

The Board of Trade and the development of the regulatory state in the long nineteenth century 1815-1914

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Questions

- How far did the transformation of the BoT in the long nineteenth century represent a shift toward Britain becoming a “**regulatory state**”?
- What **explains** the transformation? And why was the trajectory toward deeper regulatory capacity pursued so rapidly and intensively and not until after 1815?
- What were the consequences for **state development**?

Three-phase transition to office of state for domestic micro-economic matters, 1764-1815

- 1. End of supervision of colonial governance.** 1764 end of Seven Years' War. 1768 First colonial office for the American-Caribbean empire, with Board subordinate as research and advisory body. 1779 Board made separate again, focused only on overseas trade, mainly bilaterally, not on supervision of colonial governance.
- 2. Imperial and global view, including backward linkages.** 1782 abolition in "economical reform", but then 1786 refounding by Pitt, charged with empire-wide and general perspective, not bilateral, and with remit to follow backward linkages to domestic economy e.g., 1788 report on slave trade and regulation of British slave ships.
- 3. Strategy for the wartime economy and preparing for peace.** 1792-1815 French revolutionary and Napoleonic wars: Board tasked with work on supply problems, then with response to the Continental System leading to Orders in Council for blockade and preparation for peacetime economic order.

What the Board is known for: post-war protectionism, its steady relaxation, repeals and decline, 1815-1849

The C19th Board is most famous for leading the work on

- **Corn Laws** 1815, Huskisson reforms 1820s, initial work under Gladstone in Peel's brief first administration on further reform: but then responsibility shifted to the Treasury until repeal in 1846.
- **Navigation Acts.** Reciprocity legislation then series of reciprocity treaties, relaxations, led by Huskisson in 1820s. Other industries began calling for repeal from later 1830s with quiet support from Board officials. Labouchere for Board led 1849 repeal
- Development of "**free trade**" as a programme and with statistical and analytical underpinning (Brown, 1958). BoT statistical department introduced to support analysis needed for tariff reform including navigation laws reciprocity; recruitment and concentration of free trade advocates and expertise in BoT during 1830s despite Whig ministers' caution
- But... Gladstone's 1850s **unilateral tariff reductions and eliminations** in 1850s were driven by Treasury not Board, although BoT advice was taken; some retained for revenue
- Mallet (PPS to President of BoT) supported Cobden in negotiations with France for **1860 bilateral tariff treaty**, though was not initially an official govt initiative

But this is a quite inadequate account of the Board's significance.

Rapid growth in employed staff, especially in second half of C19th

- 1830: c 23 people
- 1843: c 42 people
- 1855: c 85 people
- 1914: c 7500 people
- 1927: c 4500 people

(Prouty, 1957; Llewellyn Smith, 1928)

Figures are for those directly employed, excluding those in registration agencies, inspectorates, satellite bodies, etc.

What the Board should be known for: growth in *micro-economic regulatory* functions

➤ **Direct, executive**

- Statistical collections and publications (1832: 1st department in BoT)
- Railways, 1820s then full dept from 1840s, 2nd dept)
- Ports and harbours (1861), lighthouses (1835)
- Bridges, tunnels (1854), canals (1860s) and tramways (1870)
- Merchant shipping incl. safety and working conditions, from 1840s-50s, tonnage (1854), wrecks and salvage
- Sea fisheries and salmon fisheries (from HO 1887, then to Bd of Ag 1903)
- Foreshore landing rights for undersea telegraph cables (1863)
- Standards, weights and measures (1866)
- Gas and electricity supply licensing (1847, 1871), electric lighting (1882)
- Some aspects of life insurance (1870)
- Employers' liability for industrial injuries (1880)
- Conciliation in labour disputes (1890, 1896)
- Labour exchanges 1909
- Minimum wages in selected trades (1909)
- Bankruptcy (1883)
- Company fraud (1850s criminal law legislation, etc, but action through courts)

➤ **Indirect: agencies**

Registration

- Seamen (through Trinity House, 1835)
- Companies (1844)
- Industrial designs (1842)
- Trademarks and copyrights (1911)
- Patents (1852, 1875, 1883)

Non-regulatory Direct agencies

- Industrial design schools (1837, to Board of Education, 1856)
- National Physical Laboratory (1898)

Selected non-regulatory departments

- Meteorology (1855)
- Science and Art (1853: became Education Dept 1856)
- Commercial intelligence (1899)

