation of discrete policies is also subject to the effects of policies from other policy spheres. Local government reorganisation impinged greatly of the DoT's efforts to secure the franchising of rail services in Scotland. And in the historical study, reorganisation was perceived at the Scottish Office as being against the "national" interest. This proved irreconcilable. Crucially, we should note that non-compliance at this level was not anticipated. Perhaps even more damaging, however, was the aggregagation of territorial interests found in the Cabinet committees. Members viewed difficult consents rather parochially, being aware of a fast-approaching General Election. This caused delays which exacerbated the Board's financial plight. Having worked so hard to close the decision-arena to veto-bearing agencies, difficult consents were then considered by political veto-bearers whose commitment to the policy could only ever be partial.

Implementation is also affected greatly by socio-economic conditions which, in the lifetime of an implementation programme as complex and long-lived as a major rail policy, can alter significantly. The implementation of the Modernisation Plan (devised in 1955) was deflected by both a changed attitude towards public spending in the Treasury and relatively poor macroeconomic performance. The Macmillan Government's "pay pause" certainly encroached on Beeching's attempts to seduce the trades unions. In the contemporary study, the costs of implementation were on the whole irrelevant. In the final count, the costs were a small fraction of the proceeds that were generated by the sales. More problematic was the almost doubling of the Treasury's subsidy to the passenger railway. This was not a problem in the first instance where a money-go-round simply returned the subsidy to the Treasury; but as the constituent companies were sold, the subsidy haemorrhaged. The Treasury was rescued by the efficiencies squeezed out of the private-sector actors by OPRAF. This was good fortune rather than design.

13.16 Causal Theory

No amount of planning could have accommodated the rethink which resulted in the refutation of Beeching's *Reshaping* plan. Indeed, the refutation amounted to a learning process whilst the plan was being implemented. Why did the railway's bottom line not respond to the restructuring? The causal theory, here, as has been argued in Section 12.41 is a potent explanatory tool. To some extent in the contemporary case study we must look to the causal theory to consider the prospects for the sustainability of the rail privatisation project. This highly differentiated railway industry is bound together by fixed dependencies which are predominantly financial and contractual. Contract management represents a study in itself and is by no means an exact science. Moreover, as we have seen in the wider sphere of utility regulation, the regulators themselves impose their own values on the process of regulation. John Swift, the Rail Regulator, has indelibly stamped his own authority on the rail industry and operators' posturing has failed to deflect him from realising *his* regulatory objectives. His tenure is, however, finite. A new regulator may well regulate with less authority or be captured by the regulated industry itself, or indeed by the Government.

We should also note that the extent of the politicisation of rail regulation prescribed by the incoming Labour Government remains unresolved. A politicised regulator would be subject to direction by transient ministers which would affect the perceptions of industry actors whose confidence is largely a function of the stability which the current regulator has engendered. Political intervention in the business affairs of the rail industry would undoubtedly affect the viability of those currently providing services and their and willingness along with new entrants to compete when franchise renewals are due in 2003/4. Conversely, a more liberal regulator may seek to hasten the entry of open-access operators at the expense of incumbent franchisees. Again, such a move would affect the perception of the wider community which props up the rail edifice. What we do know, however, is that the matrix which currently delivers rail services is subject to entropic forces in the absence of thoughtful and rigorous management. Anything which undermines such management will affect the policy's sustainability.

13.17 Governance

The concept of governance was introduced in 3.21 above. It was suggested that - certainly in the terms in which it was expressed using Kooiman - it had considerable utility methodologically in its call for interdisciplinarity. As the case studies have shown, it is inadvisable to deny system complexity and theory should reflect such a reality if the object is to expand our understanding of decision-making and the management of programmes, whether government or other. The contemporary case is governance writ large. The changes wrought by the policy entrepreneurs were radical and rapid; but equally, actors involved in the implementation process shed many skins before the sales process was completed. The railway managers, for example, had to be transformed into hungry entrepreneurs if they were to attract capital to their buy-out vehicles. The private-sector putative owners had to learn rapidly the unique disciplines imposed by the operation of a complex and relatively inflexible transport system, and their dependence on incumbents to transfer this knowledge in the event of success. This all contributed to a blurring of the public/private parameters of policy, implementation and management. Eventually, the implementation network developed a single goal - the completion of the process as rapidly as possible. Ownership suddenly mattered a lot and the public sector ceased, for the former BR managers, to be the preferred operational mode. From the perspective of the "governers", normative compliance would deliver the policy. Moreover, the *rate* of implementation was determined by a combination of compliance mechanisms. The normative mechanism predominated after all actors, by experience, were confident that the railway industry itself was secure irrespective of ownership; but the prospect of managerial autonomy - of actively shaping the railway industry of the future by investment decisions, service innovations, etc. - and the conviction that such a fundamental change in the management of the industry might well prove progressive, provided a new behavioural frame and incentive to complete implementation. To this end, the opportunity network was inhabited by actors who capitalised on system negentropy.

Likewise in the OPRAF organisation. The success of the developed sales system, accrued knowledge, the perception of a determined government, and the prospect of out-performing governmental targets all affected the operating frame. Moreover, the "buyers" came willingly to the OPRAF trough to drink; they accepted the terms presented to them. Even in Strathclyde where the PTE exercised its statutory veto, the outcome was predicated on the realisation once security of funding had been established, that their interests were best served by a positive attitude towards compliance. The OPRAF sales scheme could deliver the investment that was constantly denied in the public sector. Changed ownership suddenly mattered here, too.

The historical case study, by definition, is less amenable to this kind of analysis. The command structures were far more robust, there was no private sector, no incorporation of other agencies. But implementation is about consent, and as the contemporary study shows, it is the *rate* of implementation that tells us a great deal about the level and type of consent at work. The Ministry chose a man to deliver a less costly railway whose industry credentials were considerable. He implemented major projects with aplomb. His first board was hand-picked encapsulating both technocrats like himself and experienced railwaymen with a commitment to change. The project was his, and it was embraced by those around him. The *Reshaping* report was without doubt a seminal and inspiring work. Beeching was, however, a centraliser, and although he had the power and the wit to move his General Managers between regions to avoid their being captured by the regions' more permanent professionals - engineers, traffic managers, and the like - he struggled to control the affairs of the regions through them. In a project where the rate of implementation was crucial, this was a major failing.

Beeching was, unlike his contemporary successors, undermined politically. The difference between implementing individual and discrete line closures and transferring whole blocks of routes and services between the public and private sector is such that the former invites the application of quite parochial vetoes, the latter does not. Moreover, the distinction made between passenger and freight services in the 1962 was made simply because of the political sensitivity to the project itself. And although we do not know the detail of the Cabinet discussions over rail privatisation, there are few hints of ministerial cold feet, though some have suggested that Dr Mawhinney was perhaps the weakest political link in the chain. It is interesting that, in the subsequent General Election of 1997, rail privatisation may well have affected negatively the Conservative vote in the South East of England. Unlike other privatisations, it did not deliver an electoral dividend.

Kooiman's exposition of the governance concept helps us distinguish between the dynamics of both case studies. The privatisation system complexity was such that a resort to explanation by failures of control or "governability" simply would not do. The dependencies between actors and favourable exogenous conditions such as an amenable financial sector clearly differentiates the two studies. For the contrast it offers it has considerable utility. Moreover, we discover that there may well be something in Ashby's first law of cybernetics that "only variety can cope with variety...".[2] Indeed it has already been suggested that in the rail privatisation case, the multiplicity of actors were actually functional for managing the system complexity. There were always alternative channels open for the system's movers. By way of contrast, could the complexity of the historical example have militated against speedy implementation because of the relative simplicity of the command lines? Interesting though these ideas may be, this has not been a rigorous test of them. In addition, Kooiman's ideas do not form a coherent theory, only the promise of a theory of social and political governance. Nor is it a theory of implementation. Before such a theory can be expounded, there are obvious methodological conundrums to be resolved which have been generated by its interdisciplinarity.

13.18 The Value of Comparison Revisited

In Chapter 1 it was argued that there was considerable value in comparing the two periods of policy making towards the railway in contrast to considering implementation in parallel policy spheres or across countries. On reflection, the historical study has served the central hypothesis very well. It has shown the extent of strategic action within both the British Rail organisation and Whitehall departments, adequately challenging on the one hand the prescription of Mazmanian and Sabatier, and on the other the absolute autonomy of "street-level" bureaucrats that are a feature of "forward-mapping" approaches. Where we expected in the contemporary study, by virtue of the extent of actor differentiation, to witness considerable strategic action, the same was not true of the historical study. This realisation, amongst others, I would argue, considerably

[2] Quoted from Andrew Dunsire, "Models of Governance" in Kooiman (1993), p23.

augments the original claim of theoretical superiority of network explanations. Strategic action is a crucial variable in the implementation process and is to be found wherever there is latitude and discretionary behaviour.

Equally, the shenanigans within the Ministry in the 1960s greatly informs our perceptions of the nature of the management task encountered by the present-day Department of Transport when faced with a considerably more complex implementation matrix. This goes some way to compensating for the inability of researchers to witness and record decision-making first hand at implementation. Undoubtedly the Civil Service culture that delivered the Beeching reforms survives into the 1990s; all will be confirmed, one suspects, in 30 years' time when the papers from the working groups listed in Appendix 1 are declassified. For the researcher, therefore, time spent reconstructing and reliving decision-making processes within the civil servants' networks, albeit in the historical context, substitutes for the inability of the contemporary researcher to witness them first hand. This work has been one of the most satisfying and enlightening of the whole study.

