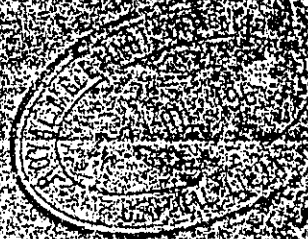


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RAILWAY MANAGEMENT AND
POLITICS IN VICTORIA
1856-1906

Report of a
Case Study in the Origins of the Public Corporation

By R.L. WETTENHALL



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Mr R. L. Wettenhall, M.A., Dip. Pub. Admin., spent two years as a Research Scholar in the Department of Political Science, Australian National University. He was engaged on a study of the public corporation in Australia, with emphasis on its development and use in the field of public transport.

Mr Wettenhall was previously on the staff of the Commonwealth Public Service Board and was recently appointed Lecturer in Political Science at the University of Tasmania.

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ROYAL INSTITUTE OF PUBLIC ADMINISTRATION

A. C. T. GROUP

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RAILWAY MANAGEMENT AND POLITICS IN VICTORIA

1856 - 1906

(A STUDY IN THE ORIGINS OF THE PUBLIC CORPORATION)

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ONE: INTRODUCTION

The Victorian State Railways enjoy a special position among Australian public enterprises, for it was in relation to them that the first deliberate step was taken to develop the public corporation as "a suitable instrument for government in business".¹ Indeed, the administrative form applied to the Victorian Railways in 1883 furnished both the stimulus and a model for railway commissions in other Australian States and in New Zealand, and its influence is apparent in the constitution of numerous other public corporations since established.

This account of the relationship between management and politics during the early history of the Victorian Railways represents an attempt to shed light on the processes of thought and experimentation which launched the public corporation as a major device of government in Australia. It is also an attempt to assess the extent to which the nineteenth century legislators anticipated the problems experienced in the management of public enterprises today, and the extent to which their ideas have predetermined modern forms and practices by legislative and administrative precedent.

Although this is to be essentially an administrative study, some brief comments on the basic character of the politics of the period and on the physical development of the railway system are warranted at the outset.

The Political Background

Victoria gained representative responsible government in 1856, but political parties as we know them today were almost unknown before the twentieth century. During the first decades of responsible government there was a division into two basic interest groups - on the one side, the propertied classes, squatters and land owners, the merchants who wanted duty-free imports, and the bankers, senior civil servants and members of the professions associated with them; and on the other, the smaller free-selector farmers, the manufacturers and artisans who believed they would benefit from a protective tariff, and the miners and labourers.² The former have generally been labelled the Conservative Party, the latter the Liberal Party. However, only on occasions when major issues arose (e.g. the land and tariff questions and reform of the Upper House) was there any cohesion in their organisation, and depending on the issues involved at a particular time the interest groups went equally under other temporary names such as the Squatters', Free Trade or Constitutional Party, and the Democratic, Protectionist, Reform or Radical Party. As the squatting interests declined and many of the desired reforms were effected, major issues of variance became rare and governments came to be determined by personal rivalries rather

than broad policy issues.

The unstable political situation characteristic of the self-governing Australian colonies in the later nineteenth century has been described thus:

"The game of politics was a battle for place and power. Factionalism reigned supreme. The governments of the day were dependent upon the uncertain support of groups of discordant members... Most frequently they would be found to be made up of rival politicians whom the political exigencies of the moment had drawn together in a temporary coalition. The foes of one day were the colleagues of the next. The platforms of the parties were readily adaptable to changes of circumstance. It was off with the old policy and on with the new." ³

Coalition governments became the rule rather than the exception. Professor E. Jenks of Melbourne University wrote in 1891:

"There are still faint echoes of bygone battles, but they have lost their meaning ... the ardent politicians, who have demanded a return to severer times, have forgotten that it is impossible to have party government unless there are parties." ⁴

It was only following the rise of organised labour after the turn of the century that the political parties became well-defined cohesive units. However, although the early struggles of the trade unions left their mark on Victorian Railways history, the main process of administrative experimentation took place before this political condition emerged. There have of course since been modifications, e.g. in the provision of special funds in an attempt to improve the financial position of the railways, the setting up of staff appeals and classification machinery, and additional powers and restrictions imposed in new fields such as electricity generation and use; but the basic form of a three-man commission and most of the administrative details were then settled. Victoria in fact led the other States in the reform of railway management, and it achieved a measure of stability in this area sooner than most of them.

Growth of the Railway System

The railway system had its origins at about the same time as Victoria received the institutions of responsible government. A number of private companies such as the Melbourne and Hobson's Bay (Port Melbourne), Melbourne, Mt Alexander and Murray River, Melbourne and Suburban, and Geelong and Melbourne Railway Companies, were formed and commenced construction work during the 1850's. They received much assistance from the government (e.g. interest payment guarantees), but made little progress. As Sir Frederic

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Eggleston put it:

"after having tried vainly to get the railways to the gold-fields constructed by private enterprise the State borrowed eight millions sterling to construct the lines. The decision was the forerunner of a vast expansion of State enterprise."⁵

The first acquisition was the Melbourne, Mt Alexander and Murray project in 1856; and the last important private undertaking (Melbourne and Hobson's Bay) was taken over in 1878. By this time the government had constructed lines from Melbourne to Echuca and Wodonga on the Murray, had extended the Geelong line to Ballarat and beyond, and was building lines to Gippsland and the South-West. According to historian H. G. Turner:

"Unlike some of the later railway expansions which covered the land with profitless duplications and ridiculous cock-spurs, the 600 miles of iron road which Victoria possessed in 1875 was in the main a sound and useful investment."⁶

However, the political value of railways was gradually coming to be realised, and by the early 1880's - just before the adoption of the commission system of administration - political considerations had become all-important. Thus, in 1882 Thomas Bent, (Minister of Railways in Sir Bryan O'Loughlen's Ministry) brought down proposals for 825 miles of new lines, "so spread as to secure the greatest possible number of votes ... in a desperate attempt to secure support for his weakening government."⁷ This was the decade of the so-called "octopus" bills: during a period of booming land prices and extravagance with readily forthcoming overseas loan money,⁸ construction raced ahead with far more regard to political gain than economic soundness. By 1891, 2,800 miles were being worked, many of them with no possible chance of showing a profit; and the new parliamentary Railways Standing Committee had proposals under consideration for the construction of a further 4,630 miles referred to it by designing governments and log-rolling politicians. These rapid extensions were checked by the depression of the 1890's (a "wholesome check," according to the economic view).⁹ But this was only a temporary respite, for with economic recovery past lessons were forgotten. In 1908 the mileage totalled 3,500, and the system was still expanding. Today Victoria is claimed to possess one of the most comprehensive railway networks in the world; but even as total mileage was reaching its peak somewhere in excess of 4,700 miles, railway policy was becoming far more concerned with the questions of closing uneconomic lines and of combatting the growing competition of road transport than with further expansion.

The study which follows has two main themes: on the one hand the almost inextricable mixing of politics and railway development, and on the other the recognition of the adverse consequences of this state of affairs and the attempts to achieve some sort of practical separation.

That politics should have been so concerned with the railways to the extent that these attempts were to prove relatively unsuccessful was not really surprising. Expansion and development were primary concerns of the colonial politicians, and transport was one of the foremost instruments of their policies. In the absence of other quick mass transport media it was inevitable that railways should receive great attention from politicians and public alike. The services they provided had an immense effect both on general prosperity and on the pockets of individual citizens. Moreover, right from the beginning they absorbed a large share of the government's capital investment; and again, as the system expanded, its employees came to represent a significant voting force politicians thought it wise to cultivate. As late as 1931 Eggleston was to remark, after personal experience as Victorian Minister of Railways, that as long as politicians had an effective voice in railway affairs they were "practically bound to interfere." 10

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TWO: FULL POLITICAL CONTROL (PRE - 1883)

The Board of Land and Works

With the acquisition of the property of the Melbourne, Mt Alexander and Murray River Railway Company in 1856, it became necessary for the State to devise new administrative machinery. It was at first content with the expedient of nominating two Trustees - a Minister (the Commissioner of Public Works) and a senior official (the Surveyor-General) - to carry on the company's operations.¹ However, Victoria's third responsible ministry believed that certain public departments could be worked more economically if their activities were co-ordinated at sub-cabinet level, and it designed the Board of Land and Works for this purpose. As originally set up in 1857, this Board consisted of from three to five members, of whom only the President was to be a responsible Minister of the Crown. The aim was to bring together the professional heads of lands, works and developmental activities for their mutual advantage and also to facilitate consultation with the Minister who would accept sole responsibility before Cabinet and Parliament. There were in the early days usually four constituent departments, Crown Lands and Survey, Public Works, Roads and Bridges, and the "Victorian Railways Department". The Board was in no way a public corporation in the modern sense: at first it was not legally incorporated, and then as always it had a responsible Minister at the helm. Premier W.C. Haines explained that he had no desire for it to assume the powers of the Executive, and hoped that "the House would never allow the existing Government to avoid any responsibility merely by screening it behind the recommendations of a board."²

Individual ministerial posts soon began to appear for the various subordinate departments even though these remained associated with the Board. During the second O'Shanassy Ministry the ministerial portfolios of Commissioner of Crown Lands and Survey and Commissioner of Public Works were created,³ retaining the titles of officials of the pre-responsible government era. From this time on up to the turn of the century the office of President of the Board of Land and Works was usually held by the former. The Heales Ministry which took office in 1860 included a Commissioner of Railways as a separate portfolio, and this was expanded to Commissioner of Railways and Roads in the third O'Shanassy Ministry formed late in 1861. The Railways and Roads Departments remained linked under the same Minister until Duncan Gillies became Commissioner of Railways alone in the first Service Ministry in 1880. The formal appointment to the Board of these Ministers in charge of the constituent departments was made possible by amending legislation in 1862 permitting the appointment of ministerial Vice-Presidents. The Public Works and Railways Ministers were not always members of the Board, but this was presumably due to the troubles encountered in getting

together and allocating portfolios among scratch cabinets rather than to any administrative cause. 4

Two years after its establishment the Board was accorded corporate status at law. In view of the fact that this is now almost the only common denominator of the public corporation,⁵ it is interesting to note that this development occurred as an unobtrusive by-product of legislation for the acquisition of the Geelong and Melbourne Railway Company's construction project. The original Purchase Bill merely required the Board to prepare a common seal for use on the transfer and other documents. However, in committee the Attorney-General remarked that there was some doubt as to whether the Board was incorporated for the purposes of the Bill, and moved the insertion of the words "members of the Board of Land and Works, and their successors, shall be incorporated by the name of the Board of Land and Works, with perpetual succession". Another member thought that such incorporation would be overlooked if it existed only in the Geelong Railway Purchase Bill and suggested separate legislation, but the motion was agreed to without further discussion with a suitable addition to the long title of the Bill. 6

The Railway Construction Act of 1857 had ordered the presentation of reports on the Victorian Railways. These reports took the form of Reports of the Board of Land and Works on the Victorian Railways, and were presented annually until the change of system in 1883. They were signed by the Commissioner of Railways if one existed, and if not by the President of the Board. During this period the Board assumed additional functions such as sewerage and water supply, and its powers and duties in regard to railway management were defined by special Railway Management legislation.⁷ That of 1863 among other things gave the Board power to make by-laws, prescribed conditions for granting licences to conduct refreshment rooms and penalties for offences, protected the rights of railway servants on transfer to other departments, and (by way of a preview of powers to be reserved under later "non-political" management) gave the Governor-in-Council power to direct the Board to dispose of surplus railway land.

The proceedings of the Board have always been mainly formal. The Grice Royal Commission on the Victorian Civil Service in 1859 recognised its inescapably political nature, and Professor W.E. Hearn wrote in 1867 that it had practically become divided into separate departments. The second (a' Beckett) Civil Service Royal Commission, in its 1873 Report, did not see fit to refer to the Board in its own right, but preferred to consider the constituent departments separately and on an equal footing with other departments not coming under the Board's authority. On this occasion the Board was referred to by two witnesses: the Chief Clerk of the Crown Lands Office considered that it was dominated by the appropriate Minister (there were often separate sittings with only the interested members attending, for land matters, railway

matters, and so on) and merely complicated the handling of business; while the Assistant Commissioner of Roads and Bridges, himself an official member of the Board, asserted that business consisted simply of the formal passing of papers.⁸ It is surprising that what Eggleston described in 1932 as "a somewhat ancient and inactive statutory corporation"⁹ has survived to the present day - the recent publication The Government of Victoria commented that, although the Board may look on the surface to be a kind of standing cabinet committee, it "has no concern with policy, but, on the model of the 'executive council', exists to provide formal backing to certain classes of administrative decisions".¹⁰

The Board has in this formal way had varying connections with the railway undertaking. To 1884 it was concerned with both construction and management, from 1884 to 1891 neither, and from 1892 construction only. Throughout this third stage - right up to the present time - it has nominally controlled the Railway Construction Branch, which forms part of the "Railway Service" but has no connection with the Victorian Railways Commissioners. However, since this control also is exercised through the Minister of Railways (or Transport, as the office was renamed in 1934), it is less confusing to regard the Construction Branch as a separate department with its own Permanent Head and orthodox ministerial control, as Eggleston did. Railway construction activities have for years consisted of little more than occasional spurline projects, and gauge-alteration is conducted by the management authority rather than the Board; but the Railway Construction Branch has been used for other construction work such as bridges and grain elevators.

The Victorian Railways Department

Under the Trustees of the Melbourne and Mount Alexander Railway and then the Board of Land and Works, the Victorian Railways Department was (as has so often happened elsewhere in the pioneering days of railway construction) the centre of much controversy and bitterness. Its first Engineer-in-Chief, C.G. Darbyshire, was forced to resign in 1860 over allegations of bribery and incompetence concerning particularly the construction of culverts near Castlemaine. His successor, Thomas Higinbotham, later investigated these charges and reported that they were unfounded. Allegations of other irregularities caused the Department to undergo investigation during the 1860's by a professional accountant, and some reorganisation resulted. Higinbotham himself strenuously advocated the construction of sound heavy-rail wide-gauge lines, but in this evoked bitter opposition from parish-pump politicians who demanded cheap lines on the basis that any railway was better than none. Higinbotham, who was more than once examined at the Bar of Parliament, generally won out in these tussles. But Parliament's refusal to accept the idea of a Renewals Fund which he advo-



HOW WE MAKE OUR RAILWAYS.

Here you have the line as originally surveyed, and a proposed deviation. Which is which? Well, you "pays your money and you takes your choice"—especially you "pays your money."

Plate I

"Circumbendibus"

From Sydney Bulletin, 4th August, 1883
(Reproduced by permission of the Proprietors)

cated as early as the 1860s was to have most serious consequences. Moreover, Parliament imposed cost restrictions which led to cheaper methods such as the use of open level-crossings. Safety was thereby impaired, and the accident rate assumed alarming proportions. The position was worsened by the purchase of the Hobson's Bay Railway, whose rolling-stock and permanent way had been starved of maintenance and were in very poor condition. Other abuses included the disregarding of departmental advice concerning routes, resulting in the construction of "circumbendibus" lines which increased the distance between major centres and ignored questions of grade and relative construction costs, but enhanced the value of the land of influential people thereby passed. The "octopus" construction bills already referred to were also beginning to appear by the end of the period of full political control.

The issue of protection for local industries had also interfered with railway management: the Francis Ministry which had ordered a number of locomotives from England was forced in deference to the wishes of Parliament to countermand the order and instead have them constructed in the colony. The interference of capricious and irrelevant political issues can also be seen in the dismissal of Higinbotham, in the sensational "Black Wednesday" episode of 8th January, 1878. Premier Graham Berry, still radical in his second term of office, was determined to have a show-down with the Legislative Council. The immediate issue was the payment of members of Parliament. Berry attached this provision to an Appropriation Bill, which he claimed the Council had no constitutional right to interfere with. The Council laid aside the disputed Bill, and in order to conserve revenue in the absence of further Supply, the Governor-in-Council on "Black Wednesday" (a parody on the Black Thursday in 1851 when bush fires caused great devastation) dismissed most of the senior officials of the colony. Turner recorded that one Minister openly declared he had "had his revenge" in the dismissal of Higinbotham. 11 ← 1872-4

In common with the Civil Service generally the Department was overmanned. To quote Turner again:

"all sorts of unfit hangers-on had been foisted, under the guise of supernumeraries, into positions of emolument that were virtually permanent . . . Mr J.B. Patterson, who had been Minister of Railways in Berry's Cabinet, had been so hunted by his fellow-members of Parliament to find places for their friends and supporters that he formally handed over all appointments and promotions to the Engineer-in-Chief and the Departmental Secretary, and firmly declined to have any voice in the matter. But such a Ministerial arrangement was of course not binding, and when the O'Loghlen Government came, Mr Bent, the new Minister of Railways, speedily took the whole

department back into his own hands." 12

Patronage was rife not only in appointments and promotions: the Minister might reverse a dismissal order made by the departmental heads, or Parliament itself might by resolution rescind a fine or other punishment imposed on an official who was fortunate enough to get the ear of a member. While the Engineer-in-Chief was generally regarded as the senior official in the Department, a number of branch heads had direct access to the Minister, and there was nobody quite like the Permanent Head of a modern ministry. Partly as a result of this, there was a lack of teamwork in the Department, and in Eggleston's words, "intrigue, sectional influence and sectarian bitterness flourished". 13

There were sixteen changes in occupancy of the ministerial office (not counting Ministers who later returned for a second or third period) between 1860 and 1883, and in respect of both policy and administration there was much truth in the criticism that each wanted to undo what his predecessor had done. The least consideration in the selection of Ministers was their special suitability for the post, and ministerial office had not yet come to be regarded as a full-time occupation. Just as a Minister was beginning to learn something of the commercial and technical complexities of his Department, political complications arose and he had to give way to someone else. 14 While the Department itself merited much of the criticism levelled against it, it is clear that a great deal of the inefficiency was a direct result of the unstable political environment, the wide-spread influence hunting for sectional ends, and the subjection of the railway interest to other burning political issues of the day.

The Machinery of Government Setting

The size of the Victorian Railways system was expanding rapidly, and it gradually came to be realised that the cost to the State of a corresponding increase in these administrative evils would be ruinous in terms both of public confidence and financial credit. Some reform was, therefore, inevitable. It seems appropriate to recall at this stage that the constitutional refinement of responsible government in the British political system (from which the Australian system was derived), involving as it did the adoption of the principle of individual ministerial responsibility and the machinery of the pyramidal ministerial department, was virtually a contemporary process.

How did the Victorian Railways Department of the pre-1883 period conform to the pattern coming to be regarded as the ideal administrative form? With a view to setting later developments in the Victorian Railways against this machinery of government background, it seems necessary to carry this question further. To what extent had the movement of British theory and practice been absorbed in the Australian colonies? Remembering Dr B.B. Schaffer's comment that there was no reaction in the United Kingdom during the nineteenth century similar

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to that which was in Australia "already leading to a demand for official independence from Ministers", 15 did the Australian colonies at any time accept the pyramidal department as the ideal and apply this as widely as in Bagehot's Britain? If there were deviations, how could these be reconciled with the contemporary philosophy of government organisation? A comprehensive answer to these questions would require much time and space; however, a brief indication of the situation will be attempted in order to permit an assessment of the extent to which theory and convention conditioned the Victorian Railways experiments.

The relevant British developments have been discussed in recent articles. Professor F.M.G. Willson dealt with the relative status and popularity of ministries and boards during the nineteenth century, showing how after 1855 and the reaction against the non-accountable Poor Law Commissioners, the House of Commons acclaimed ministerial responsibility as the best device for ensuring its control of the administration, and came to favour the ministerial department almost exclusively for half a century. Dr Schaffer acknowledged the chief contributions to the philosophy of the ministerial department, with Walter Bagehot rounding off and refining the earlier ideas expounded principally by Jeremy Bentham and J.S. Mill. It was Bagehot, in The English Constitution of 1867, who set the seal on the pyramidal department as the accepted ideal both in theory and in practice. Also the Civil Service reforms resulting from the Northcote-Trevelyan Report of 1854 were under way. A non-political service did not, as Lord Palmerston predicted, destroy the concept of ministerial responsibility, but rather complemented it by providing expertness in its proper place, making the departments capable of expansion and development, and improving the quality of the whole administration. 16

By this time, of course, the Victorian Railways Department was already in existence, but it did not conform either to the Bagehot or the Northcote-Trevelyan ideal. On the one hand, while the Engineer-in-Chief was accorded senior status, there was no recognised Permanent Head, but a number of branch heads reporting to a Minister who himself had to co-ordinate to the best of his abilities. This was not the pyramidal structure essential to Bagehot's ministry, but rather a series of sub-departments under a single Minister. The concept of a separate Permanent Head with undivided responsibility to (and immediately under) the Minister, at the apex of the departmental pyramid, was clarified only with the passing of the Public Service Acts around the turn of the century. On the other hand the evils of patronage were in full play, and expertness could not be achieved other than by accident. In these circumstances, moreover, the amateurishness of the Minister proved a handicap, whereas in Bagehot's ministry, with an expert well-organised bureaucracy below, this was seen as a virtue. Perhaps even more important, there was a difference in kind as well as in degree.

Bagehot and Northcote and Trevelyan had not considered anything quite like a department conducting a major constructional and commercial enterprise such as a railway system. 17

But even if the Australian colonies had not absorbed all the contemporary refinements of the English departments, they had come to apply the departmental form widely throughout their central administrations. All six colonies, for example, began their experiments with public education under boards; but all had converted these during the 1870's and 1880's to departments. Likewise, other non-departmental bodies such as Lunacy, Health, Navigation and Agricultural Boards were gradually absorbed over the second half of the century into ministerial departments in most colonies. 18 These were all pragmatic developments little influenced by any theoretical arguments about relative suitability of the alternative administrative forms; 19 but they were leading almost as surely as in Britain to the general acceptance of the ministerial department and the creation of integrated standardised civil services.

In the later nineteenth century, then, the ministerial department was dominant both in English and Australian machinery of government. Even if there was no comparable supporting philosophy in Australia, the very absence of an administrative philosophy of any sort meant that there was also little conscious thought in favour of alternative forms. The minor deviations which had already appeared (or remained) by the early 1880's were mainly a reflection of what was already a British habit of vesting localised executive activities, scarcely of national concern, in local boards more akin to municipal councils. The new Marine Boards and Harbour Trusts were a case in point. 20 They were perhaps an indication that Australia would not apply the ministerial department universally as the ideal administrative form, but they represented only small by-ways of administration. The disappearance of the Education Boards and similar bodies was evidence of a clear tendency towards giving departments a monopoly at least in the more important functions of government. The great administrative revolution which was to make the device of the public corporation so popular in this country did not begin until the Victorian Railways experiment of 1883.

The reaction against the ministerial department dating from this time was destined to compete successfully with the opposing movement towards departments and an integrated public service to the extent that today the regular public services of most Australian States comprise only about one quarter of all State employees. Yet, as we have seen, this reaction owed very little to theoretical or dogmatic influences. Its originators were practising politicians faced with practical problems, frequently pushed along by public opinion stirred up by a very vocal press. Their only contributions to the literature of politics and administration were the acts they framed.

THREE: TOWARDS MANAGERIAL INDEPENDENCE

First Proposals for Reform

It is often assumed that the major stimulus for the adoption of commission management was the reaction to excessive lobbying or "log-rolling" in getting railways constructed to particular localities. ¹ This may well have been true in other colonies where the railway management question came to a head some years later than in Victoria. But in regard to the latter it is worth recalling Turner's verdict that lines built up to 1875 were "in the main a sound and useful investment". Moreover, although pressure had doubtless already been exerted in this area, the first of the "octopus" bills was not introduced until 1880, and the evil involved only began to be realised with the more extensive 1882 proposals. A contemporary reviewer, writing on the eve of the 1883 reform, claimed that political pressure had secured a deviation of the Sandhurst (Bendigo) line into Castlemaine as early as 1857; yet he conceded that up to 1881 Victoria had acted with considerable caution in constructing new lines. ² Agitation for reform had commenced years before this.

When, in the Governor's speech opening the 1876 Parliamentary Session, the mainly Conservative McCulloch Government announced its intention of legislating for a change in the existing system of railway management, numerous contributions to the Address-in-Reply debate revealed that the idea of substituting a board responsible to Parliament but independent of the ministry of the day already had a fairly wide following. The main cry was against the system of political patronage in staff appointments. The following were typical of many such criticisms:

"our Railway department (is managed) not upon any ordinary principle of business whatever ... (but) has become simply a political machine, used for political purposes, and as a means of providing employment for political friends and hangers-on";

"one of the crying evils which ... every honourable member feels and will be glad to get rid of, is the continual incessant applications to which he is subject for employment in the Railway and other departments";

and from W. Wilson, an ex-Minister of Railways:

"from my own experience ... I can say that nothing short of taking them out of the hands of the Government will ... improve their management ... So long as the Government of the day listen to all the demands made on them to provide billets for the friends of their politi-

cal supporters, the Railway department cannot be otherwise than mismanaged".

