

THE BACKGROUND OF STATE RAILROAD REGULATION IN IOWA

By Earl S. Beard

Few periods in the history of American railway transportation have produced changes more significant than those of the turbulent 1870's. In their total effect, the events of those years marked an abandonment of any pretense of *laissez faire* in railroad management and the substitution of a doctrine sanctioning state governmental regulation of private enterprise when such enterprise became "clothed with a public interest." This was the principle applied in 1877 by the United States Supreme Court in the so-called "Granger decisions," first in the well-known case of *Munn v. Illinois*, and then in a number of cases wherein railroad companies had challenged the constitutionality of state laws establishing maximum charges for their services.¹ In effect, the Court ruled that the attainment of certain social ends justified modification of the prevailing view of competition as the only legitimate regulator of business enterprise. And although subsequent decisions sharply limited state power over interstate business, and arrogated to the judiciary the determination of reasonableness in the fixing of rates, the doctrine of *public interest*, "the fundamental principle of the right of a state to regulate a business which is public in nature," has been continuously maintained.²

The agitation that led directly to this new definition of state power took place first in the upper Mississippi Valley, particularly in the states of Illinois, Iowa, Minnesota, and Wisconsin, where, in its later stages, it became closely identified with other aspects of agrarian unrest, the formation of independent political parties, and the rise of the Granger movement. In each of the four states, the passage of restrictive legislation occurred be-

¹ *Munn v. Illinois*, 94 U. S. Reports, 113. Other decisions, involving railroads, are found in the same volume on pp. 155, 164, 179, 180, 181. Though argued at various times after 1875, the decisions in these cases were all rendered March 1, 1877.

² Especially in the cases of *Wabash, St. Louis & Pacific Railway Co. v. Illinois*, 118 U. S. Reports, 557 (1886); *Chicago, Minneapolis & St. Paul Railroad Co. v. Minnesota*, 134 U. S. Reports, 418 (1890); and *Smyth v. Ames*, 169 U. S. Reports, 466 (1898). See also, Solon J. Buck, *The Granger Movement* . . . (Cambridge, 1913), 206.

tween 1870 and 1875, years in which the Grange attained its greatest strength in terms of membership and political influence. Though not conceived as an attack on railroads, the Grange became involved in the railroad controversy soon after its organization in 1868, and unquestionably exercised a decisive influence upon events that led finally to the enactment of state legislation regulating railroad operation. Yet, as the foremost historian of the movement has noted, demands for regulation were heard long before the Patrons of Husbandry rose to importance, suggesting the probability of legislation on the subject "even without the accompanying movement for agricultural organization."³

So far as Iowa was concerned, demands for the regulation of all private corporations, including railroads, were heard even prior to the formation of a state government. Most, if not all, of the Democratic delegates to Iowa's first constitutional convention in 1844 favored corporation restriction, and their views were embodied in the completed constitution.⁴ By the terms of that document the legislature was permitted to pass special acts incorporating private companies, but it was also given authority to repeal such acts at any later time. In effect, corporations were to hold their charters during good behavior. Furthermore, each holder of a corporation's stock was made liable for all the debts of the company. This provision, it was thought, would influence stockholders to guard against the extension of corporation debts very far beyond the capital actually paid in. Other provisions prohibited incorporated companies from using private property without the owner's consent and forbade the state government to own corporation stock.⁵ The latter stipulation, of course, was restrictive only in the negative sense that it closed the door to a source of capital and credit that had often been available to private corporations in other states. Considered alone it would seem to reflect a demand for complete separation of

³ Buck, *Granger Movement*, 123-4.

⁴ Due to the fact that no official record of the proceedings was kept, other than a journal, only parts of the debates of the convention were preserved. These fragments, which were originally reported in two Iowa City weekly newspapers, *The Iowa Standard* and *The Iowa Capital Reporter*, were collected by Benj. F. Shambaugh and reprinted in *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846* (Iowa City, 1900).

⁵ Report of the committee on incorporations in *Journal of the Convention for the Formation of a Constitution for the State of Iowa, 1844*, 15, 29-30; for the final draft of the article on corporations, see Benj. F. Shambaugh (ed.), *Documentary Material Relating to the History of Iowa* (3 vols., Iowa City, 1895-1901), 1:166.

government from corporations organized for pecuniary profit. Actually, the dominant feeling toward business-government relationships, as they affected corporation activity, was far more complex than could be indicated by an arbitrary summation under the heading of an absolute "hands off" attitude. Very clearly, majority opinion desired constitutional arrangements prescribing rather definitely the terms under which corporate enterprise might operate.

Basic to the desire for some control of private corporations was the belief that they represented an element contradictory to the spirit and practice of true democracy under republican government. Implicit in this view was a continuing resentment of the encroaching influence of commercial and financial capitalism in the nation's economic and political life. The Democrats of the convention were convinced that the granting of corporation charters by special acts of the legislature was really a system whereby extraordinary advantages, denied to the general public, were awarded to favored groups or individuals. It was a system subversive of equal rights, thus of equal opportunity, and hence conducive to monopoly, economic oppression, and plutocracy. The only privilege the state should ever sanction, thought the Democrats, was "the privilege of being equal." Under ordinary circumstances the proper role of government was that of a neutral who avoids interference in favor of any private individual or group. But on those occasions when it might be expedient for any reason to bestow corporate privileges, it was no more than fair to the public interest that government should retain the power to withdraw such privileges in the event of their abuse. To avoid misunderstanding and provide positive assurance that the people possessed this power, it was proper that it be clearly stated in the constitution. However, concern for the public interest was not to be perverted by allowing the government to become a party to works of internal improvement or other business ventures. Participation of the government would compromise its status as an impartial agent of all the people. Those favored with the partnership of the state might easily attain a position of monopoly; hence the propriety of preventing state ownership of stock.⁶

Whigs in the convention, with a very few exceptions, saw matters in a different light. Though greatly outnumbered, they argued their case adroitly from one position to another until finally overwhelmed in the voting. They

⁶ *Iowa City Iowa Capital Reporter* and *Iowa City Iowa Standard* in Shambaugh (ed.), *Fragments of the Debates . . .*, 68-70, 71-3, 91, 93, 188-91, 195-202.

objected to the policy of restriction on the ground that it would render difficult, if not impossible, all attempts to exploit the potential of the future state in commerce, manufacturing, and transportation. In the course of the debate their fears were summed up by Ebenezer Cook, banker and prominent Whig of Scott County.

Under these proposed restrictions we could not safely associate, nor could we get capitalists at the East to subscribe anything to a public improvement here. . . . No individual would consent to subscribe in a company of 500 or 600, or 1000 men, where their acts were to render his property all liable to be taken from him. . . . If this doctrine of individual liability and repeal of charters at will was to prevail, there would be no companies for improvement formed in this state.

Conceding that occasionally some corporation restriction might be desirable, the Whigs maintained that it fell within the province of the legislature to decide what limitations should be imposed. They favored a policy of leaving the question of restrictions "to the action of future legislatures, and the people." The constitution, they thought, ought to remain free of the minutiae that must inevitably result from an attempt to anticipate every eventuality. But these and other protests of the Whigs were waved aside.⁷ Democrats were in firm control of the convention, and their views prevailed.

Democratic elation over the outcome of the convention, however, was short lived. Twice during 1845 the proposed constitution was submitted to the people of the territory for ratification, and on both occasions a majority was returned against its adoption. The defeats were due largely to widespread confusion over the boundaries of the state. Congress had greatly reduced the northern boundary as it had been proposed in the constitution, and many people believed that ratification carried with it acceptance of the congressional boundaries. Those opposed to the constitution had been active in fostering this impression.⁸

Again, in 1846, the citizens of Iowa Territory approached the task of making a state constitution, and again Democrats dominated a convention chosen for that purpose, outnumbering their Whig rivals 22 to 10. With

⁷ Iowa City *Iowa Standard* in *ibid.*, 84-5, 92-3, 142, 143-4, 144-6.

