

## Chapter Three

### Railroads and Public Opinion

#### Introduction

The mood of the public toward railroads changed by 1870. In order to overcome the isolation of the West and relieve the pressing need for transportation to the East, railroads and more railroads were needed and could not be purchased at too high a price. Financed by an apparently inexhaustible supply of local, eastern and European capital between 1865 and 1870, the roads were built, competing aggressively against each other in the larger cities and sometimes "built from places where no one lived to points where no one wanted to go."<sup>1</sup> Between 1867 and 1873, approximately \$500 million was invested in construction in the so-called "Granger States," resulting in an increase from 6,972 to 17,646 miles of track. The "Granger States" were Illinois, Wisconsin, Minnesota, Kansas, Nebraska, and Iowa. In Iowa, the increase was from 1,288 to 3,160 miles.

These states had the use of railroads, yet they did not own them and were obliged to pay a portion of the indebtedness for their construction. Those who owned the roads did not live in the states but held the securities and expected dividends and interest to be paid, and the men who managed the roads knew their responsibilities. When discontent arose between the railroads and the public, the managers gave priority to the stock and bond holders—the absentee owners. Those who lived in the states had grievances which were ignored, but which were serious enough to stir the communities into retaliatory action. Two reasons are generally considered as the basis for the conflicts, and to one or the other, or both, can be traced the hostility and public discontent which led to the popularity of movements for regulation. These were competition and poor public relations.

Railroad construction was undertaken with an implicit reliance upon competition to regulate operations: railroads would be subject to the same laws of supply and demand generally found in agricultural and manufacturing industries. However, at that time there was no land-based modal competitor, and to have competition, so visualized, would require that every locality be served by two or more independent competing lines, a physical impossibility in the majority of communities. Secondly, where competition did exist, the tendency became one of combination or absorption of weaker by stronger roads. It was not until the systems were

built that the public realized that competition did not produce the desired result. Whereas competition generally reduced and equalized rates, it also resulted in local discrimination and arbitrarily raised and reduced prices. The railroads had been built too rapidly and local business could not support them, but the railroad managers were under intense pressure to earn money, and they did, wherever, whenever and however they could.

Competition was vigorous and furious in the larger cities where several lines converged, but at points some miles away and served by only one road, every shipper would pay the highest rate that could be extracted without driving business away. Large firms negotiated their rates and services; small firms were held to strict tariff schedules. Farmers and firms with advantageous locations prospered; others not so fortunate faced ruin. These conditions were not helped by the corruption resulting from financial manipulation of construction companies in transferring assets to the pockets of promoters as evidenced by the Credit Mobilier of the UP and the Contract and Finance Company of the Central Pacific Railroads.

The aggressive attitudes of the railroads led to the second cause of hostility—poor public relations—which although not documented as clearly as the other, nevertheless added fuel to the fires of discontent. Complaints against discriminatory practices were dismissed, passengers treated discourteously, and attempts to control by legislative actions ignored. The issuance of free passes to favored individuals was another unpopular factor. Key issues in the revolt of the people, however, were the monopolistic attitudes and practices and absentee ownership of the roads.

#### The Iowa Pool

Early in their history, railroads found that competition could be destructive, and in order to sustain earnings, it was necessary that it be restricted. "All profit," stated James F. Joy, "was lost by competition which looked more like insanity than the

<sup>1</sup> Elliot Jones and Homer B. Vanderblue, *Railroads, Cases and Selections*, New York: The MacMillan Co., 1905, p. 797.



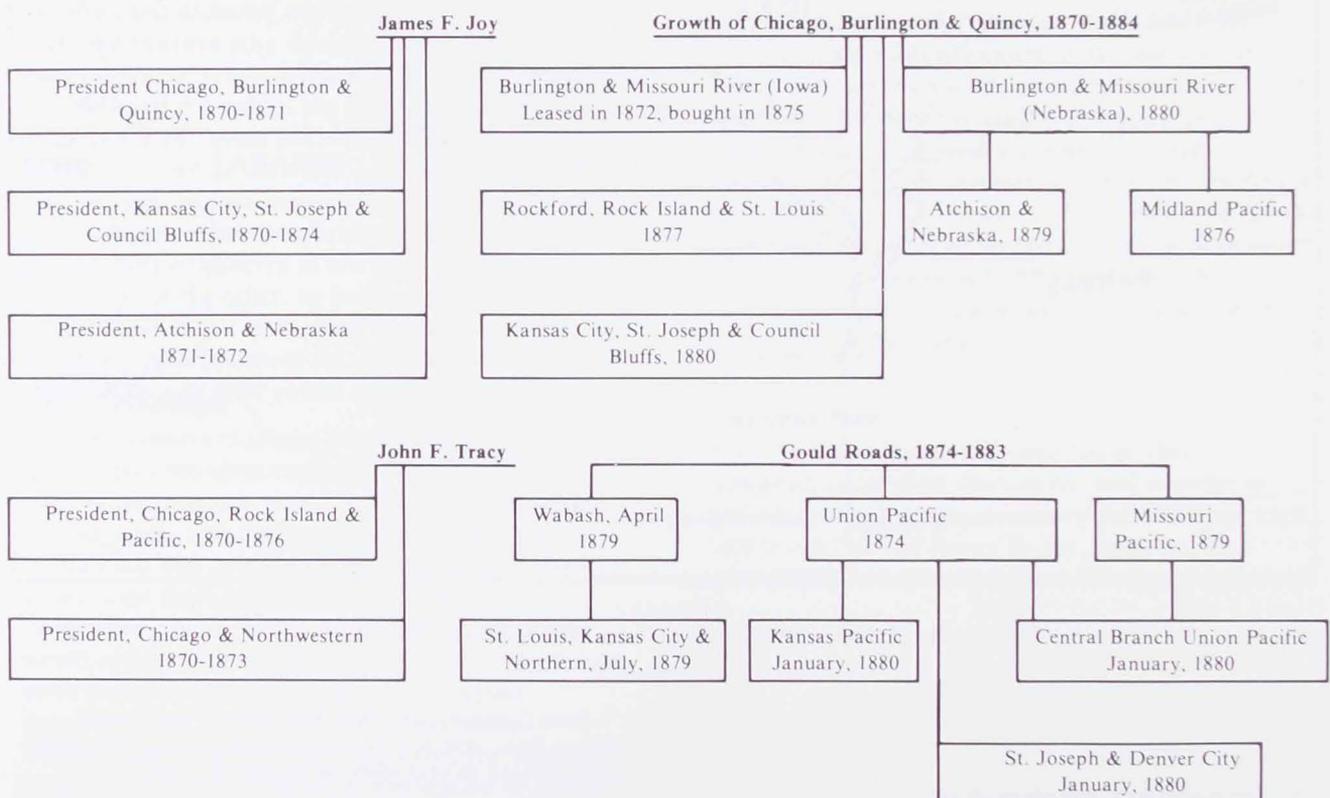
and no enforcement provisions, the arrangement depended upon the good faith of its participants for its success. Forty-five percent of passenger revenues and 50 per cent of freight revenues were to be retained by each carrier to cover operating expenses and the balance divided equally among the roads. All traffic from eastern connections was given to one road for one week and then in subsequent weeks to the others in turn. The plan led to a rate maintenance program and equalization of traffic instead of balancing accounts as originally agreed, and it proved moderately successful. The original agreement was modified in 1874 through a division of total westbound passenger traffic.