However, political complications upset this Government's legislative programme, and although a bill providing for a board as suggested was given a first reading late in the Session, it did not advance beyond this stage. ³

The position of the Liberals was uncertain. On the one hand they had opposed the earlier recourse of the Conservatives to boards and commissions as being undemocratic, enabling governments to avoid responsibility, and reducing the usefulness of Parliament. Their leader, Berry, argued that if a department was badly managed the fault was either with the Minister or the officials. If the former, the principle of ministerial responsibility required that the Minister should be removed. If the latter, the government should procure more efficient staff. He did not admit the need for a board. On the other hand, the Liberals alleged that the existing system of patronage favoured connections of the established privileged classes, and therefore became very vocal agitators for its abolition. The press and the public were by this time also beginning to take up the cry, and a society for the abolition of patronage was formed, with Professor C.H. Pearson, soon afterwards elected to Parliament on a Liberal ticket, as a vice-president. ⁴

Duncan Gillies, the Conservative who was finally to pilot through the Railways Commissioners Bill in 1883, had also been convinced for some years of the need for a change from political management. His colleagues recalled in 1882 that he had proposed a non-political board when Minister of Railways in the short-lived Service Ministry in 1880, but he did not then have time to prepare the necessary legislation. ⁵

Discontent with the existing system grew rapidly after the advent of the O'Loughlen Ministry in 1881, with the market gardener, Thomas Bent, as controversial Minister of Railways. Wide-spread agitation was triggered off by a series of unfortunate accidents, such as those at the Melbourne suburbs of Windsor and Jolimont. The press argued that "Tumms" Bent was responsible beyond the normal dictates of ministerial responsibility. On assuming office he had quickly become involved in the ballast contracts issue, in which he overruled the experienced Engineer-in-Chief, W.E. Elsdon, and virtually forced his resignation. Although later cleared of charges of dishonesty on this issue, he was further accused of encouraging his own Brighton constituents involved in accidents to lodge inflated compensation claims, of overruling certain restrictions on the running of trains imposed by senior officials in the interests of safety, and of being the author of a spate of amendments to timetables which left public and railway staff alike in a state of confusion. In particular, it was alleged that he had a financial interest in the fortunes of the Woods brake (designed by an ex-Minister), and a political interest in securing the support of its designer. He was

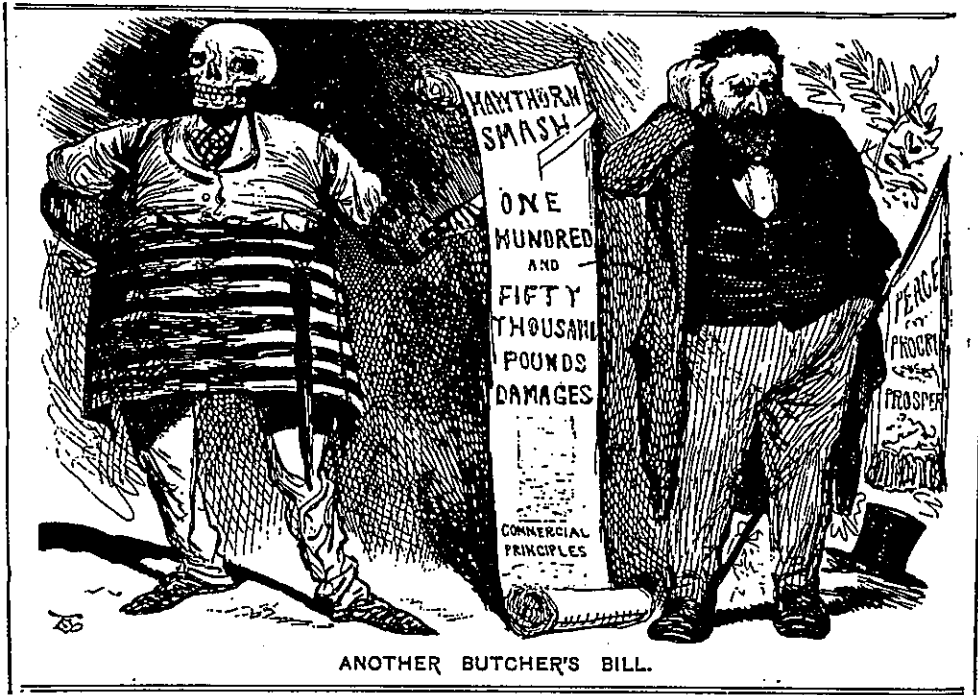


Plate II

The Hawthorn Smash (with Benton right).
From Melbourne Punch, 7th December, 1882.



A WISE "DOCTOR."

Passenger (rushing up at the last moment).—"BRIGHTON TRAIN?"
 Porter.—"YEH, SIR."
 Passenger.—"WHAT BRAKE?"
 Porter.—"WOODS'S, SIR."
 Passenger.—"THEN I'LL WAIT TILL THE NEXT."

Plate III

The Brake Question

From Melbourne Punch, 10th May, 1883

accused of delaying the fitting of efficient brakes to rolling-stock with a view to furthering the interests of the Woods brake, on the pretext that the policy of protection demanded articles produced in the colony. ⁶

Bent had, moreover, reversed his predecessor Patterson's order concerning staff appointments, and had brought the full range of patronage powers back into his own hands. The claim was widely made that patronage had "turned the Railway Department into an asylum for the lame, the halt and the blind", and that accidents were, therefore, inevitable especially in the highly complex business of operating suburban passenger services. Bent had boasted that he would operate the railways "on commercial lines", but one has only to glance through the volumes of Melbourne Punch covering this period to realise that his failure to do so furnished almost limitless material for the cartoonists and the critics. Again, he was responsible for the great "octopus" bill of 1882: one reviewer hailed the 1883 reform because the colony had at last escaped from Bent, who would, for political reasons, have saddled the country with lines "towards infinity, towards gum trees, swamps, cemeteries and private back doors". ⁷

These criticisms demanded some answer, and the Governor's speech opening the 1882 Session briefly referred to the Government's intention to introduce a Railway Management Bill later in the year. Bent himself was reluctant to renounce his authority, and many Liberals still opposed the idea of a board. Berry reiterated his view that any admission of inefficiency was merely an expression of lack of confidence in the Minister, and that only "discipline, order, and a proper regard for the public welfare" were needed, not a new bill. Up to the beginning of December there was no indication that the Government had taken any further action, and ex-Railway Ministers Gillies and Patterson on the Opposition benches seemed the main advocates of the commission idea.

Then another fatal collision occurred at Hawthorn, and although the Premier informed the House of his intention to hold a searching inquiry into the accident, it was immediately apparent that the temper of Parliament, press and public alike would not be satisfied with anything less than a complete change in management or at least an inquiry with much wider terms of reference. Members asserted that the Department must be relieved of the "gross abuse connected with political patronage", and that "this vast trading concern has got beyond the capacity of political management". There were numerous references to the Minister running around the country, saying which will be the best lines to construct, personally inspecting the construction of bridges and culverts, and arguing the relative merits of different types of brakes, with the inevitable question asked or implied: "What can he know about it?" For the first time the corrupting influence of political lines was also mentioned; the House had just been wrangling for five months over Bent's "octopus" bill, and a few members recognised this additional evil and added it to the list of reasons

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for handing the railways over to "a board of practical and sensible men". O'Loughlen tried to show that the Victorian system was no different from an English railway company, arguing that Bent did the same class of work as a board chairman, with cabinet in a similar position to the board of the company. But ex-Premier Sir John O'Shanassy replied that there was never a greater fallacy; the chairman was chosen for extensive knowledge and experience of railway management, but the Minister had simply been assigned the portfolio on the formation of a scratch cabinet.

There was intense public feeling on the issue. Packed meetings at the Melbourne Town Hall and elsewhere resolved that "the safety and convenience of the public demand that the management of the Victorian Railways should be placed in the hands of qualified and efficient men;" and The Age asserted in relation to the railway question that "the cancerous growth of corruption . . . has made the present Parliament stink in the nostrils of all honest and respectable people". Even if this comment was in keeping with that paper's outspoken criticism on many aspects of the established order, it was certainly not in character that the other papers of the colony should endorse its views so vehemently. Whereas The Age and The Argus took opposite sides on most issues, on this issue they merely competed in the bitterness of their attack on the existing railway management. The other morning paper which then existed in Melbourne, The Daily Telegraph, joined in with a blistering attack on patronage. ⁸

In Parliament, the Government hastily brought down its long promised Bill. A board was proposed, but it was to be clearly subordinate to the Minister. Yet there were the most stringent provisions to do away with patronage: any member of Parliament who introduced a person to a Minister in order to recommend him for appointment or promotion was to forfeit his seat in Parliament, and there were also severe penalties for persons making such applications to members. However, matters had virtually been taken out of the Government's hands, and although the railway question occupied Parliament for the greater part of December, the Bill made little progress. The short debate which followed the Premier's announcement of the Hawthorn accident was itself followed by a motion for a select committee to report on the management of the Department, which the Government chose to regard as a want-of-confidence motion. Although the Government survived this after a debate lasting many nights, there was also a "privilege" motion by ex-Minister John Woods against The Argus for its allegations of improper conduct by himself and Bent on the brake issue. Then, during the Christmas recess, the O'Loughlen Ministry resigned, stating its reason to be the disruptive tactics of the Opposition which had succeeded in having one quarter of the whole Session taken up with want-of-confidence debates. The Governor granted a dissolution, and the ensuing election had as major issues the general

question of patronage in government employment and the specific question of railway management. ⁹

The Liberals had not altogether given up their earlier suspicion of "irresponsible boards", but they were coming to regard patronage as the vital issue to be solved at all costs. Berry's last words before the dissolution supported a full inquiry into railway administration; he was reluctantly coming to believe that because of the mess made by politicians such an inquiry would probably favour a board. However, he still regarded it as the pet idea of Conservatives "to create boards in derogation of the true functions of this House", and argued that such boards were not non-political, but rather biased towards conservatism. The important question was, therefore, "Who is to give us a really non-political body? ... Who are to be the choosers of it?" ¹⁰ But the one man connected with the Victorian Railways who might conceivably have saved the political Department, the competent long-experienced and generally well-respected Thomas Higinbotham, had been removed from office by Berry in 1878, and died a few years afterwards. ¹¹

Moderate Conservatives with the spirit of reform, such as James Service and Gillies, stressed "the paramount importance of superseding political patronage in the Government service by carefully prepared legislation"; it was well understood that their proposals included transfer of the railways to a board, and the creation of another board for the other departments of the public service. The result of the election was a coalition between the Service and Berry groups, engineered by David Syme of The Age. ¹² Gillies was back as Minister of Railways, with as clear a mandate as it is possible to have on a particular issue of policy to go ahead with legislation to establish an independent board of Railways Commissioners. ¹³ With almost a lone voice, an English politician visiting Victoria about this time expressed himself as "astonished ... (and) completely surprised at what a democratic people were doing in contradistinction to what they were doing at home". ¹⁴

The 1883 Legislation

In his speech of 3rd July, 1883, the Governor announced that:

"The necessity for abolishing patronage, and placing the public service generally on a proper footing, has led my advisers to prepare Bills for the future management of the State railways, and for the proper selection, appointment, promotion and control of all persons in the public employ. These subjects have been so frequently discussed and are of such pressing importance as to demand your earliest consideration..."

The new Government had an overwhelming majority, and the general



Plate IV

Taking the Railways Out of Politics.
Showing Bent, with Woods and his brake.

From Melbourne Punch, 14th December, 1892.

feeling expressed in the Address-in-Reply debate was that "the sooner the direction of the railway system is removed from political control the more safely the traffic will be carried on". The Governor's speech in fact set the pattern: to most members the questions of patronage and railway management were inseparable. 15

One week later Gillies sought leave to introduce the Railways Management Bill, and in view of the importance of the measure, immediately delivered what was virtually a second-reading speech. 16 He traced briefly the history of the railway system, commenting that the opinion had been held in many circles that it should be leased to private interests to operate - the Public Works Statute of 1865 had specifically permitted this although it had never been done. If worked under lease the sole object would be profit - the Government believed the country had come to the conclusion that, while the State should always have an eye to ultimate profit, there were higher objects in view. These were the desire that the railways should assist in opening-up the country, and that rates should be reduced as far as possible consistent with "something like a fair return". For these reasons the idea of leasing had been scrapped. This summary of the views of the Government which appointed the original Commissioners is of special significance in relation to the subsequent action against those Commissioners which led to their ultimate suspension.

Gillies then illustrated the inadequacy of the existing political control. Many of the reasons advanced had already been brought out in the earlier discussions. He argued that while a Minister could cope with a system consisting of a few hundred miles of track only, the Victorian Railways had grown into a huge enterprise which needed at its head a person of exceptional qualities. It was the merest chance whether a Minister would be suitable, as there were many factors apart from railway knowledge influencing his selection. To control the system was a full-time job, but he could not devote all his time to it. It took years to learn the business, and it was most unlikely that the political situation would allow him to remain that long. Then there was the "political difficulty" of patronage, and finally the fact that with each change of ministry old projects were scrapped and new ones started, incurring large expenditures on no settled principle or plan. To overcome these objections the Government proposed the appointment of three Commissioners to form a body corporate, the divesting from the Minister of the power of making appointments, and the prescription of staffing principles to eliminate any possibility that patronage would merely shift to the Commissioners. The aim was to obtain as Chairman a man of wide experience in railway management (tentative inquiries were being made in England) and to have two other "clear-headed intelligent practical men to sit with him". The Commissioners would hold office during good behaviour, and they would be protected to the extent that while they could be suspended by the Governor-in-Council such suspension would

be subject to review by Parliament.

No doubt as a result of its awareness of recent criticisms of irresponsible boards, the Government was at pains to emphasise its view that the change would not involve loss of power by the legislature. It believed that Parliament would always have full authority: this would be preserved by its powers over the removal of the Commissioners (an assurance of their responsibility to Parliament); by the subjection of all by-laws framed by the Commissioners, concerning fares, freights and numerous other matters prescribed by the Act, to the consent of the Governor-in-Council (who would as always be responsible to Parliament for action taken); by annual audit by the Audit Commissioners (themselves "Officers of Parliament"); by regular reporting of the Commissioners themselves; and not least by the retention of the power to authorise expenditure ("Parliament each year will have before it the affairs of the Railway Department as it does now"). Indeed Gillies asserted that Parliament's supervision would henceforth actually be more effective, since under the existing system any question of censuring a Minister for maladministration could not easily be separated from the question of turning out the whole government. Parliament, therefore, often took the easy course, letting things lie. With railways removed from such political complications, Parliament could now determine relevant issues on their merits alone.

If the Government was drawing on any model at all, it would seem to have been the Audit Commissioners, who were already protected from capricious political interference by special legislation and regarded as Officers of Parliament rather than servants of the government of the day.¹⁷ But later contributions to the debate, when the Audit Commissioners were being held up as a precedent for the suspension and removal clauses, emphasised the very marked functional difference between the two - the Audit function was described as the "really only mechanical" business of checking accounts, whereas the Railways Commissioners would be business men performing "administrative and executive acts".¹⁸ Gillies' idea, also propounded by Premier Service, that the Commissioners would be responsible bore some resemblance to Sir Henry Taylor's defence of English boards, but Taylor was a minor contributor to the theory of government administration in Britain and quickly overruled.¹⁹

The press came out in full support of the measure, and one of Gillies' few critics claimed that he had cunningly given his speech on the originating motion rather than the second-reading since he anticipated the press would have the country committed even before the Bill was circulated to members.²⁰ In fact on the Government side the second reading one week later was a mere formality, and debate began immediately on the merits of the scheme.²¹

Again, the question which received greatest attention was the

abolition of patronage. Supporting the Bill, ex-Railway Minister Patterson claimed that:

"to manage the patronage of the Railway department is quite too harassing. A Minister of Railways must look under his bed each night to see if an applicant for a place is not concealed there."

Ex-Minister Woods was also pleased that the railways would no longer be "a kind of out-door relief establishment for those who cannot obtain work anywhere else". Some indication of the extent of this patronage can be gauged from the following experiences, typical of those related by various members during the debate: one member, just elected, had already had eighty applications for government jobs; a second claimed he received thirty or forty letters a day from applicants for employment; a third stated that such applications constituted 75% of each member's correspondence and that half the total time of members was used up through being called on to interfere in every petty detail of the working of the lines; and Professor Pearson described as one of many the case of a senior official, not a constituent of his, who brought a letter of introduction from a constituent simply because he believed it might be useful in an emergency to know a member of Parliament. Others stressed the adverse effects of the resulting over-cramming of the Department, and the "periodical slaughters" on political grounds; but still others considered that perhaps the patronage power had been over-emphasised, for although they had recommended "dozens upon dozens" or "hundreds" for railway positions, they were sure only three or four, or not more than a dozen, got appointments or promotions as a result of their intervention! There was one strong critic who argued that it was wrong to rob members of their influence in the community, and that the trouble was that they were scared to say "no" to an improper application - he asserted that members supporting the Bill would thereby acknowledge their own unfitness. However, he was well answered when it was pointed out that British Governments were glorying in the achievement of abolishing patronage, and thus freeing members to concentrate on more important public business.

It may well have been that the effects of patronage were exaggerated, and the influence of average politicians overrated, not least by those who pestered them for employment; but clearly they were harassed by numerous applications, and they had to do something about them to retain electoral favour. Even if few appointments resulted, the practice obviously wasted both their own time and that of the Department. ²²

The patronage issue closely linked the Railways Management Bill with general public service reform, and the Victorian Public Service Act which followed the railways legislation in 1883 established the first non-political Public Service Board in Australia. If patronage

had not been an issue, it is fairly certain that many who voted for the 1883 Railway Management Bill would not have been prepared to support it - but then the Bill itself would probably have taken a different form, or it might never have been introduced. All this suggests an interesting but rather pointless speculation as to what course events would have taken if the question of public service reform had been tackled on a general basis before these problems came to a head in the Railways Department.

Since the Victorian Railways not only pioneered the public corporation as a device for managing public enterprises in Australia, but also began (even at the time the other departments were being integrated into a uniform "Public Service") the "mushroom growth of (agencies) 'independent' of the central public service authority", ²³ it is interesting to note that some members, including Professor Hearn in the Legislative Council, did ask why the railways could not be brought under the Public Service Act. One Minister replied that the Government did not think it desirable that railway employees should be placed outside the control of the Commissioners, and another added that the matter had been "thrashed out" in Cabinet and the suggested inclusion found impracticable:

"The Railway department differs so entirely - in so many points - from other departments of the public service that, much as we would like the whole public service dealt with in one Bill, the arrangement would be found completely unworkable."

In the course of the debate a few members pointed out that patronage in appointments was not the only area of political intervention in railway management. Other matters referred to as having been the subject of deputations and political pressure were the "patronage to whole constituencies" offered in the Construction Bills of 1880 and 1882, the question of passenger fares and freight concessions, the issue of excursion tickets, and station accommodation. However, these received relatively minor attention compared with the staffing question.

The few opponents of the Bill were caustic about the Berry group's "celebrated somersault" regarding irresponsible boards. The answer was that the Liberals gave first priority to the abolition of patronage, and that, in the absence of a reformed civil service to show the way, they could not see any alternative method of achieving this object; moreover, one of Berry's main objections was removed by the fact that he now had a hand in the selection of the Commissioners. The critics also asked how Parliament could possibly retain control, as suggested by Gillies, after giving such wide powers to the Commissioners - it seemed no longer possible to say where responsibility rested, whether with the Commissioners or the Minister, and for what. There were also suspicions that undercover ministerial influence would remain, particularly through the appointment of the Commissioners by

the Governor-in-Council. Although such views were expressed by a small minority only, and were often dictated by personal animosities, later developments showed them to be discerning, for they did highlight the difficulty in defining the respective spheres of corporation and Minister which has since complicated the operations of the Victorian Railways and many other corporate public enterprises.

Most members in 1883 argued (rather naively, following Gillies) that, although they would not agree to handing the Commissioners a blank cheque, there were sufficient safeguards for ultimate public control in the powers retained by Parliament. Berry explained that the aim was to keep ultimate supervision with Parliament, but to leave the Commissioners with sufficient independence from close ministerial control to enable them to "fulfil the functions of their office undeterred by any passing feeling of annoyance or objection which might be entertained in the Assembly or by the Ministry." There was also an assumption by many who voted for the Bill that the House would retain general responsibility for "policy", but a suggestion that a clause be included dividing administration and policy between the Commissioners and Parliament respectively did not draw much support. The term "policy" was used to describe then contentious matters such as Sunday observance or the protection of local industries, and in fact some specific controls in these areas were added during the committee stages. It is worth noting that the Victorian Railways Act of today, by retaining many such controls, still reflects the nineteenth century thinking on what constituted issues of policy. The deliberate choice made by the legislators of 1883 in favour of reserving political power in a few narrowly-defined matters, rather than attempting a general clarification of political and managerial spheres, had a lot to do with the crisis which was to develop within a decade in the Victorian Railways, and it has influenced Australian corporate legislation to this day.

The handling of these clauses revealed much inconsistency and parochialism. Those included in the original draft of the Bill appear merely to have repeated provisions of the Board of Land and Works legislation. One, to the effect that the Governor-in-Council might direct the Commissioners to dispose of surplus land, drew only an occasional objection as an unnecessary restriction on the Commissioners' powers; another requiring Governor-in-Council consent to the leasing of refreshment rooms, shops, advertising and similar rights, was deleted in committee because it might allow some sort of continued patronage. On the other hand, the Government was persuaded by the pressure of members and in one case a deputation of local manufacturers to accept amendments requiring Governor-in-Council direction on the form in which railway estimates were to be presented; providing for ministerial oversight of the ordering of supplies; and preventing on decentralisation, protection and sabbatarian motives respectively the closing of country workshops, the letting of contracts outside Victoria, and alterations in

Sunday train services, without Governor-in-Council approval. William Shields, later to become a leading opponent of the autonomy of the Commissioners, complained that such amendments were "whittling into the principles of the Bill", and censured the Government for giving way on these points.

But the Coalition Government appeared dedicated to the spirit of compromise, and moreover Gillies argued that the reservations would be to the advantage of the Commissioners. They would safeguard them from having to decide contentious policy issues on which public opinion could so easily be roused. There was much parochial argument on these questions: the decentralist who proposed the workshops closure reservation bitterly opposed the external contracts reservation as a "little sop" to extreme protectionists which would "trammel" the Commissioners! However, a Government supporter argued that such reservations were constitutionally correct: without them the Commissioners would have complete control, but with them the Government at once assumed full responsibility to Parliament for policy matters. ²⁴

Thus the idea that in relation to public corporations governments were to be responsible for (and, therefore, questionable on) only those aspects over which political controls were specifically provided by statute contributed to the founding of this pioneer corporation. However, it was very soon to be forgotten in Victoria, and has been so blurred in subsequent Australian experience as to be almost unrecognisable.

The original Bill drew a distinction in terms of political control between management and construction functions. Subject to the reservations discussed in the preceding paragraphs the Commissioners had full control over the former. But although they were to be the constructing authority, all new lines had to be approved by Parliament itself. During the course of the debate those members who feared the results of patronage in this field also argued that Parliament should at least make sure it had expert advice on proposed extensions before making decisions, and a consequent amendment required the Commissioners to furnish the Minister before the second-reading of each Construction Bill with estimates of the costs of construction and of the likely traffic and financial returns of each line. ²⁵

Only a few commented on the changed position of the Minister: they observed that the duties "would not occupy him five minutes in a month", and that "Like Othello, his occupation will be gone . . . If he is to be only a medium between the commissioners and Parliament, his office might as well be amalgamated with that of another Minister." As the Act appeared to retain him while relieving him of virtually all power, his position would be "an exceedingly anomalous one". Unfortunately these fears received less attention than they deserved - it was accepted that a specially designated "Minister of Railways" was still needed "to be the representative of the corporate body, so that he may



THE NEW RAILWAY BILL.

MR. MURRAY SMITH has found some difficulty in procuring the extraordinary being (destined to be chairman of the commissioners) on the lines laid down by the collective wisdom of Parliament. To find a man with the "elements so mixed in him" and yet able to lead his colleagues in a "firm, pleasant, and don't-know-you're-being-sat-on-manner" was an impossible task, and so the Agent-General has had a man made to order, and by latest advice his head was finished; a *fac simile* of which we present to our readers, and hope they will like it.

Plate V

Recruiting the Chairman

From Melbourne Punch, 23rd August, 1883.

place before this House whatever statements or explanations are requisite." In fact, the railway portfolio was in later years often to remain the sole responsibility of a Minister. Although some Australian States still follow this example and have Ministers with no departmental responsibilities whose portfolios relate only to public corporations, the Commonwealth Government (as with overseas administrations such as the United Kingdom) has adopted a clearer differentiation. There is, for example, no separate portfolio for the National Bank or Airline, what political supervision there is over these corporations being exercised by a Minister whose primary task is the direct control of an orthodox central government department.

While public corporations are widely recognised today as constituting a separate species of public authority, the Victorian Railways legislators did not realise the full extent of the administrative revolution they were pioneering, and they continued to regard the undertaking as a department. Their Act (and most of the other Australian Railway Acts based on it) referred to the Commissioners as being placed in charge of the Railways Department, implying that the department was not superseded but merely placed under changed management.²⁶ The continued existence of a political office concerned especially with railway affairs, despite the drastic reduction in its statutory powers, brought about a situation hardly reconcilable with the constitutional concept of ministerial responsibility,²⁷ and resulted inevitably in some overlapping of authority and some encroachment on the Commissioners' powers. This position no doubt also contributed to personal difficulties which were before long to arise between Minister and Commissioners, and it encouraged other members of Parliament to continue to regard the railways as a legitimate field for playing the game of politics.

The constitution of the Commission and the tenure of its members also received some consideration during the debates. The stress placed by the Government on the superior status of the Chairman drew two reactions: first, opposition to the idea of an "imported ornamental gentleman" on the ground that the colony had had unfortunate experience with such people before and that there were capable men available locally; and secondly, a questioning of the need for the other Commissioners since they would be likely to be little more than rubber stamps. The Government's reply was that local railway men could not possibly have the required breadth of experience; but that three minds were better than one in making decisions. Indeed, Pearson argued that a three-member board was preferable so that acts against powerful interests who could retaliate could not be traced to a single individual.²⁸ However, the expectation of the pre-eminence of the imported Chairman resulted in an addition to the Bill to the effect that where disputes between the Chairman and the other Commissioners occurred, the Chairman would decide the issue and would then report his reasons for differing from his colleagues to the Minister for presentation to Parliament - it was held that this was necessary to ensure finality, but that the need

to report would make even a more experienced Chairman weigh his reasons very carefully before overruling his colleagues. The amendment was carried despite Shields' objection that it would create "an omnipotent railway czar and two dumb commissioners". In fact, the relationship between Chairman and Commissioners was to prove a most contentious issue in the New South Wales Railways, 29 although it has rarely if ever been necessary to invoke the provision in Victoria.

The Government announced its intention of offering a salary of £3,000 to the Chairman 30 and £1,500 to each of the other Commissioners, but there were also objections that £3,000 was a paltry sum compared with salaries offered by private companies in England and the United States, and that it would be better to do away with the associates so that double the money could be paid for the vital post. All three positions were to be full-time ones. The original intention was that the appointments should be for life, but in response to parliamentary feeling that the Act was an experimental measure, an amendment providing for seven year appointments was accepted. A suggestion for a staggered retiring system to provide continuity of policy and to prevent stacking on political grounds at any one time was not then taken up. Another addition to the Bill in committee included a clause prohibiting a Commissioner from having a pecuniary interest in contracts entered into by the undertaking: the Government's reason for not including this originally was simply that it did not believe anyone in so distinguished a position would take such an advantage!

Second only to the patronage question in the amount of attention given it, was the method of suspension and removal of Commissioners. However, the discussion is largely irrelevant to this study, because its motivation was suspicion and jealousy about the respective roles of the two Houses in the matter of parliamentary review. The method ultimately adopted was similar to that already applied in the case of the Audit Commissioners. If Parliament was in session the Commissioners could only be removed on an address praying for their removal by both Houses in one session or the Legislative Assembly alone in two consecutive sessions. If Parliament was not in session, the Governor-in-Council could suspend for inability or misbehaviour, and then lay a full statement before both Houses within seven sitting days, after which the suspension was to be confirmed unless either House during that session presented an address praying for restoration. This judicial type protection from arbitrary government dismissal has survived to the present day in most Australian railway corporations, but it is one feature which has not been widely extended to other corporations. This no doubt reflects the decreasing relative importance of individual Commissioners which has accompanied the proliferation of public corporations.