All of this is not to suggest that additional comparisons are invalid, only that the contemporary case study required considerable historical context for the full complexity and problem intractability to be appreciated. There is, even over 30 years, considerable continuity of management and operational cultures which are suitably isolated by such a comparative approach. Moreover, it clearly indicates that implementation has always been under-studied and theorised. Network theory, however, does need further testing in other policy spheres, and indeed in other political cultures and traditions.

13.2 Methodological Questions

13.21 Level of Analysis

It was argued in Chapter 3 that the network approach in its transition from metaphor to theory enabled us to reach some compromise over this debilitating question. We could not discuss the implementation of these policy initiatives without conceding the reality of agencies as unitary actors. Motivations can be ascribed to agencies. Reputations usually hang on their successful attainment of policy goals. Inter-agency dependencies go a considerable way towards explaining the form of outputs, but as the case studies demonstrate, the delivering dynamic is somewhat more complex.

Of central importance are questions of tractability and resources, both intellectual and financial, employed to provide solutions. Agencies themselves do not provide solutions. And for most actors, the surprising finding in the research is the extent to which the intellectual challenge proved to be a significant component to the delivery dynamic. The complexity of the rail privatisation programme, for example, did not militate against implementability. The apparent intractability, and the opportunity inherent in intractable problems, effectively distilled out some highly competent individuals who were prepared to take on the challenge. This evaluation is equally true of the historical case study. The distillation process is a crucial factor in the delivery of outputs in complex implementation programmes.

It is essential, therefore, to identify the problem-solvers and contextualise them with reference to both the agency which provides their immediate frame, and the network which receives their outputs. The contextualisation is important to the analyst because dependency relationships are not equal. No matter how competent an individual actor may be, if he/she lacks essential resources, and inhabits a network of disproportionate (statutory) power relations, the outputs will reflect that. This occurs when new or established agencies engage in power maximization, colonising secondary "policy" space for their own long-term advantage.

13.22 Perceptions

The question of the integrity of the data is an ever-present concern. The model assumes that agencies, decision-arenas, and networks all provide a frame of reference (constitution) for actors. Actor behaviour is given meaning by such frames. Epistemologically this is an old chestnut. How can we ever know what this frame is and how it affects decisions and actions? And moreover, if we believe this to be true, then we run the risk of looking for such phenomena to the exclusion of all else. Even worse for comparative studies such as those above - the historical vis-à-vis the contemporaneous - perceptions of actors some 30 years in the past are considerably more difficult to confirm than in a more contemporary study where perceptions can more easily be tested by the interview method.

The interviews for the contemporary study were all conducted with this question of perception at the forefront. For many actors it seemed self-evident what they were doing, but by asking questions in terms of "why" rather than "what", a definite picture of strategic decision-making evolved. It was clear that a perceptible network did indeed "exist" achieving visibility around contested policy decisions. The historical case study exhibits many of the same features, but the data are largely derived from official papers. That said, many proved overly candid, and the annotations often laid bare the perceptions of the authors.

This public intersubjectivity is the raw material of this research. It delivers an explanation as to why outputs took the form they did. Only through an accurate perception of the process actors are engaged in can he/she maximize his/her own power vis-à-vis other actors (or limit the erosion of relative power).

13.23 Do Networks Deliver Explanations?

The primary ontological problem surrounds the construct of the network. For theoretical purposes, the network imposes a structure upon a highly differentiated group of agencies (or self-identifying groups) with a stake in the programme for implementation. Our investigation into what constitutes a "stake" and the degrees of stakeholding necessarily affects both the empirical and analytical phases of the study. Dependency relationships provide the necessary empirical qualification. The distinction between arenas and networks enables us to employ the concept of closure with some confidence. Closure is a desirable state at the policy stage - both primary and secondary. It works when agencies can internalise dependencies. Those agencies which succeed in closing off decision-arenas, by definition construct policy in their own image and to their own advantage. These fora are rich sources of intersubjective data on which to build an explanation.

Moreover, closed decision arenas are inhabited by individuals who have much to gain from the outputs of their deliberations. They have the opportunity to secure their own future and one which can be made easier at such a stage in the implementation process. These individuals, equally, share a common frame of reference. These are not individuals with competing interests, they have common interests but different competences. Their motivations are normatively derived.

At the other end of the spectrum, however, it is a different matter. When the implementation network encapsulates statutory/incorpororated actors, and fleetingly unincorporated/oppositional elements, the network necessarily has another function. The opposition's brickbats can, as we have seen, be managed by thoughtful policy-making forcing their subservience to the network constitution. In the contemporary case study, the high degree of differentiation which might ordinarily militate against successful implementation can have a positive compensatory effect. The management of the franchise competition by OPRAF used the uncertainty that defined the "franchise opportunity network" to extract contractual commitments from interested parties. The competition for franchises was so intensive that OPRAF could expedite the process whilst simultaneously maintaining its stringent specifications. This would have been impossible had the network been less differentiated. For once, a statutory agency could manage a network not by strict project management techniques, but by the market. In the later stages, even processes like due diligence had been sufficiently routinized to allow the pace to be maintained. The network was overflowing with confidence which ultimately delivered the bidders to the vendor.

What this suggests, therefore, is the fact that there are times when closure is functional to implementation, and there are times when it is not. The Franchising Director needed not only as many actors entering the opportunity network as possible, but also he needed the free circulation of information *within* that network, coupled with the exclusion of unincorporated actors. Members of the opportunity network needed to be bound by the constitution which governs corporate purchases in a hostile political environment. On the whole this was achieved. Actors were compliant. The consequences for theory are that we have uncovered a new strategy perhaps unwittingly deployed to deliver implementation. The private sector enters the implementation network only for the perceived financial rewards that it offers. They are not normatively motivated, and the market represents a further constituent of the management or tool of "governance" that delivers policy. That's not to say that implementation historically had not been subject to governance techniques; the case study shows a crude system of governance to have existed. However, in the contemporary situation the level of differentiation imposes new imperatives on those whose job it is to operationalise policy. Only at this level do we have a true "mixed economy" where the motivations are mixed and governance is about achieving a congruence of interests.

Historically we have a different dynamic. At the policy stage and implementation of the structural features of the statute, closure was practised by the Ministry. At the operational level, however, when the implementation network necessarily becomes somewhat more differentiated, the dynamic is rather different. The TUCCs derived their legitimacy from the statute and the Chairmen were courted to secure compliance from them and to achieve compliance by the committees. The committees legitimised the closure programme by providing an accepted constitution for action within it. At the operational level, the normative motivations within the railway organisation routinized the implementation work causing some slippage. Centrally, the Board was constituted on the basis of the *Reshaping* programme. That, however, did not resolve conflicts over function but actor behaviour was largely normative. Power maximization was not evident. Bargaining over debt, which might have been viewed in this way, merely resolved the question of future management and the issue of delivery of complimentary financial results at some point in the future. The integrity of the railway was not jeopardised until the programme advanced to discussions over the trunk routes. The General Managers themselves were subjected to considerable criticism from unincorporated actors - the media, MPs, local authorities, etc. They were also strategic actors whose interests were not coterminous with those of the Board. Their interests were running railways within the boundaries set by the Board and the Ministry and were not served by closing lines for political reasons based on an unaudited cost basis. When the appraisal task was devolved to the regions, the General Managers were able to import alternative appraisal criteria to shift fundamentally both the Board's thinking whilst bolstering the case that had emanated from unincorporated actors in the past.

Networks, therefore, represent definitive dynamics in the implementation process. They can be constructive where motivations are congruent; destructive where they are not; and vehicles for learning where the accumulation of operational knowledge is necessarily ongoing at implementation. Their outputs are essential elements of the sequentiality of any programme. Outputs often bear the hallmarks of considerable bargaining where interests are reconciled though subject to the influence of internal power relations. An assumption of a strict command relationship, therefore, could not realistically capture the essence of these dynamics. The command model does not allow for autonomous behaviour, power maximization, and fails in its explanation of vetoes in that it explains them in terms of control deficits. Although, as we have seen, the core executive can anticipate control deficits in legislation and rule-making, such as vetoes emanating from unincorporated organisations, control is not a useful concept when we are considering the evolution of policy within the implementation programme. Control is not a useful concept in explaining either slippage or alterations to programmes whilst they are in progress in situations where actors necessarily have decision-making autonomy at implementation.

This of course is, in the end, a methodological question. As was argued in Chapter 4, a methodology which embraced an interpretive epistemology - one in which the reality of the phenomenon under investigation deviates somewhat from ascribing organisations a definite existence and therefore importing a certain determinism into the analysis - would get to the root of the question of "why?" rather than "how?"

This is true of both case studies. There is little doubt that actors in the historical case study were able to steer the closure programme and internalise dependencies, but for as long as network closure remains an impossibility, other forces inevitably contribute to the success or failure of any enterprise. The command structure cannot be relied upon to deliver implementation. Motives and incentives in combination do that, some of which are impossible to buy or legislate for.

Networks, therefore, deliver implementation to the extent that they provide an essential dynamic to programmes and provide the meaning and understanding that informs decision making throughout. Networks provide essential intelligence where implementation is a highly differentiated exercise. They also, as the contemporary case study suggests, provide the necessary uncertainty to focus the minds of some actors who find themselves competing for space in an implementation network rather than enjoying a guaranteed invitation.