The harmony which apparently prevailed in the pooling arrangement was seriously disrupted when Gould purchased the controlling interest in the UP and was made a director in 1874. Through control of the Wabash, which reached Omaha in 1879 and

extended its lines to Chicago in 1880, he was able to compete for the traffic through a circuitous combination of various roads. Gould dictated the policies of the UP and naturally tended to divert some of the traffic that fed the Pool to his Wabash system. In an attempt to circumvent his competitive influence, the Wabash was admitted to the Pool in 1881, with a result that each of the four railroads received 25 percent of the revenues (Table 3-1).

Generally, territorial agreements were maintained during the early years. The CNW's consolidation and expansion was to the north and west of the areas of her partners. The CRI&P expanded within its territorial limits, primarily in eastern Iowa. But the aggressive CB&Q pushed its expansion into the heart of the regions served by the Pool lines, partly to meet the growing competition of Gould. By expanding into Nebraska and eventually to Denver, the CB&Q competed with the UP but insisted that the latter road

**Table 3-1**  
**Individual And Corporate Railroad Control Of The Iowa Pool Roads, Affecting Their Relationships, As Members Of The Pool, 1870-1884**



(Courtesy: The University of Pennsylvania Press from Julius Grodinsky *Transcontinental Railway Strategy 1869-1893*.)

prorate the Nebraska traffic. The request was refused, and there was some fear that the CB&Q would withdraw from the Pool in retaliation, a fear not realized.

Four railroads now constituted membership in the Pool with the prospect that a fifth, the CM&StP, would be admitted in the future. Rate and territorial issues continued to complicate the arrangements. More Missouri River points were being opened to traffic, and rate relationships had to be equalized among them and Omaha on through traffic to Chicago and the East. Local rates in Iowa were also a serious competitive problem. Rate wars were not uncommon, especially on livestock and grain movements. In 1882, the Pool was reorganized under the name of the "Iowa Trunk Lines Association" with written terms of agreement covering freight only, to be enforced by C. H. Daniel, appointed Commissioner.

The CM&StP completed its route to Council Bluffs in that year and was admitted under an arrangement which allowed each railroad 20 percent of the revenues. The Missouri Pacific (MP) had also reached the Omaha gateway, and while it would enter Chicago through a combination of roads, it had a strong hold on the traffic to St. Louis. In cooperation with the Wabash, it participated in secret rate reductions, further disrupting the rate tariffs of the Pool, but was admitted through a rearrangement of the divisions. The Kansas City, St. Joseph and Council Bluffs Railway, a key connecting road, and the IC also became members, further complicating the divisions of traffic and revenues.

Forces were operating which eventually destroyed the effectiveness of the Pool. The CM&StP, CRI&P and Wabash had no lines or preferential connections west of the Missouri River. The Wabash benefited by traffic diverted from the UP through the Gould influence. The UP, the principal source of traffic to the Pool, competed with one of its members, the CB&Q. Both the CNW and UP were considering expansion throughout Nebraska, and the CM&StP and the CRI&P complained that the CB&Q was giving them less traffic eastbound than they gave on westbound movements. Despite all of the agreements, competition was the key element in granting special privileges to shippers through rate and service concessions. While moderately successful in stabilizing rates, the weaknesses of the pooling arrangements not only resulted from carriers starting rate wars because of dissatisfaction with their traffic

allotments, but also because the courts generally held them to be in restraint of trade and refused to enforce their conditions of agreement.

### The Granger Movement

The Panic of 1873 resulted in currency deflation and depressed agricultural prices. Railroad rates fluctuated but did not fall proportionately to the price level. Farmers, equipment manufacturers and farm suppliers who had enthusiastically supported railroads and were dependent upon them for livelihoods now turned against them as a leading cause of their trouble. They realized how great was their dependence upon Eastern markets, upon the carriers for transportation and Eastern capitalists for their land. Railroads were an easy and prominent target for attacks, warranted by their practices. "Corruption of political units, wastefulness and mismanagement, pooling, construction companies, fast freight lines, fluctuations and discrimination in rates . . . all these things and more were rife."<sup>4</sup>

In 1870, Iowa had been settled and farmed for only 37 years, but it had become an important commercial farming state whose economy was based upon grain and livestock production. The Iowa farmer produced for the market and was subject to its wide swings. Although the railroads were maligned, the price index was a basic cause of economic difficulties. Corn fell from an average of 70 cents in 1864 to 24 cents per bushel in 1872; hogs sold for \$7.75 in 1869 and \$3.44 per 100 pounds in 1873. Wheat was \$1.57 in 1867 and 68 cents per bushel in 1870, rose to \$1.05 in 1872 and fell to 77 cents in 1876. Cattle sold for \$4.55 in 1868 and \$3.44 in 1872. In 1872, the secretary of the State Agricultural Society stated that it was costing the farmer about three bushels of corn to ship one to market, and in 1873, farmers complained that it cost "one-third of a bushel of wheat to ship it to Chicago." The state's leading horticulturist reported a charge of \$84.00 to ship a carload of apples 90 miles.<sup>5</sup> Regardless of market fluctuations, rate discriminations practiced by the railroads bore the brunt of the farmer's anger.

<sup>4</sup> Lewis Henry Haney, *A Congressional History of Railways in the United States*, Madison: University of Wisconsin Press, 1910, p. 24.

<sup>5</sup> Mildred Throne, "The Grange in Iowa, 1868-1875," *Iowa Journal* 47 (October 1949): p. 292.

The Grange, which had been organized as the National Grange of the Patrons of Husbandry in 1867, originally proposed to advance agriculture through education rather than politics. However, it grew rapidly as economic conditions worsened. It found fertile soil in Iowa where the farm surplus was increasing rapidly. In 1868, Iowa claimed the oldest Grange west of the Mississippi River, at Buena Vista, some four miles from Newton, and by 1872, over half of the Granges in the nation were in Iowa. The organization promoted weekly and monthly meetings to broaden the farmer's social outlook. It arranged education programs, encouraged reading, and established libraries. Emphasis was also given to the education of children, and on higher schools such as agricultural colleges and experiment stations. They established systems of cooperative buying and selling, considering the "middleman" in the same monopoly category as the railroads, and began manufacturing farm machinery. The social and educational activities were subservient to transportation and politics, however, although the order was supposedly non-political in character.