There were some suggestions for an alternative form of control. These are of interest in view of later experimentation in the form of management between 1891 and 1903. They included a single commissioner

assisted by a functional advisory board consisting of branch heads of the Railway Service; a railway trust similar to the existing harbour trusts, or preferably regional trusts each operating a sector of the national system; a board of directors more in keeping with a private company, with either a separate general manager or a managing chairman; or a commissioner and two purely functional assistant commissioners on the analogy that Parliament already represented the board of directors of a private company, with cabinet as the executive committee of the board and the electors as shareholders - there was on this reckoning no need for another board. Indeed the only significant attempt to draw analogies with existing organisations concerned the private railway companies, not other public bodies. This was of course almost inevitable, for it was the Victorian legislators themselves who were inventing a new kind of organisation - there were no ready models in existing public administration.

There was throughout much confusion about the location of the equivalent of the general manager of private enterprise. Many members thought there should be a separate senior officer of this designation, dealing with detailed administration and only referring important matters to the Commissioners. But the Government intended only to have branch heads severally responsible to the board of Commissioners. The general manager question was to be raised again in the Victorian Railways experiments - by the 1890's it was becoming clear this was the role the Commissioners themselves were to play. Until the 1920's Australian public corporations were to be based either on a board pattern alone or a general manager pattern alone (depending on the interpretation of the private enterprise analogy made by each particular government involved), but not on a combination of the two. Among the earliest combinations were the 1924 addition of a Board of Directors to the existing Governor-type management of the Commonwealth Bank, and the 1931 creation of the Australian Broadcasting Commission with part-time Board and full-time Manager, which followed the model of the British Broadcasting Corporation created a few years earlier.

Only a few doubts were expressed about the financial arrangements. While it was hoped the railways would henceforward be worked on commercial principles, it was also expected that in their developmental activities (e.g. new lines) their indirect benefit to the community would be taken into account. There was only very isolated opposition to continued Treasury control of finance, on the ground that this would prevent adequate maintenance and replacement arrangements.³¹ This was, however, a very discerning objection; the general assumption that the existing financial arrangements were compatible with the intended degree of managerial independence was not only a remarkable error of reasoning but was also to have probably the most far-reaching ill-effects of all the provisions of the 1883 Act.

The Legislative Council was overwhelmingly in favour of a very

large degree of independence for the Commissioners. Many members criticised the limiting of their tenure to seven years (one claimed that on this basis the Chairman would need 18 months to get colonial experience, would then give 3½ years good service, and spend the remaining two years with a political bias to secure reappointment), and the various "paltry" or "trifling" specific restrictions on the Commissioners' powers. It raised a few other objections, and, after some inter-House squabbling, a compromise was reached by which the Assembly accepted certain minor amendments and the Council desisted in its attempt to delete the restriction on the Commissioners' power to close workshops - because, although "absurd", the provision was of comparatively little importance.³²

Professor Sawyer has emphasised the legal motivation in setting up early corporate public bodies, i. e. the granting of a legal personality separate from the Crown.³³ Freed from the restrictions imposed by the nineteenth century concept of Crown immunity, the enterprise could, thereafter, sue and be sued according to the normal processes of law. The debates on Victorian Railways management from 1883 onwards, however, made no reference to this question. The idea of the public "body corporate" was already familiar and accepted (e. g. in the Board of Land and Works and some of the colonial Education Boards), and it was the functional and organisational, not legal, aspects with which the railways legislators were concerned. In any case, offended parties were already suing the Victorian Railways Department before 1883, e. g. in accident compensation claims and land purchase disputes. Their right to do this was presumably derived from the formal association of the Department with the separately incorporated Board of Land and Works.

As the Victorian Railways Commissioners Act of 1883,³⁴ the legislation came into force on 1st February, 1884. The first Chairman was Richard Speight, formerly Assistant Manager of the English Midland Railway Company. His colleagues were Alfred J. Agg and R. Ford, who had previously served Victoria as Commissioner of Audit and Secretary of the Melbourne Harbour Trust respectively. Agg died within a few years and was replaced by W. H. Greene, senior railway engineer.

Following the widespread public interest in the railways management question, these Commissioners began their administration in an atmosphere of glamour and great public expectation. At first they appeared to fulfil all expectations: after only two years, the railways, which had been showing repeated deficits, returned a profit.³⁵ This apparent success caused other Australasian colonies to follow the Victorian experiment. However, there had been other factors contributing to the improved financial position apart from the Commissioners' administration. Within seven years this was as widely discredited as it was eulogised at the beginning, and there followed a decade and a half of further experimentation in an attempt to adjust the commissioner-system to meet more adequately the requirements of operating a public

enterprise in a system of democratic government. This process has left its mark on numerous other Australian public corporations.

It is necessary first to examine the reasons for the reaction against the 1883 organisation, which in law at least possessed a large measure of autonomy.

Operations 1883 - 1891

The Commissioners appointed under the 1883 Act quickly initiated certain reorganisations of the Railway Service, substituted a relatively well-disciplined and effective staff for the earlier disorganised one, and took action to improve the condition of rolling stock and to install safety equipment such as interlocking points and signals. In their Annual Reports they drew attention to the need for a staff superannuation scheme, for a reserve fund to meet replacement costs and other emergencies, and for a statutory limitation on the extent of liability for damages following railway accidents (a matter which had previously been subject to grave abuse). They also adopted what appeared to be a realistic fares and freights policy, resulting in certain reductions which materially benefitted various sections of the community. Notwithstanding this, after only two years under the new management, what had been a long series of deficits was converted into a profit. The early indications were that the new system would live up to expectations, and that the Commissioners were alert to the problems of railway management and capable of coping with them wisely and beneficially.

There were always a few critics, among them Thomas Bent, the last of the political "managers", who seemed to regard credit to the Commissioners as discredit to himself. In the later 1880's Speight was granted leave to return to England for a few months, and was also asked to make an official visit to the United States, with a view to examining railway developments overseas. The Government (Gillies was now Premier as well as Minister for Railways) also proposed to increase his salary to £4,000 up to the end of the current appointment, and £5,000 thereafter, since it considered he had performed his duties "remarkably well" - it claimed it had the most serious responsibility of ensuring that Victoria did not lose Speight's services, as he would probably receive attractive offers overseas. Although this proposal was not approved, it had the effect of bringing about a full examination of Speight's administration, which was by now falling back into the pattern of deficit results. When Speight returned to the colony and announced that the Victorian Railways compared more than favourably with systems in other parts of the world and that he saw no need for further improvements, the tide had really turned. He was accused of complacency and self-satisfaction, and in particular The Age and its political henchmen commenced a campaign of agitation against his regime. 36

The main issues involved in the growing criticism were finance,

construction policy, and the fact that political influence was still being brought to bear successfully on the railway system. The following facts influenced the financial situation. First, Parliament had, independently of the Commissioners, assisted the initial improvement by redeeming debentures carrying interest at 6% in favour of 4% debentures, thus substantially reducing the annual interest bill, and also by advancing money to the Commissioners for rolling stock renewals - Shiels asserted in 1891 that savings attributable to parliamentary action since the Commissioners took office amounted to £1,250,000.³⁷ Secondly, the Commissioners themselves made substantial reductions in rates, announcing in their Annual Reports that their policy was to raise just sufficient revenue to cover working expenses and interest charges. It was unfortunate, however, that their calculations were based on the great boom years of the mid-1880s. Thirdly, while declining prosperity after these peak years would inevitably have decreased receipts, it was the unforeseen payout of £125,000 in compensation as a result of the Windsor accident of 1887 which caused the first return to deficit financing. While the Commissioners were not, therefore, justified in claiming sole credit for the surpluses, they were also in some measure victims of circumstances in the deficits that followed. There were, moreover, still political considerations complicating the picture, as will be discussed shortly. The final balances for the last six years before the appointment of the Commissioners, and the first six years after, were as follows:

Before Commissioners' Appointment

Year	Deficit	Surplus
1878	£ 114,241	
1879	£ 166,223	
1880	£ 118,187	
1881	£ 84,181	
1882	£ 200,161	
1883	£ 235,611	

After Commissioners' Appointment

Year	Deficit	Surplus
1884-5	£ 39,579	
1885-6	-	£ 61,483
1886-7	-	£ 40,457
1887-8	£ 53,681	
1888-9	-	£ 34,060
1889-90	£ 221,482	

However, it was also alleged against Speight and his colleagues that in order to show a profit they had neglected maintenance and charged to

capital certain items which should have been defrayed out of current revenue. ³⁸ The Windsor and other accidents, moreover, gave other grounds for criticism - opponents argued that they had thus failed in another of the important expectations involved in their appointment, the elimination of accidents.

The Service Government in 1884 introduced a Railway Construction Bill embodying many of the lines contained in the Bill prepared by Bent, which had lapsed after extensive debate with O'Loghlen's unexpected dissolution. Under a clause of the 1883 Act inserted by a private member in committee, the Commissioners were required to report on proposed new lines, and they presented a paper recommending 47 on the grounds that they would benefit the districts to be served and that they would feed the main trunk lines and, therefore, increase the revenue on the latter. The Commissioners stated that although required by law they were unable to furnish estimates of likely traffic, claiming that experience had shown that the traffic of a district when it was without railway communication was no guide to the traffic which had immediately developed upon the provision of means for its transit.

However, Parliament had kept construction decisions in its own hands, and as so many constituencies were to benefit members were little concerned with economic prospects of the new lines. The log-rollers added a further 15 lines which were accepted without report from the Commissioners, and the 1884 Construction Act (No. 821) therefore, authorised 62 lines totalling 1,200 miles. Yet when the lines were built and many proved uneconomic, the Commissioners were made scapegoats and their neglect to furnish comprehensive reports bitterly attacked. Similar circumstances surrounded a further "octopus" bill introduced by the Gillies Ministry in 1890, providing, with others approved but not yet constructed, for a total of about £14,000,000 worth of new lines. To these the back-benchers proposed to add an extra 2,950 miles estimated to cost an additional £26,000,000, and both as an attempt to restore sanity amid this orgy of extravagance, and as a virtual censure of the Commissioners, a Parliamentary Standing Committee on Railways was created to examine and report on all new lines. Bent, who was coming to be acknowledged as something of a railway expert, was appointed Chairman. ³⁹

The Commissioners were attacked not only for their neglect to furnish the detailed traffic estimates required by the Act. Their estimating of construction costs and their methods of construction also came under fire. The estimates submitted to Parliament for new lines were often too low; but with the lines approved the Commissioners went ahead authorising contracts in excess of the estimates. As a glaring example it was alleged that the estimate for the Healesville line was £44,000, whereas the final cost amounted to over three times that sum. Because of the land boom, however, land prices were subject to great fluctuations, and these contributed to estimating

difficulties. Victoria had not yet tried the betterment principle whereby owners of adjoining land financed construction costs: T. A. Coghlan suggested that this was due to an awareness of the near-riots caused by Tasmanian attempts to make adjoining landowners contribute to railway costs.⁴⁰ In all this it must be remembered that estimating at that time could be little more than guess-work: costing, quantity surveying and so on are modern techniques which were then virtually unknown.

On methods the Commissioners followed Higinbotham. They favoured a substantial mode of construction and durable materials, which, although involving extra immediate cost, were of greater permanency and permitted the running of heavier and faster trains. However, in the re-emerging deficit situation it was not surprising that these practices drew charges of extravagance, renewed criticisms of irresponsible public agencies, and further political pressure to have cheap lines built. The Standing Committee on Railways almost immediately clashed with the Commissioners on these issues, and recommended the complete separation of construction and management, leaving the Commissioners no part whatever in the former, as was the case in New South Wales.⁴¹

The verdict of one historian was that the Service-Berry Coalition, which had fathered the commissioner-system, encouraged a respect for its independence and that the later deterioration in its position resulted from the removal of restraints after the passing of that Ministry.⁴² However, the succeeding Gillies-Deakin Coalition was virtually only an extension of that Government, under new leadership following the resignation from Parliament of both Service and Berry, but carrying on the old policies. Moreover, Gillies was Minister of Railways in both Governments. In fact, after some forbearance after the first flush of satisfaction in "solving" the railway problem, Parliament quickly fell back into its old ways. The index to the recorded Debates of the period is a rough measure of this, and the following table has been designed to show the extent to which Parliament was concerning itself by 1886 with the details of railway management:

A numerical summary of matters raised by members,
in the form of question, motion, or demand for
information, indexed under the heading "Railways"

(i. e. excludes similar exchanges under separate
index listing for New Lines, Railway Loans, and
the Special Rolling Stock Advance, etc.)

YEAR 1886

Subject	No. of times raised
Stations and sites	Over 15
Treatment of particular officers	11
Issue of free passes	9
Freight rates and conditions	7
Staff conditions (wage rates, sick pay, etc)	7
Workshops and conditions therein	6
Returns of appointments and employees	5
Tenders for trucks and carriages	5
Treatment of special classes of employees	5
Suburban operations	4
Traffic in special commodities	4
Holiday fares and traffic	3
Manufacture of buffers	3
Return tickets	3
Refrigerating cars and rooms	3
Filling of vacant commissionership	3
Hours of labour	3
Railway employees' associations	3
Sidings	2
Train schedules on country lines	2
Level crossings	2
Intermediate stops	2
Local works and sheds	2
Overcrowding	2
Railway bridges	2
Lighting of carriages	1
Erection of goods stores	1
Annual report	1
Work for employees' wives	1
Returns of tickets issued	1
Land dealings	1
Female employees	1
Accidents	1
Refreshment rooms	1
Platforms	1

Some other subjects added in 1887-8:

Balancing of engine wheels	Travelling expenses of senior officers
Damage to rails	Employment of boys
Fires caused by locomotives	Advertising in carriages
Fines imposed on staff	Accident insurance
Height of applicants for employment	Inventions of employees

and so on.

While members of Parliament may have been saved from place hunters, it is clear that they used the time gained to poke their noses into almost every other aspect of the routine running of the railways, not excluding the engaging of casual labour and the treatment of officers after their initial appointments. ⁴³ The Minister's attitude was frequently to reply that while the Commissioners wanted to make the railways pay they were sufficiently reasonable to listen to any representations made to them, and he often promised to pass on requests made in Parliament. It is not hard to imagine the time wasted on such matters, despite the trivial nature of most of them. The spirit of the 1883 Act was clearly that politicians should only interest themselves in those few specific matters reserved for ministerial, cabinet or parliamentary consent. But members attempted to the best of their ability to extract every ounce of answerability from the Commissioners. The Act was intended to draw a division between legitimate and illegitimate spheres of political interest but its spirit was not observed.

One subject of legitimate political interest, in terms of the 1883 Act, was Sunday traffic, which the "Hansard" indexers treated as a separate subject. The Commissioners received many deputations pointing out that suburbs which had Sunday trains before the passing of the Act continued to be served, while those connected subsequently to the railway system were deprived of this service. The Commissioners made suitable recommendations to the Government, but consent was refused for fear of a public outcry. The Legislative Council then forced the issue by including a clause ordering the Commissioners to run Sunday trains and to make by-laws accordingly in a Railway Construction Bill. Although the Assembly deleted this as being out of place, it compromised by passing a resolution to the effect that all districts should be provided with Sunday trains if the traffic warranted. ⁴⁴ (As late as the 1920's, however, this reservation of power to the Government was seriously embarrassing the Commissioners in their efforts to compete with growing road traffic).

Of vital importance was the fares and freights question. Just before the Commissioners took up their duties, the Royal Commission on Tariffs, under the Chairmanship of James Mirams, a politician who

had much to say on railway issues, recommended a general reduction to assist colonial industries; and later when the Commissioners were being charged with acting unwisely in granting reductions, many members conceded that they had organised pressure campaigns against them and taken part in many deputations to them. The reaction of press and public had been to demand reductions as soon as a profit result was announced, with no thought of the desirability of putting aside reserves for maintenance, renewals and lean years. Even Shiels, when he became Minister of Railways, conceded in censuring the Commissioners that he as well as other Ministers of the Munro Government had exerted pressure on them to get decreases; he regretted the blunder, and admitted at first that politicians had to share the blame for the deficits. But as the bitterness increased he and many other politicians who had acted thus excused themselves with the specious argument that the primary reason for the appointment of Commissioners was to resist political pressure and that because the Commissioners hadn't succeeded in this they had failed in their duty to the community! There were only a few left by 1891 who were prepared to point out how unfair it was to censure them for not checking the politicians in their own "reckless career".⁴⁵

In another such case Parliament ordered the Commissioners by resolution to pay increased wages to certain of their employees. The whole system had very insidious effects: when Speight made a stand against a deputation seeking the running of an additional train to Hawthorn, the thwarted member involved made a personal attack against him and thereafter added his weight to the growing campaign against the Commissioners' administration. There were ludicrous accounts of men queueing up outside Speight's door, many of them politicians, insisting on seeing him on all sorts of trivial matters, even the loss of an umbrella. The Commissioners became a political buffer between the Government and the public, for it was recognised that the Minister no longer had much authority; their time was taken up with "political work" to the detriment of their managerial functions. In Professor Shann's words, "log-rolling... only shifted from the lobbies of Parliament House to the corridors of the Commissioners' Office at the opposite end of the city".⁴⁶

Speight's personal relations with Gillies were cordial, and the two became close friends. Gillies was always his strong advocate, claiming that he had performed his duties as well as he had been allowed, and that both the Service and his own Ministries had had "hosts of communications" with the Commissioners and that no difficulties had arisen. (Alfred Deakin, Gillies' Liberal partner, was alleged to have admitted that some differences of opinion had arisen towards the end, when the gravity of the approaching depression began to be realised - even this suggestion could well have had a political bias, however, for Deakin was introduced to politics by The Age, and it was this paper which became the principal accuser of the Commissioners.) Although he did not carry Parliament with him, Gillies had shown himself willing to observe the

spirit of the Act. He closed the ministerial office in the Railway Building; he took on new responsibilities, first the Education Department and later both the Premiership and the Treasury; and he allowed the Commissioners to ignore certain time-consuming statutory requirements of a minor nature, such as the furnishing of quarterly returns and the keeping of minutes in a form directed by the Governor-in-Council. Moreover, his attitude to parliamentary requests was that while he would pass them on the Commissioners were free to make their own decisions. These actions drew many criticisms of laxness, probably causing later Ministers to resolve not to repeat them: as one observer has written:

"It is much easier (for the Minister) to avoid Parliamentary derision by giving in to popular clamour . . . particularly if he can get a name for strength by being weak." ⁴⁷

To what extent Gillies influenced the Commissioners is hard to determine in view of their friendship, but he always asserted in relation to the fares reduction question that the Government had accepted the responsibility when it approved the relevant by-laws. But Parliament (and *The Age*), in attacking the Commissioners directly on this issue, would not accept this interpretation. Gillies even stated on one occasion that the Government had told the Commissioners to fix rates as low as they felt justified in doing. ⁴⁸ He and Speight shared the same fault of over-confidence about the colony's financial situation - perhaps for this reason he did not seem much concerned to prevent a continuation of log-rolling tactics by other politicians.

Bent launched a caustic attack during the Supply Debate in 1888, claiming that there were more accidents than ever and that political influence had not been removed. He asserted that Parliament needed a shrewd man watching over the Railways with his eyes open to check the actions of the Commissioners, and that Gillies' superintendence was quite superficial. He demanded a Royal Commission to inquire into the Commissioners' management. There was some amazement at this outburst, for most members had shown profound relief when Bent had left the old Department. But the tide had turned, and he now had many supporters. However, by the time the Railways Standing Committee was appointed in 1890, the general feeling had probably gone no further than that it would be better for all concerned if the Commissioners were relieved of the construction function. Patterson, an early supporter of the commissioner-system, believed it had passed the probationary stage, but that experience proved the need to define more satisfactorily where the authority of the Commissioners began and that of the Minister ended. ⁴⁹

The Gillies-Deakin Ministry finally succumbed to a want-of-confidence motion at the end of October, 1890, and immediately the Munro Government took office statements appeared heralding many changes in the railway organisation. After just over a month in office,

William Shiels, the new Minister, outlined at length the new Government's railway policy. 50 It believed that the Commissioners had not adequately met the requirements of the public, and that reforms were therefore needed to make the railways more responsive to public opinion and demand. It did not want a return to full political control, which carried with it evils such as the "undue, improper and pernicious influence of favouritism", but it wanted the many grievancees of the public as expressed in Parliament more promptly attended to. In other words, favouritism appeared to be the chief influence to be avoided. Shiels was impressed and horrified by the "anomalous" and "constitutionally . . . unique" position of the Minister: he stated that the Commissioners could "disregard and flout everything I say", and "refuse to consult with me in their board-room, . . . to give me information of any kind, or even allow me intercourse with officers of the department." He was at pains to take from them all credit for the profits shown for a few years, and castigated them for later deficits. He expressed the erroneous view, which was to colour the whole proceedings, that the "cardinal principle" of the 1883 Act was that the railways should be made self-supporting at the earliest possible moment.

Despite his short term in office, Shiels had already informed the Commissioners that Cabinet and Parliament viewed "this state of chronic deficit . . . with the profoundest concern"; he had issued a number of "requests" to them regarding the allocation of labour and the withholding "as far as it is just" of annual salary increases; and he had told the Chairman that he should economise his time and that the Minister should receive the deputations and thus act as a "buffer between him and anything that wears the appearance of political pressure". (When this deputation procedure had been implemented, Shiels found that the 1883 Act virtually made him impotent, and that he had to pass on requests to the Commissioners notwithstanding - this increased his annoyance.) Since Speight's term of office had almost expired, and he had reasonable expectations of reappointment, Shiels also outlined the Government's intentions on this. He summarised the new Ministry's views (or perhaps more appropriately, those of The Age, whose role will shortly be considered in more detail) of Speight's personal strengths and weaknesses, and stated that it had been decided to offer him reappointment without the salary increase planned by the old Government and subject to any change in his position which the proposed new legislation might involve.

The speakers who followed Shiels revealed much confusion about the purpose of the 1883 Act. Some asserted that if only the true aim of eliminating political influence could be kept in view there would be no need for drastic reform; others suggested the provision of penalties against political pressure in the new legislation. Generally, however, it was coming to be believed that the only object of the 1883 Act had been to make the railways pay for themselves, and that, because they

hadn't, the Commissioners had failed. It was Bent who closed the debate with much advice to the Minister along the lines that he should not be "weak-kneed or deficient in backbone", and that he should use his own judgment and not "surrender the reins" to the Commissioners. 51

So much for the aim of the 1883 legislators to take the railways "out of politics".

FOUR: REASSERTING POLITICAL CONTROL

The Shiels-Commissioners Correspondence

There followed a series of memoranda between Shiels and the Commissioners during the period November 1890 to July 1891, which had the effect of driving the two parties into extreme positions and rendering virtually impossible any rapprochement. The personal differences thus brought out had an important effect on the Railways Amendment Bill introduced in July 1891, and led, with constant prodding by The Age, to the eventual suspension of Speight and his colleagues in March, 1892.

In particular, the 1891 legislation introduced certain provisions which have since been widely applied among the larger Australian public transport corporations. The introduction of these provisions at this time, and even the shape of many of them, owed much to the major conflict which developed between Syme of The Age and Shiels and his supporters in politics on the one hand, and Speight, his colleagues and defenders (including The Argus) on the other. This is worth noting as an historical fact in the evolution of the public corporation in Australia. But it is pointless to speculate on when such provisions would have appeared and whether their form may have been different, if Shiels had taken more time to prepare his case and had used more tactful language and tactics in his approach to the Commissioners, if he had shared some of Gillies' respect for their legal position, if the Commissioners themselves had shown a greater readiness to compromise, if The Age had not been under such powerful leadership, or even if the depression had not struck just at that time.

Despite the subsequent refusal of politicians outside the Ministry to recognise the spirit of the 1883 Act, that Act did give the Commissioners in legal terms, when they cared to press the point, a very large degree of autonomy. If an issue had not arisen in 1890-2 in Victoria to underline the incompatibility of the independent public corporation in a democratic system of government, it would have occurred there or somewhere else sooner or later. The episode involving the Commonwealth Bank Board and the Scullin Government during another depression (that of the early 1930's) was another expression of this incompatibility.¹ Most subsequent public corporation legislation in Australia has attempted to overcome this difficulty by seeking a compromise between the conflicting requirements of managerial freedom and public accountability, although from time to time governments of the right have shown a tendency to dispense with political controls and revert to the autonomous corporation. The Victorian Railways were doubly pioneers - they not only pioneered the modern public corporation itself, but they also pioneered the reaction against too large a degree of independence in such bodies.

The main items of this correspondence were tabled as a Parlia-

mentary Paper,² by order of the Legislative Assembly, while the debates on the 1891 Bill were in progress. The correspondence opened on a trivial note: a parliamentary order demanding details of the cost of two boudoir cars used on the Portland Line. Shiels requested this information on 26th November, 1890, issued a number of reminders in quick time, and on 1st December, 1890 curtly requested an explanation of the delay. On 25th February, 1891, Shiels addressed a further memorandum to them again calling attention to the delay and difficulty he was experiencing in obtaining promptly information required either by himself or by Parliament. He also complained of the objection they had raised on grounds of discipline to his approaching their subordinates directly - he did not admit the validity of their objection and commented that the circuitous method they preferred contributed to the delays. On this occasion the Commissioners' reply suggested that Shiels gave them an unreasonably short time to supply information, and pointed out that Gillies used to get parliamentary questions postponed in more difficult cases - the numerous parliamentary demands consumed much time and some of the returns sought required much detailed work to compile. Shiels' reply of 16th April, 1891 refuted their explanations and commented acidly that no good purpose would be served in referring to the actions of the previous Minister.

By this time other contentious issues were also appearing in the correspondence. For example, the Government desired to issue an Order-in-Council directing the form in which minutes were to be kept, as required by the 1883 Act but allowed to pass without official action by Gillies. Shiels had sought the Commissioners' views on this, and found cause to complain of delay in this case also. Again, a vacancy having occurred in the position of Engineer-in-Chief, the Commissioners proposed to appoint C.G. Darbyshire (who was in the same post 30 years before, and had now returned to the Railway Service). The Government made aware its objection to this appointment (elsewhere it stated its reason to be that Darbyshire was then over 65 years of age). But with full legal authority in the matter, the Commissioners went ahead with the appointment.

Tempers became even more frayed on two other questions. The first concerned the reappointment of the Commissioners. In accordance with the intention outlined in Parliament, Shiels wrote to Speight on 23rd December, 1890 offering him reappointment under the terms of the 1883 Act (i. e. 7 years at £3,000 p. a.), but subject to any change that might be involved in the forthcoming legislation. Speight replied three days later that he would accept appointment, but would not accept any conditions unless these included recognition of his right to be compensated if he felt unable to carry on under the changed circumstances. Shiels' rejoinder of 29th December was that he was unable to vary his original offer. At this stage there were some meetings and oral negotiations, the proceedings of which became the subject of

violent dispute. Shiels believed Speight accepted his conditions and had an Order-in-Council issued effecting the reappointment. However, when he wrote to Speight on 20th March, 1891, asking the latter to affix a date to the so-called "agreement", Speight replied a day later that there was clearly some mistake as he had not changed his position. Both reiterated their positions, and then listed their respective versions of the proceedings for each other's information. Shiels regretted that the subject of railway reform was to be disturbed by discussions of personal honour and good faith, and Speight then suggested that a continuation of the correspondence could only lead to annoyance and misunderstanding and that the matter be left to the judgment of those whom it might concern.