This is a key weakness in Bardach's concept of the "Fixer". Fixers as Bardach has characterised them are at best rare, at worst a poor representation of any reality. The case studies above identified a number of candidates for the fixer sobriquet. However, they proved to be merely nodal agents. FC Margetts, for example, had a sphere of responsibility and reach, but he was unable to affect outputs in other spheres and beyond. Chris Stokes, the Deputy Franchising Director was certainly a troubleshooter, but never a fixer. Bardach's fixer was a politician, and it is true that both studies present strong Ministers. Marples presided over four years of implementation and was a key actor throughout. Ultimately, however, his dependence upon his own ministerial colleagues weakened his capacity to act instrumentally, despite his mandate. In the contemporary study, Sir George Young comes closest to the fixer concept. His decisiveness over the *Save our Railways* legal challenge enabled the dependent agencies to proceed with the initial sales. He keenly monitored implementation and contributed greatly to the perception amongst actors that the Government had resolve over the question of the implementation of the programme. He could offer little more. The programme was beyond his fixing.

The business of implementation will repeatedly defy attempts at normative theorising. Where a statute is involved, robust drafting can provide programme managers with a substantial weapon against default in the line of implementation. The unintended consequence or unexpected veto will be ever-present. It is true that policy-makers/drafters should be aware of the possible conflict of interest arising out of statutes emanating from other departments, but often they just do not. These have eventually to be managed in the field, so to speak. Implementation is reduced to bargaining. If actors see implementation as an opportunity then such eventualities enable them to posture before a ministry, dependent agency, or whatever - a process which is time-limited. Concessions can be achieved, but as both case studies show, abandonment is unlikely and probably undesirable. Statutory and incorporated actors play to the rules as the key element of influence is being in the policy/implementation arena from the outset. Unincorporated actors exploit access points, but any self-respecting ministry has these covered, as it is they themselves who provide them in the name of due process and political expediency.

The privatisation of the railway industry, not unlike the experience of contract managers in local authorities who deal with competitive tendering, was dominated by negotiations over contracts. The Ministry and the BRB knew that everything would hinge on the integrity of these documents. These were unknown quantities at the outset, but intellectually policy-makers accepted that it was possible to define contractually passenger rail services and for them to deliver rail services. But crucially, actual implementation was beyond the competence of the sponsoring agency; these services could only be purchased from outside professional sources. What defines rail privatisation, then, was the degree to which the competence of the Department was challenged on most substantive issues. Their reliance on other agencies was both a source of frustration and liberation. The Department's role, post legislation, was reduced to one of monitoring, guiding, decision-making and managing the political fallout for ministers.

It is here where the historical case study helps us out. It illustrates the extent to which sponsoring departments are reliant on other agencies and how soon competences are tested. This raises questions about authority and what it means in the field as commitment to programmes enjoys different meanings as the work is carried out at sub-executive level. We see how those in the field see a direct relationship between haste - which defines both case studies - and poor decision-making. This impacts not on implementation, but on sustainability. It should be recognised that these case studies are quite different in this respect. The historical case study hinged on the question of capacity. The contemporary case was about organisational forms. Any future refutation of the privatised railway will be political rather than of bureaucratic origin.

13.3 Success

The notion of policy success was conceptualised in Section 3.1 above. Albert Weale's classification of output and outcomes against orientation to policy intentions and orientation to problem is helpful here. Taking the contemporary study first, it is not possible to consider outcomes - outcomes here are a matter of speculation; readers should, however, refer back to the discussion on Causal Theory (Section 9.5). We can consider outputs in the context of intention and problem. This policy is littered with statements of intention. The White Paper, *New Opportunities for the Railways*, is perhaps the definitive statement. But as we saw in Chapter 5, this was an ambitious policy encapsulating a menagerie of objectives, some of which were rendered unachievable at implementation. For example, the objective of absolute liberalisation over the tracks was, after opting for franchising, virtually unrealisable and, left in the hands of an independent regulator, effectively dissipated away as he composed his secondary legislation. The competition objective, therefore, found its realisation in competition *for* franchise contracts, rather than over individual train paths.

The White Paper, it will be recalled, presented a timetable for implementation. And at this point it is worth expanding the discussion beyond our thus far narrow focus on franchises. By the end of the Parliament the Government intended the following:

1 Sale of BR's freight and parcels businesses.
2 Creation of a franchising authority and the sale of a *substantial* number of passenger franchises.
3 Splitting BR into separate operating and infrastructure companies.
4 To have established rights of access for new operators to the rail network.
5 To have established a regulator with a duty to scrutinise access conditions and charges.
6 To have made provision for opportunities for the sale or leasing of stations.

With hindsight, these were modest objectives. The vendors failed to sell one of BR's freight businesses before the General Election.[3] Although it was successful in selling the trainload freight businesses, that was not before BR's trainload freight units were split into three companies (to foster competition) only to be sold to one buyer and for approval to be given by the DTI for them to be merged into one under the umbrella of English Welsh and Scottish Railway. Implementation, therefore, exposed a certain governmental folly. The output (sale of the businesses) further eroded the wider competition/liberalisation objective. More positively, the other objectives were met and surpassed. The franchising authority sold all of the franchises on the back of successful negotiation and supervision (by the Regulator) of the contractual matrix. Notwithstanding the exclusivity of franchises, access rights were established for freight operators and non-scheduled passenger services. The leasing arrangements for stations were also completed.

We should also note that the privatisation objective went much further than was originally anticipated. The sale of the track authority, Railtrack, was not a short-term policy objective. The circumstances behind this policy change were complex. Railtrack represented, in the first instance, an asset that could become part of the taxation calculus for a government struggling with public finance. Second, the reticence over including the sale of Railtrack as an objective in the White Paper was the product and crucial indicator of the uncertainty prevailing over the impending reorganisation and sales. Once the process was in motion, it was possible to gauge the extent of the interest in the project by the private sector. Interest in BR's infrastructure companies was healthy. The franchises, by February 1995, were being pursued vigorously. The disappointment, again with hindsight, had been the sale of the ROSCOs where competition had been limited and as the subsequent sales indicate, represented a poor return for the Exchequer. By the summer of 1995, however, there was sufficient confidence that Railtrack could be sold.

There are three further considerations. First, it is clear from evidence given by members of the Prospective Rail Operators' Forum to the Select Committee in 1992/3 that there was a common concern over negotiating with a public-sector industry over contracts and the prospect that the Department of Transport would necessarily impede management's decision-making, particularly over valuing assets and how this would affect investment policy.[4] Moreover, all operators had experienced the dead-hand of government

[3] The sale of Railfreight Distribution was dogged by its huge losses attributable the disproportionately high contractually-agreed access charges to the Channel Tunnel.

[4] Brian Cox of Stagecoach, for example, in a memorandum to the Committee, expressed the fear that Railtrack "will simply be another inefficient nationalised monopoly utility, and that its charges will be far too high a proportion of our total costs to give us the room for manoeuvre we will need to make franchising viable." TSC (1993), para 4.3, p190. See also Richard Branson's comments, para 775, p205.

doing just this over the signal workers' dispute in the summer of 1994. The rapidly privatising industry, perhaps paradoxically, preferred doing business with other private-sector actors. One should not underestimate the lobbying from within Railtrack itself, too. Bob Horton made no secret of his enthusiasm for the speedy sale of Railtrack. Second, the realisation by the Government that the benefits of private train operation would not pay a dividend at the ballot box - largely due to the success of the opposition's anti-privatisation onslaught played out in a sympathetic media - meant that there was nothing to lose by the sale and everything to gain in terms of reduced personal taxation in the run up to the election. Third, Railtrack represented one of the last opportunities for the Government to float a state enterprise on the stock market[5] with all of the attendant electoral benefits. We should not, therefore, have been surprised by the sale.

We now move on to the orientation to the problem. This is a much more interesting question for there is no sense in which the policy itself was the response to a problem other than the perceived obligation of the state to provide railway services as part of the country's transport infrastructure. But as the detail of the "solution" made clear, the state would remain a net contributor to the railway industry for the foreseeable future, if not for ever. Moreover, as has been demonstrated, the railway industry was not the burden on the Exchequer that it had been in the past. It was making *real* contributions to the Exchequer whilst continuing its commitment to investment despite the disproportionate call on resources made by the Channel Tunnel operation, Eurostar. The policy solved a problem that potentially did not need to be solved. If the PSBR remained a problem, it would not have been impossible to exempt railway investment from the figures. The problem was one of mode of service delivery, i.e. by a monopoly supplier prone to inefficiency. As we have seen (Section 5.24), BR was, relative to other European countries, an efficient operator of rail services. The external advocates/entrepreneurs believed, however, that further efficiencies could be achieved by privatising train operation; a message that the Treasury was receptive to. The privatisation of BR, therefore, was nothing more than a battle of wills over improved efficiency which had a not unexpected victor.

So much for the specifics of the railway industry. What, if anything, was the problem orientation with regard to the capacity inherent in an expanded rail sector for dealing with environmental damage caused by private motor transport? The evidence suggests this was at most a secondary consideration for policy-makers.[6] Commentators - in particular Professor Bill Bradshaw - had argued that the privatisation policy had been made in the absence of a debate about transport policy. "[T]he White Paper," argued Bradshaw in 1994, "made no attempt to set the context of any sort of national transport policy within which the

[5] Nuclear Electric was to follow; proposals to sell the Post Office had been defeated, though it was included in the Conservative manifesto for the General Election in 1997.