During the summer of 1873, the demand for railroad regulation and agricultural cooperation resulted in the organization of the Anti-Monopoly Party which requested the legislature to set maximum freight rates. In the fall, one-half of the legislators elected to the General Assembly were members of the Anti-Monopoly Party, and 70 of the 100-member body were members of the Grange. The Grange had formed a coalition with the Anti-Monopoly and Democratic Parties to elect candidates who favored their cause. It was reported that "the only reason why the Republicans were not defeated was that Governor Clay Carpenter was a Patron and stood for railroad legislation."<sup>6</sup>

Aside from the railroad question, the desired legislation included: the support and enactment of prohibition laws; a state income tax; military training in the colleges to be optional; abolition of county assessors; and the popular election of county school superintendents. These were but a few of the items on the Granger legislative agenda, but they illustrate the wide scope of their interests. However, it was the attempt to regulate railroads that received historical attention, and at their annual convention in Des Moines in December 1874, delegates from 2,000 Granges passed a resolution declaring "that the state had a right to establish passenger fares and freight rates."<sup>7</sup>

Meanwhile, other interests were also working for regulatory action. The 1870 Legislature debated a maximum rate bill designed to prevent diversion of trade from the Mississippi River cities to Chicago. Senator B.B. Richards of Dubuque, supporting a bill submitted by William Mills, also of Dubuque, cited examples of discrimination against river towns. They stated that flour mills along the river were being forced to close; farmers in the interior were losing markets on the waterways; grain buyers had to move to Chicago to survive; river towns were losing their advantage as lumber markets; all because of unequal freight rates. The railroads countered by stating that low through rates were made for the convenience of farmers, enabling them to compete in Eastern markets. Discriminations in rates were distinctions necessary and just, based upon variations in traffic volumes and operating costs. They argued that any proposals to regulate would necessitate the abandonment of through freight service. The bill failed passage, as did others proposed in 1872.

### Granger Legislation

State interference with railroad management was not new. Land grant legislation in 1856 declared that railroads accepting the grants would be subject to rules and regulations . . . enacted and provided by the General Assembly. Regulatory legislation attempted in 1866 was nullified by the attorney general who held that the legislature had no power to prescribe railroad rates. Any restrictive laws that were passed proved to be of little account and were seldom enforced. But in the seventies, the state was shaken by anti-railroad rumblings from agrarian and commercial groups faced with better organized railroad opposition. The time had come to take action which came with the introduction of a bill by Senator William Larabee in February, 1874, "to protect the people against the

<sup>6</sup> Solon J. Buck, *The Granger Movement*, Cambridge: Harvard University Studies, 1913, pp. 89-91.

<sup>7</sup> J. Brooke Workman, "Governor William Larabee and Railroad Reform," *Iowa Journal* 22 (July 1959): p. 239. The delegates also recommended a government-built double-tracked all-freight railroad to the Eastern Seaboard; termination of land grants and regulation of intrastate rates. See also George H. Miller, *Railroads and the Granger Laws*, Madison: University of Wisconsin Press, 1971, pp. 108-112.

abuses of unjust discrimination of railroads, express and telegraph companies." His proposal was eventually incorporated into an omnibus bill, approved in March, under the title: An Act to Establish Reasonable Maximum Rates or Charges for the Transportation of Freight and Passengers on Different Railroads of the State. This Act became known as the "Granger Law."

The law divided the railroads into three classes on the basis of their annual gross earnings. Class A roads were those earning \$4,000 or more per mile of track; Class B, between \$3,000 and \$4,000; and Class C, less than \$3,000. Progressive freight rates were fixed per hundred pounds for distances up to 376 miles. Carload rates on four general classes of commodities were specified and separate rates listed for such traffic as flour, cement, grains, lumber, mules, cattle and hogs. Different rates for different classifications were to be posted and the railroads were to report annual earnings to the Governor. Class A roads were entitled to 90 percent of the schedule of maximum rates, Class B to 105 percent, and Class C to 120 percent. The law reduced rates as much as 50 percent, but since the through rates also declined, the river interests did not enjoy the immediate relief they sought.

Different rates were thus established for railroads according to their classifications, and all commodities were placed into one of the four classes, except for those in the special list. The rates became effective on July 4, 1874. Penalties for violations ranged from fines of \$20 to \$100 and five to 30 days imprisonment, to repayments for overcharges of five times the amount charged firms or individuals and \$500 to be paid to the state for each offense. Enforcement of the law was given to the attorney general. The law was approved by the governor on March 23, 1874.

The concept of the legislation as the "Granger Law" was challenged by Throne who took issue with the description and stated that the title was inaccurate. "The very fact that the Iowa Grange did not recommend that type of law . . . should have indicated to observers that a 'cast iron tariff bill' was passed in spite of, not because of, the Grange. In Iowa, the struggle was one of farmers and small businessmen against the large corporations . . . Economics and geography determined the passage of the law, not the existence of a farmers' social group."<sup>8</sup>

The 1876 Legislature received strong protests from the railroads, claiming that the law was ruining their revenues despite the fact that revenues had increased

in 1874 by \$1 million over those of 1873. They stressed that higher through rates would be detrimental to farmers and shippers and that further investment in railroads would be difficult to obtain. These arguments were supported by many of the newspapers who wanted modification or repeal since they argued that any business should be free to operate without state interference or control.

From the industrial sector, the first complaint came from Clinton lumbermen who had received special rates on lumber shipped into western Iowa. These were prohibited under the new law, and higher rates resulted in lower traffic volumes. Cedar Rapids, Denison and Fort Dodge complained of increased through rates. In southern Iowa, the CB&Q ignored the law as it applied to both passenger and freight rates. Several suits were instituted against the roads who preferred to test the law in federal rather than state courts. They requested an injunction against prosecution by the Attorney General on grounds that it was contrary to the Constitutions of the United States and Iowa. The case was heard in the U. S. Circuit Court for the District of Iowa, and on May 12, 1875, Judges Dillon and Miller gave the verdict to the state on the principle that railroads were public highways and therefore subject to state regulation. The railroads appealed to the U. S. Supreme Court in 1876, which upheld the decision of the Circuit Court. Failing in the courts, the railroads next turned to the public for support of repeal, but efforts to influence public opinion were not successful until 1878.

### Railroad Legislation in Midwestern States

The laws of Iowa and Wisconsin (Potter Law) prescribed schedules of maximum rates, difficult to fix by statute. Legislatures, with constantly changing personnel, inexperienced in railroad matters and, without precise information as to what constituted reasonableness of rates, faced a formidable if not impossible task. Statutory rates tended to become rigid and inflexible, and changing economic conditions required rate changes without political debates to delay the necessary adjustments.

<sup>8</sup> Mildred Throne, *Cyrus Clay Carpenter and Iowa Politics, 1854-1898*, Iowa City: State Historical Society, 1974, p. 179.

Uniformity of rates and classifications of roads were difficult to achieve because of main and branch line differences in operating and traffic conditions. Finally, political considerations played an important role in fixing rates especially under the circumstances in 1874, when sectional interests were pressuring for economic advantages.

The laws of Illinois in 1873 and Minnesota in 1874 established commissions to which the legislatures gave the power to fix maximum rates and administer the laws, an improvement over the practice of direct legislative intervention. Prorata clauses provided that rates should not be higher for the shorter than the longer haul; combinations of lines to restrain competition were forbidden in an attempt to slow the trend toward monopolies. The laws also prohibited free passes to public officials, given initially to curry favors from those in positions of power. These soon proved to be a form of bribery and raised questions of conflicts of interest when the concerns of the railroads and the public did not coincide.