⁸ Iowa City *Iowa Capital Reporter*, May 24, June 7, Aug. 27, 1845; Bloomington *Herald*, April 17, 1846, in *ibid.*, 242-53, 260-63, 269-94, 294-313, 373-4. Several well-known Democrats campaigned against ratification because of the boundary controversy. See Louis Pelzer, "The History and Principles of the Democratic Party in Iowa," *IOWA JOURNAL OF HISTORY AND POLITICS*, 6:40-44 (January, 1908).

past experience to guide them, the delegates proceeded so rapidly that the new constitution was completed within a period of fifteen days.⁹

Changes from the earlier instrument were relatively minor, except in the sections affecting business-government relationships. There, several significant alterations were made, only two of which were pleasing to the Whigs. The provision of 1844, that private property was not to be used by any incorporated company without the consent of the owner, was dropped altogether, an action representing a definite concession to those interested in railroad planning. Another change congenial to Whig proclivities was one giving the legislature power to determine the liabilities and restrictions to be placed on corporation stockholders. This principle was one the Whigs had supported strongly in the previous convention. Other provisions of the articles dealing with state credit and corporations were regarded less favorably by the Whigs. The prohibition of state ownership of corporation stock was retained, while the power of the legislature to create private corporations through *special* laws was abolished completely. Instead, the legislature was authorized to provide, by *general* laws, for the organization of all corporations — except corporations with banking privileges. Banks, or any institutions creating paper to circulate as currency, were prohibited.¹⁰

Whigs promptly branded the constitution as tainted throughout with Locofocoism, a term of particular opprobrium in their eyes. Probably the description was fully deserved. The procedures outlined in the constitution, as well as the theory behind it, bore a marked resemblance to the program and principles of the Locofoco or Equal Rights party which had flourished briefly in New York between 1835 and 1837. In their determination to deny special privileges, Iowa's Democrats in 1846 followed the Locofocos quite closely. The hard money system and the policy of government non-interference, as exemplified by constitutional strictures against the use of state credit in the development of internal improvements or other private projects, had also been advocated by the Locofocos.¹¹ The Whigs found all of this regrettable in the extreme.

⁹ Benj. F. Shambaugh, *The Constitutions of Iowa* (Iowa City, 1934), 185-92. Unfortunately the debates of this convention were less fully reported than those of the first convention. Only a few press comments are available.

¹⁰ *Constitution of Iowa, 1846*, Articles VIII and IX in Shambaugh (ed.), *Documentary Material* . . . , 1:204-205.

¹¹ See resolutions and a "Statement of Principles" of the Locofoco Party in F. Byrdsall, *The History of the Locofoco or Equal Rights Party* . . . (New York, 1842), 27, 39-42.

William Penn Clarke of Iowa City, Whig candidate for a seat on the Council, issued a lengthy statement urging the electors of Muscatine, Johnson, and Iowa counties to vote against the constitution. Once adopted it would prevent any participation by the people as a whole in undertakings intended to "annihilate time and space, and bring the markets of the East and the South to the doors of the Western Agriculturist." The accomplishment of internal improvements by corporations organized under a *general* law, he argued, was little more than hollow mockery of those truly interested in the welfare of the state.

The idea of making a railroad or canal, under a general law, repealable at the will of the lawmaking power, is perfectly absurd. Such a thing has never been done, and never will be done. Capital is always jealous of power, and looks well to the dangers which threaten its profits. It can not be induced to enter into enterprises which may be crushed by an arbitrary exercise of power, and leave it remediless. Such would be its situation under this provision.

Concluding his remarks on corporations, Clarke warned solemnly that a vote for the constitution would be, in reality, a vote "for the prohibition of works of Internal Improvement in the future State."¹²

Despite the fervor with which Clarke and others of his persuasion presented their arguments in the press and on the stump, the constitution was ratified in the election of August 4, 1846. Though attitudes would soon change, the population of Iowa, consisting mostly of farmers still in the subsistence stage of agriculture, was not immediately impressed with the need of attracting investment capital. Settlement of the boundary issue was probably the decisive factor. Earlier in the year Congress had agreed to accept a compromise boundary, in substance the boundary outlined in the second constitutional convention, which was also acceptable to the people of the Territory.¹³

With the turmoil of constitution making behind them, Iowans proceeded rapidly to the organization of a state government and the provision of its laws. Among the early acts of the first General Assembly, which met in Iowa City November 30, 1846, was the passage of a stringent general incor-

¹² Iowa City *Iowa Standard*, July 20, 1846, in Shambaugh (ed.), *Fragments of the Debates* . . . , 347-65.

¹³ Shambaugh, *Constitutions of Iowa*, 204-205.

poration law. It provided that any number of persons might incorporate themselves for the transaction of any business that would ordinarily be the object of a general partnership, including "the construction of railroads, and other works of internal improvement." Failure to comply with certain stated requirements concerning the filing of articles of association and giving notice through the press, or the payment of dividends leaving insufficient funds for liabilities, rendered the individual property of all the incorporators liable for corporation debts. At all times the private property of each stockholder was to be liable for all the debts of the corporation up to the amount of stock owned. A number of companies organized to construct railroads soon incorporated under this law. There was widespread agreement with the editor of the *Iowa Standard*, who commented that: "What is wanting is a certain and uninterrupted road to market, and not one dependent on the rains and the seasons."¹⁴

During the next four years "railroad meetings" were held at Marion, Dubuque, Iowa City, Muscatine, Oskaloosa, Sigourney, and other intermediate points.¹⁵ The result of all this activity was the establishment of new companies replete with officers, directors, and — great plans. After organizing in accordance with the general incorporation law, these companies faced a very real problem — that of obtaining the right-of-way at a price within reason. Without the assurance of being able to do so, railroads could not proceed, even when the capital required for ordinary purposes was available. The General Assembly responded to this difficulty by delegating to each company applying for it the power of eminent domain.¹⁶ As a matter of principle, here was a breach in the wall so carefully erected by the equal rights people against special privilege. Any group of persons possessed the constitutional right of incorporating themselves as a railroad company under the *general* law, but as a practical matter, only those who could obtain from the legislature the *special* right of appropriating to their

¹⁴ *Laws of Iowa, 1846-1847*, Ch. 81; *Iowa City Iowa Standard*, May 19, 1847.

¹⁵ *Iowa City Iowa Standard*, Jan. 5, Apr. 5, 1848; *Muscatine Iowa Democratic Inquirer*, Dec. 21, 28, 1850, June 21, Sept. 13, 1851, cited in Lyle E. Mantor, "Historical Influences Upon Iowa of Railroad Building from 1850 to 1860" (M.A. thesis, unpublished, State University of Iowa, 1925), 87-92.

¹⁶ The companies requesting and receiving this authority were: The Mississippi Rapids Railroad Company; Davenport & Iowa City Railroad Company; Dubuque & Keokuk Railroad Company South; Lyons Iowa Central Railroad Company; Comanche & Council Bluffs Railroad Company; and Iowa Western Railroad Company. See *Laws of Iowa (Extra Session)*, 1848, Ch. 51; 1850-1851, Chs. 4, 34, 46, 57, 66, 78, 85.

use privately owned land had any real chance of building a line. The General Assembly remedied this condition in 1853 by enacting a law enabling any railroad company properly organized under the general incorporation law to secure the right-of-way in the before mentioned manner.¹⁷ This law, of course, was subject to repeal at any time, in which case those who had taken advantage of its provisions prior to repeal would have received privileges not given to late comers. It was perhaps becoming clearer that, contrary to the earlier expectations of many people, legislative decisions would play a vital part in the construction of a railroad system in Iowa.

As matters stood in 1853 it was not likely that any company organized to build a railroad would be denied an opportunity to try. The many public meetings held, the companies formed, and the wide publicity given to extravagant promises and predictions — all had combined to fire the public imagination as almost nothing else could have. Yet, in 1853, after seven years of statehood, Iowa did not have in operation within its borders a single mile of railroad. The cold, hard fact was that Iowans did not possess the ready capital to finance any large-scale enterprise. And eastern capital, which later was to assume an indispensable role in Iowa railroad building, had not yet entered the state in any significant amount. This, roughly, was the situation Clarke had foreseen in 1846. What he had not foreseen soon began to take place on a very wide scale. Units of local government, towns and counties, began to vote bonds and exchange them for railroad stock. Promoters of the roads marketed the bonds to eastern investors, who seemed to have more confidence in the credit of the municipalities than in the probable success of the railroad projects. So popular was this method of financing that by 1857 the bonded debt of local government units, for railroad purposes, was estimated to be more than eleven million dollars.¹⁸

Thus, despite the best efforts of the constitution makers, the people of Iowa in their various corporate capacities had loaned their credit to privately owned companies and had become owners of corporation stock. True,

¹⁷ *Laws of Iowa, 1852-1853*, Ch. 31.

¹⁸ For the problem of securing eastern capital, see Richard C. Overton, *Burlington West: A Colonization History of the Burlington Railroad* (Cambridge, 1941), 61, 66. For a discussion of aid to railroads in the form of local bond issues, see Earl S. Beard, "Local Aid to Railroads in Iowa," *IOWA JOURNAL OF HISTORY*, 50:1-17 (January, 1952).

local government was not the state government, but a separation of the two in this instance required the drawing of a very fine line; so fine, in fact, that no small amount of judicial gymnastics was needed to stay on it. The State Supreme Court succeeded in performing the feat in 1853 with a decision leaving final authority in the matter in the hands of the legislature. This power the legislature exercised very generously until a later decision of the court pointed out, first, that local units were merely subdivisions of the state government; and second, that it was absurd to suppose that the state government could delegate powers it did not itself possess.¹⁹ Viewed objectively, the bond voting scheme must be seen as an attempt to circumvent provisions of the constitution which were acting as a brake on full-scale efforts to obtain railroads.