The other matter of variance concerned proposals for economies in railway operations. Shiels wrote on 26th February, 1891 in reference to a recent meeting between Cabinet and the Commissioners. He commented that the Government wished to obtain a reduction in the large deficits, more satisfactory supervision and cheaper construction of lines, and informed the Commissioners of the Government's "opinion that . . . the undermentioned changes should be made without delay" - the changes desired included an annual reduction of one million train miles, the retirement of all officers over 65, the suspension of all increments, the adoption of public service leave and retiring allowance regulations, the reorganisation of the Traffic Branch, the abolition of certain senior positions, and the adoption of an improved system in the Finance Branch. The Commissioners replied on 16th March with a long statement, "respectfully" declining "to admit the existence of grounds for the implied censure of their past administration". They recalled Shiels' attention to an understanding already reached that they would withhold increments for one year, and dealt in turn with the other matters covered in the Minister's scarcely-veiled direction. Shiels' reply of 16th April regretted that their "cordial co-operation" was not forthcoming, repeated his view that the railways had been handed over to non-political commissioners "with the avowed object of being made to pay", and criticised both their "liberal" policy of keeping facilities ahead of traffic requirements and their attempt to excuse the deficits with pleas of indirect benefits to the community - this was "importing into the discussion political considerations with which Parliament will possibly consider it alone ought to deal". The Commissioners' next memorandum contained much more detailed argument, and they asserted correctly that making the lines pay was not the only object of their appointment; in fact, in a later communication, Shiels argued inconsistently in reference to the impropriety of their succumbing to political influence; that this was "the very thing" they were expected to withstand. The correspondence became tedious, with a long series of similar accusations by Shiels and explanations by the Commissioners through to the end of July, 1891. Some of Shiels' off-the-cuff comments were most impolite, and he accused the Commissioners of untruthfulness. They made some

strong protests against the tenor of his remarks, and closed the correspondence, which they pointed out they did not initiate, saying that in his last memorandum he had raised no new point and that there was, therefore, no need to add anything further to what they had already said.

However, they did get in another word to a wider audience through the medium of their Annual Report for 1890-91. In this they reviewed their achievements and the criticisms made against them. The following were typical of their remarks. They had during their administration increased the railway mileage by 76%, and other colonies had been sufficiently impressed by their results to copy the system. The excessive construction costs were, they claimed, inevitable, not least because of the great demand for the services of the few available contractors when Parliament insisted on building so many lines simultaneously. Moreover, the new lines could not be expected to yield immediate profits, even though they were of great general benefit. The Commissioners also pointed out that the Service-Berry Government had approved the much-criticised fare reductions, and suggested that if the railways were expected to pay year by year notwithstanding such considerations, then this should be laid down as a legal principle, as was neither done nor intended in 1883.

The 1891 Legislation

The 1891 Bill was drafted and debated against the background of these disputes, and also great public interest built up by a related newspaper war in which The Age took the lead in criticising the Commissioners and The Argus became the main organ of their defence. The difficulty of achieving in this atmosphere an objective approach to the question of railway management can well be imagined. Shiels, always a flowery orator, excelled himself in vindictive phrases, and even Deakin, also a great orator and one-time protege of The Age, was compelled by conscience to express regret that the Minister had introduced personalities into the debate, and to assert that in his correspondence and speeches Shiels had prejudiced an "occasionally excellent case" by extravagant provocative language and that the Commissioners were courteous by comparison.³

Shiels reviewed the history of the Victorian Railways and particularly the circumstances of the Commissioners' management.⁴ He had on numerous occasions asked them to economise, but although some steps were taken Cabinet did not believe any determined attempt was being made to reduce the deficits. The Government had, therefore, found it necessary to place on record its own views, but he denied that this was intended as an ultimatum to the Commissioners. The Government appreciated their legal position, but at the same time it had a responsibility for the public finances. This was of course the crucial point which lay behind the conflict of personalities. The new legislation

was really an appeal to Parliament; in Shiels' words:

"Is it willing that this powerlessness, this absolute impotence of the Executive of the State should remain for the future as it has been in the past? . . . Are the State's finances to be jeopardised by irresponsible men? . . . Is the Government of the day . . . to remain unable to do anything to save the State?"

And was not the Government justified, in view of the inaction of the Commissioners, in placing its views before them?

The object of the new legislation was, therefore, to:

"substitute constitutional and responsible government, with checks and counterpoises . . . for a system of administration practically absolute, wholly irresponsible, and, in the last resort, wielded by one man."

The Commissioners were to become traffic managers only, and to be relieved of the duty of construction for the reason that they were opposed to the cheaper methods the Government intended to follow, and that the work must be taken away from those hostile to it. The Government, therefore, proposed to return the construction duty to the Board of Land and Works, which would be reconstructed to make the Minister of Railways automatically a Vice-President. The Construction Branch would be taken from the Railways Commissioners and attached to the Board, although its staff would continue to be regarded as part of the Railway Service.

Shiels then outlined the power the Government intended to assume over the functions remaining with the Commissioners. It had been dismayed at the range of actions involving public funds the Commissioners could take without reference to the Executive or Parliament; and even the railway estimates which were intended to be a form of control were presented in such scanty detail that they were useless for the purpose intended. The whole field of railway operations had, therefore, been surveyed, and the subjects over which the Executive should have some power were considered to be the following:

1. Auditing, inspection and keeping of accounts.
2. Prescribing the methods of entering into and subdividing contracts.
3. Enforcing contracts or penalties incurred.
4. Erection of new workshops or additions to new workshops.
5. To determine whether any proposed sidings shall be constructed or not.

6. Power to diminish the train mileage on any system or line.
7. Power to increase the rate of fares for the carriage of passengers, or to create differential rates in the case of new lines.
8. Power to diminish the suburban radius (a factor in fare rate calculation).
9. Power to limit the issue of free passes.
10. Power to limit the number of stations on new lines; and to alter the same and add to them.
11. Power to limit the number of officers and employees, and their rates of remuneration; also power to discontinue any office, and to govern the retirement of employees.
12. Enforcing civility and attention to the public.
13. Establishing railway committees and sub-committees. "

All these items bore a definite relation either to the question of railway finance or to specific criticisms against the administration of Speight and his fellow Commissioners, and they were listed specifically in Clause 24 of the draft Bill.

The procedure for government intervention was also outlined. The Minister was empowered to ask the Commissioners in writing to report on certain propositions the Government had in mind concerning any of these matters, and within a given time the Commissioners were to furnish a report saying whether or not they were prepared to give effect to the proposition with or without modification, together with their opinion on it. If they did not agree they were to state their reasons at length. Their report, in the case of a disagreement, was to be submitted to the Governor-in-Council with whom would rest the decision on what action was to be taken. At this stage decisions would be by Order-in-Council published in the Government Gazette and laid before Parliament, so that the country and Parliament would know of any intervention by the Executive. Such a course would guard against hasty action, and make clear the responsibility of the Executive for action taken as the result of such intervention. This procedure, the Government believed, would be in complete harmony with the principles of responsible government. The Government was seeking a power of decrease to keep down expenditure, not increase, and it could not therefore breed patronage. However, as will be seen, the clause was altered in important respects before it became law.

Apart from this power of intervention, other specific restrictions on the freedom of the Commissioners were enacted in separate clauses.

For example, in order to prevent a recurrence of the Darbyshire incident, the Commissioners would not be able to appoint or promote any person to an office the salary of which exceeded £500 p. a. without the Minister's approval, and in reviewing any such proposals by the Commissioners, the Government would be entitled to say that the position should be filled but that it does not approve of the nominee, in which case the Commissioners would be requested to make a further nomination. 5 The fear of extravagance also resulted in a clause requiring the Minister's approval for all overtime payments. Again, to prevent a recurrence of criticisms which had followed the letting of large contracts by the Commissioners, the Minister was to have the power of review over all contracts exceeding £5,000 in value or one year in period of performance. No contract whatever could be entered into where the amount was greater than the sum provided in the authorising act. It was also provided that regular heads of branches conferences on the New South Wales pattern should be held to guide the Commissioners in their decisions.

The Secretary would attend all formal meetings of the Commissioners, take minutes, and lay them before the Minister within three days; and the Minister would be legally entitled to see all documents and to put himself in touch with subordinate officers. The same Section (no. 44, re-numbered 106 in 1958 Railway Act) clearly acknowledged the right of parliamentarians to question any aspect of railway management. The relation of the Chairman to the other two Commissioners was brought into line with the pattern adopted in South Australia, giving further power to the Government. Where the other Commissioners disagreed with the Chairman, he would not have deliberative power as in the past, but the matter would be decided by the Minister, subject to the approval of the Governor-in-Council, after receiving reports of the conflicting opinions; this decision would be notified to Parliament, thus again preserving the proper requirements of responsibility. All this resulted from the neglect of the Commissioners under Gillies to keep formal minutes as required by the 1883 Act, from the difficulty Shiels and The Age therefore had in discovering whether Speight had ever been opposed by his colleagues, from the delays Shiels experienced in getting information, and from the objections the Commissioners raised when he approached their subordinate officers direct. The influence of subjective personal issues, rather than an objective assessment of managerial requirements, in shaping many of the provisions of the Act is thus again underlined.

It was also considered that the tenure of the Commissioners was too long, and the Government proposed to reduce their terms to four years, subject to the introduction of staggered retirements to prevent the complete "spill" on political grounds which was possible if all appointments expired at the same time. The safeguards against removal were also to be eased and the grounds of suspension expanded. Shiels claimed he had considered suspending the Commissioners,



A TIGHT FIT

Speight.—"THIS NEW SUIT YOU'VE GOT UP FOR ME, SHIELS, DOESN'T GIVE ME ANY FREEDOM. I FEEL CONTRACTED AND TIED UP IN IT."
Shiels.—"OH, THAT'LL BE ALL RIGHT PRESENTLY WHEN YOU BECOME USED TO IT. FACT IS, YOU'VE BEEN WEARING 'EM TOO LOOSE THIS LONG TIME PAST."

Plate VI

Shiels V Speight, or the 1891 Act

From Melbourne Punch, 14th January, 1892.

but one of his difficulties was how to interpret the existing "inability or misbehaviour" provision. This was, therefore, altered to read "inability, inefficiency, mismanagement or misbehaviour, or refusal or neglect or failure to carry out any of the provisions of the Railway Acts."

Shiels concluded thus: "we simply claim the minimum of power which we consider it necessary the State should have ..." The aims were:

"to stay the wanton hand of extravagant construction, to put a curb on spendthrift management, and to apply ... those constitutional checks and counterpoises, in the interests of the State, which distinguish responsible government from absolute rule."

Most of the ensuing debate⁶ was devoted to the attack on the Commissioners. Gillies and his followers again argued that it was quite unfair to hold them responsible for the results of political pressure. In relation to the bitter quarrel with Shiels they suggested that the Railways Act had to be worked by sensible men and that it was not easy for the Commissioners to accept a layman's arbitrary wish to reduce mileage by a flat million a year, particularly when that layman did not bother to treat them civilly. Gillies argued also that the Commissioners were given no guide as to which routes were to suffer - Shiels had evaded the politically embarrassing side of the matter. Even Bent commented that the argument against the Commissioners on which the Government was basing its case for fresh legislation was very slender, and Service, now in the Legislative Council, supported Gillies' claim that the intention of Parliament in passing the 1883 Act had been twisted by the opponents of the Commissioners to support their case. Speakers such as Patterson lamented that the proposed legislation reversed the whole intention of the earlier Act by handing back numerous powers to the Minister; others considered the original Act was sound in principle and that only the attitude of the politicians needed changing - there were fresh suggestions for the imposing of penalties against political interference. It was also argued that if the Commissioners had been as inefficient as the Government alleged, the correct course would be to suspend them; and that the Bill was "hysterical legislation" drawn up to deal with the existing Commissioners, and not on a general view of the question. It might have been very different if they had enjoyed the confidence of the Government, or it might not have been necessary at all. There was wide agreement on one point - the reversion of construction duties to the Board of Land and Works, even though the new constitution of the latter was criticised and altered in various respects in committee.

Gillies and Service repeated their view that the 1883 Act ensured adequate responsibility of the Commissioners, through review of expenditure and by-laws and the power of Parliament to remove from office; while members of their camp asserted that it was unjust to criticise

Speight in his absence. Indeed, the Legislative Council called him to the Bar of that House to state his case. Critics of the old Liberal school, however, revived their fears of irresponsible bodies, arguing that Speight should not be defended thus: as a leading public officer he was rightly open to criticism, and it was merely a penalty of irresponsible administration that he was not in Parliament to defend himself. The Liberals now alleged that the 1883 system was instigated by the Conservatives with the intention "of fencing out the dreaded democrats at every corner". All they had achieved was the elimination of patronage in appointments - but they had been overrun by a train from the other direction, political influence assuming greater proportions than ever in cases of promotion and punishment and on numerous other matters concerning railway management. The fears of irresponsibility resulted in two interesting suggestions: that the Chairman should have a non-voting seat in Parliament to answer directly for the railways, or (following a suggestion made in South Australia) that he should be replaced by a Minister sitting in Cabinet, but chosen for his business capacity and not required to stand or fall with each government. Such ideas came to nothing, and the essential difference between the new and the old Governments in their interpretation of the Railways Commissioners' position in relation to the legislature was brought out clearly in an exchange between Gillies and the new Premier, James Munro. The latter, justifying the powers given the Minister in the Bill under discussion, asserted that the Minister was responsible to the House, the Commissioners to nobody. The former immediately retorted that the Commissioners were responsible to Parliament directly. However, on this occasion the Munro interpretation carried the day.

There were some minor amendments in committee, and further squabbling between the two Houses on their respective roles in the removal process, but this was finally sorted out in a conference between "managers" nominated by each House. The Legislative Council also opposed the power given the Minister to deal directly with subordinate staff as subversive of discipline, but had to give way on this point. One change of some significance concerned tenure. Members considered that a four-year tenure would not attract a suitable man and suggested retention of the seven year term. The compromise finally accepted was the now familiar "not exceeding seven years" formula.

In view of the many assertions that the Commissioners had been appointed with the express object of making the railways pay, one member moved to test the sincerity of those making this claim that a clause be included in the new Act requiring that the railways be worked in such manner that receipts should cover the total cost of working and interest charges. However, a technical argument ensued about whether the Minister or the Commissioners would henceforth have the ultimate responsibility and who should therefore be designated, and the main contenders seemed thankful to drop the matter when others pointed out that the railways also had a developmental object, that new lines cannot be

expected to pay immediately, and that it would be absurd to expect revenue from established lines to subsidise these. Conscious no doubt of the opportunities for pleasing their constituents which would be lost if this proposal were enacted, members were glad to dodge the issue; but most were still prepared to blame the Commissioners for not making the railways pay.

Deakin was largely responsible for the one other change of note to the Bill submitted by Shiels, and thus for rescuing it in this important respect from the petty differences and jealousies which shaped many of its provisions. He opposed Clause 24, which reserved numerous specific matters for the exercise of ministerial authority, on the ground that this made it "a Bill of details", whereas it should be "a Bill of principles". He believed it far more important for Parliament to lay down principles, and not to subject the Commissioners to an overriding ministerial authority on all sorts of prescribed routine issues. In committee many took up this argument - there was a desire to allow the Government some initiative on policy but not interference in detail, and Patterson suggested a general power permitting the Minister to intervene on matters of policy only when the Government thought it necessary. Shiels then advised that Cabinet had originally thought along these lines, but eventually decided with the Parliamentary Draftsman that it would be better to state specific issues. However, in view of parliamentary feeling he offered to reconsider, and the clause was redrafted to provide that the Minister could at any time in writing request the Commissioners to propose a scheme for effecting an increase of income or a decrease of expenditure or for carrying out any matter of policy. If the Minister did not approve of the scheme proposed, he could then advise them of his own scheme which they would take all necessary steps to implement. In the event of any doubt or difference of opinion, the matter would finally be decided by the Governor-in-Council. This was described as a "large and handsome . . . concession", although it was far removed from the philosophy of the 1883 Act.⁷ The general directive power is retained as Section 107 of the current (1958) Victorian Railways Act, and the principle involved has been extended over the years (even though the actual formula may vary from case to case) to many other public corporations.

The new Act,⁸ which had to be read in conjunction with that of 1883, came into operation on 1st January, 1892.

Suspension of the Commissioners

Most historians of Victoria emphasise the important political role played by The Age newspaper, or more correctly its proprietor David Syme, with whom the paper was indivisible almost from its inception in 1854 to Syme's death in 1908. Syme was intimate with public men to an amazing degree - he frequently shaped their programmes, enjoyed a knowledge of the inmost secrets of cabinets, and

governed the selection of Premiers.⁹ He has been described as "the most powerful person in Australia . . . for almost fifty years", and his editorial desk as "the supreme tribunal of Victoria";¹⁰ and sufficient evidence of his power has survived to suggest that these phrases are hardly exaggerated. His biographer, Ambrose Pratt, described various episodes such as his dictation of a Tariff Law to Premier Berry, the desire of a Governor to seek his views before acting on certain recommendations of the elected Ministry, the practice of submitting names of all Liberal candidates for Parliament for his endorsement, his creation of the Service-Berry Coalition in 1883, and his tactics in making and breaking many other Governments.¹¹

The Age had lent its weight to the creation of the public corporation known as the Victorian Railways Commissioners in 1883; however, Syme became alarmed at the growing extravagance in both public and private affairs in Victoria during the "Land Boom", and determined to save the country from what he regarded as impending disaster. He regarded the great railway expansion as one of the most distressing symptoms of this extravagance, and therefore, while not ignoring other matters, directed much of his energy to a vigorous assault on railway administration. He attacked the Gillies Government also, but since in his view the Commissioners should have warned Parliament against unsound proposals (and were legally required to do so) he reserved for them his greatest displeasure. Pratt considered that it was the campaign waged almost lone-handed by The Age which finally caused Victorians to pause in their folly, which caused the boom to burst when it did with a series of bank crashes, and which had the Gillies Government "hurled from office".¹² There is no doubt that it was The Age which brought about the suspension of the Railways Commissioners.

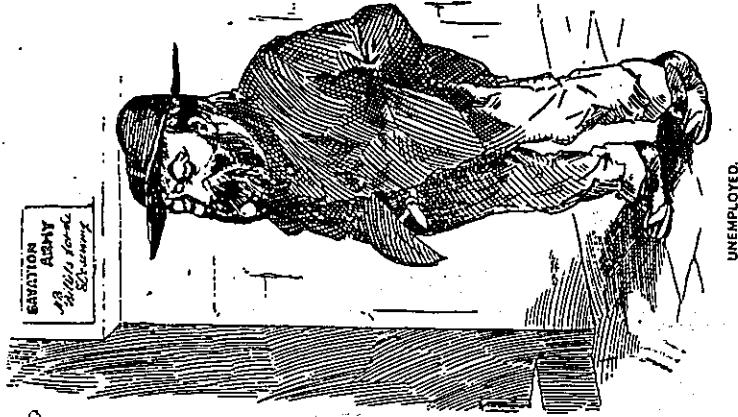
The main attack was contained in a series of leading articles between March, 1891 and March, 1892,¹³ although there had been earlier plain-speaking by the paper, and its attitude was brought out again and again between the various relevant leaders. On 20th March, 1891 The Age attacked the system whereby one man could dominate a great public department "at his own sweet will", claiming that his two colleagues were "mere dummies". It also demolished the case put up by Speight's "press apologist" (The Argus), which attempted to argue that all critics of the present system desired a return to the pre-1883 political direction - The Age asserted that the present clamour was because the new system had not removed political influence as had been intended. By 22nd July - on the eve of the introduction of the amending legislation already described - The Age was attacking Speight as chiefly responsible, owing to extravagant over-building and lax administration, for the alarming state of Victoria's finances; and also attempting to influence those who would have to consider the new Bill by pointing out that their task was to show how parliamentary authority

through the Minister of the day can be effectively brought to bear "without every honourable member being able to pack an already overcrowded department with his proteges".

On 15th September, while the new Bill was being considered, The Age had a lot to say about members who were defending Speight against accusations of the new Government. Gillies had failed, either by ignorance of what was going on or by conceding violations of the law. Why was a Minister of Railways retained? Surely not to act as a message-bearer, but to see the Act was carried out in its integrity. Although there was no intention to return to full political control, even that would be better than the "covert" political system operating during the Speight period. Then on 19th December, following Speight's examination at the Bar of the Legislative Council, The Age reported that he had been quite unrepentant even though he had been clearly convicted of incompetence, extravagance and dereliction of duty. Moreover, according to the paper, he had even hinted that if Parliament took construction away from the Commissioners and the lines were not constructed to their requirements, they might refuse to operate them without first bringing them up to what they regarded as acceptable safety standards.¹⁴

The new Act came into operation at the beginning of 1892, and The Age commented (1st March) that even if it had achieved nothing else the Munro Government had thus justified its existence. On 11th January it had said that the country would soon see whether the Commissioners would be prepared to carry out its provisions loyally, and that if not, it would be better to begin by dispensing with their services. On 17th February, the day after Shiels replaced Munro as Premier, it promised that in a series of forthcoming articles it would give the new leader "plenty of material for meditation".

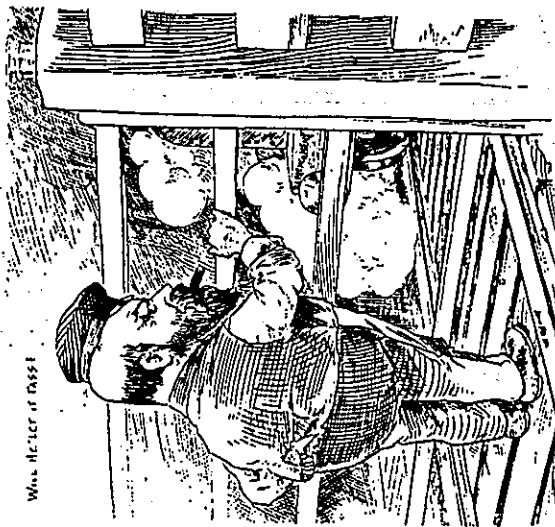
Then followed, on the first four days of March, a series of four critical articles under the heading "The Management of our Railways - How the Deficit has been Brought About". It was later stated in Parliament that Syme had gone to considerable expense in undertaking the investigations on which these articles were based.¹⁵ In the first, the paper outlined the history of the railway system, and presented figures to show how expenses had increased since Speight took over. Staff had increased, many had been given salary rises (the increments alone amounted to more than the total deficits of the Speight period), and it was also alleged that the Railway Service presented a perfect example of what would today be regarded as "Parkinson's Law" in operation. The second article had more to say on this. The paper castigated the growth of red-tape and the division and specialisation of controls and gave examples of what it regarded as excessive form-filling, delays and overlapping of authority. It referred to "departmental blunderings and stupidity" and stated that "the management of the Commissioners has been a gigantic failure".



UNEMPLOYED.



MOVE ON!



WELL, HE'S NOT AT ALL!

CONSTABLE - "See here, I don't care a Fathing which way you go, but some way you must. Now, move!"

Plate VII

Speight's Progress, March 1892

From Melbourne Punch, 10th, 17th and 24th March, 1892.

The third dealt with "culpable and wanton extravagance" in materials and stores; and in answer to a challenge by Speight to some of the facts presented in the earlier articles, The Age accused him of attempting "to grossly mislead the public" - since the railway organisation had refused repeated requests for this information, the paper had worked out the details from Hayter's Victorian Year Book. The final article in this series dealt mainly with "lavish expenditure" on stations and station management. The paper did concede that in one branch Speight had made savings, but it was not prepared to let him take a trick - since this was the Maintenance Branch, it was a "cheeseparing policy" running counter to the interests of public safety. The Age concluded that Speight's policy was bound to end in disaster. He had tried to adopt English conditions, but they only suited a land "where the workers are miserably paid and the drones revel in luxurious magnificence".

Speight denied many of these "findings" through the columns of The Argus. The Age retorted (on 8th March) that, despite the difficulties put in its way - here it referred to some of Shields' bitter comments about getting information, commenting that:

"the Railway Autocrat ... (had) miscalculated his capacity for resistance when he thought he could stifle an independent investigator in search of information as easily as he could put the extinguisher on official curiosity" -

its disclosures had given a great shock to public understanding. It claimed Speight's denials were useless, unscrupulous and mendacious and among other derogatory expressions asserted that the unfitness of the Commissioners for high office was proved by:

"accumulating evidence of ... utter incompetence ... They are as men suffering from a sort of paralysis of the judgment, incapacitating them for dealing with plain business matters on a business footing."

It observed that it seemed impossible that they "can officially live".

On 11th March, both in its leader and in an article headed "The Railway Scandal", the paper recorded that, after consulting at length with various railway officers as legally permitted by the 1891 Act, the new Minister, J.H. Wheeler (who took over the portfolio when Shields became Premier), had prepared a series of recommendations for effecting economies in railway operations, and had submitted these to the Commissioners as suggestions from subordinate officers. However, the Commissioners took exception to many details, and while the Minister deferred to some of their opinions, he heard no good argument for withdrawing all the suggestions. After further consultation with the subordinate officers, he returned them to the Commissioners as "upheld". But the Commissioners refused to yield, and Wheeler therefore in-

voked Section 24(1891 Act) which entitled him to ask in writing for their proposals for retrenchments. The Commissioners' reply, according to The Age of 16th March, merely framed a paper with the Minister's own scheme in it, explaining why they did not recommend this. The Age's verdict was that "for an act of cool, calculating, deliberate contempt and defiance it would be difficult to match this document among all the State papers of Victoria". However, the Commissioners did make certain suggestions of their own, admittedly less spectacular and less far-reaching, which The Age preferred to overlook.

At about the same time (14th March) a vital leading article asked the Government to examine whether it could in reason entrust Speight with carrying out the reforms it had decided on, and whether it would not be in its own interest as well as Speight's comfort to suspend him. The Age quoted in full the suspension and removal provisions of the Railways Act, and judged that this gave ample authority if the Government were courageous enough to take the responsibility. Since an election was due, a courageous government could appeal immediately to the people to endorse its actions - and The Age made it quite clear that such a government would have its not inconsiderable support during the election. The railways were the people's assets, and the Government would not have fair play while Speight was there with this "insolent, obstructive and defiant attitude" to thwart its wishes.

There was, meanwhile, also a drama behind the scenes in which The Age played a leading part. Munro, whom Syme had "put up" as Premier to replace Gillies, had "hesitated to do his master's bidding" on the railway and other reform issues which Syme had been advocating. The latter, therefore, notified one of Munro's colleagues of his resolution that the Premier had to go, and despite Munro's action in following Syme by train and coach to a distant country estate to beg reprieve, all he got was "retirement" to the Agent-Generalship in London. Shiels (who, Syme noted, had already had a personal brush with Speight) was "installed in his place" as Premier on 16th February, 1892, and according to Professor Shann "obeyed orders and suspended Speight, Ford and Greene, the three Railway Commissioners".¹⁶ This was done by Order-in-Council of 17th March, 1892.