Micro-economic regulatory functions across government

Other micro-economic regulatory offices of state, with agencies

- **Treasury and the Bank of England:** commercial bank oversight (BoT had jurisdiction over their corporate governance as joint stock companies from 1844)
- **Home Office:** factory inspectorate (1833); mines (1842); salmon fisheries (1861, to BoT 1887); prisons, police forces, burial grounds, explosives production
- **General Post Office:** commercial telegraph cos until 1869-1871 nationalisation; thereafter for international submarine telegraph companies, indirectly through International Telegraph Union, Submarine Cable Convention; from 1907 for radiotelegraphy companies through licensing
- **Board of education:** oversight of local education authorities
- **Poor Law Commissioners:** local unions and workhouses
- **Local Government Board:** audit, etc.

Functions transferred from the Board of Trade to other offices of state

- Commercial diplomacy to Commercial Dept, **Foreign Office** 1870s
 - **But** FO dependent on BoT expertise in this area until 1919
- Railways transferred to commissioners 1846, but then taken back 1851
- Science and art and Industrial Design Schools to **Board of Education**, 1860s
- Fisheries to **Board of Agriculture** 1903
- Telegraph landing rights to joint interdepartmental committee 1902

A micro-economic regulatory state?

Key criteria

- **Specialism:** highly developed by second half of C19th, with more ramified departmental structure than most British offices of state
- **Extensive range of regulatory functions and powers:** achieved by 1914, but without competition policy unlike US, and without price controls (except, very late and weak, for railway freight); well developed in safety for C19th, less focused on quality than some European counterparts
- **International regulatory negotiations:** Rules of the Road at Sea 1870s onward; one of three depts in talks for Submarine Cable Convention 1882-4; talks on international patent system for 1883 Paris convention
- **Regulatory intelligence system:** statistical department, regular and systematic data collections and later, wider commercial intelligence; well networked with local chambers of commerce
- **Agencies:** inspectorates, registration agencies
- **Executive rule making:** not formal “independence” except for registrar-general of patents, but *de facto* rule interpretation, precedent-setting and administrative law status for decisions (theories of regulatory statehood emphasising displacement of parliaments and courts are weak, even for the US)
- **Policy integration:** weak; learning across functions was devolved to officials, ad hoc; 1890s Llewellyn Smith introduced first “morning meetings” of departmental heads

Explanations from theories of state development

➤ War?

- Difficult to discern any link between e.g., Crimean War, 1857 India revolt, African wars, and new functions; even for second Boer War, most domestic policy innovations were in other offices of state

➤ Empire?

- C19th BoT had limited role in either colonial or imperial policy; can argue that Board was expected to support domestic economy for global role, but trade ran far wider than the empire, and the Board's regulatory functions were not directly developmental

➤ Tax?

- BoT advice to Treasury and FO on tariff diplomacy was not on fiscal aspects

➤ Inclusive institutions, open access order?

- Reforms to debt, bankruptcy, contract, company law, did not make institutions any more inclusive; BoT labour dispute conciliation was often criticised by trades unions as biased for employers; however, factory and mines inspectorates (HO not BoT), maritime safety and industrial accident work can be seen modest expansions in institutional inclusivity

➤ International order?

- BoT was actively involved in reshaping international order, in its participation in international regulatory negotiations, not driven by its existing structure:

➤ Ideas?

- Neither Benthamite utilitarianism nor evangelicalism explain functions added; "liberalism" is vague, and as many functions were added under Tory, Conservative and Unionist governments as under Whig or Liberal; "free trade" referred to tariffs, not to regulation and even that could encompass unilateralism, bilateralism (reciprocity), multilateralism

➤ Interest group lobbying, capture, "club government"?

- Business lobbying was extensive, and BoT was criticised for closeness to railway companies and rail monopolies, but direction of causation may be the reverse: BoT supported the emergence of new institutions for business to inform and deliberate with the Board, esp. chambers of commerce. If there was capture, it declined with the repeal of the Corn Laws and Navigation Acts; by second half of C19th, BoT increasingly engaged in mediation between different interests, including in railways, rather than being dominated by single one: esp. evident in competing claims in bankruptcy

➤ Bureau-shaping?

- No evidence that Board officials actively and consistently sought any particular structure or pattern of functions, and policy work was. If anything, under-development than over-developed at the centre, relative to operational regulatory work

➤ Policy learning?