Another measure of the intense desire for railroads was the eagerness with which people of the state sought a grant of public lands to aid construction. Newspapers early joined the clamor for a land donation, and few railroad meetings adjourned without first resolving that the legislature petition Congress accordingly. The General Assembly needed little urging; before 1856 only one session failed to ask Congress for a gift of lands for railroad purposes. The biennial request was finally answered in 1856 when Iowa received a grant providing for aid in constructing four lines roughly paralleling each other in an east-west direction across the state. The Commissioner of the General Land Office estimated the grant to include 3,456,000 acres.²⁰

Considering now the course of railroad affairs to 1856, it appears that many Democrats had modified their earlier assumption that government intervention would be neither necessary nor desirable, once the right of corporate organization was open to all under uniform rules. Swept up in the tide of railroad enthusiasm, many, apparently, had accepted as futile any attempt to extend a rail network quickly without conferring certain privileges upon private corporations. Their votes had played an important part in giving railroad companies the power of eminent domain, the use of public credit through local bond issues, and a claim upon a large portion of

¹⁹ For a discussion of the various court decisions, see Beard, "Local Aid to Railroads . . .," 24-6.

²⁰ *Laws of Iowa*, 1848, joint resolution 5; memorial 3; 1848-1849, joint resolutions 5, 15; 1850-1851, memorials 4, 5; 1852-1853, joint resolutions 2, 3; memorials 1, 3. 11 U. S. Statutes at Large, 9. Estimate of the land grant is in *Senate Executive Documents*, 35 Cong., 1 Sess. (1857-1858), Vol. 2, p. 89.

the public lands within the state. Having had no way of seeing beforehand the railroad craze that would grip the state, and no experience in the building of railroads under semi-pioneer conditions, none of the Democratic constitution makers had been able to foresee the full scope of the problems and difficulties to be encountered, nor the concessions that would have to be made. Railroad building simply had not conformed to known patterns used as guides. Experience seemed to demonstrate that success depended upon special privileges and public assistance given to private enterprisers who expected to reap a profit from operations which would, at the same time, bring vast benefits to the individual citizen and to the community as a whole.

Meanwhile, those whose thinking about business and government had long been colored by the Whig bias had also had an opportunity to make some observations. As a result there was a growing tendency to feel some of the apprehension expressed by the Democrats in 1844 and 1846 concerning the dangers inherent in the establishment of powerful business interests through the assistance of government itself. Already there had been a chance to note some of the changes wrought by the extension, or even the promised extension, of a rail line into a region only barely removed from frontier conditions. In advance of the railhead, speculators and actual settlers scrambled for places in the path of the on-coming line, towns were made and unmade as routes were located and then changed, and established population centers vied, sometimes bitterly, for the certainty of a place on the route. As the rails were laid, or as it seemed they were about to be laid, land prices boomed, the population of the countryside increased, commercial transactions multiplied, towns grew in size and prestige, and farmers prepared to welcome the desired road to market. These latter developments impressed themselves the more forcefully upon the consciousness; as harbingers of *progress* they pointed the way to fulfillment of cherished hopes and plans for the future. Nonetheless, it was apprehended, by Whig and Democrat alike that an institution capable of producing alterations so far-reaching in their effect upon socio-economic conditions might well become a powerful determining influence in all phases of society. The rumble of a passing train in early Iowa almost literally reverberated through the entire social structure. No one was more sensitive to this than James W. Grimes, a Whig who had become governor of the state in 1854. His message concerning distribution of the federal land grant in 1856 recom-

mended that the legislature act in such a manner as "to protect the people against the sometimes oppressive monopolizing tendencies of powerful corporations."²¹

Grimes's election in 1854 and further Whig successes in the following year signified a decline in the strength of the state Democratic party, due in part to its identification with the unpopular measures of the Pierce and Buchanan administrations. Its influence in the state government was to become nearly negligible during much of the period of the Civil War and Reconstruction. Many "anti-Nebraska" and antislavery Democrats would become Republicans in the period of shifting party allegiances preceding the war. The apparent ease with which such changes were beginning to be made was perhaps a further indication of the common ground from which members of both parties were coming to view the state's outstanding domestic problems, i.e., those connected with the building of a railroad system.

Other evidence of agreement came in a revision of the constitution in 1857, primarily to legalize banking activity in the state. Contrary to Democratic expectations, the hard money system had not brought about a stable unfluctuating currency. What little gold and silver came into the state was reserved for the purchase of land or the payment of taxes. For other purposes requiring currency the citizens of Iowa were dependent upon depreciated paper originating in other states.²² Dissatisfaction with these conditions led to a strong sentiment favoring a change in the constitution to admit banking. When the issue was placed before the people in an election late in 1856, a total of 32,790 of 46,952 votes cast favored the calling of a convention. In another election held soon afterward to select 36 convention delegates, 21 Republicans and 15 Democrats were chosen. Two of the Republicans had formerly been Democrats; the others were recently converted Whigs.²³

From the outset, debates in the convention that met in 1857 were marked by relatively little of the partisanship so evident in the previous conventions. As the revised article on incorporations emerged from the discussions,

²¹ *Journal of the House of Representatives (Extra Session)*, 1856, 12.

²² The money situation generally in Iowa between 1846 and 1857 is described by Howard H. Preston, *History of Banking in Iowa* (Iowa City, 1922), 56-68.

²³ Official proclamation of the canvass is in Shambaugh (ed.), *Documentary Material* . . . , 1:221-2. For political affiliation of the delegates, see Erik M. Eriksson, "The Framers of the Constitution of 1857," *IOWA JOURNAL OF HISTORY AND POLITICS*, 22: 58-9 (January, 1924).

it represented a combination of elements that had seemed irreconcilable a decade earlier. The principle of forming corporations under a general law was maintained — but with an exception. At its discretion the legislature might create a state bank by special charter. However, the General Assembly was authorized “to amend or repeal all laws for the organization or creation of corporations or granting of special or exclusive privileges or immunities by a vote of two-thirds of each branch of the General Assembly . . .,” but no exclusive privileges, “except as provided for in this article,” were ever to be granted. Only five Democrats and one Republican voted against this article when it was offered for final approval. Among those voting in its favor was Jonathan C. Hall, Democrat and fiery protagonist of equal rights in the convention of 1844. At the earlier convention, Hall, denouncing all banks, had supported the view that financial institutions created no wealth; they merely speculated and traded upon the capital produced by farmers and laborers. Consent was unanimous in 1857 for a continuation of the prohibition against giving or lending state credit to any “individual, association, or corporation.”²⁴

Early in the convention it was suggested that there ought also to be a ban on the county and city bond voting scheme. The incongruity in allowing municipalities, mere creatures of the state government, to exercise powers denied to the state was at once pointed out. The majority rejected this view, reasoning that local bond issues were one of the few means by which Iowa could attract the outside capital necessary to the building of railroads. This opinion continued to prevail throughout the greater part of the convention, proponents of restriction being defeated on several occasions as they attempted to revive the subject. Still later, near the close of the convention, Rufus L. B. Clarke, Republican of Henry County, again broached the topic. A lengthy discussion ensued in which the persistence of Clarke and a few others, both Democrats and Republicans, won over enough support to secure a compromise settlement which provided that no county or municipal corporation might become indebted for any purpose to an amount greater than 5 per cent of the value of its taxable property.²⁵

The debates over this matter, and over others as well, reflected a spirit of

²⁴ For a discussion and the vote on Article VIII, see *The Debates of the Constitutional Convention of the State of Iowa* . . . (2 vols., Davenport, 1857), 2:1024-5, 1034-65.

²⁵ *Ibid.*, 1:289-344; 2:775-80, 804-810; Beard, “Local Aid to Railroads . . .,” 10.

opportunism which was an accurate index of existing conditions with regard to railroads. Against a background of railroad building and other conditions consistent with a gradual emergence from an economy based primarily on subsistence agriculture, elements of two traditions, present in the state at its inception and identified with separate political parties, had been brought together. Within this new alignment were both the Iowa Whig tradition of business-government cooperation in the interest of the general good, and the Democratic fear of oppression through monopoly, made possible by government interference in the form of special privilege. Balanced against these attitudes, among other things, was the continuing demand for railroads. Having played a part in breaking down the old patterns, this railroad hunger now assisted in holding together disparate elements of the new. Convenience continued to be the touchstone of Iowa's railroad policy.