The action was taken a few days before Shiels had to deliver his election speech. In this he appealed to the electors to vindicate the Government's action,¹⁷ and as had been promised his campaign was given most favourable publicity by The Age. The response was a sweeping victory for Shiels. When Parliament reassembled it was expected that consideration of the Government's action would form one of the major items of the Session, and almost immediately a petition was received from the Commissioners requesting a full inquiry into the charges made against them.

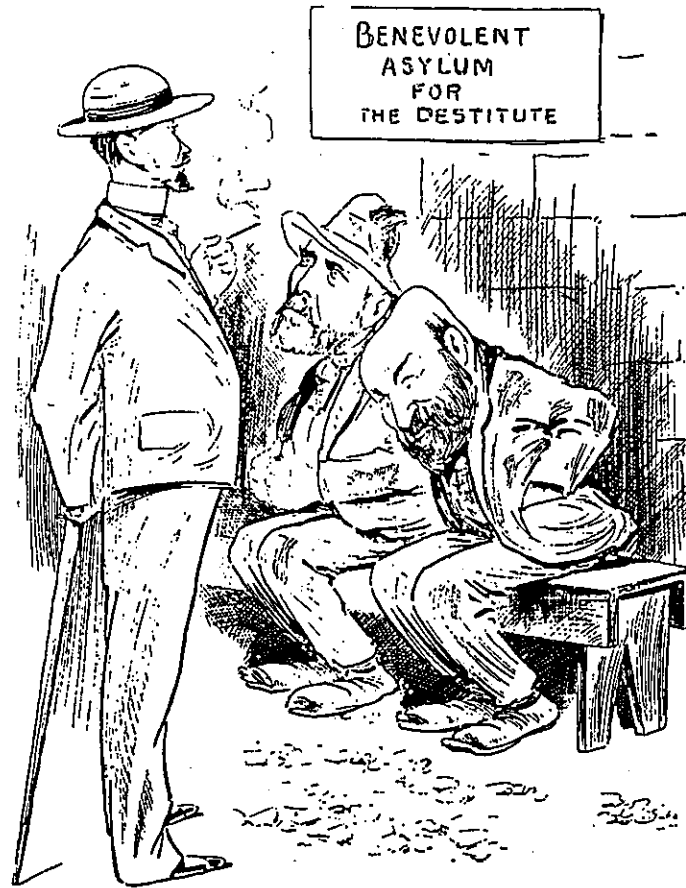
On 25th May Wheeler moved that the House vote an address pray-

ing for confirmation of the suspension of the Commissioners. 18 He outlined in detail the events leading up to the Government's decision to suspend (although of course he played down the role of The Age), and read out items of correspondence between himself and the Commissioners, which are printed in Parliamentary Debates with a full statement of over a dozen grounds for suspension, all of which have been covered in the foregoing description of the preliminary events. The ensuing debate involved counter-charges and demands for a full inquiry, but before a vote was taken Shiels announced receipt of a letter from the Commissioners, in which they submitted their resignations. This followed behind-the-scenes negotiations in which the Government had offered to deal liberally with them in the matter of compensation. Shiels commented that the Government's only desire was:

"to obtain possession for the State of its great railway system, that it might be administered in accordance with what the Government believed was the national interest and the national will." 19

Most of the parliamentary leaders warmly applauded the compromise, which involved an offer to the ex-Commissioners of a retiring allowance equal to half the salary they would have earned during the unexpired portions of their terms. Speight was also promised payment of travelling expenses should he desire to return to England. Ford and Greene were each given the opportunity to take another position in the Victorian Public Service as an alternative to the retiring allowance.

However, many interests with old scores to settle against The Age gathered around Speight and encouraged him to issue a writ of libel against Syme, claiming £25,000 damages. Pratt wrote in 1908 that there "then ensued the greatest libel action of modern times" 20 - indeed, half a century later it has rarely if ever been surpassed for the technical complexity of its briefing, the voluminous written documents submitted in evidence, the costs involved, the length of the hearing, and the great cleavage it occasioned between the Liberal and Conservative forces in the community. Known at the time as "The Great State Trial", the hearing took 94 days between June, 1893 and February, 1894. Public interest in it was enormous. Syme pleaded fair comment, but the jury gave a "general verdict" for Speight, with damages at £100 only. However, the Judge rejected the finding, claiming that a separate verdict was necessary on each of the eleven counts of libel. The jury then found for Speight on one count with £100 damages, but failed to agree on the other ten. The hearing cost The Age £21,000, Speight £8,000. But a national defence fund was formed to assist the paper in its loss, and not satisfied it applied for a new trial on the ten counts on which the jury failed to agree. Seeing it as a matter of honour, Syme refused two offers to settle the action out of court; the second trial took 86 days, and on 26th September, 1894 the jury returned a verdict for the paper on nine counts and for Speight on one, awarding



HOW IT MAY END.

Syncretistic Visitor.—"WHAT BROUGHT YOU TO THIS, MY GOOD FRIENDS? DRINK I SUPPOSE?"

Speight and Syme (both together).—"NO; LIQUOR CARE."

Plate VIII

The Great State Trial - Speight V Syme

From Melbourne Punch, 25th January, 1894.

him one farthing damages. Speight was ruined financially, and Syme's total costs amounted to £50,000 - but he regarded himself as vindicated. Speight died a few years afterwards, a broken man.²¹

Operations 1892-1895

Other Australian public corporations have been the subject of crisis inquiries from time to time, but probably none has suffered so much public criticism and controversy as did this pioneer corporation during its early years. Even with the 1891 Act in operation and the Speight affair finally disposed of, it had still not emerged from its growing pains.

After the suspension of Speight and his colleagues, Messrs. R.H. Francis, W.M. Kibble and F. Rennick (the latter replaced after a few months by K.L. Murray) were given acting appointments as Railways Commissioners, and taking advantage of the changed tenure provisions the Government subsequently confirmed these appointments for one-year periods only. During 1894 they were replaced by another provisional team, Messrs. J. Syder, T.H. Woodroffe and R. Lochhead. They were all Victorian Railways officers, holding positions such as Traffic Manager, Assistant Traffic Manager and Telegraph Engineer. One was already retired, and some at least, notably the two Chairmen Francis and Syder, were among the officials whom Wheeler and Shiels had consulted and who had assisted in drawing up the retrenchment plans to which Speight had objected.²²

It was a period of extreme depression, and the salaries of the Commissioners themselves reflected the economy order. Francis received £1,500 (half the statutory entitlement) and his two colleagues £1,250 each; but the second team served without any variation in their existing remuneration, the Chairman receiving £690 p.a., one of his colleagues £836 p.a., and the other (the retired official) continuing to draw only his pension of £457. The Commissioners thus drew a smaller salary than some of their officials (e.g. Secretary £880, Engineer-in-Chief £1,063, Accountant £668); and the adverse effects of this situation were soon apparent. Shiels, again in opposition, called it "one of the most iniquitous and one of the most senseless pieces of administrative action" he had ever heard of.²³

Nevertheless these Commissioners did what was required of them. They effected numerous economies and reorganisations. In the first year they reduced train miles by 800,000, and there were more reductions in following years. They retired all sexagenarians without replacing them, they amalgamated various branches and offices, they curtailed the working time of staff (in addition to the salary reductions imposed directly by Parliament), they postponed new works and they adopted an increased scale of fare and freight rates. Even so, deficits continued, and the unquenchable Bent, still

critical of "irresponsible men" in control, supported many deputations to the Commissioners and various protest meetings around the country which claimed that the new policy prevented people from travelling by restricting services and that increased charges discouraged traffic. In defence of the Commissioners, Wheeler stated that they had realised their duties would be unpleasant, and had only accepted office after much persuasion. However, "they were loyal and true to the Government", and there was growing a general desire to absolve them from responsibility for the deficits.²⁴

The second team of stop-gap Commissioners reflected some of Speight's difficulties, and the much milder reaction to their comments confirmed that Parliament's attitude was mellowing. After listing the economies that had been effected, they referred to the great financial handicap of new lines which would not pay until the country they opened up was extensively developed. This made it impossible to comply with their mandate to make the railways pay. They suggested that in order to fix a clear policy and to give them some freedom of action within this, Parliament should decide on a fixed rate of interest (say 3% on total debenture capital) which the railways should be called upon to pay, the difference between this and the actual interest bill to be made up by Parliament. Since the State was making up the deficits anyway, they also used Speight's old argument that the State subsidy was more than repaid by the addition to the general wealth of the colony made possible by railway extension and services. Their reports referred also to road competition (by teamsters - the motor, bus and the semi-trailer were still unknown!), and finally "with some diffidence" the Commissioners drew attention to the "tentative and anomalous" character of their own appointments and the uncertainty that existed as to future railway policy, factors which they considered were not calculated to secure the best system of management or a spirit of emulation or esprit de corps among the staff.²⁵

Like Speight and his colleagues and despite the fact that they were appointed undisguisedly to carry out the Government's retrenchment policies, these Commissioners did not always find it easy to get on with their Ministers. H.R. Williams, Minister of Railways in the first Turner Government, was a reasonable soul if his own words can be believed. He admitted he had made various suggestions to the Commissioners (e.g. that one should stay in Melbourne and do the office work and that the other two should become travelling inspectors), but stated that they had not always agreed with him. However, he saw the force of their views and did not persist, for he recognised that they knew a lot more about railways than he did. Williams also mentioned that they had complained that Section 24 of the 1891 Act allowed the Minister to usurp their full powers if he so desired,²⁶ and the evidence suggests that they had had bitter experience of this when Richard Richardson held the portfolio in 1893-4.



A BAD MULE TO MANAGE.

SPEECH—"I wish you luck. I got broken up at that game myself, and you'll have to be careful, young men, or that old brute will do for you."

Plate IX

The Unenviable Task of the New Commissioners, 1894

From Melbourne Punch, 5th April, 1894.

After leaving the Ministry, Richardson told the Inquiry Board set up in 1895 that the undertaking was managed from the bottom rather than the top, but his own actions must have gone a long way towards undermining the Commissioners' authority. On 24th January, 1894 he forwarded two memoranda to the Commissioners instructing them to advise all Locomotive Branch staff, station masters and traffic inspectors interested in gaining promotion to forward to the Minister a written statement showing how they would proceed to re-organise their branch by reducing either the cost of work or the number of employees, or listing defects in the organisation as a whole and offering schemes to overcome them. Such suggestions would be considered "as indicative of the ability of the officer, and making him eligible for promotion"; and (suggesting the even more unorthodox ministerial motive of thus checking on senior officers) they should be sent direct to the Minister and not through the ordinary official channels. It was apparently pointed out to Richardson that his request conflicted with regulations in force providing penalties for staff addressing communications in connection with their duties or their position other than through their superior officers, or seeking to obtain influence to further their careers, for on 4th April, 1894 he issued a further instruction to the Commissioners curtly ordering them to repeal the inconvenient regulations. They were not sufficiently entrenched to stand on their legal rights as Speight did on occasions, but even if they had been, Speight's fate would probably have discouraged them.²⁷

They did, however, include the following comment in their reply to the Inquiry Board Report: "We can only say in regard to (Richardson's criticism) that if anything was done to disorganise the service, or bring about management from the bottom, it was done by that gentleman who listened to and encouraged the statement of grievances or complaints of any dissatisfied or malicious employee who chose to approach him, and endeavoured to override the Act by exercising powers which were therein conferred on the Commissioners."²⁸

FIVE: AN ATTEMPT TO RESTORE INDEPENDENCE:
AND THE RESULT - SOME GAIN IN CLARIFYING RESPECTIVE
SPHERES OF AUTHORITY¹

The Railway Inquiry Board

In 1895 an "Inquiry Board into the Working and Management of the Victorian Railways" was appointed under the Chairmanship of Judge Casey. To further ensure impartiality a Legislative Councillor from Tasmania was appointed to the Board, which in addition secured the assistance of top officials of the South Australian and Tasmanian Railways as investigators and advisers. The Board examined numerous witnesses (including Speight), and its Report² included the first clear reference to the growth of cohesive staff pressure and emerging unionism as factors contributing to the disorganised state of the Railway Service. It found that political pressure on petty issues had not been extinguished, but was still successfully securing reductions in freights and fares, averting staff punishments, and securing the employment of casual labour.

The Inquiry Board advanced a detailed scheme for instituting a system of "independent management on behalf of the State" (but not by an agency of the State!³) which would preserve public ownership but cut out all political influence, ensuring operation on sound commercial lines. The scheme involved the abolition of the railway system as a "Department of State", its entire separation from the Public Service and public service practices, and the creation instead of a body corporate to be known as the Victorian Railways Trust. This body would consist of one Minister of the Crown to represent the State but to have no special powers (he would preferably not be Chairman), and four other members appointed for their probity and business capacity and entirely divorced from politics. They would be removable only on a vote of both Houses, and would have staggered terms of office to provide continuity of policy. Under them, and responsible for the administration of the system, would be a General Manager whose appointment and dismissal would be subject to the Trustees' approval. The Trust would have no connection with railway construction, it would have its own railway account independently of the Treasury subject to certain safeguards both in the public and in its own interest, and the General Manager would make all subordinate appointments subject to its approval. The Government's role (apart from the Minister's vote) would be reduced to a power to rescind by-laws and an obligation to indicate how losses on new lines handed over to it should be met.

These proposals formed the basis of further railways legislation submitted to Parliament late in 1895, but there can be a few

cases in parliamentary history in which the final law bore less resemblance to the bill originally submitted.

The 1896 Legislation

The Victorian Railways Trust Bill followed the recommendations of the Inquiry Board with a few important modifications. Williams, the Minister, was accused of showing a hesitating half-hearted attitude during his second-reading speech, and both the press and the Opposition alleged that he had been shut out of the secret enclaves of Ministers in which the Bill was drafted.⁴ In the event, the luke-warm attitude of most Government members to their own proposal was comical in the extreme.

The main changes from the Inquiry Board's recommendations involved in the original draft not surprisingly concerned the question of political supervision. The Minister sitting on the Trust was to be ex-officio Chairman, and if he was likely to be outvoted he would be entitled to request deferment of a decision for one week to give time for consultation and second thoughts, after which the decision would be taken by a majority of votes with the Chairman having a casting vote. If the Government was still defied its remedy would be to consider the deposition of the opposing Trustees. The Trust would make its own by-laws without consent of the Governor-in-Council, but they had to be tabled in Parliament, either House being able to annul them - if Parliament was not sitting, the Governor-in-Council could postpone operation of the by-laws until it resumed. The Governor-in-Council would appoint the General Manager, although he would be responsible to the Trust in the performance of his duties; and the Governor-in-Council would also appoint a special Railway Auditor to serve within the railway organisation. The only concession towards independent railway finance would be the setting up of a Railways Stores Suspense Account, which the Inquiry Board had reported had vastly improved stores control in Tasmania. The Trustees would receive £750 p.a. plus travelling expenses, and according to Williams their role would be largely that of inspectors travelling about looking for weaknesses and directing the General Manager in overcoming them. Finally, the draft Bill contained an instruction that the Trust and not the General Manager was to receive all deputations (in order to keep political pressure away from those involved in detailed administration), and perhaps most significant, it provided for the first time a "recoup" clause under which the Trustees were entitled to be reimbursed the amount of any loss incurred as a result of political intervention.⁵ The latter clause will shortly be discussed in more detail.

The immediate reaction to the second reading further underlined the confusion about the location of responsibility in agencies such as the railways which had been allowed to depart from the orthodox type of ministerial control. The Opposition Leader, Sir John McIntyre, could

not see how political influence could be excluded if the Minister was to be Chairman, and others thought it specious of the Government to say that politics and administration could be divorced simply by interposing trustees between Government and General Manager. On the other hand Shiels saw it as a return to the independence and irresponsibility of the Speight period, and bitterly accused the Ministry of asking the House "to return like dogs to their vomit". Shiels again used a business analogy, seeing the Victorian taxpayers as shareholders and Cabinet as their board of directors - he argued that the whole idea of further separating the railways was based on "a false analogy". He attempted to shelve the Bill, but Premier George Turner took this as a want-of-confidence motion, and after many appeals that members be allowed to vote on the railway issue free from political embarrassment Shiels withdrew his motion and allowed the debate to proceed.

In committee an amendment was immediately introduced substituting the existing politically-dominated Board of Land and Works for the proposed Trust. The proposer believed that the Railways General Manager should function under the Board, the former to be responsible for efficient management and the latter to ensure that Parliament retained the ultimate control essential because of the national rather than the commercial purpose of the railways. This suggestion drew support on the ground that:

"a parliamentary board . . . would be amenable to the influences at work in Parliament, and in harmony with the fundamental principle of our government, namely, direct representative responsibility".

Seeing that there were only three or four supporters for the original plan outside the Ministry, Turner then asked the House to make sure it had a better alternative before striking out the Trust. He advised that other suggestions had been submitted for consideration:

1. an expert General Manager without other controlling body;
2. a General Manager assisted by an advisory board, perhaps consisting of the present Commissioners;
3. a controlling board of members of Parliament (but already the House had a committee in the Government, which should be the limit of such control);
4. restoration of full ministerial control, as had already happened in New Zealand;
5. retention of the present system, i. e. three Commissioners;
6. a Board of Control made up of Ministers, similar to the Board of Land and Works (but this would be too

time-consuming, and if there was to be full control it would be better to have one Minister with clear responsibility).

The Government, reinforced by the opinion of the Inquiry Board, thought the Trust it proposed better than any of these, but if Parliament would not accept this then it would prefer to follow South Australia in appointing a single Commissioner in the same role as the present three Commissioners and with the same degree of political control, in effect as an expert general manager. Deakin made another suggestion, the proposed Trust-less the ministerial chairman (with the Minister merely "the watch-dog" of Parliament); and Shiels and others tried an amendment that the present system remain, but this was negatived. Turner eventually moved an amendment substituting one Commissioner who would be a general manager but with the rights and authorities of the present Commissioners; and this was agreed to without division, after 86 pages of debate on the earlier abortive proposals. It was a good case of legislation by exhaustion.

There were two subsequent objections in the Assembly: that a board would act as a buffer between Manager and Minister to filter off political pressure, whereas a single man would stand face to face with the Minister and even be deprived of that security which mere weight of numbers can give; and that - an interesting legal point - there was a danger in vesting all the railways property in a single man, for the title would be in dispute in cases of absconding or suspension. However, the bulk of the discussion centred on the question of who should be appointed. An amendment that Richard Speight be the first Commissioner was quickly disposed of, but the Government had much more trouble with a proposal that its choice be limited to residents of Victoria. In view of wide opposition to "imported risks", the best Turner could do after voluminous debate was to widen the clause to residents of Australasia. He was, however, rescued on this point by the Legislative Council. The House also defied him for a long time in insisting on reducing the proposed salary of the Commissioner from £ 3,500 to £ 2,000, and only relented at the last moment by a very narrow margin. With the disappearance of the Trust, the House wrote into the Bill that only the Minister should receive deputations, and it deleted reference to the Trust from the title. The vital recoup clause was retained.

Few Bills can have received a more unorthodox introduction to an Upper House than that given this Railways Bill by the Leader of the Government in the Legislative Council, W. McCulloch. He stated that he had reluctantly entered the Ministry with a view to getting the railway question placed on a more satisfactory basis (and was made Minister of Defence!), and he regretted that the recommendations of the Inquiry Board had been opposed by Government supporters almost as much as by the Opposition. He was most disappointed with the course of events, "but the Bill has been passed in another place and

honourable members must do their best with it". Describing this as the "pantomime season" in legislation, the Council quickly obliged him by restoring the Trust by 27 votes to 4 (McCulloch out of loyalty to the Government among the four noes) and returning the Bill to the Assembly in its original form.

During the ensuing inter-House negotiations, the Council forwarded a statement of its views to the Assembly: briefly, it believed the Trust would ensure management on a sound commercial basis whereas the Assembly's version would reinforce the system of political influence which had in the past been so fatal to the successful working of the railways. A meeting of House "managers" was then arranged, and a compromise achieved by which "there shall be a general manager to be called the Commissioner" (the Government having unlimited powers in his selection), to be assisted by a Board of Advice consisting of heads of branches. This would meet regularly to discuss policy and other issues, with the Secretary for Railways taking minutes in a form prescribed by the Governor-in-Council. A surprising feature was the deletion of the clause insulating the Commissioner from deputations, for this had been accepted by the Assembly and was consistent with the aims of the Council.

Significant features of the Act⁶ were the retention of the term "department" (already a misnomer) as opposed by the Inquiry Board, the equating of the general manager and commissioner concepts (shown further by the assertion of a Minister that the Victorian system would henceforward be similar to that of South Australia, Queensland and Tasmania, for at this time the first two had a "Commissioner" in control, the latter a less independent "General Manager"), and finally the recoup clause (Section 14, renumbered 108 in 1958 Railways Act). The latter was an important contribution to the development of the idea of the public corporation in Australia, and has been copied in principle if not in actual words for many other corporations in the transport field. Although it occasioned very little debate in 1895-6, the underlying idea had been slowly crystallising during the previous decade.

After Shiels had waited on Speight in the late 1880s to get further fare reductions and had been refused, he took a large deputation to Gillies (then Premier, Treasurer and Minister of Railways) seeking a Government order for the reduction of rates by £100,000 p.a., which amount would then be made up to the Commissioners. Again, early in 1895 there was a motion before Parliament for a 20% reduction in country freights and fares, with the rider that a refund should be paid to the railways out of general revenue and direct taxation levied to recover the amount. Premier Turner had no objection provided all aspects were authorised at the same time; but Parliament on that occasion had second thoughts and the motion was dropped after 77 pages of debate.⁷ In the debates on the 1895-6 Bill, Williams and Turner briefly explained the intention of the clause: when Parliament made an



NO MORTALS NEED APPLY.

PREMIER TURNER.—"Yes, my angelic friend, we want a superhuman Railway Manager—one who can save us £10,000 a week, and yet who must not dismiss hands nor reduce wages, raise fares, raise freights, close lines, or reduce interest. Observe, we will allow him a perfectly free hand."

ANGELIC APPLICANT.—"And you expect your Manager to make the Railways pay under these circumstances? I'm afraid I won't suit—I'm not a miracle-worker. You do not want an archangel merely—you want a god. Good day!"

Plate X

Railway Management, 1896 Style

From Melbourne Punch, 27th February, 1896.

alteration in the law or directed the carrying out of a new system or the construction of a new line, the amount of any loss thereby caused, provided it was certified by the Auditor-General, would be made up by Parliament in the Annual Appropriation Act. Shiels then pointed out that since Section 24 of the 1891 Act was being retained the Minister would continue to have powers of intervention, and the clause was therefore widened to include directions by the Governor-in-Council.

Few members thought it necessary to refer to the clause at all in their speeches but those who did anticipated future controversy about it. One considered it would bring political interference into the open and was, therefore, most useful, but only Williams suggested that it could give fresh hope and incentive to the railway management. On the other hand an opponent described it as a farce, since Parliament had been regularly making up railway losses in the past without such a provision - moreover, it was "entirely unusual if not unconstitutional to commit it in this way".⁸ The clause had the great merit (if fully observed) of affording the Commissioner some measure of protection against indiscriminate political interference, of presenting him with a better chance of making the railways self-supporting, and of forcing governments and Parliament to accept a direct financial responsibility for each act of intervention rather than allowing them to make scape-goats of the railway administration in an annual reckoning in which specific causes were often forgotten.

Operations 1896-1906

The new Commissioner was John Mathieson, an Englishman who had had experience in both the New Zealand and Queensland Railways. Under his management the deficits slowly decreased in size, but the general economic position was improving and business with it. Staff recruitment and increments were resumed, a general reclassification undertaken, an appeals board and other committees set up, and the Stores Suspense Account introduced. However, Mathieson's Annual Reports⁹ repeated many of the complaints and explanations offered a decade earlier by the unfortunate Speight, and also by the stop-gap Commissioners. For example, he complained that the railways were being unfairly treated in not being allowed credit for work undertaken on behalf of other departments (Speight had been called "insolent" for making the same point); and he was very critical of the laying of narrow gauge lines as an economy measure, and reported that he was relaying lightly constructed routes with heavier rails (again cf. Speight). He also pointed to the difficulty of the non-paying lines, but asserted that the losses on them were justified by their developmental value; and he emphasised the further difficulty involved in repairing and replacing locomotives and rolling stock, since it was not the policy of the State to provide a reserve fund. Parliament now seemed generally more considerate of the problems encountered in

operating the railways in a political environment, although it was no more prepared to renounce its own part in contributing to these problems than before.

The index for each Session's Parliamentary Debates contained a dozen or more columns of closely printed entries referring to questions, motions and orders for returns on petty subjects such as increments for junior clerks, the conditions under which leave was granted an inspector of works, the residence for the Hamilton station-master, sight and hearing tests for railway officials, locomotive costs, carriage lamps and goods lost in transit. Deputations continued to wait on the Commissioner, and with or without government support parliamentary committees inquired into allegations concerning the Locomotive Branch, and questions such as locomotive spark arresters, fires caused by engine sparks, and railway carriage lighting. Other committees were appointed to examine staff questions such as the dismissal of a porter (on this occasion Parliament was informed that the railways corporation was using "Star Chamber methods"), and there were long debates on the cases of individual employees such as Walter Reynolds and Joseph Hall. Resolutions on free passes, fortnightly pay, and the stopping of increments on salaries over £ 600, were carried, and political pressure led to the removal of gate-keepers from level crossings. Sunday traffic and the "butty-gang" system¹⁰ were also hot political issues.

Historian Turner wrote:

"Notwithstanding the vigorous efforts initiated by Mr Service to remove the railway management from the grip of the politician, the position of affairs in the last decade of the century was deplorable in the extreme. Not one of the many Ministries in power during that period had the courage to grasp the nettle. The experienced professional manager brought in to succeed Mr Speight soon realised how impossible it was to control even the workmen in his employ. Half a dozen obsequious Members of Parliament, nervously mindful of the railway vote, were ever ready to champion in the House the cause of any dissatisfied servant. The Commissioner did some good work in trying to bring an over-capitalised investment of £40,000,000 under intelligent commercial conditions, but political interference was too strong for him. He was finally glad to return to England to assume control of one of the largest railway companies, where he could exercise an unchallenged authority."¹¹

Mathieson was replaced as sole Commissioner by W.F. Fitzpatrick, Traffic Manager in the Victorian Railways; but in 1903 control re-

verted to a board of three Commissioners in circumstances which will shortly be described.