### The Granger Cases

The state laws resulted in the "Granger Cases," six in all, decided by the U. S. Supreme Court in 1877.<sup>9</sup> The most famous and often quoted was that of *Munn v. Illinois* which actually involved the regulation of grain warehouses, not railroads, as did the other five. The railroads argued that rate regulation directed by legislatures or commissions deprived investors of property without due process of law, thus violating the 14th Amendment of the Constitution. By limiting rates which could affect net earnings, railroad properties would fall in value since values were dependent upon earnings. This, the Court conceded, applied to ordinary businesses, but railroads were in that special class of business "affected with a public interest." They pointed out that certain types of business activity had been regulated under common-law principles of England and maximum charges fixed for ferries, common carriers, innkeepers, etc., as early as 1681.

Other arguments involved state interference with charters vesting the right to fix rates by management; that state legislatures could not assume the authority without violating constitutional provisions which forbade states to pass laws impairing the obligation of those contracts. Railroads also raised the question of whether or not determination of reasonable rates was a judicial rather than a legislative function. They claimed that states had no rights in regulation of

interstate commerce, an authority granted only to Congress through the Constitution which empowered them to regulate commerce among the several states. To all of these arguments, the Court decided, although not unanimously, for the "public interest." The states had the right to regulate; they did not deprive the railroads of their property without due process of law; they did not violate the contractual obligations unless the charters expressly gave the railroads rate powers. Legislatures could fix rates, and until Congress acted, states could regulate rates even though interstate commerce was indirectly affected. The Court later reversed itself on some of these points.

The railroads were now faced with legal decisions which apparently placed them at the mercy of state legislatures. They had two possible courses of action. One was to take the political road which they did quite successfully; the other to continue their fight in the courts which they did unsuccessfully until 1886, when in *Wabash v. Illinois*, the Supreme Court handed down a decision which seriously impaired the legality of state regulation. The case concerned long and short haul rates on grains from origins in Illinois to New York City, and the Court held that states could not control rates on interstate commerce even in the absence of federal regulation.<sup>10</sup>

### Impact of the "Granger Cases" on the State

The decisions in the "Granger Cases" had given the state the right to regulate intrastate rates, and the railroads proceeded to charge the maximum rates prescribed in the 1874 law. Often these were higher than rates which had been in effect in prior years. Some of the roads chose to ignore the law and some obeyed. The CB&Q stated that it would "experiment" with the new tariff schedules but would adjust its

<sup>9</sup> These were: *Munn v. Illinois*, 94 U.S. 113 (1877); *Chicago Burlington and Quincy Railroad v. Iowa*, 94 U.S. 155 (1877); *Chicago Milwaukee & St. Paul Railroad Company v. Ackley*, 94 U.S. 179 (1877); *Piek v. Chicago and Northwestern Railway Company*, 94, U.S. 164 (1877); *Stone v. Wisconsin*, 94 U.S. 181 (1877).

<sup>10</sup> *Wabash, St. Louis and Pacific Railway Company v. Illinois*, 118 U.S. 557 (1886).

interstate rates, a loophole through which the railroads eventually forced repeal. The rate adjustments on both intra- and interstate shipments brought numerous complaints of discrimination by both agrarian and industrial organizations.

Railroad mileage increased from 2,683 in 1870 to 4,157 miles in 1878. Iowa was devoting its attention almost entirely to agricultural pursuits and had to import its manufactured goods from the East. The geographical location of the state required low rates for the long haul to agricultural markets and the return movement from commercial origins. Railroad expansion brought with it manufacturing, wholesale and jobber firms as economic opportunities opened—firms which wanted to be able to compete with commercial centers in the Midwest and East. The rate adjustments did not favor this objective.

Between 1875 and 1878, political and propaganda campaigns by railroads, coupled with a change in public attitudes, contributed to the defeat of the "Granger Law." The Granger movement was declining; farmers had recovered from the depression of 1873 and were anxious to continue their quest for additional transportation. The press generally favored repeal and were joined by businessmen and the railroad lobby to stir up support. The greatest criticism of the law was its rigidity and lack of proper enforcement machinery for effective control. Yet, it had rendered indirect benefits to the public. Adams, writing on the "Granger Movement," stated that "the corporations have been made to realize that the roads were built for the West and that to be operated successfully, they must be in sympathy with the people of the West. The whole system of discriminations and local extortions had received a much needed investigation, the results of which cannot but mitigate or wholly remove the more abominable features . . . great principles of justice and equality heretofore ignored have been drawn by the sheer force of discussion, backed by rising public opinion into the very essence of railroad policy."<sup>11</sup> It also seemed that it was poor policy for the state, still needing more railroad mileage, to antagonize the builders.

### The Repeal of the "Granger Law"

The law was repealed on March 23, 1878, eliminating all of the 1874 legislation except for the sections establishing railroad classifications, passenger charges and annual reports of revenues. The legislature created a three-man Advisory Commission, modeled

after the Massachusetts Commission Law of 1869. The commission was given supervision over intrastate railroads, was to examine and inquire into any neglect or violation of state laws, examine books and documents of the railroads, investigate complaints, require annual reports, and provide the governor with annual reports on the railroad situation. Commission members represented eastern, western and central sections of the state and could have no financial interests in the railroads. Their expenses, including salaries, were pro-rated among railway companies. Discrimination between shippers under similar circumstances and conditions was prohibited. Special rates were to be available to all parties and unreasonable rates were considered illegal, although unreasonableness was not defined. Failure to comply with provisions of the law could result in fines up to three times the damages or overcharges plus court costs, and continued violations after warnings could lead to a report to the legislature, the only enforcement agent of the state. The railroad lobby saw that such enforcement was practically non-existent.

### Federal Regulation of Railroads

Railroad regulation had been debated in Congress as early as 1867, when Granger discontent resulted in the election of candidates from the West. The issues centered on the railroad movement of grains to the eastern seaboard, alleging discriminations against the agricultural areas so as to consume in charges for transit more than one-third of their entire value, while manufacturing interests in the East are protected by a tariff. Congressman Wilkensen of Minnesota called attention to the price of the wheat crop of 1869 as being sold at various railroad origins for about 50 cents per bushel, yet purchased in New York for \$1.20 to \$1.25. "Railway rates were at least one-third too high and the people are being plundered by chartered monopolies—monopolies which had been aided by land grants or otherwise."<sup>12</sup>

<sup>11</sup> C. F. Adams, "The Granger Movement," *North American Review*, 120 (April 1875): p. 423.

<sup>12</sup> Lewis Henry Haney, *A Congressional History*, p. 245.

Two Senate committees examined the possibility of securing cheap transportation from the western states to the East. The first, known as the Windom Committee, reported in 1872 and reflected the common and popular view that competition should be the regulator of rates, but that competition invariably ended in combination and did not offer the necessary protection to shippers and the public. Only through state or national ownership of one or more railroads could effective competition be expected and maintained, and the Committee recommended building railroads to the seaboard and further development of the inland waterways. The report created little attention. In 1874 and 1875, the House passed bills providing for regulation, and in 1884 and 1885, bills were introduced in both Houses of Congress only to become deadlocked over different provisions.