Construction progress, until the late sixties, was relatively slow, due to interruptions and slowdowns occasioned by the Panic of 1857, the Civil War, and the ever present shortage of building funds. On the eve of the war, after a near decade of unceasing effort, the state boasted 655 miles of track. This represented no mean accomplishment in view of the difficulties that had been overcome, but concentrated in the east, as it was, it failed to elicit much praise from the central and western sections. People living in parts of the state as yet untouched by railroads remained constantly alert to the main chance of acquiring one. In pursuit of this object, important favors continued to be given to various railroads despite constitutional disavowal of special privilege. In addition to land grants and local bond issues, the roads received aid from the sale of swamp lands,²⁶ and from outright gifts of money raised locally under the 5 per cent tax provision.

Favoritism through the tax structure was another method by which rail companies received advantages not given to individual citizens and other business groups. Some estimate of the leniency with which they were treated may be formed from a brief review of the tax laws and reports of state officials. In compliance with a statute of 1862, slightly amended in 1868, railroads within the state were taxed annually at the rate of 1 per cent on their gross receipts. This was in lieu of all taxes on the roadbed, track, rolling stock, and buildings necessary to the operation of the roads. A change in the law in 1870 made the levy 1 per cent of gross receipts up

²⁶ For the whole problem of swamp lands, see Roscoe L. Lokken, *Iowa Public Land Disposal* (Iowa City, 1942), Chap. VIII.

to \$3,000 per mile; between \$3,000 and \$6,000, 2 per cent; and over \$6,000, 3 per cent. The entire sum collected from railroads in 1870 amounted to \$186,722.04. The property upon which this tax was paid was estimated by the state treasurer to be worth \$75,000,000. Had the assessment corresponded with that of other property, the valuation for revenue purposes would have been fixed at about \$30,000,000. Thus the tax obtained from railroads was equal to about $6\frac{1}{4}$ mills, while the average tax throughout the state during the same year was approximately 30 mills, or about five times that paid by railroads. Again in the next session, in 1872, the law was revised so that the assessment was to be made on property value, and the tax rate was to be the same as that on the property of individuals. Yet, under this law, according to the Railroad Commissioners' Report covering 1877, the railroad tax was about 5.73 per cent of the entire tax levy of the state. If the assessment of railroad property had been on the same principle of valuation applicable to all other property, reported the Commissioners, the ratio would have been about 10 per cent.²⁷

But even as the people of Iowa exerted themselves to remove safeguards of their own making from the public purse in order to help their friend and benefactor, the railroad, they were troubled by the misgivings that had always occupied a place in the background of the railroad furor. Railroads clearly were capable of bringing great benefits, but also, conceivably, of working much mischief. Adding to the perplexity of trying to decide what protective measures, if any, should be applied, was the realization that much of the leadership and financing necessary to build them would have to come from capital outside the state. And "Capitalists," as Jonathan C. Hall had remarked in the convention of 1857, were "jealous and timid";

. . . if they see the least possibility of a construction to be given to our laws, which will defeat the purposes which they have in view in lending their aid to internal improvements, they will be slow to engage in any enterprises of this kind; and the result will be that our good and noble system of internal improvements will be checked in its progress.²⁸

²⁷ *Laws of Iowa*, 1862, Ch. 173; 1868, Ch. 196; 1870, Ch. 106; 1872, Ch. 26; second biennial message of Governor Samuel Merrill, January 10, 1872, in Benj. F. Shambaugh (ed.), *Messages and Proclamations of the Governors of Iowa* . . . (7 vols., Iowa City, 1903), 3:69; Report of the Board of Railroad Commissioners, Iowa, 1878, p. 69. For bonds and 5 per cent tax aid, see Beard, "Local Aid to Railroads . . .," *passim*.

²⁸ *Debates of the Constitutional Convention* . . ., 1:156.

This consideration carried great weight with a House committee appointed during the session of 1864 to investigate the advisability of resuming lands previously granted to the Dubuque & Sioux City Railroad. The committee reported that the contemplated action would be unwise because it "would be construed into one of hostility by the monied men elsewhere, who are supplying these companies with means to extend their lines, and without whose aid it is well known they cannot go on." While other states (Kansas and Missouri) were encouraging railroads through friendly legislation, continued the committee, "we cannot see any good reason why we in Iowa should . . . retard the prosperity of our State and the welfare of our people for all time to come."²⁹

The problem, then, was a delicate one. Controls, if there were to be any, had to be devised and placed in effect before railroads became too well entrenched, but it was important that they rest lightly lest the all-important financial backers be frightened away. Governor William M. Stone perhaps had something of this dilemma in mind when he composed a message to the House of Representatives in 1864.

Time need not be consumed in endeavoring to impress upon your minds the importance and utility of railroads, in promoting the welfare of our State. Sound policy requires that we should keep this steadily in view, and resist all demands for such measures as are calculated, in their results, to seriously impede the progress of our railroad enterprises. Yet, imperative as these considerations are, we should not overlook the importance of imposing suitable restrictions upon these monopolies, and require of them strict accountability, and a faithful performance of their legal obligations.³⁰

Perhaps the clearest expression of the desire to exercise some caution without alarming the builders was the action of the legislature. In response to Governor Grimes's suggestion, a clause reserving to the state the right to enact future "rules and regulations" binding upon the companies had been incorporated in the bill distributing the land grant of 1856.³¹ This clause was inserted in every law distributing or redistributing lands until 1868. Strictly interpreted, from the legislative point of view, a railroad

²⁹ *House Journal*, 1864, 331.

³⁰ *Ibid.*, 199.

³¹ *Laws of Iowa (Extra Session)*, 1856, Ch. 1; 1858, Ch. 99; 1860, Ch. 37; 1866, Ch. 134.

company's acceptance of a land grant under the terms of such a law had the effect of establishing the regulative principle on a contractual basis between the company and the state. Ostensibly this removed from the company any protection against regulation that it might otherwise have enjoyed under the decision of the Dartmouth College Case, whatever its application to corporations chartered under general laws.

It may be asked why the railroads were willing to accept such a reservation. A part of the answer undoubtedly lay in the land grants themselves. Their immediate value loomed much larger than the indistinct disadvantage of any future restriction. Then, too, in keeping with the practice of avoiding actions that might seem to jeopardize profits, the General Assembly was careful to apply only the mildest restraints. To reduce the possibility of conflicts that might inure to the injury of the public, intersecting railroads, or those whose lines joined, were placed under legal obligation to draw each other's cars at the "ordinary" rates. Certain officers of each company were required to reside within the state, and financial records were to be available for inspection at any reasonable time. Companies were obliged to submit annual reports containing information on such items as expenditures, gross receipts, profits, dividends, and building progress made during the year. It was also provided that rate schedules, which were to be posted at a certain time each year, were not to be exceeded during the ensuing year. Railroads failing to fence their right-of-way were made liable for the injury or destruction of livestock pastured in adjoining fields. Finally, in 1866, railroads were assigned the full liabilities of common carriers. The fact that no truly effective enforcement machinery was provided for these rules meant that the railroads could, with relative impunity, ignore features of the laws that seemed to them undesirable.³²

It would be difficult to fix with precision the time at which any significant body of opinion within the state began to favor positive regulation in the form of legislation establishing maximum rates. A House resolution adopted during the regular session of the General Assembly in 1864 instructed the committee on railroads to inquire into the expediency of such regulation, but there is no record of such a report being made.³³ This, together with

³² *Ibid.*, 1862, Chs. 158, 159, 169; 1866, Ch. 113. Governor Samuel Merrill complained in 1872 that the companies were not obeying the regulations and recommended that the legislature appoint an enforcement officer. Shambaugh (ed.), *Messages and Proclamations . . .*, 3:367-8.

³³ *House Journal*, 1864, 145.

the fact that no formal attempt was made to revive the subject before the end of the session, suggests that there was not a great deal of pressure behind it. Freight charges were high over those portions of the roads completed in the eastern counties, but the war was still in progress and prices were the highest Iowans had ever received for their products.

Within the next two years conditions changed considerably, as the end of the war brought a precipitous drop in prices. Corn, for example, which had sold in the Iowa market at an average price of 70 cents a bushel in 1864 brought 50 cents in 1865 and 31 cents in 1866. Oats sold for 53 cents in 1864, 33 cents a year later, and 24 cents by 1866. Wheat dropped from \$1.18 in 1864 to \$1.01 in 1865.³⁴ Freight rates, meanwhile, remained about the same or declined slightly. There was, however, no general decrease in rates commensurate with the lowered market prices. As farmers saw their profits dwindling, they also felt the effects of other factors contributing to the depression of their economic status; but railroads, being more immediately at hand, received a major share of the blame. High freight rates were easier to grasp than the mysterious, far distant factors affecting prices.