The two most vital aspects of the working of the railway system, from the point of view of its political relationships (and through them its path-finding experiment in public corporation management), were the issuing of directions to the management, and the operation of the recoup clause. These aspects were made complementary by the 1896 Act. One result of the close interest taken by the Victorian Parliament in its railway system was that most of the relevant issues were fully aired in Parliament: communications between Minister and Commissioners were frequently read out and were therefore recorded in the Parliamentary Debates. While this state of affairs was unfortunate from the railway point of view, it helps the research student by preserving certain material that would otherwise have vanished in the destruction of old files. Some such cases will now be described, with a view to illustrating how the direction and recoup provisions were used.

In December, 1896, when Mathieson's intention to increase fare and freight rates became known, many members in a long debate wanted the Government to refuse to approve the relevant by-law changes. Premier Turner pointed out that this would constitute a political direction, and that Parliament would have to make good the difference between the existing and proposed rates if such a direction were given. Although the motion was negatived, there was even at this early stage an objection on the ground that this constituted a matter of public policy on which Parliament should not be bound, and also that the recoup clause applied to orders asking the Commissioner to take certain action, but not to orders restraining him from taking action proposed on his own initiative.¹² Both in this case and in the matter of a resolution moving that the minimum rate of pay for adult labour be 6/- per day (which he also persuaded Parliament not to persevere with),¹³ Turner had lengthy discussions with the Commissioner resulting in compromise agreements which did not bring the recoup provision into play. In the rates issue Mathieson's concession was to leave farm produce at existing rates while increasing all others.

However, the farmers' representatives in Parliament were very vocal, and with the country entering a period of drought there were further representations for reductions in grain transport charges. Turner made appropriate concessions in his Budget - he pointed out that the Commissioner gave notice that he offered no objection to the alterations being made, provided the 1896 recoup provision was used to ensure that the railway revenue would not suffer. Since the reductions involved a political direction to the management, the House would therefore "have to vote a certain amount to be placed on the Estimates to recoup the Railway department".

The House on this occasion agreed to the recoup, and the necessary direction was given in December, 1899. A similar direction involving a Treasury recoup had already been given in respect of coal traffic. ¹⁴ But few politicians saw that these adjustments meant more to the management than a mere book-keeping entry in the public accounts. The Commissioner's Annual Report for 1899-1900 referred to the "salutary" effect of the recoup provision, and considered that if it had been retrospective it would probably have wiped the accumulated deficit from the railway accounts. ¹⁵

An issue which did not involve a recoup was raised in 1900. It concerned the running of excursion trains for Sunday Schools and similar groups on certain public holidays. The Commissioner proposed to discontinue these services because of the great inconvenience caused in making available, cleaning and converting the goods waggons which had to be used. The Advisory Board minute endorsing this decision happened to be the first A.R. Outtrim was called on to read after becoming Minister of Railways, and (as he later told the House), since he thought the Minister should do more than merely initial the minutes, he had attached a note asking the management to reconsider the loss of revenue and the strong public feeling which would result. However, a subsequent Advisory Board minute confirmed the decision. Then ex-Minister Williams informed Outtrim of his intention of moving the adjournment of the House to allege that racing interests were behind the decision, desiring to stop the movement of traffic away from Melbourne on Cup Day. Outtrim asked the Commissioner for a statement to put before the House, and had the matter considered in Cabinet. After "very serious consideration" in view of the expert knowledge of the Commissioner, the Government decided that the railway stock should be used for the benefit of all sections of the community, and therefore invoked Section 24 of the 1891 Act, asking the Commissioner in writing to formulate a scheme for the reintroduction of excursion services for Sunday Schools and other bodies. The Commissioner responded to the Government's satisfaction, and Outtrim related the whole episode on Williams' adjournment motion. Suspicion of the "irresponsible" agency, and lack of adequate discrimination between corporations and departments, were still evident in future Premier Alexander Peacock's remark: "That is very satisfactory . . . We are not going to allow the Railway Department to boss the House"; and in Williams' enthusiastic comment: "That is putting the screw on" - his later years as Minister with restricted authority had apparently embittered him also. ¹⁶

Later in 1900 the debates on the Supply Bill produced the first of a long series of annual criticisms of the recoup provision. R. T. Vale in particular was opposed to it. He described the vote of £60,000 to be paid by the Treasury to the Railways Commissioner as a farcical matter of cross-entries, and a fellow-critic claimed that the Commissioner hadn't proved the amount of the actual loss. The Commissioner

replied to this criticism in his Annual Report for 1900-01, quoting the relevant Section and pointing out that it provided for the railway system to be compensated for the total revenue it lost as a result of directions given (i. e. not the actual net operating loss - it was immaterial whether the normal revenue might include a profit margin).¹⁷ The parliamentary attacks were, however, repeated in later years, and various Ministers stated that they were not satisfied with the system. Back as Treasurer, Shiels returned the railway estimates and had a long conference trying to beat Fitzpatrick down on his claim for reimbursement.¹⁸ The demoralising effects of operating a service which will inevitably show a loss, and the benefits to be gained from having at least a chance to return a profit and striving for that goal, have been clearly argued by Sir Frederic Eggleston in relation to the Victorian Railways;¹⁹ but as we have seen, this was ignored by most Victorian politicians. Surprisingly, the Commissioners themselves did not make any effort until 1917 to claim recoups in respect of non-paying (or "political") lines constructed since the passing of the 1896 Act, although these were covered by its terms.²⁰

The relationship between the railways management and its political supervisor was complicated by the spectacular reappearance of the fiery Thomas Bent as Minister of Railways in June, 1902. A few months before, as a private member, he had again sought a return to a responsible minister, and Parliament carried his motion that the railway estimates be reduced by one shilling as an indication to the Government that officers receiving more than £ 600 p. a. should not be paid increments.²¹ On taking office in the Irvine "economy and reform" Government, he wrote under Section 24 asking the Commissioner to propose a scheme for a reduction of £ 180, 000 in railway expenditure; the scheme involved amongst other suggestions the placing of men on short time. However, Bent soon found occasion to object to the Commissioner about excessive hours worked by signalmen and engine-drivers, and in reading Fitzpatrick's reply to the House he commented:

"That is the reply of the gentleman who, by law, is authorised to give it ... but ... such things should not have happened, and I think that in any well-regulated business establishment they would not have happened."

He "made a memo in the department that no one should work more than 6 days a week", and if he heard of this happening he would soon put a stop to it if he had the power. G.M. Prendergast, an early Labour leader, was soon alleging that Bent was carrying out his will by threatening to drive officers out of the railways, and the Minister made a tacit admission of one such case.²² Bent's out of character performance in handling the 1903 Act will shortly be described - more in character were his tactics in employing four men, on a fee basis and unconnected with the railways organisation, "to make inquiries ... when the general public have made complaints, and I could not get the

information in any other way."²³

Few members saw anything wrong in this situation; to most Bent was doing a much better job than, for example, Gillies had, as Parliament's "watch-dog". All this derived from the fact that the Minister of Railways did not have a clearly subordinate department which he could call his own. As a public corporation, the Victorian Railways possessed greater autonomy than the normal department, and could exercise numerous powers in its own right. Bent's small "secret service" was in a way the forerunner of the embryo "Ministry" which now operates in Victoria as a kind of secretariat to the Minister of Transport in his dealings with associated public corporations.

Soon after becoming Premier as well as Minister of Railways in 1904, Bent prevented the signing of a contract for two years' supply of New South Wales coal, and insisted that the Victorian industry should have a share of the railway market. He also fixed the contract price for the local coal at a higher price to encourage the industry, and the Commissioners therefore claimed a recoup. But the whole recoup idea was now constantly under fire: to a claim that it was time the item disappeared, Bent answered "You are quite right"; to a request that he wipe out the item, "I will".²⁴ Surprisingly in view of the lack of defenders, and fortunately for the Victorian Railways, the recoup clause survived Bent and remains in the Statute Book.

But the principle involved did not survive unscathed. The Irvine Government in 1903 had already taken unilateral action to reduce the amount being paid as a result of the 1899 directions, which were still in force. It had asked the Commissioners to submit a proposal showing how this could be done, but the Government did not accept their scheme and determined its own course - it halved the amount of reimbursement in respect of the grain traffic order. The Commissioners pointed out that they were entitled by law to increase grain rates to make up the difference; but they had decided only to go half way, thus splitting the loss involved in the Government's part-repudiation of its legal obligations under the 1896 Act between the railways and their customers.²⁵ If the Government had complied fully with the law the railway revenue would have been greater by £24,000; but despite this the undertaking was beginning to show consistent profits owing to economic recovery, better seasons, improved management, and possibly (as later alleged) voluntary starvation of maintenance to carry political favour.

In 1906 the Commissioners claimed only half the recoup they were entitled to following the 1903 adjustment, but Bent hinted that he had brought about this further concession. He again announced his intention of rubbing the recoup out altogether in the following year. On numerous other occasions he made statements such as "I am no slave to the Railway Commissioners", and "I fancy if they tried that we would be able to put a stop to it". He gave orders concerning the introduction

of tapering rates, and refused various bonuses and increments proposed by the Commissioners.²⁶ There was an argument about whether all salary increases had to be approved individually through the machinery of the annual Appropriation Acts as the Audit authorities suggested, as well as those over £500 specially reserved for ministerial approval under the 1891 Act; and another about the Commissioners' suggestion that Parliament, which had authorised the payment of pensions to railway employees, should also provide the funds to pay them under the recoup clause. The Commissioners were criticised in Parliament on these and numerous other grounds, and when Bent asked them to furnish a reply there was much plain speaking on both sides. The passage where he read their reply out to the House, interlacing it with his own sarcastic comments, makes amusing reading indeed.²⁷ One quality Bent did not possess was loyalty to his "department" - but he would have argued that it was a most improper department in that he did not have unfettered authority, and that this circumstance excused his unkind references to it. Since it was not really a department at all, his position was certainly an anomalous one. To those who believed in full ministerial control and responsibility, the restrictions imposed on the Commissioners in 1891 did not go nearly far enough.

A final illustration of the political involvement of the railways management is provided by the revival of the Sunday trains issue in 1905, after the Commissioners began to operate special Sunday excursions at substantially reduced fares. This had of course been reserved for political control in the original Railways Commissioners Act, and was therefore technically a legitimate field for political interest. A storm of controversy resulted, and before a compromise was reached, an avalanche of petitions had poured into Parliament (250 between June and August 1905), the Commissioners had explained that they offered cheaper fares on Sundays when other traffic was lighter because it was their duty to make money for the railways in every way they could, their explanation had been described by sabbatarians as utterly subversive of the desire of Parliament and the country, and the whole range of prejudices on the Sunday observance question introduced to complicate the railways' case.²⁸

SIX: EARLY TWENTIETH CENTURY DEVELOPMENTS

Further Inquiry and Legislation

It is necessary to return to the opening years of the century to trace the movement for a return to the three-commissioner organisation. Vale, one of the leading critics, was often attacking the irresponsibility of the system, and his complaints were reinforced by a growing volume of accusations that official or bureaucratic patronage had replaced the earlier political patronage. There were also other allegations of poor supervision and dishonest practices. Between the passing of the 1896 Act and the return of Bent, comments such as these were frequently made:

"(the Minister was) a mere dummy, a figure-head placed at the department (who) simply came down to the House and told honourable members what the Railways Commissioner told him to tell them ... the Minister did not know anything - it did not pay him to know. If the Minister knew anything, he might be held responsible...";

"it would be better if we had Ministerial and responsible rule at the Railway department, instead of the bureaucratic absurdity which existed at the present time." 1

With Mathieson's reappointment or replacement pending, the Government undertook to give Parliament another opportunity to discuss the question of railway management; and discontent was further increased when the acting Commissioner, Fitzpatrick, rightly or wrongly gave his own brother a senior appointment. In August, 1901, Vale moved for the appointment of a Select Committee to inquire into "the system of promotion in the Railway Department, and its general management, financial and otherwise". Despite opposition by W.A. Trenwith, then Minister of Railways, the motion was agreed to, 2 and the Committee, which functioned under Vale's Chairmanship, eventually acquired the status of a Royal Commission to keep it together after the closing of the Parliamentary Session.

It submitted progress reports on appointments and promotions, and on fares and freights; and then a final report on the general management of the undertaking was presented in September, 1902.³ Among other things the Commission considered that there was frequent use of official patronage, that there was inequality in the treatment of staff, that the system of appointments and promotions was without method, and that the staffing provisions of the legislation were "strained in a way never intended by Parliament". It

also criticised time-tables and merchandise and passenger rates, and expressed grave doubts about the merits of the recoup provision. It concluded that accounts were not properly kept and did not correctly represent the working results of the railways, that there was an indefensible lack of provision for depreciation, that trains could be operated at higher speeds and do more work, and that they could be run more cheaply by judicious use of brown coal. For all these reasons the Commission concluded that "the experiment of so-called non-political management of the railways has not been satisfactory either to the general public or the employees of the Department". It therefore recommended the substitution of a board of three, of whom the Chairman would be the Minister of Railways, with power to veto major decisions going against him subject to reporting the circumstances of each veto in the annual reports tabled in Parliament.

Independently of the Royal Commission's deliberations, Trenwith announced that the Peacock Government had come to the conclusion that the railways were too large for one man to be able to manage satisfactorily, and that there should be a reversion to control by three Commissioners, one to be selected for special business capacity and the other two railway experts.⁴ However, the Government was defeated before it was able to prepare the necessary legislation, and it was left to the incoming Irvine Government to act on its suggestions. The Royal Commission was composed mainly of parochial politicians; it was certainly less expert than the 1895 Board of Inquiry, and even though there is no reason to doubt the validity of many of its findings it is not surprising that its recommendations had no more effect on the 1903 legislation than did those of the Board on the 1896 legislation. Both the Royal Commission and the Government favoured a three-man authority, but there was no suggestion of a ministerial chairman in the legislation and no significant change in the machinery for political control.

Even before the Bill was introduced the Premier, W.H. Irvine, announced the selection of Thomas Tait (who was Manager of Transportation in the Canadian Pacific Railway Company, and "free from the associations and untrammelled by the atmosphere which necessarily influences all those who have been brought up in connection with the bureaucratic management of State railways") as Chief Commissioner at a salary of £3,500 p.a.⁵ With the Government's intentions known there was little excitement about the Bill, and Bent as Minister of Railways not unnaturally, in view of his earlier attitude, seemed to lack enthusiasm in introducing it. He gave a sketchy and inadequate description of its provisions, doing little more than to explain that the Government believed such a large system warranted three Commissioners, and adding the information that Tait would be assisted by Fitzpatrick as one Commissioner and C. Hudson, General Manager of the Tasmanian Government Railways, as the other. He commented that the Bill was:

"based upon such business lines that it must meet with the approval of the business men I see before me ... the commissioners are to be a body corporate, and ... the property shall be transferred to these gentlemen, and I hope transferred with such conditions that at any rate the whole grasp will not be taken out of the hands of this House."

He also hoped that the gentleman from Canada would prove as good as was expected, and concluded that "the pleasures of hope are very predominant in me tonight"! 6

Always suspicious of public bodies in which ministerial control was limited, Bent had the personal misfortune to be associated with two of the greatest architects of the public corporation Australia has known, Irvine and George Swinburne, whose contributions have been recorded by Eggleston and Professor Sawyer.⁷ However, neither they nor W. A. Watt who followed them were very closely acquainted with the Victorian Railways, and this perhaps goes some way towards explaining why the railways did not enjoy all the advantages of other corporations created by them. Irvine eventually found it necessary to move Bent from the railway portfolio, although he quickly regained the reins when he succeeded to the Premiership. Even after this, however, he was not always able to have as full political control over public enterprises as he would have liked. For example it was his Ministry, through the personal efforts of Swinburne, which founded the State Rivers and Water Supply Commission (a model for many other Victorian public corporations); and it is recorded that Swinburne virtually rebuked him on one occasion for criticising the right of the Chairman of this Commission to make a statement of policy.⁸

During the debate on the 1903 Bill⁹ one Minister stated that Cabinet had examined closely the proposals of both the 1895 Inquiry Board and the Royal Commission before drafting the Bill. While it had seen merit in the Trust idea put forward by the former, it believed that very high salaries would be needed to attract capable business men for full-time appointments, and that if they were required to serve part-time only there was a danger that the duties would be performed in a perfunctory way. Cabinet had decided that if it could get the right men it would be wiser to return to three expert Commissioners. They would be appointed for terms not exceeding four years (it was subsequently recorded that the reduction from the seven year limit was made to fit in with Tait's wishes¹⁰), and the procedure for resolving disagreements between the Chief Commissioner and his colleagues would revert to the 1883 method.

A few members still preferred a board or a trust, but interest in the organisational aspects of railways management seemed to slacken noticeably after the Vale Royal Commission, and the Govern-

ment's proposals were quickly accepted. There was even a general feeling that too much had been made of the deficit in the past, and that by comparison the results of the Speight period were not so bad after all. Members now argued that people had overlooked other benefits such as the value the railway system had added to real estate throughout the country (and therefore to government tax receipts!), and the fact that if money had not been spent on railways much more would have been needed on roads. Parliament was prepared at last to recognise that the Commissioners had been heavily handicapped in having to carry the enormous interest account, much of which had been incurred by the politicians in their decisions about new lines. However, it was becoming easier for Parliament to be generous in its attitude for a marked improvement in the trading position of the railways was already apparent, and this endured up to the First World War. Except for the separate representation issue (which affected the rank and file rather than the management and will next be described) and a few questions of detail, the process of experimentation was at last disposed of.

After the passing of the 1903 Act ¹¹ there were four separate pieces of legislation affecting railways management on the Statute Book, each partly amended by another but not wholly superseded, i.e. the Acts of 1883, 1891, 1896 and 1903. However, with the consolidation of the Victorian Statutes the surviving provisions of each were incorporated into a single Act, and together with later amendments it is in this form that they now operate. ¹²

Further legislation had been expected after the new Commissioners had familiarised themselves with the system, Bent avowedly looking for a way to do away with the recoup clause. He did introduce a fairly comprehensive amending bill in 1904, but owing to pressure of time (and possibly some dissuasion in Cabinet) all clauses were dropped except those delaying the operation of by-laws until one week after publication in the Government Gazette, amending the upper limit to the Accident Fund, and - more important - creating two new funds, a Rolling Stock Replacement Fund and a Railway Loans Repayment Fund. The latter provisions represented a first step in the long and difficult road towards adequately providing for depreciation, maintenance, renewals and reserves. ¹³

The Separate Representation Issue

After the defeat of the unions in the strikes which became familiar following the collapse of the Land Boom, their leaders attempted to seek redress for the wrongs of which they complained through political action. The Labour Party was formed, and if for years it succeeded in getting only a few members elected to Parliament, yet its influence - conditional support for various governments

at the price of policies favourable to it - was much greater than its numbers. Besides, with a wide franchise, all politicians had to consider the demands of the many unionists within their electorates. As the railway system grew, so did the number of its employees depending for their welfare on political action; likewise with the regular departments of the Public Service. The tendency of these interests to form pressure groups was encouraged by the frequent attempts of Governments to restore financial order at their expense, e.g. salary reductions, stopping of increments and general retrenchments.

A great struggle began with the Irvine Ministry's Salaries Retrenchment Bill of 1902. In August a large meeting was organised by Public Service Associations, using as their spearhead the railwaymen who had threatened that if the retrenchment went through "the wheels would not go round". Sufficiently strong pressure was exerted to produce a parliamentary majority against Irvine's proposals. He then appealed to the country, and his Government was returned with a large majority. Election candidates had received circulars from the Service Associations asking them to declare themselves on the issue, and when the new Parliament assembled members again felt their pressure - however, while the public and railway servants were a very compact minority, the return of the Government showed that the electorate at large resented their attitude. 14

Nevertheless, as Eggleston remarked, "the public feeling was transient, and the service influence was constant". Irvine set out to overcome the "overweening political control over the affairs of this country" exercised by a minority interest concerned only with securing sectional advantages, whose vote was "like a wedge in every constituency" and frequently gave it the balance of power. He introduced a Constitution Bill which included among other reforms the unusual proposal that the public and railway officers should be placed on a separate electoral roll and be given separate representation in Parliament. In support of this proposal, Irvine stated that the railway employees had formed their own "classification committee" and prepared recommendations for salary increases - in a deputation they had threatened him by hinting that refusal to accept their demands had led to the downfall of another ministry. The Bill passed, but Eggleston later wrote that its discriminatory nature was offensive to a majority in Parliament, and that Irvine carried it only with his forceful personality and his threat to resign if it did not go through. 15

The Act¹⁶ provided that one member of the 68-seat Legislative Assembly would be elected by public servants on a separate roll, and two by railway servants on yet another roll. In the Legislative Council there would be one member elected jointly by those on a public officers' and railway officers' roll. The political influence of the State's own servants was thus theoretically reduced from the "wedge in every constituency" to a mere four members of Parliament.

The provisions did not operate until the following election. The first Parliament with separate representation was that of 1904 under Bent's Premiership, the special representatives being:

Legislative Assembly: David Gaunson, representing Public Officers
 Martin Hannah, representing Railway Officers
 R.H. Solly, representing Railway Officers

Legislative Council: W.J. Evans, representing both Public and Railway Officers

Experience showed, however, that while these representatives certainly raised a number of issues concerning their special electorates, they were by no means the only ones to do so.

The railway servants' ^{and of basic} representatives in particular came into Parliament pledged to repeal separate representation, which they claimed cut off a large number of intelligent people from their fellow citizens and placed a stigma on them - since there were many other pressure groups all using political influence they asked why only one should be singled out for discriminatory treatment. They were in the main Labour Party men, for the separate representation legislation had had the effect of uniting State servants behind that Party in an endeavour to seek other means of exerting pressure.¹⁷

Within a few days of the opening of the Session, Hannah introduced a Bill to repeal separate representation. Although this was shelved, he persisted over two Sessions and his campaign was finally successful. He extracted a promise late in 1905 that the Government would take over and proceed with his Bill. Bent obliged in July, 1906, commenting that if the special representatives did not abuse the Government enough their constituents still turned to other members, and pointing to the anomaly that Commonwealth Public Servants and even State pensioners and supernumeraries (i. e. temporaries) were not included in the separate rolls. Parliament showed no desire to persist with the reactionary legislation, and it was quickly repealed.¹⁸

Largely through their connection with the Labour Party, railway employees gained Classification Board, statutory appeals tribunals and access to the Arbitration Court, and their organised pressure has continued to bring results. (They have also, but unsuccessfully, sought the right to elect one of the Railways Commissioners.¹⁹) However, as unionism has been accepted, this state of affairs has also become a recognised part of the Australian scene despite occasional managerial protests. Fear of pressure by organised public servants, which was very potent in the early years of the century, has

largely disappeared, and management has generally accepted both the inevitability of compromise and the desirability of co-operation with staff associations.

The System Comes of Age

With the repeal of separate employee representation, the Victorian Railways organisation settled down to a stable if not always happy existence which has endured to the present day. The three-commissioner system of management re-established in 1903 has not changed; nor has the basic framework of political control constructed by the 1883, 1891 and 1896 Acts. A few additional specific controls have been imposed in new fields such as electricity generation, road motor services and level-crossing closure; and some capital expenditure controls have been incorporated in the Annual Loan Application Acts and the Act creating the Public Works Committee which replaced the Railways Standing Committee in 1935.²¹ And as recently as the last decade a few (but too few!) of the old restrictions on the Commissioners' powers were removed (e.g. approving overtime payments and letting of minor contracts outside Victoria).²² But these are merely adjustments to the existing framework; they have nothing about them of the revolutionary path-breaking vigour of the earlier years with which this study is concerned. Moreover, unlike its New South Wales and Tasmanian counterparts, the Victorian Railways organisation has been little affected by the establishment of transport regulation and co-ordination machinery.

By 1906, then, the Railway Commissioners organisation had come of age; and there has since been little further argument about it in Victoria.

SEVEN: ASSESSMENT OF THE VICTORIAN CONTRIBUTION

What are the conclusions to be drawn from this case study in the development of Australia's pioneer big-business public corporation? First, it is necessary to emphasise once again the vital role the railways played in community life during the half-century covered by this study. They were the first mass transport medium; before them were only Cobb and Co's. coaches, the horse and buggy, and the bullock team for heavier loads. Roads were poorly developed, tram systems in their infancy, and other transport media such as the private motor car, the bus, the truck and the aeroplane still unknown. The railways were, therefore, vital to all Victorians who wanted to travel or to get goods and produce to markets. Their prosperity and even their personal safety depended on the efficiency with which the service was conducted.

Thus the railways were more intimately connected with the lives of citizens than it would be possible for any single public enterprise to be today; and as a result any neglect on the part of their management, or any disturbance in their operations, could not fail to arouse great interest and controversy. It was in this atmosphere that Victoria embarked on the great administrative revolution leading to the popular development of the public corporation.

It is worth repeating that those responsible for this revolution had little awareness of similar developments elsewhere that they could copy - it is rather doubtful if there were any of sufficient relevance, for acceptance of government enterprise came early in the Australian colonies, and most non-ministerial organisations in the past had operated in far less democratic societies. The functional difference from existing boards and commissions in Britain and Australia was very great, as was the difference in terms of scale and complexity. Indeed, the fact that problems of personnel, organisation and management first came to a head in the railway undertakings (although of course not unknown in other fields) suggests that these have a good claim to being regarded as the first public organisations in Australia, either departmental or corporate, with those bureaucratic characteristics defined by Weber and so familiar today.¹ The only models the Victorian legislators seemed aware of were the private railway companies, but while various analogies were drawn there was no agreement on how these could be translated into the sphere of public administration. Throughout this process of experimentation the Victorians were striving to effect democratic reforms in other directions;² on the subject of responsible government they shared the contemporary British attitude even though their appreciation of details may have differed. Their experiment in railway management, their inventiveness in departing from orthodox ministerial responsibility just as this was being accepted as the hall-mark of democratic government, was therefore all the more remarkable.

Their inventiveness, moreover, set an important precedent. The basic idea of the public corporation removed from full and direct political supervision was taken up before long in all the Australian States and in New Zealand (although in the latter, after establishing a corporate precedent for other public enterprises, the railway commission was abolished in favour of a reversion to departmental management³). In most States the relevant railway legislation set the precedent for other public corporations, and in most of them the Victorian legislation was used as the model for their own railway commissions, despite individual variations in detail. Even Sir Henry Parkes (whose own legislation in New South Wales showed up in a remarkable way weaknesses in the original Victorian Act) had to acknowledge his indebtedness to Victoria both for what he borrowed from that Act and for what he learned to avoid in it.⁴ In the Australian Commonwealth Government system, it was a Victorian, W.A. Watt (claimed by Eggleston to be one of the 'big three', with Irvine and Swinburne, in refining the corporate idea in Victoria⁵), who as Minister for Works and Railways in 1917 introduced a Bill, again on the Victorian model (except for substitution of a single Commissioner), for the establishment of a corporation to manage the Commonwealth Railways. Under Watt's guidance and in the less parochial atmosphere of the Commonwealth Parliament, however, this Act enjoyed the spirit as well as the form of its Victorian forbear - as the foregoing study indicates, the spirit was often lacking in Victoria.