[6] See White Paper, Cm 2012, para 8(f), p2 and para 75, p16.

railways were to operate or the relative strength of the railways in the market for transport in Britain."[7] Moreover, "[t]he contribution of particular groups of railway services to the economy, either directly, or as a means of reducing congestion, pollution, or the need for road building, has not been properly explored. Nor has the effect upon railway economies of the introduction of road tolls, or other forms of road pricing."[8] Any environmental benefits, therefore, would be achieved by chance rather than plan. Although the franchisees are financially committed to increasing patronage, there is nothing to suggest that this will come at the expense of private transport. It is quite feasible, certainly in some cases, that they could simply expand the overall transport market.

None of this, however, is to suggest that the railway can and will not be used as a tool of environmental policy in the future. It remains to be seen what the new Labour Government has in store.[9] For a number of the PTEs (Strathclyde, Centro, Merseyside), as runaway winners in the franchising exercise, the provision of rail services are integral to their planned transport policies/objectives. In securing extra funding for their services, they find themselves able to pursue traffic-restriction policies safe in the knowledge that such provision is financially secure and has sufficient capacity to contribute to a real cut in traffic in their areas. As for non-passenger transit, the evidence from the new owners, English, Welsh and Scottish Railway, is that costs could be brought down and the market for railfreight expanded. EWS has ordered 250 new locomotives and even high-street retailers such as Safeway and Superdrug are now trialing railfreight.[10] The new owners are not managing decline. Whether the policy's advocates can claim credit for this expansion in any real sense is debatable. The outcome, however, is shaping up to be more positive than the policy-makers could have imagined. Railfreight is growing rapidly as EWS enters markets vacated by its BR predecessor.

Let us now briefly apply this logic to the historical case study. The orientation to policy intentions was clear and unambiguous. The Government sought the commercialisation of the railway industry, and a substantial cut in capacity to eliminate the BRB's deficit by 1970. There was no pretension towards integrated transportation. In the second quadrant, that dealing with outcomes in relation to intentions, the data clearly show that the closure programme was successfully instituted, though the timescale was, for a number of

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[7] Bradshaw (1994), p11. Bradshaw was one of two advisers to the Transport Select Committee sitting in 1992/3 and 1995.

[8] Bradshaw (1994), p7. See also Richard Branson's evidence in TSC (1993), para 776, p205 where he calls for fair pricing of roads vis-à-vis rail.

[9] A White Paper is expected in Spring 1998.

[10] See *Rail*, 27 August 1997, No 312, p9.

reasons, somewhat extended. The BRB was established, the route network did contract by 7,000 miles, manpower was reduced, uncommercial freight operations were discontinued, etc. And yet the deficit persisted for reasons that were explored in Section 12.41 above.

Moving to the third quadrant, the orientation to the problem was a simple piece of causal logic based in the Treasury's scrutiny of the BTC's failed modernisation programme, coupled with chronic overmanning, over-capacity and operational (historical) liabilities. This orientation informed policy documents leading to the stated intentions. But this model asks whether such clinical logic actually located the problem, or in this case, a failure to fully comprehend the consequences of their empirical logic. The problem, conceivably, was not exclusively one of a failing railway industry. The problem was one of indifference over competing modes - road haulage and the private car. Commercialisation focused on the railway competing with private transport - something which the market could not deliver. The Government's inclination was towards deregulation, not coordination. When we take this logic into the fourth quadrant, the full extent of the failure is apparent for reasons that were discussed in 12.1. Governments' persistent underwriting of private motor transport is the failure of this policy, not the implementers' failure to complete the closure programme or any repudiation of it by the new Chairman of the BRB in 1966. Successive governments have failed to incorporate into policy the consequences of the falling transportation costs and increased flexibility that accompanied the development of the road network in the UK. The outcome, naturally, was congestion (which should have been envisaged), and pollution, the concept of which arguably post-dates the Beeching reforms and which was never costed. Once again, governments, but particularly the Macmillan Government, reduced transport policy to one of discrete means-end logic.

13.4 Defining Networks

The empirical chapters, particularly those dealing with the contemporary case study, were analysed in Chapters 9 and 12 with reference to a whole raft of networks. Their utility is in their emphasis on the dynamics of process and their ability both to capture the complexity of any particular process and, in addition, to render complex processes intelligible. As was argued in earlier chapters, the policy process where actors seek solutions to complex problems, resulting in the composition of complex statutes and requiring in the incorporation of a diverse collection of actors to implement them, does not lend itself well to reductive methodologies. Their complexity has to be embraced.

Throughout the policy process, networks, therefore, provide us with an essential metaphorical tool for dealing with such complexity. Not only do they act as compartments in which to place actors, they also provide a structural marker for the observer. Moreover, networks provide actors with their armoury of resources which are employed to achieve some output mediated through rules, norms, goals, purposes, intentions, and relative powers. This, of course, is complicated by the realisation that any particular network may not only engage in activity leading to the production of some output, but as an entity may well be part of a larger inter-organisational network characterised in this work by the decision arena where different rules, norms, goals, purposes, and intentions may apply and where the balance of relative power may be very different.

13.41 Policy Networks

For Rhodes a policy network, at its most basic, "is a set of resource dependent organisations".[11] Rhodes establishes five elements of the power dependency that define networks. First, organisations are dependent upon one another for resources. Second, the achievement of goals is dependent on organisations exchanging resources. Third, network actors are constrained by other organisations in the network, though there is no guaranteed equality. There may exist a dominant coalition with a defined appreciative system[12] which retains some discretion. Fourth, the dominant coalition employs strategies within known "rules of the game" as a means of regulating the process of exchange. Fifthly, variations in the degrees of discretion are a product of the goals and relative power potential of interacting organisations which is itself a product of the resources of each organisation, of the "rules of the game", and the actual process of exchange between organisations.[13]

In policy networks, actors manoeuvre for advantage according to their relative power defined in terms of resources they bring to the network. Rhodes identifies these resources as: constitutional-legal, organisational, financial, political and informational.[14] The five network types identified above (Table 3.3) form a continuum with relatively closed policy communities at one extreme where resources are plenty and actors play positive-sum games, and issue networks at the other extreme where actors possess few resources, outcomes are zero-sum, and the network is open but encumbered with often fluctuating

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[11] RAW Rhodes, Ian Bache, and Stephen George, "Policy Networks and Policy-Making in the European Union: A Critical Appraisal", in Liesbet Hooghe (ed), *Cohesion Policy and European Integration: Building Multi-Level Governance*, Clarendon Press, Oxford, 1996, p368. Additionally, they characterise implementation structures as a specific case of resource dependence.

[12] Defined as "the combination of factual and value judgements which describe 'the state of the world' or 'reality'. It is accumulated wisdom or map of the world of a central or local department which enables it to steer a course through its environment." See Rhodes (1988), p93.

[13] RAW Rhodes, *Control and Power in Central-Local Government Relations*, Gower, Westmead, 1981, pp98-99.

[14] Rhodes *et al.* (1996), p368.

memberships.

Klijn encapsulates this in a useful definition. *Policy networks are more or less stable patterns of social relations between interdependent actors, which take shape around policy problems and/or policy programmes.*[15] This definition emphasises actor interdependence and their *raison d'être*, a policy problem or a programme. For the purpose of defining implementation networks, therefore, this definition has some utility. At implementation, networks "take shape" around implementation problems which have to be solved prior to the administrative act that delivers the policy. Network actors seek to maximize their control over resources inherent in any particular network. For example, where a regulatory framework is to be composed, actors seek to maximize their influence over meaning and, ultimately, to achieve nodality. Where the inherent resources are financial, actors will manoeuvre to secure those additional resources for themselves subject to an evaluation of transaction costs. The problem-solving element of implementation is colonised by elite groups and represents a small part of the implementation of any programme. This contrasts starkly with action carrying low levels of discretion - those engaged in prosaic administrative tasks. Suffice to say, we find quite distinct networks forming around the administrative act itself. They are networks in the sense that they bring essential resources to the process of implementation, and despite their limited discretion, they cannot be discounted by analysts and policy makers alike for the simple reason that they are veto-bearing actors over the process as a whole.

There is one further feature of implementation networks that make them distinct from policy networks as theorised by Rhodes. If implementation networks take shape around particular problems or administrative tasks, then by definition they have a tendency to be *ad hoc*, dynamic (under constant transformation) and/or of limited duration. The working groups listed in Appendix 1, for example, have formal constitution and take shape around particular aspects of the programme. The source document from which they were extracted had to be updated regularly in order to keep pace with the changes in membership, constitution and indeed existence of the highly particular groups.