During 1865, in the railroad areas, the question of legislative restriction on freight charges became an absorbing topic, petitions for a regulatory law being circulated in several counties. When the General Assembly met early in 1866, nineteen of these were presented in the House. On the motion of L. Clark, representative from Tama County, a resolution was adopted calling on Attorney General F. E. Bissell for an opinion concerning the power of the legislature to regulate railroad rates. Bissell replied that the legislature possessed no such power! The charter of a private corporation, he ruled, was a contract between the state and the corporation, whether the latter was formed under a special charter or under a general law. True, corporations were creatures of the law, and the legislature possessed unlimited power, within the constitution, to give as much or as little power as it pleased in the original charter. Corporators, of course, were free to accept or reject charters as offered, but when an acceptance took place the contract was complete. After that the introduction of any new condition foreign to the original contract constituted an impairment of

³⁴ Prices of agricultural products, unless otherwise noted, are taken from tables and graphs in Norman V. Strand, "Prices of Farm Products in Iowa, 1851-1940," Iowa State College Agricultural Experiment Station, *Research Bulletin No. 303* (May, 1942), 938-54.

the obligation of contracts, which was contrary to the constitutions of Iowa and the United States. The clause in the land grant laws reserving to the legislature the right to make "rules and regulations" Bissell interpreted as giving only the authority to see that the lands were used for the purpose intended and to insure the safety of the public. "There are," he said, "no special privileges granted in this state. The field of competition is open to the world."³⁵

Bissell's narrow interpretation of the rules and regulation clause aroused a wave of indignation from those who favored rate regulation. N. H. Brainerd, editor of the *Iowa City Republican*, branded the Attorney General's statement "a strange opinion and one that the roads can afford to pay high for."³⁶ Whether the full implications of Brainerd's remarks were justified would be difficult to determine. It was probably true that Bissell's previous position in private life as president of the Dubuque, St. Paul & St. Peters Railroad Company inspired little confidence in the likelihood of his taking an unbiased stand on the regulation question.³⁷ A widespread rejection of his interpretation was revealed by subsequent events.

Probably more acceptable to some Iowans were the ideas contained in a message from Governor Stone to the Senate about a month after the Bissell report. "It will be difficult," he wrote, "to convince the people of Iowa by any subtlety of technical deduction, that they have parted with the power of ultimate control over the railroad companies within their state. . . . They have become so far invested with a public character as to subject them to legislative control, for all purposes dictated by sound policy and the public interest."³⁸ Within eleven years his words would be echoed, in principle, by Chief Justice Waite's opinion in *Munn v. Illinois*.

Legislative defiance of the Bissell opinion was not long in coming. After his letter had been received by the House of Representatives, a resolution was introduced stating "That in the opinion of the House, the General Assembly of the State of Iowa possesses the rightful constitutional authority to regulate the fare for freight and passengers on the railways within the state." An amendment was offered, adding to the original resolution the

³⁵ *House Journal*, 1866, 88, 124-9, 159, 177, 212, 252, 517.

³⁶ *Iowa City Republican*, Feb. 7, 1866.

³⁷ Edward H. Stiles, *Recollections and Sketches of Notable Lawyers and Public Men of Early Iowa* . . . (Des Moines, 1916), 827-9.

³⁸ Shambaugh (ed.), *Messages and Proclamations* . . . , 3:185-6.

words, "but it is inexpedient to exercise that right at this time." The resolution as amended was voted upon and defeated, 31 to 55. The original resolution was then brought to a vote and passed, 75 to 13.³⁹ An analysis of the voting reveals that all except two of the Representatives who voted against the original resolution had previously voted in favor of the resolution with amendment added, indicating that members of the House, in 1866, almost unanimously agreed that the state did possess legal authority to regulate rates. Disagreement came over the question of whether or not it was expedient to do so. Apparently the same consideration was decisive in determining the vote on a House bill that actually would have limited railroad charges. The measure passed, 59 to 32, the greater part of the opposition coming from those who had voted in favor of the amended resolution. This bid for regulation met disaster in the Senate when a substitute for the House bill was tabled by a close vote of 19 to 18.⁴⁰

This experience of the legislature with railroad regulation traced out a pattern that remained fairly constant until 1874. In each session regulatory bills were introduced and, with the exception of 1868, passed in the House, usually over the opposition of fairly cohesive blocks of votes representing a particular section, or a combination of several localities. In the Senate, with its much smaller membership, these bills, or substitutes for them, were defeated, always by small margins. Senators, perhaps because of their election to four-year terms, were less responsive to sudden shifts in local opinion. Generally, however, members of the upper and lower houses representing any given section tended to vote on the same side of the issue, although this was not invariably the case, and in some instances it is not possible to determine the correspondence with any degree of definitude. Senatorial districts, especially in the west and north, were necessarily quite large, often including several House districts. And while only a very few of the more thickly populated Senatorial districts ever elected more than one Senator, House districts not infrequently were apportioned two or even three Representatives. At times some of the districts extended over two or more localities whose attitudes toward specific regulatory proposals were at variance with each other. Finally, there were always legislators whose voting records on railroad matters defy correlation with any criteria that appear on the surface. The picture that emerges, though badly blurred in

³⁹ *House Journal*, 1866, 290, 357-8.

⁴⁰ *Ibid.*, 762-4; *Senate Journal*, 1866, 540, 661.

spots, does emphasize the opportunistic nature of the over-all approach to the problem of a state railroad policy. At a given time, the viewpoint prevailing in any particular section seems to have depended upon any one or a combination of the following factors: the business policies of the companies, the level of market prices for farm products, and the status of actual construction within the section.

At the beginning of 1866, for example, when agricultural prices were low and none of the main lines had progressed west of the Des Moines River, sentiment favoring regulation was stronger in the eastern part of the state than in any other. Not only did people of the east consider rates too high; they were indignant also because rate schedules discriminated against shipments consigned only so far as the river boat landings on the Mississippi. While the regulatory bill was under consideration in the House in 1866, agents representing the businessmen of Muscatine visited Des Moines to cite examples of discrimination. It was said that the charge for a hundred pounds of wheat from Iowa City to Muscatine, a distance of 41 miles, was 22 cents; from Iowa City to Chicago, 235 miles, the charge for the same weight was 29 cents. From Washington to Muscatine, 37 miles, the rate was 22 cents per hundred; from Washington to Chicago, 257 miles, 21 to 27 cents. A hundred-pound shipment over the 107 miles between Grinnell and Muscatine was said to be 40 cents; from Grinnell to Chicago, 301 miles, 28 to 37 cents.⁴¹ By maintaining rates such as these, railroads were able to channel shipments originating any appreciable distance west of the river into Chicago over the Illinois divisions of their lines. In doing so they aroused the ire of the steamboat interests and that of shippers who, in the face of high rates, would have contented themselves with the slower, but far cheaper, river transportation. About a year later, with discrimination still in effect, the river boat rate on grain, between Muscatine and St. Louis, was quoted at 15 cents per hundred pounds.⁴²

A widely discussed remedy for discrimination, especially emphasized after the failure of the General Assembly to enact regulatory legislation in 1866, was the building of north-south competing lines. Roads to the south, it was argued, would provide Iowans with a choice of markets and thus place them in a better bargaining position with regard to the trunk lines

⁴¹ Burlington *Weekly Hawkeye*, March 24, 31, 1866.

⁴² Rates quoted by Muscatine *Journal*, reprinted in Iowa City *Republican*, May 1, 1865.

converging at Chicago.⁴³ Competition, many believed, might yet function as a regulator of rates if conditions could be arranged in such a way that railroads would be forced to compete. Citizens of river towns, however, usually found little appeal in the prospect of new lines whose effect could only be to depress further the importance of the Mississippi as an artery of commerce. They continued to urge the necessity of an anti-discrimination law.

During the next two years, significant changes again took place in conditions affecting railroad affairs. Spurred on by the desire for a profitable connection with the Union Pacific at Council Bluffs or Omaha, the east-west railroads began to push their lines forward with more energy than they had ever before displayed. By January, 1868, all except those hopelessly bogged down in financial difficulties had built west of the Des Moines River or were making vigorous plans to do so. Mileage completed in Iowa before the end of 1867 was reported at 1,283. Earlier in the year the Cedar Rapids & Missouri River line had been built into Council Bluffs, giving the state its first continuous railroad from Chicago to the western border. During 1866-1867, 392 miles of track had been laid, more than had ever been constructed in the state in any previous two-year period. Along with the quickened tempo of railroad construction had come partial recovery from the immediate postwar slump in market prices. The price of corn had risen from an average of 31 cents in 1866 to 61 in 1867; oats, from 24 to 47; and wheat, from \$1.17 to \$1.57.