- Little evidence of borrowing from other countries; even learning from other offices of state and their inspectorates and registration agencies was limited; most policy learning was within BoT, across functions

Toward an explanation

- **External factors:** *industrialisation* in *transport and infrastructure* was more significant than war, taxes, inclusivity, ideas, parties, capture, bureau-shaping or learning from other offices of state
 - Can help to explain timing, but not the trajectory of development
- **Internal factors:** endogenous dynamics, of the same kind as path dependency but falling short of path dependency's strict conditions
 - Initial responses to particular problems, for which there was no other obvious office of state
 - Railway oversight was key: established the template of inspectorate, professional rule-making, underpinned by own statistical function
 - Registration of seamen set a template for registration, which could be used for other purposes
 - **Positive feedback loop:**
 - (a) having acquired transport, infrastructure responsibilities, more could be added and the Board increasingly came to be seen as the obvious location for further micro-economic functions;
 - (b) from transport and infrastructure, much of growth in functions reflected following forward and backward linkages in economy;
 - (c) having acquired internal departmental structures for specialism, skills and style of judgment required for case-level determinations by inspectors and registrars, these could be applied in new areas;
 - (d) the Board become hub in business communities and priority target for lobbying, which it used for intelligence, and to identify new problems for its institutional skill set to tackle, and MPs with business backgrounds enter the Commons with experience of dealing with the Board and appreciative of, at least, its statistical publications

Conclusions - I

- Relations with other offices of state: key moments of transformation 1768, 1779, 1786, Napoleonic wars coordination, 1830s Treasury taking control of tariffs policy, 1870s transfer commercial diplomacy to FO Commercial Dept, 1880s negotiated system for Submarine Cable Convention talks, cable landing licensing committee, after 1902 contribution to Balfour era new formalised interdepartmental structures.
- No President of the Board ever set out a grand programme for its future development as an office of state. Yet the biggest growth in the Board's staffing and role coincided with the first deep globalisation.
- The Board's focus on the domestic economy can be seen – although was not described in this way at the time – as creating a regulatory framework to cultivate a domestic economy dynamic enough to compete in an increasingly open global economy with rising economic powers.
- Much **learning was within** the Board rather than from other offices of state. From creating the statistics department, the Board learned how to become a multi-divisional body, with an information and intelligence department at its centre. In many respects, the Board learned how to do inspectorate work from supervising railways, how to run registration agencies from company registration, how to do international *regulatory* negotiations (as opposed to trade diplomacy) from the Rules of the Road Sea talks. The skills were then applied to new functions and problems.
- C19th Board was crucial in extension of executive-driven **administrative law** beyond statute law, for micro-economic regulation generally, not only sectorally.

A **market-enabling regulatory state** (e.g., company, patent, trademark registration – the “software” of the new “hardware” of an industrial economy; reform of bankruptcy clarifying priority claims, weights and measures) with a wider range of regulatory powers than many other major states, not at all *laissez faire* – transparency for investors with a minimum of safety for labour – but arguably not inclusive and incomplete, without explicit competition policy regulation (at least, by contrast with post-1890 USA).

Conclusions - II

- Aim of this presentation is not to consider how effective the Board was but to examine the significance of the functions, roles and development.
- The Board provided unprecedented integration of micro-economic regulatory **capacity** for the domestic economy, but – to the chagrin of imperialists such as Joseph Chamberlain – this was not matched by integration of economic governance across the empire – in part a consequence of the separation from the first Colonial Office in 1768.
- Yet this growth in integration in capacity was not matched by growth in **capability**, i.e., internal policy coordination until after 1918 when the Advisory Council was introduced.
- The Board can be criticised on many grounds – e.g., railway system was ill-coordinated and inefficient; industrial relations worsened up to 1914, and conciliation was seen by TUs as biased; *Titanic* inquiry was very critical of Board's regulation; cost of patenting was high and not competitive with US. So presumably some adverse effects on growth.
- No way to assess the C19th Board's long-term impact upon economic growth without making very large assumptions and arbitrarily selecting counterfactuals.
- But growth was sustained up to 1914, suggesting that the micro-economic regulatory machinery perhaps did not significantly hamper aggregate growth.
- Standard accounts of British economic governance which focus only on the Treasury and Bank of England are incomplete.
- The C19th Board was a very distinctive office of state, when compared with US and European competitor states, but its development is part of the distinctive “signature” of British economic governance: a broadly market-enabling micro-economic regulatory state system with a single office of state at its centre, with system of agencies – a distinctive pathway of state development