The impasse resulted in the appointment of the second, the Cullum Committee, to investigate the railroad problem. It made its report in 1886, emphasizing more the evils of discrimination than the levels of rates stressed in the Windom Committee report.<sup>13</sup> Senator Cullum earlier had reported that there existed 18 evils or railroad abuses, ranging from unreasonably high local rates versus through rates, pooling arrangements, secret rates, drawbacks and concessions to favored shippers, overcharges, free passes, etc., to railroad involvement in businesses other than transportation. Three major classes of discrimination were described: (1) those which affected certain individuals, the most objectionable and used for discounts; (2) those which affected certain localities and had as their origin the natural desire of competing roads to increase business at the expense of their rivals, and were used at competitive common points versus non-competitive points; and (3) discrimination between products, the most common of the unjust practices. Livestock versus dressed beef was an example. The cost of transportation from Chicago to New York for dressed beef was 6¼ cents per pound more than that of live animals but the rate was 75 percent higher. The Cullum report, with compromises between the two congressional bodies and possibly aided by the *Wabash* decision, hastened the enactment of the Act to Regulate Commerce in 1887.

### The Act to Regulate Commerce

The legislation applied to all common carriers in interstate or foreign commerce and included water carriers when they and the railroads were used "under

common management, control or arrangement for a continuous carriage and shipment." The language was broad and indefinite and caused controversy over many years, requiring commission and court interpretations, in turn resulting in many amendments. The act required that all rates be just and reasonable, a statutory endorsement of the common-law principle; no personal discrimination was to be allowed, with certain exceptions; no undue preference nor prejudice between persons, kinds of traffic or places; prohibited were long and short haul discriminations and pooling agreements; and all rates were to be published with strict adherence by the railroads. Created was the Interstate Commerce Commission (ICC) of five members, appointed by the President, with powers and duties to hear complaints of violations, to investigate and assess damages, to inquire into the operations of the carriers, require annual reports, and prescribe a uniform system of accounts. The commission was to make annual reports to Congress for evaluation of the regulatory process and make recommendations for further legislation, if necessary. The act was amended many times as economic conditions changed, new modal competition appeared, and court and commission decisions clarified or confused carriers, shippers and the public with their interpretations.

### Iowa Railroad Classifications

The first annual report of the Iowa Commission showed 29 railroads operating in the state, subject to the classifications invoked in the 1874 law. These are listed under the "A", "B," and "C" classifications in Table 3-2.

<sup>13</sup> *Report-of-the-Senate Select Committee on Interstate Commerce*, 49th Congress 1st Sess. Senate Report.

**Table 3-2**  
**Railroad Classifications**  
**Class "A" Railroads**

Chicago, Burlington & Quincy Railroad.  
 Chicago & North Western Railway.  
 Chicago, Rock Island & Pacific Railroad.  
 Kansas City, St. Joseph & Council Bluffs Railroad.

**Class "B" Railroads**

Burlington, Cedar Rapids & Northern Railway.  
 Central Railroad of Iowa.  
 Chicago, Milwaukee & St. Paul Railway.  
 Illinois Central Railroad.  
 Iowa Railway, Coal & Manufacturing Company.  
 Keokuk & Des Moines Railway.

**Class "C" Railroads**

Burlington & Northwestern Railway.  
 Burlington & Southwestern Railway.  
 Chicago, Clinton & Western Railroad.  
 Chicago, Clinton, Dubuque & Minnesota Railroad.  
 Crooked Creek Railway.  
 Davenport & Northwestern Railway.  
 Des Moines & Fort Dodge Railroad.  
 Des Moines & Minneapolis Railroad.  
 Dubuque & Southwestern Railroad.  
 Iowa Eastern Railroad.  
 Missouri, Iowa & Nebraska Railway.  
 Newton & Monroe Railroad.  
 Sabula, Ackley & Dakota Railroad.  
 St. Louis, Kansas City & Northern Railway.  
 St. Louis, Keokuk & Northwestern Railway.  
 Sioux City & Pacific Railroad.  
 Sioux City & Pembina Railway.  
 Sioux City & St. Paul Railroad.  
 Toledo & Northwestern Railway.

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(Source: *Iowa Railroad Commission, Annual Report, 1878*)

**The Railroad Commission's Interpretation of the New Law**

From the beginning, the commission struggled with the concept of reasonable rates and questions concerning discrimination. Shippers preferred rates based on the cost of service plus a fair profit over fixed expenses. Railroads preferred the value of service principle, "charging what the traffic would bear." Any rate, in the judgment of the commission, that would not deter shipments was fair no matter how great the profit. Ripley commented on the basis

of reasonable rates as follows: "Both principles are of equal importance and both must continually be invoked as a check upon each other. The tendency to the elevation of cost of service to the position of priority, rather characteristic of the relative bodies and legislatures, is no less erroneous than the marked disposition of railway managers to insist upon the universal applicability of the principle of what the traffic will bear. Neither will stand the test of reasonableness alone. Whether one or the other should take precedence can only be determined by a careful study of the circumstances and conditions in each case, and in practice the instances where either principle becomes of binding effect to the exclusion of the other are extremely rare."<sup>14</sup> With only the legal requirement that rates should be "just and reasonable" or only "reasonable," state and federal commissions faced difficult decisions, for there were no precedents in statutory or common law to guide them, and the issue of "reasonable rates" became a continuing problem for regulators.

The law prohibited unjust discrimination but permitted discrimination that was "just." Early the commission took the position that just discrimination should be allowed, and such was incorporated into the freight classifications of the railroads. Examples of "just" discrimination were higher rates on high-valued commodities than those classified lower, not because the cost of transportation was greater, although there was some acceptance of risk involved, but because the traffic would move on higher rates. Also, rate discrimination could be applied at competing points (unjust from the view of non-competing points), because if this was the only way railroads could gain traffic and make profits, the non-competing points would eventually benefit through lowered rates. Further, they argued that competition must exist and there must be absolute equality of rates. Discrimination, which was unjust, and undue preferences should be prohibited, and advantage given one place over another should be regarded as violations of the "just" principle of discrimination.

<sup>14</sup> William Z. Ripley, *Railroad Rates and Regulation*, New York: Longmans-Green & Co., 1912, p. 101.

Dixon suggested that the commission's position on discrimination was open to serious question. "The practice of granting special rates at competitive points seemed wrong in principle, for it was doubtful that the growth of cities and concentration at a few points was necessary to the prosperity of a state. In other words, was a policy which leads to the enrichment and advancement of a few places at the expense of many, productive of benefit to the people as a whole? While building up business at competitive points and increasing their net earnings, railroads were, in many cases, destroying business at non-competitive points. The effect upon the public at large must be taken into account in determining the reasonableness and justice."<sup>15</sup>

Using the same logic, the commission abandoned the theory that the state should prohibit higher rates for shorter than for longer distances. This, they stated, would compel the loss of through traffic and emphasize operations entirely on local traffic, with increased local rates to cover the losses sustained on the abandoned through movements. It was claimed by opponents of the long and short haul principle that if the roads were required to charge as much for the long haul as for the short one, they would raise the long haul rates rather than lower those on the shorter hauls. Cases which came before the commission included favored shippers, prorata rates ignoring distance, long and short hauls, distribution of cars and carload versus less-than-carload rates. Other questions were raised about adequate service, car shortages, handling of cars from connecting roads, maintenance of way, unsafe bridges, road and highway crossings, construction of viaducts, proper safeguards for cattle and fencing of track. Overcharge complaints were the most frequent, almost non-existent in the 1870's, but now commonplace. Damage claims were also frequent, and for these the commission acted as an arbitrator. The law prohibited pooling in state commerce but had no effect on the pooling arrangements in Iowa since these agreements covered interstate traffic. The Pool did not concern itself with local traffic, leaving that entirely to the discretion of individual companies.