By way of contrast, the so-called "opportunity network" in the contemporary case study was a much less tangible network characterised, as it was, by a competition between members for the additional resources represented by a privatisation of the railway industry. Membership of this network was achieved by actors commanding adequate commercial credibility in the eyes of the Department of Transport and mustering the necessary financial resources to launch a bid for the available (additional) resources. This network was not a problem-solving network; it was a network composed of a disparate group of commercial interests in

[15] E-H Klijn, "Policy networks: An Overview" in Kickert et al, (1997), p30.

competition with one another - with members entering and leaving throughout the process. It is worth stressing the dynamic nature of such networks. In their response to daily events or inputs, they adapted in order to maintain their competitive edge. They are, therefore, episodic and finite. The network was, however, recognised as a legitimate entity by the vendor - OPRAF - and served as a conduit for intelligence gathering and transmission, and for developing and reifying the sales process. It would not survive beyond the sales process, but, for those that were successful, the network was formalised into an integral statutory entity - the Association of Train Operating Companies - upon completion. It should be recognised, however, that the opportunity network also acted unwittingly as a policy-making network. The bids had factored into them investment plans over the lifetime of the franchise. The level of investment reflected at different moments in the process both a perception of the minimum necessary to secure the franchise (against what was deemed commercially sustainable) and the ever-increasing investment specifications composed by the vendor in light of the level of interest - and hence competition - for each franchise offered. Investment commitments, therefore, should be viewed as policy-making in that such investment decisions regarding public services have traditionally been made by a publicly-accountable board and ratified by a sponsoring ministry. In the new railway, investment decisions affecting the way in which the statutorily-defined service is to be provided is the jurisdiction of private companies but remaining, in most cases, dependent on financial resources from a non-ministerial government department and ultimately from the Treasury.

What remains, therefore, is to present a typology of implementation networks and to derive a general definition.

Table 13.1: Typology of Implementation Networks

Network Type	Characteristics	Resources[16]
Policy (policy community)	stability, highly restricted membership, shared values, highly integrated, vertical interdependence, limited horizontal articulation, strategic decision-making	constitutional-legal, organisational, political, financial, informational
Management	stability, highly restricted membership, highly integrated, vertical interdependence, limited horizontal articulation	constitutional-legal, organisational, informational
Opportunity (1)	instability, large membership, limited vertical interdependence, modest horizontal interdependence, strategic action	organisational, financial, political, informational
Opportunity (2)	stability, highly restricted membership, highly integrated, vertical interdependence, limited horizontal articulation, strategic action	organisational, informational
Administrative	stability, highly restricted membership, embedded, vertical and horizontal interdependence	organisational, informational
Political	instability, large membership, limited vertical interdependence, horizontal interdependence, strategic action	organisational, constitutional-legal, informational

13.41 Policy Networks/Communities

As in the Rhodes model policy networks (communities) are characterised by relative stability, highly restricted membership, vertical interdependence and limited horizontal articulation. Policy Communities can be found in both the policy phase and implementation phase where secondary legislation forms part of that process. They form around particular policy problems and are populated by elites and, in the post-legislative phase, statutory actors. Their outputs are aggregated as they constitute part of the

[16] As defined by Rhodes *et al.* (1996), p368.

implementation sequence.

13.42 Management Networks

Management networks are coordinating networks which seek to secure implementation by imposing deadlines, allocating tasks, intelligence gathering and adjudicating where agreement is difficult. They are populated by civil servants in sponsoring agencies, though there may be parallel networks in executant agencies. They do, therefore, enjoy vertical interdependence, some horizontal interdependence, are highly integrated, and have limited memberships. They employ largely organisational and legal-constitutional resources.

13.43 Opportunity Networks

In the analysis chapters above, opportunity networks take two forms. In both forms, however, they take shape around actor perception of the potential for either maintaining or expanding their resource base, largely financial or capital. The two case studies, however, illustrate the different forms that they take in the modern highly differentiated implementation arena *vis-à-vis* a bureaucratic mode. In the former, therefore, opportunity networks are characterised by unstable form, large numbers of members (subject to commanding adequate resources) and limited vertical interdependence. In the latter, membership is highly restricted and stable, interdependence is vertical and there is limited horizontal articulation. They differ from the above policy networks (communities) in that they are largely actors located in a tier below core actors and are not members of generic policy communities. Their struggle for resources is additional to their regular administrative functions. Ultimately, they are strategic actors.

13.44 Administrative Networks

Administrative networks are populated by low-discretion actors who operationalise the outputs of policy networks but who nevertheless command essential resources and therefore could exercise a veto. The resources they command are largely organisational and by definition, employ particular expertises. What they bring to implementation, therefore, are skills and knowledge that are beyond the competences of policy makers, but whose outputs are essential to the process as a whole. They are embedded in the delivery agency.

13.45 Political Networks

Political networks are the political equivalents of opportunity networks. They take shape around opposition to the programme or aspects of the programme. They can be located wholly within the network arena (a cabinet committee), outside the arena (pressure groups) or are incorporated (executant agencies). Irrespective of their location, they all employ their resources into effecting *change* in the programme at implementation. Those outside the arena have the same characteristics as issue networks in the Rhodes typology. Their resources are few and their veto limited, but as we have seen, they are capable of affecting the progress of any programme, if not the policy itself. Those within the arena employ the resources of territorial interests where the policy impinges on their own jurisdictions - either at a departmental level, or that of the constituency. In the latter case, they may also become part of an issue network. Finally, incorporated actors employ organisational resources strategically. As executant agencies they have the capacity to exercise a substantial veto over the process. They are political actors seeking to maintain or expand political (resource) base which may or may not include a significant financial component. They have limited membership and limited horizontal interdependence.

The above typology illustrates the diversity of networks evident in the implementation phase of the policy process. Implementation networks, therefore, can be defined as patterns of social relations (action) between interdependent actors, which take shape around (secondary) policy problems and/or policy programmes. Actors in networks both exchange resources and negotiate or compete for control of (additional) resources towards generating an implementation output.

Implicit in this definition - and important for epistemological reliability - is what constitutes "social relations" and the inherent intersubjectivity. Social relations, in this context, amount to meaningful or purposeful actions towards some defined objective. The intersubjectivity, by contrast, engages us to offer some interpretation of actor perception of such action in both the context of the network in which the action takes place and its consequences in a wider programme network. These methodological questions underpin any attempt usefully to employing the network concept for explanatory purposes.

13.5 Further Work

Composing the narratives above, in the context of a network analytical approach, demands much of the empirical researcher. Much of the work of government remains largely secret, and uncovering the network of dependencies and interactions is an arduous task, sometimes never satisfactorily achieved. Moreover, identifying corporate, non-government actors - particularly with regard to the contemporary case study - is one thing, ascertaining what they do and how they affect outcomes is a much more substantial task. These actors - bankers, advisers, lawyers, etc. - proved to be shy and unresponsive. The narrative above is, therefore, incomplete. The subtleties of the networks that delivered this privatisation need further investigation; we need to secure from these private actors some explanation for their behaviour at some point.

The historical narrative, too, is incomplete. There are more survivors with sharp minds to interview for sure. There are more papers, certainly. Gradually some of these will find their way into the public record, but more investigative work needs to be done to locate key papers. In addition, I'm convinced that there are more private collections to view. If Sir Stanley Raymond maintained a personal archive, albeit in his Brighton garage, then others will have done also.

Finally, there is the question of the model. To my knowledge, this approach has not been employed to a case study where statutes form the basis of the implementation programme. It firmly captures the complexity of the implementation, especially where the programme is highly differentiated and a "mixed economy". Two case studies are, however, unsatisfactory. I have merely illustrated its utility in telling two stories about policy affecting the railways. These are unique stories and I have no data emanating from other policy spheres to suggest their generalisability. This is not a proof, therefore. There are many more stories to be told and much in the way of refinement to be done. The model captures dynamics and real-world "events". Normative theorists will be less-than impressed with this approach. There are no ideal ways of implementing policy. Implementation is just politics. There is no way of defining where it starts and where it necessarily finishes, only that it happens in some way over time over breakfast.

Appendix 1:
Rail Privatisation Working Groups - July 1995

At this crucial juncture in the implementation process there were 29 working groups:

Group Name	Members (if relevant)
Access Implementation Group	Paul Corby (Director, Railways 2 Privatisation and Regulation, DoT) - Chair Tricia Hayes (Railways 2 Infrastructure and Regulation, Branch 3, DoT) Secretary Richard Bennet (Assistant Secretary, Railways 2 Infrastructure and Regulation, DoT) Chris Stokes (Deputy Franchising Director, OPRAF) Alison Ingram (Franchising Executive, OPRAF) David Kirk (Director, Privatisation, BRB) Sunil Gupta (Privatisation, Policy Adviser, Access, BRB) Michael Beswick (Assistant Director, Network Regulation Directorate, ORR) Tom Winsor (General Counsel, ORR) Philip O'Donnell (Railtrack) Grahame Cooper (Railtrack)
British Rail Infrastructure Team	
British Rail Maintenance Limited Action Team	
British Rail Telecommunications Action Team	
Central Services Action Team	
EC Action Team	
Franchise Sales Implementation Group	Patricia Hudson (Samuel Montagu- OPRAF) - Chair Jane Evans (Assistant Manager, Samuel Montagu) Secretary Kate Cohen (Franchising Executive, OPRAF) Sally Delgado (Franchising Executive, OPRAF) Peter McDermott (Head of Public Affairs, OPRAF) Euan Cameron (Director, Commercial, S&E Passenger Group, BRB) John Ellard (Partner, Corporate, Linklater and Paines) Robyn Durie (Partner, IP/Telecommunication, Linklater and Paines) James Conway (Reporting Accountant, Partner, KPMG-OPRAF) Debbie Brown (Project Senior Manager, KPMG-OPRAF) Peter McCarthy (Assistant Secretary, Railways 2 Passenger Services, DoT) Chris Leathers (Higher Executive Officer, Railways 2 Project Management, DoT) Rachel Hirst (Director, Shandwicks) Jonathan Flory (Kleinwort Bensons) Vicky Smith (Samuel Montagu)
Freight Privatisation Group	