Improved prospects for better times seemed to generate a feeling of optimism which was reflected in the transactions of the General Assembly when it convened in 1868. Sentiment favoring the establishment of maximum rates was by no means absent, but the demand for such regulation was not so great as it had been two years earlier. Whatever the factors involved, petitions for regulation were outnumbered by remonstrances against regulation of unfinished lines. Two maximum rate bills were introduced, one each in the House and Senate, but neither progressed far enough to be voted upon in final form. A bill to outlaw discrimination, offered in the House by Samuel McNutt of Muscatine County, received stronger support, particularly from Representatives of the eastern river counties, though

⁴³ For letters, editorials, and reports of public meetings in the interests of north-south lines, in this case, the Burlington & Cedar Rapids and the Iowa North Central, see the *Iowa City Republican*, Jan. 17, Feb. 14, 21, May 2, 9, 23, 30, June 13, 20, 27, July 4, Sept. 5, Nov. 1, 7, 21, Dec. 5, 19, 26, 1866.

eventually it too was shelved.⁴⁴ Proponents of the McNutt bill, and those who favored other forms of regulation, finally were persuaded to rally behind a move to attach new conditions to the land grants. Indeed, a major portion of the time devoted to railroad matters was taken up in considering the resumption of land grants from defunct companies and the regranting of them to firms offering more certain assurances of success.

Before the end of the session, the disposition of the land subsidies was considerably revised. Altogether, four grants were resumed and then re-granted to new companies (in one case to the same company) subject to a new condition. The grants were made conditionally upon the companies' acceptance of a clause reserving to the legislature the right to prescribe "rules, regulations, and rates of tariff for the transportation of freight and passengers." This was the so-called Doud Amendment, proposed by Elias Doud of Van Buren County. When offered in the Senate as part of the Rock Island grant, it was accepted by a vote of 34 to 8. In the House it carried without a dissenting vote.⁴⁵ Here again was a gesture in the direction of protection — short of actual regulation. It was also clearly an attempt to meet Bissell's interpretation of the reservation of authority in the original land grant law as not extending to the determination of rates. By placing the question "beyond cavil" it was hoped that the railroads would recognize the wisdom of maintaining, voluntarily, rates that were "just and equitable" to all concerned.

Of the companies affected by the Doud Amendment, only the Iowa Falls & Sioux City wholly withheld its acceptance for any extended period of time. With every appearance of finality, W. W. Walker, representing John I. Blair, New Jersey financier and president of the company, announced that no track would be laid until the tariff reservation had been removed. This was in April, not long after the action of the legislature had taken place. In July, Blair himself traveled over the projected route from Cedar Falls through Fort Dodge to Sioux City, solemnly warning that there would be no railroad so long as the "suicidal tariff restriction" remained.⁴⁶

People of towns along the proposed line now became alarmed, feeling that perhaps the legislature had gone too far. The lingering fear of alien-

⁴⁴ *House Journal*, 1868, 116, 263, 364, 379, 490; *Senate Journal*, 1868, 227, 283.

⁴⁵ *Laws of Iowa*, 1868, Chs. 13, 16, 26, 57, 58, 124; *House Journal*, 1868, 214-15; *Senate Journal*, 1868, 122, 146; *Fort Dodge Iowa North West*, Feb. 26, 1868.

⁴⁶ *Webster City Hamilton Freeman*, April 22, 1868; *Fort Dodge Iowa North West*, June 10, July 22, Aug. 19, 1868.

ating eastern capital, ever near the surface, came quickly to the fore. Public meetings were held at Sioux City, Spirit Lake, Webster City, and Fort Dodge to initiate a movement which it was hoped would lead to repeal of the Doud Amendment. A plan was evolved to persuade the governor to call a special session of the legislature for that purpose. To coordinate efforts, a committee was appointed consisting of prominent men from Sioux City, Fort Dodge, and Webster City.⁴⁷ All its members were influential figures in the northwestern part of the state, especially B. F. Gue, newspaper editor and retiring lieutenant governor, and C. C. Carpenter, who was to become governor in 1872. A letter prepared and sent out to members of the legislature over the signatures of the committee solicited support for the desired repeal.⁴⁸ Despite this and other appeals by the committee, newspaper agitation, and occasional outbursts from the company, Governor Samuel Merrill did not call a special session. The Amendment remained in force. Early in 1869, the Iowa Falls & Sioux City officials conceded defeat and applied for renewal of the grant, giving satisfactory assurances of their willingness to comply with all the requirements of the original act. The Census Board, which had been given jurisdiction over the lands, received the request favorably, the lands were granted, and work went forward. The company had found it difficult to forego a land subsidy of 640,496 acres.

The railroad capitulation was reassuring, but the people of the northern and northwestern parts of Iowa had received a bad scare and one not easily forgotten. At the height of the agitation for repeal of the rate reservation it had frequently been charged that the more populous sections, *i. e.*, the eastern, central, and, to a lesser extent, the southern counties, having all the railroads they needed or desired, had pushed through the Doud Amendment with calloused disregard for the interests of the less developed areas. While this claim touched somewhere near the heart of the matter, it ignored the fact that there had been very little opposition to the amendment at the time of its enactment. Actually it had been a compromise, possibly the only one upon which all, or nearly all, could have agreed. More exasperated because of longer experience with railroad operations, and less fearful of

⁴⁷ Fort Dodge *Iowa North West*, Aug. 19, Sept. 19, 1868. In the Aug. 19 issue were published letters from George W. Jones, formerly United States Senator from Iowa, and Thos. Sargent, partner of Rock Island director Ebenezer Cook, urging repeal.

⁴⁸ Copy of letter dated August 19, 1868, at Webster City, in *Cyrus Clay Carpenter Papers* (State Historical Society of Iowa, Iowa City).

stepping on capital's toes, since the east-west lines had been completed through their areas, the extreme eastern counties would have preferred an anti-discrimination law, the central counties, with some exceptions, maximum rate provisions. At the same time the northern and northwestern sections would have been pleased, for the nonce, had no action been taken. Their mistake in supporting the compromise had been one of underestimating the reaction of the railroads — whose response had awakened fears that construction in the future would be seriously curtailed. "The attention of capitalists," editorialized the *Hamilton Freeman*, "was turned in this direction as the most promising field in which to invest their vast accumulations in constructing railroads." But unfortunately they were informed by the "Tariff Clause" that:

If you dare to invest another dollar in extending railroads in Iowa, we, the Legislature will step in and fix the rates you may charge for carrying freights and passengers at just such price as suits us — you shall have nothing to say about it. Does any sane man suppose that with such a threat hanging over their heads, eastern capitalists, non-residents of our state, are going to force their money upon us at such interest as we may at any time see fit to pay?

If the river towns were permitted to achieve their real desire, an anti-discrimination law, the results would be equally disastrous. The companies would either have to give up all short hauls or raise through rates so high that "the railroad would be of no use to people who desired to ship over the whole length of the road."⁴⁹

In many parts of the northwest, apprehension over retrenchment in the building program was largely dispelled by railroad progress made during the next few years. With completion of the Union Pacific and the Central Pacific in 1869, Iowa became an important link in the eagerly awaited rail connection between the East and the Far West. Anticipating this situation, all of the state's east-west lines pressed forward as quickly as possible to the Missouri River, the last to arrive being the Burlington & Missouri River, which reached Council Bluffs in January, 1870. Meanwhile there was little idleness among the builders of feeder lines and of the more ambitious roads projected south to St. Louis and north to Milwaukee or St. Paul. By 1870,

⁴⁹ Articles entitled "Outrage Upon Northern Iowa" in Webster City *Hamilton Freeman*, April 22, July 8, 1868; Council Bluffs *Bugle*, April 2, 1868; and letters and editorial comment cited in footnotes 45 and 46.

nine of these railroads had been completed or were nearing completion.⁵⁰ As the year 1869 drew to a close, the railroad mileage figure for the state was 2,683.