### A Potential Problem Emerges

Between 1880 and 1884, annual reports of the commission seemed to indicate a general satisfaction with the new law but also began to outline a pattern that could spell trouble for the future. Railroads were still expanding at a high rate, growing from 4,157 miles in 1878 to 7,249 in 1884. In 1884, of the 25,900

stockholders in Iowa railroads, only 740 were residents of the state. Only one Iowan was among the 11 directors of the CB&Q and none were on Boards of Directors of the CNW and CRI&P. The commission commented: "This great interest is thus practically without representation in the General Assembly, while in the boards of directors, as the majority runs the other way, it is but fair to suppose that the real interests of Iowa shippers are not fairly represented. We have here a form of absenteeism which can only result in conflicting interests and conflicting methods . . . It would not be strange that the members of the General Assembly should hear and think about the calls and demands of the living, present, constituent shippers and producers, than of the absent, non-represented stockholders who are neither voters nor constituents. On the other hand, it would not be strange if the directors, meeting abroad and representing funds invested demanding remunerative returns, should think and act for the present aggressive, vigilant stockholders than for the absent unknown shippers and producers."<sup>16</sup> Absentee ownership had been a point of agitation during the Granger period and was surfacing again.

### The Industrial Structure—1880 to 1890

From 1880 to 1890, urban population increased from 247,000 to 406,000 and manufacturing industries enjoyed a somewhat parallel growth. In 1880, industrial firms employed 28,372 people and had a production value over \$71 million. Agriculture furnished raw materials and provided markets for such industries as agricultural implements, wagons and carriages, flour mills, breweries, saddles and harnesses and meat packing. Corn, the state's staple crop, could not be shipped in large quantities because railroad rates were too high a percentage of its value, so it was processed into commercial products as well

<sup>15</sup> Frank Dixon, *State Railroad Control*, Boston: Thomas Y. Crowell & Co., 1898, pp. 51-52.

<sup>16</sup> *First Annual Report of the Board of Railroad Commissioners for the Year Ending June 30, 1878*, State of Iowa, Des Moines: State Printing Office, 1878, pp. 155, 192, 223. See also the *Third Annual Report* for 1880, p. 4 and the *Seventh Annual Report* for 1884, pp. 5-6, 117.

as fed to cattle and hogs, where the rates would bear a lower proportion to value. Dairying became important for the processing of cheese and butter. The leading manufacturing counties closely reflected the concentration of population in the state (Table 3-3).

By the 1890s, 59,174 people were employed in industry which produced commodities valued over \$125 million. Of the four industries with a production value of \$1 million or over, three were dependent upon agriculture: meat packing, flour milling and

dairy products. The fourth was lumber and mill products. The leading industrial counties, primarily on the Mississippi River, showed little change in rankings by 1890. Woodbury County, which included Sioux City, led the group, but six of the 10 most important in terms of production value were those on the river. Other cities developing industries were Marshalltown, Waterloo, Council Bluffs, Iowa City and Waukon. Wholesale growth, as reported by 22 towns, showed 399 wholesale houses with total sales of \$68 million in 1884 (Table 3-4).

**Table-3-3**  
**Iowa's Ten Leading Manufacturing Counties, 1880**

County	Major City	Est. <sup>1</sup>	Capital	Ave. No. Workers	Production
Dubuque	Dubuque	459	\$3,749,761	3,187	\$6,885,289
Linn	C. Rapids	207	1,564,150	1,320	5,205,859
Scott	Davenport	241	2,983,157	1,801	4,667,511
Polk	Des Moines	202	1,564,790	1,575	4,530,428
Clinton	Clinton	172	2,752,492	1,698	4,080,647
Wapello	Ottumwa	154	1,094,495	1,067	3,506,379
Lee	Keokuk	285	2,146,534	1,874	3,192,058
Des Moines	Burlington	134	1,420,373	1,426	2,838,053
Pottawattamie	C. Bluffs	120	546,541	719	2,448,842
Muscatine	Muscatine	195	1,056,985	1,010	1,913,149

(Source: *Census of Iowa, 1880*. The value of production was for the year ending May 31, 1880.)

<sup>1</sup>Number of industrial or manufacturing establishments.

**Table 3-4**  
**Iowa's Ten Leading Manufacturing Counties, 1890**

County	Major City	Est. <sup>1</sup>	Capital	Ave. No. Workers	Production
Woodbury	Sioux City	242	\$ 5,455,766	3,167	\$14,343,545
Scott	Davenport	504	8,910,293	5,280	10,685,316
Dubuque	Dubuque	343	7,335,110	4,876	10,316,491
Linn	C. Rapids	221	2,983,026	2,776	9,485,824
Polk	Des Moines	346	3,906,240	3,974	7,979,300
Lee	Keokuk	328	5,143,569	4,145	7,977,198
Clinton	Clinton	510	10,598,890	5,312	7,088,262
Des Moines	Burlington	239	4,494,426	3,986	6,599,046
Wapello	Ottumwa	136	1,526,674	2,513	5,141,645
Muscatine	Muscatine	189	4,213,416	2,501	4,248,621

(Source: *Census of the United States, 1890*. Part I, IX.)

<sup>1</sup>Number of industrial or manufacturing establishments.

Thus, throughout the 1880s, the railroad question had materially changed. The emphasis upon agriculture alone as the leading and only economically viable industry shifted at least partially to processing and manufacturing. Industrialists and wholesalers had been able to compete with large metropolitan centers through rebates on rates but were helpless when rebating was prohibited by federal statutes. For Iowa merchants and jobbers, their trade was placed in jeopardy by discriminations which resulted from the fluctuating rates, and while Chicago grew—at the expense of many of the smaller cities and towns in Iowa—the public and press concluded that it was the result of railroad favoritism. Local rates were clearly higher than through rates.

The Iowa jobber had two rates to pay in his business. One was the rate from Chicago or other eastern cities to his location; the other, the local rate to his customers. The out-of-state competitor had only one rate direct to destinations, based upon lower interstate tariffs. Examples of rate problems faced by Iowa merchants are described by Murphy: “If a Cedar Rapids jobber wished to ship 100 pounds of first class commodities to Jefferson, he would pay a total charge of \$1.81. From New York to Chicago, the rate was \$.75; Chicago to Cedar Rapids, \$.60; and from Cedar Rapids to Jefferson, \$.46. The Chicago merchant paid \$1.53 to the same city, or \$.28 less. The difference was borne by the Iowa jobber who had to sell his goods at Chicago prices.”