In particular, many of the railway acts copied the Victorian suspension provisions, the main Victorian financial and reporting arrangements, the conditions under which ministerial directions could be given, the recoup idea, and the reservation of specific matters for ministerial approval (such as in contracts and salaries above set limits).⁶ And these provisions were then carried over to other corporations. The Commonwealth's War Service Homes Commission, for example, was obviously modelled on the Commonwealth Railways Act. Most Australian corporations today retain the higher contracts and senior staff salary controls (although of course the limits may have been varied), and they continue to reflect in many other ways the early Victorian Railways legislation, even though later developments have brought modifications. The parliamentary review of suspensions is now often dispensed with, although rarely so with railways. The formula for ultimate ministerial control suggested by the 1936 Royal Commission on the Banking and Monetary Systems is different in detail, but its basic idea and its purpose are the same as those of Section 24 of the 1891 Victorian Act. Perhaps the most significant change is the separation of the finances of various corporations from the Consolidated Revenue, although again this is unusual although not unknown in Australian railway systems. The creation of the British Broadcasting Corporation in 1926 furnished a

clear external influence (i. e. on the form of the A. B. C.), and there have no doubt been others (e. g. the Ontario Hydro-Electric Power Commission, which had some influence on Tasmania's Hydro-Electric Commission). But it is not difficult to recognise further Victorian Railways influences in the organisation and control patterns of most Australian corporations: for example, the recoup system is operating not only in various railway undertakings but appears in a refined form in the legislation constituting Trans-Australia Airlines and the Australian National (Shipping) Line.

The Victorian Railways legislation thus provided the basic framework from which the various corporate systems in Australia have developed. The essential structure, the addition to the older board pattern of a new functional concept and a new relationship to the central government, was a notable achievement arrived at by careful deliberation. But it also seems important to recall that personality differences, sectional advantages, subsequent misconceptions about the purposes of the original Act of 1883, confusion about the nature of various administrative forms, and old-fashioned ideas about the content of policy (rather than objective assessments of the merits of particular cases) dictated the shape of many of the detailed controls, even a number of those which have been carried forward into numerous other corporations. The personal reactions of leaders such as Service and Gillies, Shiels, Bent, and even Speight and Syme, all played their part in the construction of the impersonal organisation and control framework. Here as elsewhere, history cannot be separated from the people involved in making it. However, where similar situations have developed in other fields (e. g. the Commonwealth Bank in the early 1930s⁷) the reactions have not been markedly different, suggesting that there may have been an element of inevitability in the sort of solution attempted in Victoria.

Whether the Victorian experiment had any effect on the development of the public corporation beyond the shores of Australia and New Zealand is difficult to say without a great deal of comparative research. Eggleston lamented in 1932 that:

"British political thinkers who believe that social problems demand an extension of State action are still groping for an instrument and a set of sound administrative canons, apparently quite unaware that a relevant experience extending over fifty years is available in Victoria." ⁸

It is not correct to say, however, that the Australian precedents were unknown in Britain, although it is much more difficult to establish that they had any influence. Successive waves of pressure for the nationalisation of British railways (the advocates numbered some important figures such as Sir Rowland Hill of postage stamp fame) had resulted by the turn of the century in a considerable volume of literature on the subject, some favourable and some unfavourable; and some

contributors did discuss the experiment of the autonomous railway commission in the Australasian colonies.⁹ Probably only one of these observers had any influence in shaping forms of management - this was Sir William Acworth of London University, who contributed to official inquiries and/or reforms in India, Germany, Canada and U.S.A. But, he misinterpreted Australian developments and wrote off the experience as virtually valueless. (By 1920 he was referring to the conversion of the Canadian National Railways to public ownership under the board form as a "wholly new departure in the management of a great concern publicly owned . . . (and) in line with developments after which we are dimly groping here at the present moment".¹⁰) And yet there was to be at least one further show of interest in Britain: at the time of the Samuel Commission on the coal industry in 1926, some "private memoranda" circulated by the Joint Research and Information Department of the Labour Party and the Trade Union Congress cited the Australian State Railway Commissions as well as the Canadian National Railways and the Ontario Hydro-Electric Power Commission in support of schemes for the nationalisation of the industry.¹¹

The indications are, nevertheless, that the Australian precedents had little effect in shaping British forms; and that the existence of basically similar forms elsewhere today is a further expression of an inevitability that detailed ministerial control would not adequately meet the requirements of public enterprise, that alternative administrative techniques would therefore be sought, and that the public corporation along lines more or less similar to those developed in Australia would be the result.

There was one important Australian contribution - The Government of England, published in Melbourne in 1867 - to the growing literature on the English Constitution which, after the middle of the century, attached increasing importance to the virtues of ministerial responsibility. Its author, Professor W.E. Hearn, was actually a member of the Victorian Legislative Council in 1883. What was his reaction to the departure from orthodox ministerial responsibility then proposed?

His misgivings lend some support to the foregoing suggestion of an inevitability that ordinary public service methods, particularly in the nineteenth century context, would not be regarded as suitable for the operation of public enterprises. He did not believe that performance of the duties of a common carrier entered into the proper function of government. However, he would support the Bill in order to eliminate the existing abuses. This seems to have been a half-hearted attempt to excuse the deviation on the "hiving off" basis developed particularly in Prussia, whereby functions of an executive, operational, or mainly non-administrative nature were located in non-ministerial organisations - but the men who drafted the Victorian

legislation had no interest in what was going on in Prussia. In other words, because Professor Hearn considered the operation of a railway to be a most unsuitable function for government, he was not tempted to apply the usual governmental principles to it.¹² It was also significant that, while during the 1883 debates writings on responsible government were virtually ignored, a number of members took the trouble to familiarise themselves with the latest British and American literature on railway management.

Within Australia the debt was not completely one-sided. Victoria was clearly first in the field with the railway commissioner system,¹³ and its invention of this basic pattern was a major contribution to the machinery of government, which the other States generally acknowledged as they followed it. But as they adopted the Victorian pattern they generated their own processes of experimentation, and Victoria in its post-1883 developments was not averse to borrowing their ideas. Thus New South Wales saw the need to separate management and construction functions from the beginning, and Victoria copied this idea in 1891;¹⁴ South Australia changed after a few years to a single Commissioner (a change since adopted in most Australian States), and it was this lead that Victoria followed in 1896, even though temporarily; and Tasmania contributed the idea of the Stores Suspense Account, which Victoria was happy to follow also in 1896.

The sensational background to many of the experiments outlined above seems in itself to have established another precedent. Not only in the Victorian Railways has the attempt to provide conditions of managerial freedom for public enterprises operating within a democratic governmental system produced new important problems quite apart from the old ones it was intended to solve. The very nature of administration assumes that there will always be problems to solve, but difficulties are exacerbated when ill-defined or poorly understood limits of authority bring out jealousies and conflicts, and confuse the location of responsibility. The public corporation form is more prone to these faults than the department, whatever its other virtues. Some of the greatest upheavals in Australian public administration have been provided by crises affecting public corporations and their relations with the central governments: e.g., the New South Wales Railway Commissioners who resisted that State's first Labour Government in 1912¹⁵ and later fell foul of Governments of both political parties during the stormy Lang era,¹⁶ the War Service Homes episode of the early 1920's,¹⁷ the Commonwealth Bank's conflict with the Scullin Government already referred to, and the affair of the Australian Aluminium Production Commission a few years ago.¹⁸ Other difficulties of this kind, although of less sensational character, have emerged in relation to the A.B.C. in the late 1930's and early 1940's;¹⁹ and to C.S.I.R.O.'s predecessor, the Council for Scientific and Industrial Research, over the security question at the end of the war.²⁰ Nor is it hard to find overseas examples - to

mention four, the Tennessee Valley Authority in its early years, the British Overseas Airways Corporation during the War, the Overseas Food Corporation of ground-nuts fame and the Indian Life Insurance Corporation.²¹ The Victorian Railways not only pioneered a new administrative form, but the reactions to the problems that form presented anticipated the reactions to other episodes with similar undertones which have since arisen.

How far ahead the Victorians were in providing in 1891 for a general discretionary ministerial power of direction may be gauged by a few references to developments affecting other public corporations. In Australia such a power had originally been proposed by Labour for the A.B.C., but it was resisted by the United Australia Party in 1931. But before the decade was out the new responsibility of the Government for the health of the economy had become apparent and had emphasised the need for greater co-ordination in national policies and expenditures - the same Party therefore included a provision in the abortive National Insurance legislation to the effect that the incorporated Commissioners were to be subject to the control of the Minister.²² Both Labour and non-Labour governments have extended similar provisions (sometimes subject to the "control", sometimes the "directions", of the Minister) to a number of corporations created in the post-war period, e.g. Australian Shipping Board (1946), Australian Whaling Commission and C.S.I.R.O. (1949), Flax Commission and Australian Atomic Energy Commission (1953). And both U.A.P. and Labour governments in New South Wales from the late 1930's provided similar controls over corporations such as the Western Lands Board, Milk Board, and - after a long rearguard action - the New South Wales Railways (in 1950).

Looking beyond Australia, Professor W. A. Robson has remarked that first-generation British corporations were subject to ministerial approval only on specific matters individually prescribed by statute (cf. Victorian Railways in 1883). It was the post-war Attlee Government which made the general directive power on matters affecting "the national interest" a common feature of statutes creating boards to manage the nationalised industries.²³ A.H. Hanson has commented on the link here between the advent of the general ministerial power and the accession to office of a government committed to economic planning.²⁴ The first case of a general directive power in Canada occurred with the creation of the War Assets Corporation in 1944; and the practice there is gradually being extended.²⁵

Comparing public corporations in 1937, John Thurston concluded that the existence of such a power made the Victorian Railways little more than an ordinary department in terms of managerial independence.²⁶ Yet within a short time a pronounced swing towards the Victorian position had developed, to the extent that by 1954 the general power could be described as "the crux of ministerial control" in the British nationalised industries,²⁷ as it already had been in the Victorian

Railways for over half a century. Thurston was by no means alone in arguing that this went near to destroying the whole concept of the corporation, that real autonomy was its essential hall-mark. Indeed, it has only been during the 1950's that there has been any substantial acceptance by students of administration of the proposition that the public corporation can only be reconciled with the democratic state by providing clearly that governments should always be able to intervene in matters of importance to them.²⁸ The corollary, of course, is that they must exercise restraint in matters not genuinely important.²⁹ Without arguing that Victorian Governments have necessarily succeeded in this respect, one must once again acknowledge Victoria's pioneering role - despite some sympathy with the unfortunate Commissioners in the conflict which precipitated the change of 1891.

The 1896 Act likewise pioneered a major development - the "recoup" idea. Holman in New South Wales in 1916 and Watt in the Commonwealth Parliament in 1917 both acknowledged that they were copying the Victorian provision. When the Herbert Committee of Inquiry reported on the (U.K.) Electricity Supply Industry in 1956 it was concerned that the enterprise should be conducted on business lines, and that any deviation should be undertaken only on precise ministerial instructions - "the line between the Government and the industry should be clear for all to see". Accordingly, the latter should be subsidised by the Exchequer to the extent that additional costs were incurred as a result of ministerial directions. One observer considered that the Report might foreshadow a "considerable change . . . (in) the concept of the public corporation fashioned since 1945".³⁰ But the practice it recommended had been part and parcel of the Victorian scene since 1896.

The Victorian Railways legislation contributed to the difficulty about proper observance of the corollary of self-restraint mentioned above, but this weakness has been shared by many other corporation statutes and is not easy to remove. The 1891 Act attempted to limit the directive power to matters of finance or general policy; but experience has shown that almost any subject, no matter how petty, can with political ingenuity be classified as policy.³¹ It is noticeable that, following appropriate comments in the Public Accounts Committee's 21st and 22nd Reports in 1955, the Commonwealth has attempted to define the role of the Minister more carefully in its corporate legislation - perhaps the best illustration is the Export Payments Insurance Corporation.³²

The 1883 Act had embodied the hope that the railways would pay, but it also admitted a developmental object, thus conceding that Treasury subsidies might be necessary. In the event these were so great that some direct government control over expenditure was inevitable. But the 1883 Act was not adequate in this respect, leading to the crisis of 1890-2 and the need for further legislative experiments. Left to

themselves except in matters of high policy, and with greater financial independence and a more generous application of the recoup idea (especially in relation to non-paying "political" lines), the railways would over the years have been in a much healthier financial position; and the need for political control would therefore have been less. But the average Victorian politician would not permit this. The history of the Victorian Railways over the period covered by this study suggests that, while Governments and Ministers were certainly not backward in issuing directions and maintaining other controls permitted by the Railway Acts, there was an even greater amount of illegal political activity (i. e. not authorised by specific provisions of the Acts) interfering with the operations of the system.

This attitude coloured the 1891 Act especially, and was in turn reinforced by it in that the limits between legal and illegal activities were confused. That Act increased the area of political control, but on the one hand the direction and approval clauses still attempted to draw limits (despite the difficulty of interpreting the word "policy", mentioned above); on the other, the clauses relating to ministerial and parliamentary access to information drew no such limits. There was no willingness to regard matters not included in the direction and approval clauses as being excluded from normal political processes, and no inclination to regard the railways organisation in the same light as the House of Commons did the British public corporations when it accepted refusals by Ministers and Speakers to allow questions which assumed that they were either government departments in the usual sense or equally accountable with the departments.³³

It would seem that the very precedence of the Victorian Railways in the corporation movement has been to their disadvantage: for only as that movement gathered momentum was it recognised that a new species of public authority had been created. Once this fact was accepted, it was easier to justify new financial methods and so on. The railways never quite escaped from the web of departmental tradition, even though they pointed the way for other public enterprises. This difference was underlined in 1949 by the English investigator, John Elliot, when he contrasted them with a second-generation Victorian corporation:

"The State Electricity Commission is a good example of State enterprise freed from direct Treasury and Governmental control; the State Railway, its natural partner, has suffered, and is still suffering from all the frustrating defects of a machine tied hand and foot by Parliament."³⁴

The 1883 Act was a first step - the general experience with public corporations shows that some refinement was inevitable, but it also presented great opportunities. Both it and the refinements which followed have been influential to a major degree in shaping the Australian machinery of government; and they have predicted in a remarkable way

similar developments elsewhere. The foregoing study suggests, however, that the inventive genius came in bursts, and after 1883 in a surprisingly off-hand manner as witnessed by the treatment of what were the most important gains in the later legislation, the general "policy" control of 1891 and the recoup clause of 1896. This genius, moreover, was never sustained long enough to take full advantage of the opportunities it had created. History has proved the great importance of Victoria's pioneering contribution to the concept of the public corporation; but as far as Victoria itself is concerned, the verdict that it "squandered its opportunity" in relation to civil service reform³⁵ (which it also pioneered, in so far as the Australian colonies were concerned, in 1883) is to a large extent true also of its railways during the period covered by this study.

NOTES

CHAPTER ONE

pp. 1 - 4

1. G. Sawyer, "The Public Corporation in Australia", in W. Friedmann (ed.), The Public Corporation, Toronto 1954, p. 11; and T.H. Kewley, "Some General Features of the Statutory Corporation in Australia", Public Administration (Sydney), vol. 16, p. 3.
2. A. Deakin, The Crisis in Victorian Politics 1879-1881, Melbourne 1957, pp. 11-12.
3. C.D. Allin, A History of the Tariff Relations of the Australian Colonies, Minneapolis 1918, p. 169.
4. E. Jenks, The Government of Victoria (Australia), London 1891, pp. 378-9.
5. E.H. Sugden and F.W. Eggleston, George Swinburne, Sydney 1931, p. 43.
6. H.G. Turner, A History of the Colony of Victoria, Vol. 2, London 1904, p. 177.
7. Centenary Celebrations Council, Victoria - The First Century, Melbourne 1934, p. 358. Bent's official title at this time was "Commissioner of Railways"; but the application of the word "Commissioner" to Ministers was a carry-over from the pre-responsible government period, and should not be confused with the non-political commissioners who manage public corporations.
8. And probably a desire to tap the Riverina and Murray Valley traffic before the New South Wales rail system got there.
9. T. Hytten, "The Finances of Australian Railways in Relation to State Budgets", in The Economics of Australian Transport (Supplement to The Economic Record) 1930, p. 23.
10. F.W. Eggleston, Public Utilities in Victoria, Harbison-Higinbotham Prize thesis, University of Melbourne 1931, Ch. 4, p. 45.

CHAPTER TWO

pp. 5 - 12

1. Melbourne, Mt Alexander and Murray River Railway Company Purchase Act 19 Vic. No. 15 (1856). This was, however, hardly a radical change. From its inception in 1853 the Government had granted land to the Company and guaranteed interest on its share capital; and in consequence of this it enjoyed the right to nominate two of the Company's six directors to watch the public interest. Similarly there were two Government nominees on the board of directors of the Geelong and Melbourne Railway Company - T.A. Coghlan, Labour and Industry in Australia, Vol. 2, Oxford 1918, pp. 836-7. Cf. New South Wales where from 1853 to the acquisition of the private Sydney Railway Company in the following year, the Government appointed three of the six directors - see my article "Early Railway Management Legislation in New South Wales", Tasmanian University Law Review, Vol. 1, p. 449.
2. Victorian Hansard (first series), Vols. I-II, pp. 1182-3; and Act 21 Vic. No. 31. (The example of the Board of Trade in Britain apparently had some influence here.) See also W.E. Hearn, The Government of England, Melbourne 1867, p. 258. Proposals for a Board of Works were also current in New South Wales after 1854, but were not implemented - see "Early Railway Management Legislation

Chapter Two (pp. 5 - 12) continued.

in New South Wales", op. cit., pp. 450-1.

3. For a comment on this use of the word "commissioner", see note 7 to Chapter One.
4. Act 25 Vic. No. 62 (this was continued by Public Works Statute 29 Vic. No. 289). Also Jenks, op. cit., pp. 285-6, and lists of Ministries in H.H. Hayter, Victorian Year Book, 1885-6, pp. 12-23. A full list of Victorian Ministries is contained in the official publication, One Hundred Years of Responsible Government in Victoria 1856-1956, Melbourne 1956, pp. 202-41.
5. Cf. L.C. Webb, "Freedom and The Public Corporation", Public Administration (Sydney), Vol. 13, p. 101.
6. Victorian Hansard (first series), Vol. V, p. 826; and Geelong and Melbourne Railway Purchase Act 23 Vic. No. 96.
7. Railway Construction Act 21 Vic. No. 38; and Railway Management Acts 21 Vic. No. 40 and 27 Vic. No. 186.
8. Parliamentary Papers No. 59 of 1859-60 and No. 10 of 1873, pp. 3-4 and pp. 72, 115 respectively; and W.E. Hearn, op. cit., p. 258.
9. F.W. Eggleston, State Socialism in Victoria, London 1932, p. 117.
10. Department of Political Science, University of Melbourne, The Government of Victoria, Melbourne 1958, p. 16.
11. Turner, op. cit., pp. 197-202. Other information in this section drawn from e.g. Parliamentary Papers A. 33 and A. 39 of 1859/60 (re Darbyshire), and 21 of 1862 (Appendix D - Report of Investigator H.S. Smith, who received a fee of £100 a month plus secretarial assistance); and numerous references in Victorian Parliamentary Debates (V.P.D.) especially during passage of 1883 Bill, e.g. Vol. 43, pp. 103, et seq. The word "circumbendibus" was used by ex-railway surveyor Zeal, then in the Legislative Council (p. 801.)
12. Turner, op. cit., pp. 242-4.
13. F.W. Eggleston, op. cit., p. 44. Also V.P.D., Vol. 43, p. 815.
14. E.g. ibid, pp. 103-4, 252, 269.
15. B.B. Schaffer, "The Idea of the Ministerial Department: Bentham, Mill and Bagehot", Australian Journal of Politics and History, Vol. 3, p. 77.
16. F.M.G. Willson, "Ministries and Boards: Some Aspects of Administrative Development Since 1832", Public Administration (London), Vol. 33, pp. 43-58; and Schaffer op. cit., pp. 60-78. All this is not to suggest that departments did not exist prior to the influences referred to in this paragraph. However, they did not enjoy anything like a monopoly of the central administration (cf. Bentham's criticisms of the large number of Eighteen Century administrative boards), and they had few of the characteristics of the modern ministries.
17. This point is underlined by Sir John Craig's reference to the Northcote-Trevelyan Report as "a figment ... having tacitly excluded two-thirds of the service", interested only in the inner core of administrative offices and making "sweeping strictures" with no relevance to numerous other areas of public employment such as the Post Office: A History of Red Tape, London 1955, p. 184.

Chapter Two (pp. 5 - 12) continued.

18. New South Wales and South Australia had actually had railway commissions when they achieved responsible government, but they lost little time in abolishing them in favour of full ministerial control: see "Early Railway Management Legislation in New South Wales", op. cit., pp. 450-3, 468-9.

19. Although the Victorian Liberals were in the 1870s extolling the virtues of ministerial responsibility specifically in relation to the administrative agencies of that period: cf. Berry's attitude mentioned at pages 14, 15, 18.

20. E.g. a Marine Board was set up for the Port of Hobart very soon after Tasmania gained responsible government in 1856, and a Victorian Royal Commission Report of 1860 led to the creation of the Melbourne Harbour Trust in 1877.

CHAPTER THREE

pp. 13 - 40

1. E.g. The Age Centenary Supplement, 16-10-1954, p. 46; and E. Shann, An Economic History of Australia, Cambridge 1948, p. 305.

2. John Wisker, "Railway Construction in Australia", Victorian Review, Vol. 7, pp. 74, 83. Local organisations did exist in some areas to exert pressure for rail connections, but even a decade later, Sir Robert Hamilton (Governor of Tasmania 1887-92) considered that the "vague, mistaken idea" that railways "are bound to create a traffic of their own . . . has had more to do with the construction of useless lines than log-rolling pure and simple" - "Lending Money to Australia", Nineteenth Century, Vol. 32, p. 197.

3. V.P.D., Vols. 24-5, pp. 2-3, 7, 11, 18, 1425-7, 1896.

4. Ibid., Vol. 25, pp. 1425-6, and Vol. 43, pp. 186, 204. Pearson's interest in the abolition of patronage and civil service reform generally is referred to in J.M. Tregenza, The Life and Work of C.H. Pearson; 1830-1894, Doctoral thesis, Australian National University 1959, pp. 342, 352.

5. V.P.D., Vol. 41, pp. 2682, 2700.

6. Information in this and the following paragraphs drawn from various debates on railway management in ibid., Vols. 39, 41 and 43, and from contemporary Melbourne Press.

7. John Wisker, "The American Railway System and Ours", Victorian Review, Vol. 9, p. 95. Wisker could not then foresee that, after the loss of all his money and his seat in Parliament during the 1890s, Bent would stage a remarkable return to politics in the offices of Minister of Railways and Premier, with a Knighthood thrown in - for details of his political career, see Sugden and Eggleston, George Swinburne, op. cit., pp. 58-9.

8. V.P.D., Vol. 41, pp. 2768-91. Also e.g. The Argus, 10-12-82 and The Age, 11-12-82.

9. V.P.D., Vols. 41-2 (1882). Details of the 1882 Bill recorded at ibid., Vol. 43, p. 182; and Vol. 66, p. 750.

10. Ibid., Vol. 41, p. 2799. In the event, of course, it was a coalition government including Berry which made the selections.

11. E.E. Morris records in A Memoir of George Higinbotham (Thomas's brother), London 1895,

Chapter Three (pp. 13 - 40) continued.

pp. 270-2, that the short-lived Service Government of 1880 offered him back his old job as Engineer-in-Chief. He accepted this but died within a few months. The Argus obituary notice said of him: "He was prized because he always endeavoured to serve his country rather than to please the politicians who flit across the scene... "

12. Turner, op. cit., p. 238 for campaign details; and A. Pratt, David Syme: The Father of Protection in Australia, London 1908, pp. 173-5, for Syme's role.

13. It is usually rather hazardous to claim that a general election result furnishes a government with specific public approval to do a certain thing, but in view of the evidence of immense public feeling on this issue I believe the statement made is justified.

14. Quoted afterwards by ex-Premier Sir Bryan O'Loughlen, V.P.D., Vol. 66, pp. 750-1.

15. V.D.P., Vol. 43, p. 3; and Address-in-Reply Debate immediately following.

16. Ibid, pp. 103-12.

17. Cf. J. Reid, "State Railways", Sydney Quarterly Magazine, 1887, pp. 140-1: "... a few years ago the railways were, as it is called, removed from political influence, and placed under the control of a board of commissioners, who were rendered independent of the Government of the day and responsible only to Parliament". Yet Reid went on immediately to suggest that most mismanagement had resulted from the influence of the Legislature itself. This was "peculiarly mischievous", with members grinding "the axes of their constituents" and forcing governments "to gratify their supporters and propitiate their opponents". Parkes in New South Wales was shortly to highlight this anomaly in the Victorian attitude - see "Early Railway Management Legislation in New South Wales", op. cit., pp. 465-7.

18. V.P.D., Vol. 43, pp. 419-20. This typifies the usual Australian lack of discrimination in the use of the words "administrative" and "executive" - cf. B.B. Schaffer, "The Distinction Between Executive and Administrative Work", Public Administration (Sydney), Vol. 17, pp. 112-118.

19. Taylor had attempted not very convincingly to refute Bentham's criticisms of irresponsible boards by arguing that "in these days responsibility is brought to bear (over the boards) with an excessive and intimidating force" - from The Statesman, 1836, cited in Schaffer, "The Idea of the Ministerial Department", op. cit., p. 67.

20. V.P.D., Vol. 43, pp. 308-9.

21. The following details of debates on Railway Management Bill 1883 from ibid, pp. 179 et seq. (also replies to Gillies' introductory motion, pp. 112 et seq.)

22. I have discussed this aspect more fully in relation to New South Wales - "Early Railway Management Legislation in New South Wales", op. cit., pp. 456-9.

23. F.A. Bland, Shadows and Realities of Government, Sydney 1923, p. 2.

24. Melbourne Punch of 2-8-1883 (p. 44) claimed these reservations would "utterly destroy the value of the measure ... and effectively provide that all the evils which have disgraced our railway management in the past shall continue in the future ... "; and Eggleston later wrote of them as revealing the "capricious character of Ministerial control" - Public Utilities in Victoria, op. cit., Ch. 4, p. 3.

Chapter Three (pp. 13 - 40) continued.