As one result of the accelerated pace of construction, the town of Fort Dodge found itself served by two railroads, the Iowa Falls & Sioux City and an extension of the Des Moines Valley. People in and around the town now began to see the rate problem in a new light. A petition to the General Assembly for regulation, circulated in the vicinity late in 1869 by an agent of Dubuque, received many signatures. Gradually reversing its position of 1868, Gue's influential paper, *The Iowa North West*, began to adopt a firm tone with railroads thought to be guilty of arrogance and unfair rates.⁵¹ North and west of Webster County, however, counties still almost totally without rail connections continued to look with suspicion upon suggestions for railroad control. Farther east, in the middle of the state, Marshalltown, which had not yet been successful in securing an extension of the Iowa Central south to Ottumwa, saw the matter similarly. Arguments against regulation presented by the newspaper there were a repetition of those popular throughout the northwest a year or two earlier. It was said that the river towns, in seeking regulation, were consulting only their own interests, which were inimical to those of the state as a whole. The true solution was not regulation; it was the construction of more railroads. And these would never materialize if profits were threatened by unfriendly legislation.⁵²

Thus, in 1870, as the legislature found itself in the midst of its biennial struggle over railroad problems, attitudes toward regulation, as in the past, appear to have been closely geared to local conditions. By and large, the weight of opinion probably was on the side of regulation, but lacking as usual was any close agreement on the method to be employed. In the House, after numerous committee hearings and protracted debate on the floor, three bills were passed, regulating freight rates and passenger fares and creating a board of railroad commissioners. All of these were blocked in the Senate by close votes. The Senate also defeated several bills of similar intent introduced by its own members. Perhaps the critical point of the

⁵⁰ Review of railroad progress in first biennial message of Governor Samuel Merrill, January 11, 1870, Shambaugh (ed.), *Messages and Proclamations . . .*, 3:308.

⁵¹ Fort Dodge *Iowa North West*, Dec. 30, 1869; April 7, 21, 1870.

⁵² Marshalltown *Marshall County Times*, Jan. 6, March 24, 31, 1870.

session came when a regulatory bill introduced in the Senate by M. B. Mulkern of Dubuque was lost by a vote of 21 to 20. Prominent among those voting against regulation, both in House and Senate, were representatives of the extreme north and west. They were joined by scattered votes from nearly all parts of the state.⁵³

Two years later, in 1872, as members of the General Assembly again gathered in Des Moines, it seemed to many that regulation would surely be accomplished before the end of the session. Both the newly elected governor, Cyrus Clay Carpenter, and the retiring governor, Samuel Merrill, had recommended restrictive legislation.⁵⁴ In addition, prices, which had been steadily declining since 1868-1869, were still falling with no immediate prospect of a levelling-off. Since 1870 letters from farmers, complaining bitterly of low prices and high rates, had become regular features of local newspapers. Another significant development was the increasing disillusionment of those who had placed faith in the north-south competing routes as checks upon rates. As these lines were completed and placed in operation, people learned that normally only points of actual intersection derived the benefit of competitive rates. Intermediate stations, grimly enough, were often made to assume the additional burden of compensating for reduced earnings resulting from lowered rates at competitive points. On the western edge of the state, the main lines to Chicago divided business and profits according to previous agreement, thus effectively nullifying any law of competition that might have governed rates on through shipments. This was the notorious "Iowa Pool" or "Omaha Pool" which went into operation in 1870. In the interior of Iowa, through the sections traversed by their lines, the pool members charged about what the traffic would bear.⁵⁵ Resentment of railroad practices was unquestionably greater in 1872 than it had ever been before. Yet the session passed without the enactment of a regulatory law.

Essentially the failure to enact regulatory legislation was the failure to draft a bill acceptable to a majority of the factions represented. Sufficient support of the principle of regulation itself was not lacking. On the other

⁵³ *House Journal*, 1870, 141, 218, 241, 381, 400, 401, 428, 429, 434, 435, 436, 440, 441, 442-3; *Senate Journal*, 1870, 42, 71, 122, 163-4, 362, 465, 482, 615.

⁵⁴ Shambaugh (ed.), *Messages and Proclamations* . . . , 4:22.

⁵⁵ Robert E. Riegel, "The Omaha Pool," *IOWA JOURNAL OF HISTORY AND POLITICS*, 22:569-82 (October, 1924). A new and objective study of the Iowa Pool is Julius Grodinsky, *The Iowa Pool* . . . (Chicago, 1950).

hand there was little disposition to be punitive or vindictive. Most of the legislators desired only that railroads should be made to function in the manner in which it was thought railroads should function. It was understood that crippling the roads would benefit no one. At this point the truly enormous problem of fixing freight rates for all articles over roads unlike in cost of construction and operation, earnings, and type of business was superimposed upon the familiar sectional or regional differences. Disagreements between competitive and noncompetitive points played a vital part. It was said later that a rate bill known as the O'Donnell bill, which passed in the House, might have been approved by the Senate had it not been amended so as to enforce fixed rates at competitive points enjoying rates lower than those in the proposed schedule.⁵⁶

Both during the session and after its adjournment there was considerable bitterness over the presence of railroad lobbyists in Des Moines and their apparent success in guiding railroad legislation.⁵⁷ It was not the first time such complaints had been made, for it had long been known that railroads operating in the state maintained agents at the capital whose function it was to secure advantageous legislation and ward off unfriendly laws. Prior to about 1866, efforts of the railroad lobbyists seem to have been directed mainly to obtaining favorable consideration for their various employers whenever land grants were distributed. At first relatively few complaints were heard about their activities, since there was a tendency to feel that constitutional prohibition of special charters provided protection against favoritism to private companies. Thus as late as 1860 a correspondent at the capital was able to assure the readers of his newspaper that: "The wise provision of our Constitution prohibiting special legislation, when general laws can be made to reach the case, cuts off much—I may say the greater part of the business of the 'Third House.'"⁵⁸ By 1862, however, there had begun to be far less certainty on this point. While several land grant resumption bills were under consideration in the House, a writer reported that the actions of the railroad committee smacked strongly of corruption. Its recommendations were said to "have an odor of good whiskey

⁵⁶ *Iowa City Daily Press*, Feb. 14, 1873.

⁵⁷ *Ottumwa Courier*, Feb. 1, 1872; *Keokuk Weekly Gate City*, Feb. 19, 1873; *Indiana Warren County Leader*, April 17, 1873; *Iowa City Daily Press*, Feb. 7, 14, 1873.

⁵⁸ "Capitol Correspondence" of "Styx" in *Burlington Weekly Hawkeye*, Jan. 14, 1860.

and the metallic influence which changes the opinion of men so suddenly.
...⁵⁹

Perhaps the first real test of lobby strength came in 1866 when the representatives of several companies joined forces to oppose the first serious attempt at regulation. The apparent effectiveness of the coalition may have surprised even the railroads. Certainly some of the other observers gained a fuller appreciation of the lobby's tactics and strength. A newspaperman gave it as his opinion that:

If those in favor of protecting the rights of the people could agree upon a course to be pursued, there is no question about their power in the House to cope with these monopolies. But the R. R. managers are old stagers, and it is nearly useless for green horns to measure their strength with them, for by supreme tactics, they are pretty sure to be worsted. The monopolists act as a unit, while they leave no stone unturned to divide and conquer their opponents.⁶⁰

From this time on, judging from newspaper comments, the railroads were acutely aware of the danger of rate regulation and sent their most experienced men to the capital at the beginning of each session of the General Assembly. That they were competent men was admitted by various members of the legislature, even those who fought hardest to push through regulation bills. A writer identifying himself as a former member of the legislature described the railroad lobbyists as:

... the sharpest shrewdest men the corporations can find; perfect gentlemen, men who stand high in the State. They are paid by the year, and to defeat railroad legislation is their business — perfectly legitimate; they are not to blame that they do their work too well for the farmer.⁶¹

Conceding that the lobbyists may have been skillful and that they worked diligently in pursuit of their objectives, there is, nevertheless, some reason to feel that until 1872 their task was not particularly difficult. Ap-

⁵⁹ Article signed "Chapin" in *Marshalltown Marshall County Times*, March 26, 1862.

⁶⁰ "Letter from Des Moines" signed "N.B.N." in *Burlington Weekly Hawkeye*, March 31, 1866.

⁶¹ Letter signed "Old Settler" in *Iowa Homestead*, 17:162 (May 9, 1872). For other comments on the lobbyists see *Fort Dodge Iowa North West*, April 21, 1870; *Ottumwa Courier*, March 10, 1870; *Marshalltown Times*, March 17, 1870.

plication of the "divide and rule" technique was comparatively easy so long as disagreement and discord existed among the legislators themselves. It is worth noting, in this connection, that attacks on the lobbyists came predominantly from areas in which people had acquired railroads and had begun to clamor for regulation.