Discrimination also existed between the interior towns and Mississippi River cities as a result of lower interstate rates from Chicago and eastern origins. “On first class freight, the rate from New York to Davenport (1,000 miles) was \$.96½; the rate from Davenport to Tama City (140 miles) was \$.45, for a total of \$1.41½. The rate from New York to Cedar Rapids (1,065 miles) was \$1.25; the rate from Cedar Rapids to Tama City (54 miles) was \$.27, for a total of \$1.52, or a disadvantage of \$.10½.”<sup>17</sup>

### Sunday Trains

An interesting sidelight in recommendations of the commission to the legislature was one concerning the abandonment of Sunday trains. Moving trains on the Sabbath was demoralizing, they observed. “The laboring man had a right to the seventh day of rest, and out of place in the quiet of a Sunday morning was the thunder and roar of long freight trains as they went rattling by vestibules of a church. Again, where trains come and go on a Sunday, there was always

more or less gathering of people at the station, especially the boys of the town. Among these are sure to be some of the worst elements in the neighborhood and their influence is anything but good on these boys gathered there and who would not be there but for the expected train. In short, Sunday trains are demoralizing from any point of view . . . They disturb worshipping assemblies; they demoralize the young by bringing them into contact with the low and vicious; and they gradually undermine the reverence and regard that the Sabbath day should cultivate.”<sup>18</sup> After several recommendations, the subject was dropped through lack of interest.

### The Movement for Regulatory Reform

#### Governor Larabee and Regulatory Reform

William Larabee was elected governor in 1885, and during his first year in office there was little railroad legislation. The press and some of the legislators raised questions concerning the continued policy of issuing free passes, and bills advocating an elective commission were introduced without passage. On December 6, 1866, the governor became involved in a complaint against the CB&Q on coal rates from Cleveland in Lucas County to Glenwood. He alleged that the railroad charged \$1.80 per ton in carload lots on the Glenwood route, but only charged \$1.25 per ton for shipments from the same origin to Council Bluffs, some 30 miles farther. Charles Perkins, president of the CB&Q, replied that the Glenwood charges were fair and produced little profit, and that competition at Council Bluffs required a lower rate. Larabee challenged Perkin's position, stating that the CRI&P hauled coal from Colfax in Jasper County, practically equidistant, to Council Bluffs for \$1.25 per ton, rebated \$.25 and made a profit. The Railroad Commission supported the governor and recommended that the CB&Q revise its coal rates.

<sup>17</sup> Ronald S. Murphy, *Railroad Regulation in Iowa: The Modification of the Advisory Commission*, M.A. thesis, University of Iowa, 1965, pp. 11, 87-88.

<sup>18</sup> *Sixth Annual Report of the Board of Railroad Commissioners for the Year Ending June 30, 1883*, State of Iowa, Des Moines: State Printing Office, 1883, pp. 81-82.

Instead the railroad raised the Council Bluffs rate to \$1.98 per ton, an action later regarded as a policy mistake. On March 17, 1887, the governor sent the commission a list of freight overcharges at Glenwood totaling \$3,326.40, and demanded a hearing on the case.

The governor not only complained of the rates but vented his wrath against the commission who, in his opinion, had not made a complete study of rate issues and rate violations under the 1878 law. He was also irritated over the lack of funds which prevented the commission from performing their duties and coping with the powerful railroads. However, the commission was without power to enforce its findings even after examination of complaints, and Larabee's anger was somewhat like a "tempest in a teapot." Workman, quoting A. B. Frank, a close personal friend of Larabee, suggested that this incident had a great influence on his attitude toward regulatory reform. Following it, he became more adamant on reform philosophy, to the delight of the press, merchants, farmers and the public; to the dismay of the railroads.

The new federal legislation did not bring the expected relief from railroad abuses. Railroads lowered their through rates and raised rates on local traffic, as explained earlier. The governor expressed himself quite clearly on the subject: "Success greatly emboldened the railway companies. Discriminations seemed to increase in number and gravity. At many points in the western part of the state, freight rates to Chicago were from 50 to 75 percent higher than those from Kansas and Nebraska. A car of wheat hauled only across the state paid twice as much freight as another hauled twice the distance from its origin to Chicago. Minnesota flour was hauled a distance of 300 miles for a less rate than Iowa flour carried 100 miles."<sup>19</sup>

By 1887, farmers were once more in financial difficulty. Increased competition from states west of Iowa had dropped prices drastically. In 1881, corn sold for 44 cents per bushel; in 1889, for 19 cents. Wheat slipped from \$1.06 to 83 cents, and cattle prices fell 39 percent from 1885 to 1890. Interest was eight percent on mortgages totaling \$440 million in 1889, and there was confusion over land ownership and land titles between the settlers and the railroads. Despite the agrarian problems, railroads expanded and prospered. By the close of the fiscal year 1889, there were 8,298 miles built in the state, about double that of 1870, and gross earnings of the five major

trunk lines rose from \$26.5 million in 1870 to \$72.9 million in 1887. By 1889, the assessed value was \$43.3 million and the income over \$13 million, equal to one-third of the value of the corn crop, \$3 million over the value of the wheat crop, and one-sixth of the cattle sales. Yet, the railroads were paying less than one-tenth of the total tax assessments while two-thirds were paid by farmers.

Governor Larrabee was reelected in 1887, with agricultural, industrial and public support and was in an excellent position to push for regulatory reform. He made three recommendations in his biennial message to the General Assembly regarding railroad control: first, prohibit the issuance of free passes; second, establish passenger fares at two cents per mile; and third, establish reasonable rates and authorize the commission to reduce them when considered too high. He further attacked the anti-regulatory positions of the railroads in his inaugural address.

### Railroad Legislation of 1888

Leaders of the reform movement in the House of Representatives were A. B. Cummins and James Beryhill; in the Senate, J. H. Sweeney and G. L. Finn. After much debate, a new law was passed without a dissenting vote in either chamber dealing with freight rates and strengthening the powers of the commission. It had the following exotic title: "An Act to Regulate Railroad Corporations and other Common Carriers in this State and to Increase the Powers and further Define the Duties of the Board of Commissioners, in relation to the same, and to Prevent and Punish Extortion and unjust Discrimination in Rates charged for the Transportation of Passengers and Freights on Railroads in this State and Prescribe a Mode of Procedure and Rules of Evidence in relation thereto and to Repeal Section 11 of Chapter 77 of the Act of the Seventeenth General Assembly in relation to the Board of Railroad Commissioners and all Laws in force in direct Conflict with the Provisions of this Act."<sup>20</sup>

<sup>19</sup> William Larrabee, *The Railroad Question*, Chicago: F. J. Schulte & Co., 1906, p. 337.

<sup>20</sup> *1888 Laws of Iowa*, Chapter 28.

The new law generally followed the provisions of the federal act. All charges were to be just and reasonable, and no special rates, rebates, or refunds were allowed. No preference would be given any person, corporation, firm or locality. Equal interchange facilities were to be available for all railroads. Included was the long and short haul clause and prohibited were all pooling arrangements. Rate schedules would be posted, copies of which, together with joint agreements with other railroads, were required by the commission, and 10 days notice was necessary for rate increases. The commission was empowered to make and review rates, such to be *prima facie* evidence in courts that the rates were reasonable. They could investigate violations, hold hearings and prosecute. Another act changed the manner of choosing commissioners, from appointment by the governor to election by the public, and they were to be paid by the state rather than the railroads. On the matters of discrimination, the new law differed from the original one which prohibited unjust discrimination but recognized that discriminations could be "just." Now, absolute equality was required.