Group Name	Members (if relevant)
Freight Access Group	
Freightliner Steering Group	
Government Marketing Working Group (franchising)	Jenny Williams (Under-Secretary, Railways 2 Rail Privatisation and Regulation, DoT) Roger Peal (Assistant Secretary, Railways 2, Project Management, DoT) Peter Ruback (Grade 7, Railtrack 2, Railtrack Flotation, DoT) Eric Sampson (Grade 6, Railways 2, Marketing, DoT) Martin Helm (Systems Programme Co-ordination Office,Head of Information, Information Divsion, DoT) Paul Moore (Systems Programme Co-ordination Office, Senior Press Officer, Information Divsion, DoT) David Freud (Managing Director, SBC Warburg-DoT) Tim Waddell (Divisional Director, SBC Warburg - DoT) Peter McDermott (OPRAF) Paul McKie (OPRAF) Louise Solomon (Director, Dewe Rogerson) Nigel Powers Jones (Associate Director, Dewe Rogerson) James Poole (Director, Shandwick) Phil Wynn Owen (Assistant Secretary, Public Enterprises, HM Treasury) Claire Powell (Manager, Rothschild)
Government Marketing Working Group (flotation)	Jenny Williams (DoT) Roger Peal (DoT) Peter Ruback (DoT) Eric Sampson (DoT) Martin Helm (DoT) Paul Moore (DoT) David Freud (SBC Warburg) Tim Waddell (SBC Warburg) John Eyre (Railtrack) Brenda Laing (Railtrack) Louise Solomon (Dewe Rogerson) Nigel Powers Jones (Dewe Rogerson) James Poole (Shandwick) Phil Wynn Owen (HM Treasury) Claire Powell (Rothschild)

Group Name	Members (if relevant)
Joint Marketing Working Group	Eric Sampson (DoT) Chair Paul Moore (DoT) Secretary Martin Helm (DoT) Roger Peal (DoT) Peter Ruback (DoT) James Poole (Shandwicks) Brenda Laing (Railtrack)/Juliet Brilliant John Eyre (Railtrack) Jerry Evans (Director, Public Affairs, Director, Personnel and Communications, BRB) Bill Tyler (BR Vendor Unit) Peter McDermott (OPRAF)/Paul McKie David Freud (Swiss Bank Corporation)/ Tim Waddell Claire Powell (Rothschild)/Chris Brooks Madeleine Ehren (Senior Consultant-DoT, Shandwicks)/Nick Denton Louise Solomon (Dewe Rogerson)/ Nigel Powers Jones Iolanda Minasi (Associate Director, Hill and Knowlton)/Dominic Shales Phil Wynn Owen (HM Treasury)
Intermediate Central Services Action Team	
Project Control Group	Nick Montagu (DoT) Chair Jenny Williams (DoT) Paul Corby (DoT) Roger Peal (DoT) Secretariat Mark Upton (DoT) Secretariat Chris Stokes (OPRAF) John Allen (Franchising Executive, OPRAF) Michael Beswick (ORR) Phil Wynn Owen (HM Treasury) Terrence Jenner (Deputy Solicitor, BRB) David Kirk (BRB) David Blake (Managing Director, BR Vendor Unit) Richard Goldson (Director Commercial, North and West Passenger Group, BRB) Euan Cameron (BRB) David Moss (Director, Commercial, Railtrack) Richard Aitken-Davies (Director, Privatisation Unit, Railtrack) Simon Osborne (Solicitor and Secretary, Railtrack) Simon Linnett (Director, Rothschilds) Charles Allen-Jones (Linklaters and Paines) Christopher Clarke (Executive Director, Samuel Montagu) Patricia Hudson (Samuel Montagu) OPRAF John Walker-Howarth (Managing Director, SBC Warburg)

Group Name	Members (if relevant)
Pre-Project Control Group	Paul Corby (DoT) Mark Upton (DoT) Secretariat Roger Peal (DoT) John Allen (OPRAF) David Kirk (BRB) Peter Sturt (Privitisation Programme Manager, BRB) Mike Ridler (Manager, Passenger Access, ORR) Gregor McGregor (Commercial, Head of Policy and Government Relations, Railtrack) Philip Heyes (Partner, Corporate, Linklater and Paines) DoT Gavin Rowland (Assistant Director, Samuel Montagu) DoT Aiden Wallis (Assistant Director, Samuel Montagu) DoT Robert Bolt (Planning Manager, BR Vendor Unit)
Privatisation Directing Group	Sir Patrick Brown (Permanent Secretary, DoT) Nick Montagu (DoT) Jenny Williams (DoT) Paul Coby (DoT) Roger Peal (DoT) Jonathan Rees (No10 Policy Unit) Roger Salmon (Franchising Director, OPRAF) Steve Robson (Deputy Secretary, HM Treasury) John Welsby (Chairman, Chief Executive, BRB) Christopher Campbell (Vice-Chairman, BRB) John Edmonds (Chief Executive, Railtrack) John Walker-Howarth (SBC Warburg) Christopher Clarke (Samuel Montagu) DoT Mark Upton (DoT) Secretariat
Property Group	
Property Group Sub-group	

Group Name	Members (if relevant)
Railtrack Flotation Project Management Group	Jenny Williams (DoT) Nick Dole (Higher Executive Officer, Railways 2 Railtrack Flotation, DoT) Richard Bennett (DoT) David Cooke (Assistant Secretary, Railways 2 Railtrack Flotation, DoT) Peter Ruback (DoT) Norman Broadhurst (Finance Director, Finance and Systems, Railtrack) David Moss (Railtrack) Richard Aitken Davies (Railtrack) Philip Wynn Owen (HM Treasury) James Sassoon (Executive Director, SBC Warburg) Guy Wilson (Ernst and Young) Tim Clarke (Partner, Corporate, Linklaters and Paines) Christopher Clarke (Samuel Montagu) Jeremy Maynes (Advisory Partner, Tax, KPMG) Stephen Barter (Partner, Richard Ellis) Simon Linnett (Rothschilds) Chris Brooks (Manager, Rothschilds) Margaret Ewing (Corporate Finance, Fault Attribution, Touche Ross) Eric Tracey (Lead Client Service Adviser/Senior Audit Partner, Touche Ross) Anthony Carlisle (Chairman, Dewe Rogerson) Cary Martin (Chief Executive, Dewe Rogerson) Andrew Hey (Director, Dewe Rogerson) Bill Knights (Client Partner, Corporate, Simmons and Simmons)
Railtrack Flotation Property Group	
Railtrack Systems Document Action Group	
Railtrack Flotation Finance Group	
Rolling Stock Action Team	Jenny Williams (DoT) Chair Philip Grindrod (DoT) Secretariat John Wakeling (Assistant Secretary, Railways 2, Passenger Rolling Stock, DoT) Christopher Campbell (BRB) James Jerram (Finance and Planning, BRB) Colin Milne (BRB) Chris Taylor (Price Waterhouse) David Wright (Grade 7, Public Enterprises, HM Treasury) Stephen Smith (Grade 6, Public Enterprises, HM Treasury) Peter Streatfeild (Partner, Freshfields) Vincent Thompson (Director, Corporate Finance, Hambros) Andrew Salmon (Director, Corporate Finance, Hambros) Neil McDonald (Assistant Director, OPRAF)

Group Name	Members (if relevant)
ROSCOs Working Group	John Wakeling (DoT) Chair Alan Giddens (Manager, Corporate Finance, Hambros) Secretariat Vincent Thompson (Hambros) Andrew Salmon (Hambros) Penny Scott (Assistant Director, Corporate Finance, Hambros) Nick English (Assistant Director, Corporate Finance, Hambros) Nick Denton (Grade 7, Railways 2, Passenger Rolling Stock, DoT) Philip Grindrod (Grade 7, Railways 2, Passenger Rolling Stock, DoT) Secretariat Peter Loosely (Grade 7, Railways 2, Passenger Rolling Stock, DoT) Larry Shore (BRB) Restructuring Director, ROSCOs Colin Milne (BRB) Negotiator, Vendor Unit Bruce Bower, Finance Adviser, ROSCOs David Wright (HM Treasury) Nick Baker (Franchising Executive, OPRAF) Chris Taylor (Price Waterhouse) Peter Streatfeild (Freshfields) Andrew Jukes (Managing Director,Eversholt) Brian Hassle (Managing Director, Angel) Sandy Anderson (Managing Director, Porterbrook)
Scheldule 4 Working Group	Tricia Hayes (DoT) Chair Sunil Gupta (BRB) Peter Heubeck (Commercial, Passenger Account Manager, Railtrack) Alison Ingram (OPRAF) Nick Rees (Partner, Corporate, Linklater and Paines-OPRAF) Adrian Kent (Simmons and Simmons) Simon Coppen (Burgess Salmon)
Schedule 4 and 8 Roll-out Group	Tricia Hayes (DoT) Chair Sunil Gupta (BRB) Ruth Flynn (Touche Ross) Jane Graham (Touche Ross) Rachel Whitehouse (Touche Ross) Peter Heubeck (Railtrack) Judy Rantzen (Touche Ross) Alison Ingram (OPRAF) George Houston (OPRAF) Jeremy Drew (Manager, Passenger Access, ORR)
Station Operators Group	
TICIT	

Appendix 2:
Consultants - Who Advised Whom on What (as of July 1995)