25. Professor Shann was wrong in suggesting that Victoria gave its Commissioners power to make decisions about new lines - op. cit., p. 305.
26. This original interpretation has survived to the present time in most Australian railway systems: e.g. the New South Wales corporation has the statutory title "Department of Railways", and most Commissioners in their Annual Reports continue to refer to the "Departments" under their control.
27. Cf. Parkes' criticism of a New South Wales proposal to copy the Victorian system in its entirety as a bill "to emasculate responsible government", and his insistence in framing his own legislation that there should not be a separate railway minister - "Early Railway Management Legislation in New South Wales", op. cit., pp. 461, 463.
28. This was exactly the aspect Bentham had been so critical of, that boards were "screens" behind which individuals could conceal their responsibility. Cf. the attitude of Queensland ex-Premier Hanlon who strongly favoured the single-man authority, because "in his experience, a multi-man commission or board always hid behind the anonymity of the corporation ... he preferred to know the man who was responsible" - as recorded by T. A. Lang (Associate Commissioner, Snowy Mountains Hydro-Electric Authority), Top Management in a Statutory Authority, Commonwealth Public Service Board Training Document 59/201, p. 4 (1957 paper).
29. See F. C. Garside, "The New South Wales Department of Railways", Public Administration, (Sydney), Vol. 2, pp. 24-6.
30. It was reported in 1915 that the original Chairman, Speight, had actually been paid £3,500 despite the statutory rate of £3,000 - V.P.D., Vol. 141, p. 2892.
31. E.g. Pearson at ibid., Vol. 43, p. 206 - but most expressed satisfaction that the existing system of payment of all railway receipts into Consolidated Revenue, and expenditure only as authorised by parliamentary appropriation, would continue.
32. This and the other specific reservations have, however, proved effective from time to time in preventing the Commissioners from taking action they considered to be in the best interests of the railways and the State. See particularly Chairman H. W. Clapp's evidence before the 1928 Royal Commission on the Control, Management, Working and Financial Position of the Victorian Railways.
33. Sawyer, op. cit., p. 10.
34. Act 47 Vic. No. 767; renumbered 54 Vic. No. 1135 in 1890, when certain provisions relating to railways in general, but not affecting the Victorian Railways Commissioners, were added.
35. Sawyer, op. cit., p. 11.
36. V.P.D., Vol. 59, pp. 2251-2311; Vol. 62, pp. 2361-6; and Vol. 66, pp. 505-6.
37. Ibid., Vol. 66, p. 510. Other details in this section from Annual Reports of the Commissioners, 1885-90.
38. Turner, op. cit., p. 245. This complaint was not made only against the Speight administration.
39. Railways Works Committee Act of 1890, 54 Vic. No. 1177; and Turner, op. cit., pp. 275-6.
40. T. A. Coghlan, Labour and Industry in Australia, Vol. 3, op. cit., pp. 1223-7.

Chapter Three (pp. 13 - 40) continued.

41. First General Report of the Parliamentary Standing Committee on Railways, Parl. Paper. No. 25 of 1891. Also e.g. V.P.D., Vol. 53, pp. 2510 et. seq.
42. Victoria - The First Century, op. cit., p. 276. Cf. Turner's view quoted p. 70.
43. In the early 1890s leading anti-patronage campaigner Pearson wrote in the London Speaker that it was a "fatal blot" on the Victorian Railways that the "Commissioners are not allowed to engage the best men they can find, or to dismiss lazy and insubordinate hands, or to pay the market rate of wages" - quoted in Tregenza, op. cit., p. 490.
44. V.P.D., Vol. 47, pp. 2373-78, 2417-36.
45. Report of the Royal Commission on the Tariff, 1883, p. lxxiv; and e.g. V.P.D. Vol. 65, pp. 2467-80; Vol. 66, p. 510; and Vol. 67, p. 1392. Also Turner, op. cit., p. 245.
46. Shann, op. cit., pp. 306-7; also e.g. V.P.D., Vol. 65, p. 2480.
47. Hytten, op. cit., p. 26. Cf. the claims by W. McMillan (who as Treasurer under Sir Henry Parkes in New South Wales was allotted the loose supervisory responsibility over the railways) that the Victorian Act had run into difficulties because it had "not been carried out in its integrity, ... because political influence has worked its way into the management of the railways"; and that his whole aim while fulfilling his supervisory role was to defend the New South Wales Commissioners from a similar fate - "Early Railway Management Legislation in New South Wales", op. cit., p. 467. Also cf. Eggleston's statement that when he was Victorian Minister of Railways in 1926-7, "his life was one long tug-of-war to prevent political interference, in which he was subject to all sorts of abuse and misrepresentation, and was eventually defeated" - Public Utilities in Victoria, op. cit., Ch. 4, pp. 45-6.
48. For Gillies' defence of Commissioners, see e.g. V.P.D., Vol. 65, p. 2511; and Vol. 67, p. 1578.
49. Ibid, Vol. 59, pp. 2251-4, 2302-3.
50. Ibid, Vol. 65, pp. 2461-74.
51. Ibid, p. 2533.

CHAPTER FOUR

pp. 41 - 62

1. For an account of this see L. F. Giblin, The Growth of a Central Bank, Melbourne 1951, pp. 83-100. This aspect was considered by the 1936 Royal Commission on the Monetary and Banking Systems and finally resolved by Chifley's re-organisation of the Bank in 1945.
2. Correspondence Between the Minister of Railways and the Railway Commissioners, Parl. Paper No. C16 of 1891.
3. V.P.D., Vol. 67, pp. 1299-1301. Eggleston records something of Shiels' personality in George Swinburne, op. cit., pp. 57-8.
4. For Shiels' introductory speech, see V.P.D., Vol. 66, pp. 504-532.

Chapter Four (pp. 41 - 62) continued.

5. This proposal was criticised as a reversal of recent public service reforms taking control of appointments and promotions out of Ministers' hands. Shiels replied that only 68 positions would be involved. - V.P.D., Vol. 68, pp. 2646-7. The relation to the Darbyshire incident was widely recognised.

6. The following details from V.P.D., Vols. 66-8, pp. 533 et seq.

7. Chairman H. W. Clapp argued before the 1928 Royal Commission (see note 32 to Chapter Three) that this change was intended to reduce substantially the degree of political control envisaged in the clause as originally drafted; but that the effect had been the reverse because of the "very generality" of the expression "matter of policy".

8. Railways Act 55 Vic. No. 1250.

9. Alfred Deakin, Introduction to Pratt, op. cit., p. xvii.

10. Pratt, op. cit., p. xxv; and Shann, op. cit., p. 333.

11. Pratt, op. cit., e.g. pp. 166-175, 249-50, 269-70.

12. Ibid., Chapter 10.

13. Some of the articles were reprinted in The Great Railway Libel Case: Speight v. "The Age". (A Report of the Proceedings of the Second Trial), published by the paper in Melbourne in 1894; those that were not have been perused in old files of The Age. Pratt (p. 207) records that they were written under Syme's supervision by G.F.H. Schuler, afterwards Editor of the paper.

14. Strange as this reported threat may seem, it actually happened in New South Wales, where, as a result of the Commissioners' refusal to take over lines which did not come up to their standards, 300 miles of railway were being worked "under enormous difficulties" by the Public Works Department in 1916 - see Premier Holman's speech, New South Wales Parl. Debs., 2nd Series, Vol. 63, p. 6493.

15. V.P.D., Vol. 80, p. 4858.

16. Shann, op. cit., p. 333; also Pratt, op. cit., pp. 249-50.

17. The Age, 21-3-1892.

18. V.P.D., Vol. 69, pp. 131 et. seq. This resolution was not strictly necessary, as under the terms of the Railways Acts such suspension would automatically be confirmed if neither House presented an address praying for restoration within that Session. However, there are three possible explanations for Wheeler's motion: 1. that he feared the greater sympathy of the Upper House towards Speight might have led to such an address being presented, and wished to have the Assembly commit itself on the issue, serving as a warning to the Council; 2. that the Commissioners' petition threatened to steal the initiative and suggested to him that some positive action on his part was required; and 3. simply the inconvenience of otherwise having to wait to the end of the Session before the matter could be finalised. This is the only occasion on which the suspension provisions have been invoked in the Victorian Railways.

19. Ibid., Vol. 69, pp. 342-357.

20. Pratt, op. cit., p. 209.

Chapter Four (pp. 41 - 62) continued.

21. Ibid., pp. 209-213, and Deakin's introduction pp. xx-xxii. Also The Age Centenary Supplement, 16-10-1954, p. 46. Pratt records that numerous related trials subordinate to the main case were going on concurrently, e.g. by other officials who had suffered from Syme's articles. That the paper's excessive zeal extended to the opening years of the Twentieth Century may be gauged from the later reminiscences of one of its reporters: "The Age was severely critical of all these departments, for the protection of the people against bureaucracy and inefficiency. As a very young roundsman I believed implicitly that The Age was right ... I think the knowledge of the power it gave me was too much for me in my early days of departmental work; I was as aggressive as a leading article. But I got over that, as well as the profound belief in the inefficiency of every department denounced by The Age. I learnt that the Railway Commissioners, the centre of The Age attack before and after the Speight v. Syme libel action, were big men ... more than fine and loyal servants of the State. They were fine Australians ... " - Roy Bridges, That Yesterday Was Home, Sydney 1948, p. 209.
22. V.P.D., Vol. 69, p. 138. The Herald actually tipped Bent for appointment as Commissioner in 1894 - see Melbourne Punch cartoon, 18-1-1894.
23. V.P.D., Vol. 76, p. 1739; and Vol. 79, pp. 3790, 4613-4, 4670.
24. Ibid., Vol. 73, pp. 2182-86; also Annual Reports of Victorian Railways Commissioners, 1891-2 to 1895-6.
25. Annual Reports, 1894-5 and 1895-6.
26. V.P.D., Vol. 79, pp. 3790, 3798.
27. Richardson's memoranda are recorded at ibid., pp. 4078-9.
28. Memo of the Acting Commissioners (in reply to Report of the Railway Inquiry Board), Parl. Paper C5 of 1895, p. 5.

CHAPTER FIVE

pp. 63 - 75

1. In view of the gap between expert advice and government intention on the one hand, and the legislative result on the other, it is difficult to describe the next phase in this development concisely. This also presumably accounts for some of the confusion shown by earlier scholars in classifying and interpreting the post-1883 developments. Two leading Australian scholars, for example, came to contrasting conclusions about the changes from 1891 to 1896. Both conclusions were half-truths: their brevity led to over-simplification, not allowing the necessary qualifications to be made. T.A. Coghlan (Labour and Industry in Australia, Vol. 3, op. cit., p. 1420) commented that, following the suspension and resignation of Speight and his colleagues, "a single Commissioner for Railways, more directly controlled by the Ministry than the late Commissioners, was appointed" - but this failed to distinguish between the 1892-96 and 1896-1903 phases. And F.W. Eggleston (State Socialism in Victoria, op. cit., p. 115) expressed the view that "Parliament was at last compelled, in a penitent mood, to protect the commissioners", and that this attitude motivated the 1891 and 1896 Acts - it motivated the latter to some degree, but not the former. W.M. Acworth of London University (probably the world's leading scholar of railway systems during the period 1890-1920), and other contributors to railway literature following him, also misinterpreted the Victorian developments of the 1890s when they suggested that the commission-system was discontinued in 1891: e.g. Acworth, "Government Railways in a Democratic State", Economic Journal, Vol. 2 (1892), p. 634; and Historical Sketch of State Railway Ownership, London 1920, p. 90; and W.M. Splawn, Government Ownership

Chapter Five (pp. 63 - 75) continued.

and Operation of Railroads, New York 1928, pp. 262-3. At the other extreme, it was suggested in the official publication One Hundred Years of Responsible Government in Victoria 1856-1956, Melbourne 1956, that Shiels' motivation in the matter of railway reform in 1891-2 was a desire to "put an end to political patronage" (p. 56). This confuses the 1883 and 1891 reforms.

2. Report of Railway Inquiry Board, Parliamentary Paper No. 71 of 1895-6.
3. Cf. Prime Minister Bruce's claim that the Australian Commonwealth Shipping Board created in 1923 would "not be a State instrumentality" - Com. Parl. Debates, Vol. 103, p. 650. This is an extreme view of the public corporation, but it shows the uncertainty with which the Victorians viewed the reforms they had already undertaken - they had instituted great changes from the normal departmental pattern, but did not see that they had already invented a new species of public authority (see also comment on continued use of the word "department" at p. 27).
4. V.P.D., Vol. 79, p. 3994; Vol. 80, p. 5141.
5. From Williams' second reading speech, ibid, Vol. 79, pp. 3788-99. The following details of the debates on the "Victorian Railways Trust Bill" from ibid, Vols. 79-80, pp. 3974 et seq.
6. Railways Act of 1896, 59 Vic. No. 1439.
7. V.P.D., Vol. 65, p. 2511; and Vol. 76, pp. 1851, 1924.
8. Ibid, Vol. 79, p. 3793; Vol. 80, pp. 4892, 5287. It was presumably intended that the Minister would issue his directions (if any) in the form of an Order-in-Council and this course was sometimes taken in the early years. But in fact there was no legal requirement to this effect, so that the prescription of Parliament and Governor-in-Council only (despite the fact that Shiels explicitly referred to ministerial powers of direction) was a limiting factor in the application of the recoup clause. It is doubtful whether the difficulty was intended, and its implications were explored during the chairmanship of H.W. Clapp in the 1920s and 1930s. The vital clause 24 of 1891 (concerning ministerial directions) had concluded with the provision that any doubt or difference of opinion regarding application of the section would be decided by the Governor-in-Council, and Clapp took this as a right of appeal from directions given by the Minister. While this was merely appealing "from Caesar to Caesar", since the Governor-in-Council would surely support the Minister, it was in fact necessary to get a direction at this level in order to qualify for the recoup. (An almost identical provision in the Commonwealth Railways Act of 1917 has recently also been contested on the ground that the Railways Act commits Parliament beforehand to follow a certain course in the Appropriation Act. The Acting Secretary of the Attorney-General's Department remarked before a Public Accounts Committee hearing in 1960: "That is nonsense. One Act of Parliament cannot say what another will do" - reported Hobart Mercury, 3-5-60. Nevertheless these provisions have had a long legislative currency in both cases).
9. Annual Reports of Victorian Railways Commissioner, 1896-7 to 1899-1900.
10. Under this system the Commissioner let contracts to various teams of employees to undertake particular jobs, instead of paying them set wages. The system had a piece-work or bonus effect in that the faster the employees worked the quicker they finished each job and moved on to the next. Both the railways and the gang-members benefited, although it was violently opposed by the emerging trade unions.
11. Turner, op. cit., pp. 349-50.
12. V.P.D., Vol. 84, pp. 4225-9.

(x)

Chapter Five (pp. 63 - 75) continued.

13. Ibid., Vol. 90, pp. 3617-9.
14. Ibid., Vol. 91, pp. 523, 541-4, 821.
15. Annual Report for year ending 30-6-1900, p. 8.
16. V.P.D., Vol. 94, pp. 965-78; Vol. 95, p. 1436.
17. Ibid., p. 1990; and Annual Report for year ending 30-6-1901, p. 4.
18. V.P.D., Vol. 99, pp. 3502-4; Vol. 102, pp. 2145-7. See also Bent's attitude at p. 74.
19. State Socialism in Victoria, op. cit., pp. 122-3. Similar views have been advanced e.g. by D.B. Copland, "Leading Problems of Australian Transport", in The Economics of Australian Transport, op. cit., p. 7; and by Royal Commissions such as those on the Working as a Business Undertaking of the Victorian Railways, 1917, and on the Railway and Tramway Services of New South Wales, 1924.
20. Report of Royal Commission on the Working as a Business Undertaking of the Victorian Railways, Parl. Paper No. 19 of 1917, p. 20; and Commissioners' Annual Report for year ending 30-6-1917, p. 12. For the reversion to a board of Commissioners, see Chapter 6.
21. V.P.D., Vol. 99, pp. 3586-3634.
22. Ibid., Vol. 101, pp. 83, 549; Vol. 103, pp. 2706, 3138-9. For Bent's earlier part in this story, see Chapter Three.
23. V.P.D., Vol. 101, p. 1008.
24. Ibid., Vol. 112, p. 2794.
25. Ibid., Vol. 105, pp. 439-40; Vol. 106, pp. 1451-2; and Commissioners' Annual Report for year ending 30-6-1904, p. 8.
26. E.g. V.P.D., Vol. 112, pp. 2794, 2800-01; Vol. 115, pp. 4009, 4013; and Commissioners' Annual Report for year ending 30-6-1906, p. 14.
27. V.P.D., Vol. 112, pp. 3074-80.
28. Ibid., Vol. 111, pp. 1533-40, 1613-21, 1815-25; Vol. 112, pp. 3184-5.

CHAPTER SIX

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1. V.P.D., e.g. Vol. 90, pp. 3825-35, 3875; Vol. 97, p. 770.
2. Ibid., Vol. 96, p. 376; Vol. 97, pp. 468-9, 767-83, 794-99.
3. Parl. Papers Nos. D3 of 1901, 17 of 1902, and 5 of 1902-3.
4. V.P.D., Vol. 98, pp. 2459-60.

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5. Ibid, Vol. 103, pp. 2665-7.
6. Ibid, pp. 3093-6. It is interesting to note that Hudson left his position in Tasmania because his expert advice on railway management had been so frequently rejected by inexperienced politicians - Tas. Parl. Debates, 7-12-1910, recorded, in absence of an official Tasmanian "Hansard", in Newspaper Cuttings Book, 1910, in Tas. Parl. Library.
7. Many references in George Swinburne and State Socialism in Victoria, op. cit.: Also F. W. Eggleston; Reflections of an Australian Liberal, Melbourne 1953, p. 10; and Sawyer, op. cit., pp. 12-13.
8. George Swinburne, op. cit., pp. 243-4.
9. The following details from V.P.D., Vol. 103, pp. 3097 et seq.
10. V.P.D., Vol. 141, pp. 2895-6.
11. Victorian Railways Commissioners Act of 1903, 3 Edw. VII No. 1825.
12. Consolidations in 1915 (6 Geo. V No. 2716), 1928 (19 Geo. V No. 3759), and the present "Railways Act" of 1958 (No. 6355).
13. Railways Act of 1904, 4 Edw. VII No. 1946. For an ironic commentary on what happened to the money in the early funds, see Report of 1917 Royal Commission on the Working as a Business Undertaking of the Victorian Railways, op. cit., pp. 21-2. It was used by impecunious Treasurers partly to liquidate deficits in other departments and partly for the construction of agricultural and other high schools; not much was left for railway purposes.
14. Events related in George Swinburne, op. cit., pp. 46, 53, 83-9, 97-102.
15. Ibid, pp. 98-100. Also V.P.D., Vol. 101, pp. 565-71.
16. Victorian Constitution Act of 1903, 3 Edw. VII No. 1864.
17. V.P.D., Vol. 111, pp. 1830, 1834. William Shiels had described this alliance with the Labour Party as "an act of horrible political incest", and the public servants and railway men as "mercenary soldiers of fortune willing to sell their sword to the cause of him who would meet their wants" - quoted V.P.D., Vol. 112, p. 2562.
18. Ibid, Vol. 107, p. 83; Vol. 110, p. 331; Vol. 112, pp. 2560-70; Vol. 113, pp. 382-4, 537.
19. Eggleston, State Socialism in Victoria, op. cit., p. 145.
20. With the minor proviso that one of the Commissioners other than the Chairman was given the legal title of Deputy Chairman, and a salary advantage over the remaining Commissioner, by Act No. 5973 of 1956.
21. Public Works Committee Act No. 4288 of 1935.
22. Railways (Amendment) Acts Nos. 5533 of 1951 and 5918 of 1955.

CHAPTER SEVEN

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1. The characteristics of modern bureaucracy - a hierarchial organisation, a 'career service', specialisation of labour, fixed operating rules, dependence on written records, etc. - were formulated by German sociologist Max Weber: e.g. the following translations of his work: Theory of Social and Economic Organisation, London 1947, Ch. 3; and From Max Weber: Essays on Sociology, London, 1948, Ch. VIII.
2. Sawyer, op. cit., p. 13.
3. There followed a "pendulum swing" between departmental and corporate management. For the New Zealand experience, including a recognition of the use of the Victorian precedent, see L. C. Webb, "The Public Corporation in New Zealand", in W. Friedmann (ed.), The Public Corporation, op. cit., pp. 272-8.
4. "Early Railway Management Legislation in New South Wales.," op. cit., pp. 462-3, 473.
5. See page 78.
6. There were a number of attempts to bring the New South Wales railway legislation more closely into line with the Victorian: e.g. Lyne's original abortive proposals in 1887, Holman's 1916 amendment which added more Victorian provisions (including the recoup) to the Parkesian base, and the Lang Government's 1931 compromise offer to a recalcitrant Legislative Council (which was defending the greater independence given the Commissioners under Parkes' 1888 Act) to adopt the Victorian general direction clause of 1891.
7. See note 1 to Chapter Four.
8. State Socialism in Victoria, op. cit., p. 41.
9. E.g. W. M. Acworth (references at note 1 to Chapter Five); Sir Charles Dilke, Problems of Greater Britain, Vol. 1, London 1890; James Hole, National Railways, London 1893; E. A. Pratt, The State Railway Muddle in Australia, London 1912. Also various English journal references such as H. Willoughby, "The Seamy Side of Australia - A Reply from the Colonies", Nineteenth Century, Vol. 30, p. 295; and J. W. Fortescue, "Guileless Australia - A Rejoinder", ibid., pp. 433-4. But there were many others - mainly financiers - who wrote of Australian railway systems in the 1890s and afterwards, yet ignored the experiments in management altogether.
10. Historical Sketch of State Railway Ownership, op. cit., preface.
11. G. N. Ostergaard, "Labour and the Development of the Public Corporation", Manchester School of Economic and Social Studies, Vol. 22, pp. 201-4.
12. V. P. D., Vol. 43, p. 767. For reference to Prussia, see Schaffer, "The Idea of the Ministerial Department", op. cit., p. 75.
13. I.e. excluding the pre-responsible government railway commissions in New South Wales and South Australia (see note 18 to Chapter Two) which were very different in character. The post-responsible government railway commissions appeared in the Australian States in the following years: Victoria - 1883/4; South Australia - 1887; New South Wales and Queensland - 1888; Western Australia - 1902; Tasmania - 1910 (although Tasmania had gone half-way in 1891 with a General Manager who had a greater amount of legal and managerial independence than the usual

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departmental permanent head).

14. However, New South Wales later reversed this position, transferring construction work (subject to parliamentary approval of each project) from the Public Works Department to the Railways Commissioners in 1916.

15. E. A. Pratt, op. cit., pp. 107-121.

16. See L. Blakey, Politics and Administration in the Government Railways of New South Wales 1925-32, Hons. Thesis, University of Sydney, 1957 (consulted by permission of the writer).

17. See especially debates on the Appropriation Bill, December, 1921 - Com. Parl. Debates, Vol. 98, pp. 13995-14044.

18. Commonwealth Parliamentary Public Accounts Committee, 21st and 22nd Reports, Canberra 1955; and L. C. Webb, "Statutory Corporations Under Review", Public Administration (Sydney), Vol. 14, pp. 158-165.

19. Report of the Joint Parliamentary Committee on Wireless Broadcasting, Canberra, 1942; and J. Rydon, "The Australian Broadcasting Commission", in Public Administration (Sydney), Vol. 11, pp. 12-25, 190-205.

20. H. P. Harrison, Aspects of the Administration of the Commonwealth Scientific and Industrial Research Organisation, Doctoral Thesis, Australian National University, 1957, pp. 32-52.

21. On these, see e.g. C. H. Pritchett, The Tennessee Valley Authority, Chapel Hill (North Carolina) 1943, Chs. 7 and 8; J. Longhurst, Nationalisation in Practice: The Civil Aviation Experiment, London 1950, e.g. Chs. 4, 12; Alan Wood, The Ground-Nut Affair, London 1950, later Chapters; and M. C. Chagla, Report ... of Inquiry into the Affairs of the Life Insurance Corporation of India, New Delhi 1958.

22. National Health and Pensions Insurance Act No. 25 of 1938.

23. W. A. Robson, Problems of Nationalised Industry, London 1952, pp. 22-3.

24. A. H. Hanson, Public Enterprise and Economic Development, London 1959, p. 372.

25. L. D. Musolf, Public Ownership and Accountability: the Canadian Experience, Cambridge (Massachusetts) 1959, p. 49.

26. J. Thurston, Government Proprietary Corporations in the English-Speaking Countries, Cambridge (Massachusetts) 1937, p. 217.

27. E. L. Johnson, "The Accountability of the British Nationalised Industries", American Political Science Review, Vol. 48, p. 369.

28. See citation from P. H. Appleby's 1956 report to the Government of India, in Hanson, op. cit., p. 351:

It should go without saying that true autonomy is out of the question, and not seriously proposed by any informed person ... government can always and should always be able to intervene in any matter really important to the government. Advocacy of autonomy simply highlights the need to educate responsible top organs

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of government in the ordinances of self-denial which would restrict their intervention to really important concerns.

Hanson describes this as "very nearly the last word" on the matter.

29. Cf. Parkes' idea of "dormant" as distinct from "active" government authority, cited in "Early Railway Management Legislation in New South Wales", op. cit., pp. 466-7. But Parkes would allow the right of intervention only when the Commissioners failed to observe the provisions of their Act. If they acted within its terms they must be sustained, irrespective of whether politicians agreed with the particular course of action they took; and the only remedy would be amending legislation.

30. J. W. Grove, "British Public Corporations: Some Recent Developments", Journal of Politics, (Florida), Vol. 18, pp. 659-60. The Select Committee on the Nationalised Industries has taken a similar line in its recent reports on the British Air Corporations and Railways: see reviews of 1959 and 1960 Reports in Public Administration (London), Vol. 37, p. 404, and Vol. 38, pp. 387-9.

31. For an interesting debate between R. G. Menzies (then Leader of the Opposition) and Dr H. V. Evatt (then Attorney-General) on this question in relation to the Commonwealth Coal Commissioner in 1944, see Com. Parl. Debates, Vol. 177, pp. 881-3, 890.

32. Export Payments Insurance Corporation Act No. 32 of 1956.

33. For discussion of British position, see e.g. Acton Society Trust, Accountability to Parliament, Claygate 1950, pp. 6-15; K. Bradshaw, "Parliament and the Public Corporation", The Cambridge Journal, Vol. 3, pp. 712-4; Robson, op. cit., pp. 25-7, 115-7, 311-7; and Johnson, op. cit., pp. 373-5. For recognition of lack of discrimination in Australia see e.g. F. A. Bland, "Broadcasting in Australia", Public Administration (Sydney), Vol. 3, pp. 182, 193; A. T. Williams, "State Enterprises: Victoria", in A. H. Hanson (ed.), Public Enterprise, Brussels, 1955, p. 484; and Public Accounts Committee, 22nd Report, op. cit., p. 62.

34. J. Elliot, Report on Transport in Victoria, Melbourne 1949, p. 10. Cf. Hyttens' view, op. cit., p. 30, that the great historical weakness lay in the neglect of Australian governments to put their railway systems on a sound financial footing before conferring statutory independence of management. This was one weakness of the Victorian Act Parkes did not foresee; as we have seen there was a remarkable lack of questioning of financial arrangements in the pioneering debates.

35. J. O. A. Bourke, "Management and Control of the Public Service", in R. N. Spann (ed.), Public Administration in Australia, Sydney 1958, p. 303.