With the new law in place, the problem was to get acceptance from railroads and shippers. Maximum rates were effective on July 5, 1888, and met immediate opposition from the railroads. On June 28, 1888, the CNW, CM&StP and CB&Q sought an injunction against the commission, and Judge David J. Brewer of the U. S. District Court granted it, stating that the new rates could adversely affect the rate of return on investment, but that the commission had the power to establish rate schedules as long as the rates resulted in compensation, whatever the level. The commission argued that their schedules were reasonably compensatory and that in some instances, the rates were higher than those established voluntarily by the railroads. There was also some evidence of further discrimination since the new law became effective. Charges were filed in August, 1888, by Davenport shippers against five railroads who they alleged had increased rates by eight to 25 percent.

Because of the growing number of shipper complaints, the CM&StP and CB&Q again applied for a court injunction against the commission's rate schedules. But on February 2, 1889, Judge Brewer reversed his previous stand and refused their requests. He stated: "The officers of the railroad companies declare that the rates fixed by the commission will so reduce income that it will not suffice to pay the

running expenses of the road and the interest on their bonded debts, leaving nothing for the stockholders. The commissioners insist that their schedule was framed to produce eight percent income on the value of the roads after paying the cost of maintenance and running expenses. Which view is the correct one, is impossible to decide from the evidence submitted. There is one way, however, a conclusive way, and it seems to me it is the only way by which the controversy can be settled, and that is by experiment."<sup>21</sup> The essence of the decision was that rates must be tested to judge their compensatory nature and at the same time not violate other provisions of the law. The CB&Q accepted the decision almost immediately by adopting the new rates, and other railroads followed. But, as the press pointed out, the railroads could still refuse to cooperate, running the risk of heavy fines, or could adopt the rates and attempt to prove them unreasonable.

#### Results of the 1888 Legislation

Both railroads and the state benefited by the new law. Fiscal year 1891 showed a net increase of 1,369 million tons of freight carried over 8,440 miles of road compared with the tonnage of 1890. Gross earnings were \$5 million higher, and net earnings increased almost \$3 million between 1889 and 1891. The state benefited through development of home industry. Lower rates stimulated the opening of new mills and mines, and more industrial and agricultural products were traded within the state than ever before. Opponents of the law claimed that the decline in railroad construction was the result of the rate structure. However, by the late 19th century, demand for further railway construction was falling. Iowa had 8,500 miles of roads, with no community more than 15 miles from service. This would readily account for only 65 miles built in 1893, as it would for the fact that Illinois, with a higher rate level, built only 62 miles during the same year.

<sup>21</sup> *Twelfth Annual Report of the Board of Railroad Commissioners for the Year Ending June 30, 1889*, State of Iowa, Des Moines: State Printing Office, 1889, p. 31.

By 1890, the commission and governor were pleased with the results of the 1888 law. Railroad tonnage and earnings were impressive, and the governor stated that: "No further vindication of the law is necessary. These figures show plainly that the lowering and equalizing of the rates not only increased the roads' business and income but also their net earnings. It must be remembered that the reports . . . were made by railroad companies and were certainly not made with any intention of prejudicing the cause of the rail manager."<sup>22</sup> Two comments by the commission supported the governor. "The farmers gets his supplies cheaper, his lumber, coal, salt, and other heavy commodities at fair rates. He finds a market for a portion of his surplus corn, oats, hay, wood timber, etc., at home and saves transportation. He markets many of his hogs at Iowa packing houses and saves freight charges. Wood and logs that lay in the timber rotting, the Iowa rates are making a market for, and new mills are sawing the latter up for use in excelsior, fencing, pickets, handles, boxes and other industries unknown before. The railway policy of the long haul has in measure been supplanted by the new system, and the exchange of products between different parts of the state is one of commendable results. Hay and corn from northern Iowa are now sold at better prices in the dairy counties of eastern and southern Iowa in larger quantities, a thing hitherto unknown. These formerly paid tribute to Chicago."

A second comment had to do with stability of rates. "There have been no rate wars and consequent disturbance of business in Iowa the past two years. The stable character of Iowa rates which have been in force, with only such slight changes as have been made in classifications from time to time, are approved on every hand. . . The evil effects of rate wars on business are unknown here, and instead we have steady rates and uniform charges shared alike by all."<sup>23</sup>

In 1926, a speech by Clyde B. Aitchison, long-time member of the ICC, could aptly have described the railroad situation in Iowa during the last three decades of the 19th century. "The useless construction of competing lines, construction for wildcat financial purposes or to obtain subsidies, cutthroat competition in rates—these were manifestly wasteful practices but they were part of a great economic system of trial and error which has evolved a transportation machine so efficient that we view what we have endured in the past with incredibility and inability to visualize. There was much that was selfish and much that was dishonest; but all that was selfish and dishonest

played some useful part in the end. . . The Nation has developed primarily because adequate and growing means of transportation have facilitated the entrance of the settler and interchange of commodities produced, manufactured, used or consumed. Every error and waste has aided if only by showing what was unsound and should be avoided. But with all the misconceptions and losses, it would be ungenerous not to pay ungrudging tribute to the inventive genius and mechanical skill, to the daring of the financier, the constructor and operator who took risks which were often desperate and who hazarded their reputations and fortunes."<sup>24</sup>

### Summary

Individualism, the mark of the pioneer, was transformed into corporate philosophy between 1850 and 1870, and the railroad was the instrument of its application to economic and political control. Throughout the period, the public assumed that competition would safely guarantee fair and reasonable treatment provided that sufficient numbers of railroads were built. Competition was given the opportunity to meet these expectations, but by 1870, the evils of unregulated competition were beginning to appear. Railroad pools were organized and public suspicion developed as competing systems formed combinations to restrain competition. Further aggravation resulted when, in their desire to increase traffic, railroads adopted policies of discrimination between persons, commodities and places.

When the public recognized the power of corporations to control transportation and arbitrarily build or destroy the business of a person or community, they turned to their government for protection. Iowa first attempted to control railroad abuses through an Advisory Commission. It failed because of lack of enforcement authority. A stronger commission, given the power to regulate and enforce

<sup>22</sup> William Larrabee, *The Railroad Question*, pp. 132-155, 266.

<sup>23</sup> *Fourteenth Annual Report of the Board of Railroad Commissioners for the Year Ending June 30, 1891*, State of Iowa, Des Moines: State Printing Office, 1891, pp. 9-10, 16.

<sup>24</sup> P. Harvey Middleton, *Railroads and Public Opinion, Eleven Decades*, Chicago: Railway Business Association, 1941, pp. 98-99.

its decisions, brought some order to rate and discriminatory practices. States throughout the nation had tried either the weak or strong commission approach, but Iowa was one of the few that tried both types.

The controversy between the public and railroads was based upon the insistence by the roads that their property was private and they had the right to determine rates and contracts—rights supported by the State and Federal Constitutions. This view was not endorsed by the courts. The “Granger Legislation” established the principle that the public had an interest in railroad operations and that legislators directly or indirectly could take steps to guard that interest. Resistance of the railroads made judicial interpretation and sanction necessary and settled for all time the question of whether or not the states could regulate industries of “public interest.”

Expansion of interstate traffic and continued railroad discriminations limited and modified the state’s jurisdiction, making imperative the Federal Act to Regulate Commerce in 1887. Further changes in the Iowa laws followed in 1888, and by 1890, the state and railroads appeared to benefit from the reforms.

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