Consultant	Client
Clifford Chance	Legal advice to the BRB
Dewe Rogerson	Marketing advisers to Railtrack and DoT
Ernst and Young	Advice on information systems for DoT; accountancy advice on Railtrack flotation
Freshfields	Legal advisers to the DoT and BRB on sale of ROSCOs
Hambros Bank	Merchant banking advice to DoT on sale of ROSCOs
Hill and Knowlton	Legal advisers to trainload freight businesses and Rail Express Systems
Hill Samuel Bank	Merchant banking advice to the BR Vendor Unit on sales of infrastructure services, trainload freight, Rail Express Systems and Signalling Projects Offices
Kleinwort Benson	Merchant banking advice to OPRAF
KPMG	Tax advice to DoT, accountancy and tax advice to OPRAF, central and local reporting accountants for TOCs for OPRAF
Lazard Brothers	Merchant bank advice to BR Vendor Unit on sale of Freightliner
Linklater and Paines	Legal advice to the DoT and OPRAF
NM Rothschild and Sons	Merchant banking advice to Railtrack
Norton Rose	Legal advisers to Porterbrook and Freightliner
Price Waterhouse Corporate Finance	Merchant banking advice to BR Vendor Unit
Richard Ellis	Property advice to DoT
Samuel Montagu	Merchant Banking advice to DoT and OPRAF
Swiss Bank Corporation	Merchant banking advice to the BRB on privatisation of BR Telecommunications
SBC Warburg	Merchant banking advice to DoT
Sedgewick	Insurance advice to DoT
Shandwicks	Marketing advice to DoT, OPRAF and ROSCOs
Simmons and Simmons	Solicitors to Railtrack
West Merchant Bank	Merchant Banking Advice to BR Vendor Unit
Touche Ross	Reporting accountants to Railtrack

Appendix 3
Licences

Chapter 6 discussed the evolution and method of regulation as it affected those subject to and those protected by the Regulator's licences. The main licenses are as follows and a prescribed in Sections 8 and 9 of the Railways Act 1993:

- passenger licences - to run passenger services;
- a network licence - to operate rail infrastructure (Railtrack);
- a station licence;
- a light maintenance depot licence.

The Act says very little about the content of these licences which are defined by the Regulator's duties under Section 4 of the Act; namely,

- to protect the interests of users of railway services;
- to promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that he considers economically practicable;
- to promote efficiency and economy on the part of persons providing railway services;
- to promote competition in the provision of railway services;
- to promote measures designed to facilitate the making of by passengers of journeys which involve the use of services of more than one passenger service operator;
- to impose on the operators of railway services the minimum restrictions which are consistent with the performance of his functions under this Part;
- to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

In addition:

- to take into account the need to protect all persons from dangers arising from the operation of railways, taking into account, in particular, any advice given to him in that behalf by the Health and Safety Executive;
- to have regard to the effect on the environment of activities connected with the provision of railway services.

Licence Agreements for Train Operators

Part III Conditions

1. Railway Group Standards - technical standards of plant; relevant operating procedures, etc.
2. Third party insurance; self and third party liabilities.
3. Claims allocation and handling - a universal claims handling mechanism for all operators.
4. Transport police - need to be party to agreements specified under Section 132 of the Act.
5. Environment - operators need to present an environmental policy statement which specifies measures to give effect to it.
6. Predatory fares and exclusionary behaviour applicable under Sections 51 and 52 (conditions for the contracting out of passenger services) and pursuant to directions under Section 136(6) of the Act. The Regulator provides operators in dominant position with an "investigation notice" such that "the licence holder shall not charge fares in respect of those railway passenger services which do not cover variable costs which the Regulator has specified in the determination notice (para 3). The Regulator will investigate the extent to which pricing "does or would unfairly exclude or limit competition in the supply of railway services."
7. Through tickets and Network Benefits - conditions securing the honouring of other operators' tickets and the participation in a "clearing" system; operation of Train Enquiry Bureaux.
8. Inspecting Officers - cooperation with HM Inspecting Officers of Railways.
9. Timetabling - Cooperation with Railtrack in the production of a national timetable.
10. Provision of facilities and services for disabled people.
11. Complaints handling procedure - signatories to an agreed inter-industry procedure.
12. Cooperation with RUCCs - attending meetings and provision of information.
13. Cooperation with the Regulator with respect to the provision of information to satisfy Part I of the Act.
14. Payment of fees to the Regulator.
15. Change of Control (ownership of licence holder) - requirement to inform.

Schedule - conditions for revocation of licence where licence-holder is a franchisee

i. Where the licence-holder agrees;

ii. Under Section 55 of Act whereby the Regulator exercises his enforcement powers where licence-holder fails to comply with conditions or requirements;

iii. In the event of licensed activities not commencing within a year of it being granted;

iv. where licence-holder is convicted of an offence;

v. if a change of control is not approved by the Regulator, and if in such cases the controller doesn't divest itself of the licence within 3 months;

vi. in the event of a serious breach of the Railway Safety Case Regulations 1994.

Appendix 4

Track Access Agreements

Track access agreements are at the core of the regime which delivers rail services to passengers and freight. The passenger operator agreements take the following form.

Part 1 Introduction

Part 2 Details of the OPRAF incentive scheme - which governs the payments made by OPRAF to train operators in the event of performance improvements, and between train operators and OPRAF where performance by operators falls below the standard agreed.

Part 3 The Performance Incentive Regime - consisting of *Performance Loss Payments* (those to operators in the event of failure on Railtrack's contractual commitments; and *Performance Incentive Payments* (payable to Railtrack in the event of better-than-contract service delivery).

Part 4 Service disruption - conditions and definitions of what constitutes delay and cancellation. Stipulates that the responsibility lies with Railtrack to identify the cause.

Schedules

S1 Identification and definition of parties to the agreement.

S2 Route definition.

S3 Collateral agreements.

S4 Track possessions by Railtrack and compensation details where possessions are non-contractual.

S5 Services and specified equipment, definition of contractual rights and access entitlements.

S6 Definition of system interfaces - agreed technology for delivering quantitative data on performance, timetables, etc.

S7 Definition and specification of track access charges.

S8 Formulae for incentive regimes.

Appendix 5:
Biographies

Robert Horton was born in 1939 and educated at St. Andrews University and the MIT. He is like Bob Reid an oil man by experience, joining BP in 1957 and rising to become Chairman and Chief Executive in 1990. He was appointed to the Vice-Chair of the BRB in 1992 and became Railtrack's first Chairman on vesting in 1994. He has close associations with the arts, having been Chairman of the Tate Foundation and the Business and the Arts organisation.

His low point was his inability to settle the signal workers' dispute in 1994 due to combination of Government intervention and rather poor PR. He misread the popularity of his seemingly archaic adversary, Jimmy Knapp, General Secretary of the RMT union. His high point was presiding over the flotation of Railtrack and to its quadrupling in value in 18 months after it became favoured stock for institutional investors. He is a Fellow of the Chartered Institute of Transport and was knighted in 1997.

Nick Montagu

Nick Montagu was the driving force of the Department's rail privatisation programme. In his capacity as Deputy Secretary, Railways, Montagu chaired many of the key committees managing the process (See Appendix 1). He was rewarded for his efforts with promotion to first Director of Railways at the DoT in 1996 and then Chair of the Inland Revenue Board in 1997.

Nick Montagu was born in 1944 and educated at New College Oxford. He was assistant lecturer in philosophy at Reading between 1966 and 1969, and then lecturer until joining the civil service in 1974 as a Principal at the Department of Social Security - his seven year tenure including a secondment to the Cabinet Office (1978-80). Back at Social Security he progressed from Assistant Secretary to Deputy Secretary in 1990 before being seconded to Transport in 1992 under Patrick Brown, the Permanent Secretary. He is a Fellow of the Institute of Transport.

Bob Reid

Bob Reid was born in Cupar, Fife in 1934 and educated at St Andrews University. At the age of 22 he joined Shell serving in Africa, Asia and Australia before returning to UK in 1983. Two years later he became Chief Executive of Shell UK before accepting the Chairmanship of BR in 1990, at which point he was also knighted. Reid was allegedly not first choice for the post, though he was on a list of 20 industrialists to be headhunted. Offers for the job, reported the Financial Times, were rejected by the equally hapless Alistair Morton then of Eurotunnel and BA's champion, Lord King.

Reid had to contend on the operational front with the new phenomenon of the *wrong kind of snow*, and later, leaf fall. Fares continued to rise above the rate of inflation, and there were two fatal crashes which, in combination with his experience in the high-risk oil industry, probably forged his "safety first" philosophy.

But the Chair of British Rail also lumbered incumbents with dealing with Government, admittedly one satisfied with BR's recent performance and Reid's OforQ management plans. But the industry hit the recession and had its fares pegged by the Government as BR's management attempted to compensate. Reid's and BR's investment programme had to be curtailed as a result. Reid was also defeated over the route of the Channel Tunnel Rail Link then the leading project of the BR subsidiary, Union Railways. The Government's preferred option was for the Thames corridor route over BR's southern route.

On privatisation, Reid favoured an incremental approach modelled on his OforQ vertically integrated structure. He viewed the BR organisation as a suitable manager of contracts for train operation obviating the need for a disinterested franchiser. He is famed for his oblique criticisms of the Government: "When you are in the middle of a pantomime, you want to stay with it," uttered at the time of the Channel Tunnel débâcle: "So I'd put my money into a butcher's shop, and I'd put my money into an oil rig," when asked on Radio 4's Today programme if he would invest in a train franchise.

John Swift

John Swift was born in 1940 and educated at University College, Oxford. He was called to the Bar of England and Wales in 1966 and became a Queen's Counsel in 1981. Throughout the 1980s he was instructed as leading counsel in the many inquiries carried out by the MMC into the public interest implications of large-scale mergers and anti-competitive practices. He was appointed by the Secretary of State for Transport in December 1993 after advising the Government on regulation prior to the passage of the Act. He's a Fellow of the Chartered Institute of Transport.

Richard Beeching

Beeching was Born on 23 April 1913 at Sheerness, Kent. His situation was humble attending Maidstone Grammar before graduating to Imperial College where he studied physics and achieved a BSc with first class honours, and three years later (in 1937) a PhD.

After a brief career in the chemical industry he was seconded to the Ministry of Supply in 1943 where in 1946 he became Deputy Chief Engineer of Armament Design before joining ICI in 1948. He became Vice-President of ICI Canada and was a prominent member of the prosaically-named Terylene Council which prompted his elevation to the ICI Board in 1957 as Technical Director. According to Richard Hardy, he found himself on the Special Advisory Group because of ICI's deputy chairman, D Ewart Smith, declined the overtures from Ivan Stedeford, but did recommend Beeching as an alternative. He eventually joined the BRB on the condition that it was a secondment from ICI.

His tenure at the BTC was decidedly short - June 1961 when he joined to BTC as a part-time member, to his departure in May 1965. Notwithstanding the later repudiation of his methods and approach after his departure, Beeching applied his positivistic methods to the railways which culminated in the publication in 1962 of his most famous and most read work, *The Reshaping of British Railways* which formed the blueprint for his subsequent two years with the Board. At its heart was a traffic survey detailing the patronage of all trains operated by the Commission, and an evaluation of the savings to be made by their withdrawal, maintenance or development. It sold over 20,000 copies much to the bemusement of the Ministry.

He came to the Railways on the astronomical salary of £24,000 making him one of the super-managers at the helm of a huge and ailing nationalised industry. Getting high quality people to work with him on the project was tricky as the Board's salaries were not equally generous. Philip Shirley, his fixit finance member who joined from Unilever took £12,000. The Vice-Chairman, Sir Steuart Mitchell, a military man Beeching had met in 1945, earned £8,000. All other members received £7,500.

In later years his judgement was called into question. For example, his sense of fairness caused alarm in the Ministry when it came to negotiate with the unions over implementing the Guillebaud award; and some of his appointments, particularly that of Shirley, generated considerable antagonism within the industry. The sheer weight of argument and evidence was never enough to carry the decisions.

He left the BRB in May 1965 after a disagreement with Harold Wilson over the terms of his conducting an appraisal of the costs of road trunk routes and freight carriage. Wilson insisted that he should work with assessors in a bid to properly consider the interests of the road haulage industry. Beeching, not unsurprisingly, walked.

He returned to ICI in 1965 and ascended to the heights of Deputy Chairman (1966-68). He was Chairman of two companies after his departure from ICI: Furnesss Withey and Co, and most notably, Redland. He was also a member of NEDC (1962-64) and sat on the Royal Commission on Assizes and Quarter Sessions arguably, in the process, being responsible for a major contribution to the criminal justice system after legislation in 1972. He became a Life Peer in 1965 and died in East Grinstead on 23 March 1985.

Ernest Marples

Ernest Marples was the epitome of the "self-made man. He was born in Manchester in 1907 and educated at Stretford Grammar School before training as an accountant - he qualified in 1928. He made haste to London in 1929 where he entered the building trade and established his own business, Marples, Ridgeway and Partners which graduated to the construction of motorways, dry docks and power stations.

He was elected as the member for Wallasey in 1945 entering government in 1951 as a junior minister in the Ministry of Housing and Local Government. He entered the Cabinet as Postmaster General in 1957 and was regarded as a "purposeful innovator" at the Post Office where he oversaw letter-sorting automation and considerable developments in telecommunications. He was promoted by Macmillan to the Ministry of Transport in 1959 where he stayed until the Conservative Government was defeated in 1964. He was forced by opposition members, however, to divest himself of his financial interest in the company when he took the transport portfolio. In opposition he took the technology portfolio, though he was never hold office again. His longevity at Transport belied his ambition and his desire to leave what he saw as the "Division 2" of ministers.

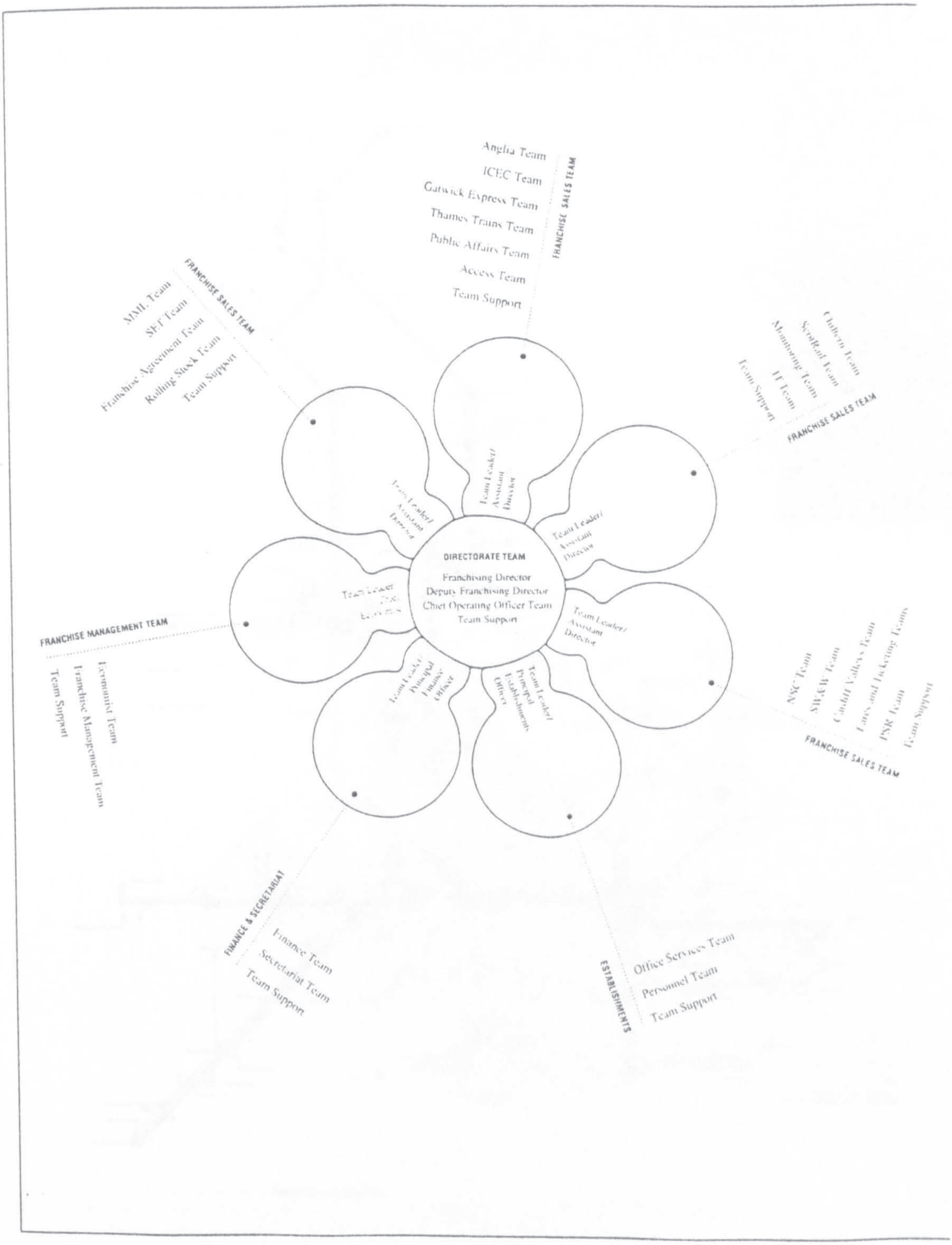
He was a fitness fanatic (where he contrasted with Beeching); an inveterate walker, cyclist and mountaineer. He was also a keen footballer. His countervailing vice was fine wine. He became a recognised wine expert and retired to a vineyard in France to pursue his interest. He died there on 6 July 1978.

David Serpell

David Serpell's civil service career spanned the years 1939-72. He was educated at Exeter College, Oxford. He undertook further study at the University of Toulouse, Syracuse University in the United States, and finally as a Fellow at the Fletcher School of Law and Diplomacy. He spent the war years in the Ministry of Food and then the Ministry of Fuel and Power. He was from 1954 an Under Secretary at HM Treasury and became Deputy Secretary on his transfer to the Ministry of Transport in 1960. His tenure was three years after which he moved to the Board of Trade before returning to the MoT in 1968 as Permanent Secretary. He was one of the architects of the new Environment "Super Ministry" created in 1970. He was Permanent Secretary for the first 2 years.

His nadir was arguably his involvement with the Committee on the Review of Railway Finances in 1982 which produced the infamous "Serpell Report" after completing 8 years as a member of the BRB itself. His high point may well have been his chairing of the Nature Conservancy Council - he remains a keen naturalist. He was knighted in 1968.

Appendix 6
Office of Passenger Rail Franchising



Source: OPRAF Annual Report 1995/9

Appendix 7
Franchise Map

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