Though it had not been clear as the General Assembly adjourned in the spring of 1872, public opinion in all parts of the state was nearing a stage in which it would consolidate as a decisive influence for regulation. Basic to the rapidly approaching unity was a growing resentment of the public favors that had been given to railroads. In the past, the deterrent to any sustained program of action expressive of this feeling had been the supposed immense benefits to be derived from railroads, together with the continuing hope of acquiring them. Revision of these attitudes had been a patchwork, piecemeal process because railroad expansion itself had been uneven and unplanned. Some sections, receiving rail connections long before others, had become convinced at an earlier time that the new means of transport could not, or would not, fulfill its golden promise. The people of outlying sections tended to arrive at about the same conclusion when, with the advance of construction, they too were brought within the railroad network. Considering the size of the state, this network was fairly extensive by 1873. No large area was then completely without railroads, although not all localities and certainly not every town desiring railroad facilities had been able to obtain them by that time. Many had done so, surely, during the two years between 1870 and 1872. In that period 960 miles of railroad were built, bringing the state's total mileage to 3,643; but at this point construction in Iowa came to a virtual standstill. Eighty-five miles were added in 1873; in the following year the number dwindled to 34. As the chances of further extension grew dim, latent fears of dominant monopolism were freed from the restraining influence formerly exercised by appeals to community and individual welfare. Meanwhile, corn, the state's basic commodity, was being burned in many places as a cheaper fuel than wood.⁶²

Thus, against the harsh reality of plunging prices beginning in the late sixties, relatively inflexible rates, and continued rate discrimination, it was becoming easier for an increasing number of people to recall that lenient

⁶² Or so claimed the *Webster City Hamilton Freeman*, Jan. 15, 1873, which quoted a price of 10 to 20 cents in many parts of Iowa, Wisconsin, Kansas, and Missouri. The Strand study (see footnote 34) indicates an average price for Iowa of 27 cents in 1873.

taxation policies, gifts of public land and tax money, and public investment in railroad stocks actually represented special favors conferred upon associations of private individuals. Past failures of the legislature to tax railroads equally with other forms of property and to fix maximum freight rates took on a sinister aspect as it began to seem that through preferential treatment, not accorded the ordinary citizen, railroads had become vast monopolies, powerful enough to insist upon a continuing flow of privileges and to defy efforts of the people to control them by legislative action. A petition from citizens of Bremer County in 1870 asserted that the railroads had "induced the legislature of this State, in past years, to grant them special privileges and exemptions derogatory to the principles of equality and republicanism, upon which this government is established. . . ." The petition went on to plead for a return to the old principles of "equal and exact justice to all" and no special privileges for any "class of individuals, or combination of individuals."⁶³ Letters and editorials appearing in newspapers over the state gradually took up this refrain. They demanded that railroad rates be controlled and that gifts of land and favorable taxation be discontinued. "The greatest danger that threatens this country," declared *A Voter*, "is the growing tendency towards creating and building up monopolies sufficiently rich and powerful to control all the legislation of any consequence in the United States."⁶⁴ The remedy, as another saw it, was to send men to the legislature "whom we know to be right on this question — men who have back bone stiff enough to stand up to the rack and with ability enough to carry out what the people want."⁶⁵ Only by this means would the principle of equal rights be restored, and full control of the government be returned to its rightful place in the hands of the people.

Well before the end of 1873 anti-railroad sentiment in Iowa, as in other Midwestern states, had become identified with the Order of the Patrons of Husbandry, or as it was popularly known, the Grange. The movement had started slowly in Iowa, gaining momentum in 1871 when a state organiza-

⁶³ *House Journal*, 1870, 113-14.

⁶⁴ Letter appearing in the *Fort Dodge Iowa North West*, April 6, 1871. For other protests against land grants, lenient taxation, and railroad influence in government, see *ibid.*, April 7, June 9, 16, Nov. 3, Dec. 15, 1870; March 2, 30, 1871; *Jefferson Era*, April 7, 1871; *Indianola Warren County Leader*, Dec. 19, 1872; *Monroe South Side Transcript*, Jan. 7, 1873; *Keokuk Weekly Gate City*, Jan. 1, 1873; *Newton Free Press*, Feb. 26, 1873; *Iowa Homestead*, 15:1 (April 8, 1870), 18:124 (April 18, 1873).

⁶⁵ *Iowa Homestead*, 17:162 (May 24, 1872).

tion was formed. Oliver H. Kelley, founder of the Order, had envisioned it as a means of bringing social and educational advantages to farming people in all parts of the nation, but he had early recognized the expediency of appealing to farmers on the basis of economic betterment. With his approval cooperative buying, selling, and manufacturing were carried on as integral parts of the Grange program.⁶⁶ Willingness to participate in these projects reflected the farmers' deep discontent with their position in the nation's economic and social structure. The Grange, it was said, afforded an opportunity to "an oppressed people to throw off the shackles which bind them, and to occupy the position in the social scale which God and nature intended."⁶⁷

Essentially, on its economic side, the Grange offered an institutional framework to support a revitalization of the old agricultural hostility toward financial and commercial capitalism. It was firmly believed that because they had not been alert to the necessity of protecting their own interests, the farmers, the real producers of wealth, had come to be at the mercy of "selfish, grasping monopolistic" combinations. "The time has come," said A. B. Smedley, Master of the State Grange, "when we in our free Republican country are cursed by a system of special rights, special privileges, special powers, and monopolies of cliques and rings." Among these, the worst offenders were thought to be "these monster monied monopolies," the railroads. A book written by a former attorney general of the state, David C. Cloud, and published in 1873, contained a lengthy statement of the farmer-laborer grievances against railroads and other forms of capital and business enterprise. Stripped of its ranting and excess verbiage, the book was an excellent restatement of the view that had been popular among Democrats in Iowa's first constitutional convention. Cloud inveighed bitterly against the unholy alliance between unscrupulous businessmen, including the "gold gamblers of Wall Street," and government at all levels. Their machinations, he argued, mocked the principle of equal rights, robbed the farmers and laborers of their rightful share in the wealth created by their own toil, and made a travesty of any pretensions to true democratic government. The book was dedicated to the Patrons of Hus-

⁶⁶ Mildred Throne, "The Grange in Iowa, 1868-1875," *IOWA JOURNAL OF HISTORY*, 47:8-24 (October, 1949).

⁶⁷ Letter from R. M. Downer in *Iowa Homestead*, 18:5 (January 3, 1873). Expressions in a similar vein appeared in *ibid.*, 18:85 (March 14, 1873); *Iowa City Daily Press*, March 13, 1873; *Indianola Warren County Leader*, April 3, 17, 1873.

bandry, "Who have become the pioneer corps in the efforts being made to reform the abuses now oppressing the country, and who are earnestly laboring for the restoration of the rights of the people. . . ." ⁶⁸

Though thoroughly aroused by 1873, the Grange was limited in the action it could take. The state organization could, and did, exert some pressure, but the Patrons, as an order, were forbidden by their constitution to take part in politics. In their zeal, some Grangers defied the rules of the Order by sponsoring county conventions to agitate for the nomination of "producers" for state offices to be filled in the fall election. Partially as a result of this activity, the Anti-Monopoly party was formed at a convention held in Des Moines in August. The convention was made up both of Democrats and Republicans, many of whom were Grangers. John P. Irish, chairman of the State Democratic Committee, took a leading part. Jacob G. Vale, a farmer and formerly a Republican, became the Anti-Monopolist nominee for governor on a platform advocating legislative control of corporations, with special emphasis upon the necessity of a law fixing maximum freight rates for railroads. In the course of the campaign, Irish, who was editor of the *Iowa City Press*, informed his readers that "the anti monopoly platform contains the germinal theories of Democracy." ⁶⁹

Two months before the new party was formed, the Republicans had held their state convention and renominated C. C. Carpenter for another term as governor. Carpenter, by this time, had become a member of the Grange. As their candidate for lieutenant governor, the Republicans seriously considered a prominent Granger, Dudley W. Adams, but the nomination eventually went to Joseph Dysart. ⁷⁰ Their platform called for "legislative enactments that will control and regulate the railroads of the country, and give to the people fair rates of transportation." Never previously had the Republicans of Iowa, as a party, come out flatly for the regulation of rates; for

⁶⁸ D. C. Cloud, *Monopolies and the People* (Davenport, Iowa, 1873), Introduction and Chs. 8-17; Smedley's comment came in a speech before a meeting of the State Grange in Des Moines, December 9, 1873. *Report of the Proceedings of the Fourth Annual Session of the Iowa State Grange, 1873*, 28.

⁶⁹ Throne, "The Grange in Iowa, 1868-1875," 26-8, cites the remark of John P. Irish, and describes the background and organization of the Anti-Monopoly party. See also Fred E. Haynes, *Third Party Movements Since the Civil War . . .* (Iowa City, 1916), 70. The Anti-Monopoly party platform is in Herbert S. Fairall (ed.), *Manual of Iowa Politics . . .* (Iowa City, 1881), 92-3.

⁷⁰ Throne, "The Grange in Iowa, 1868-1875," 28.

that matter, neither had the Democrats.⁷¹ The question of legislative regulation had never been a subject of controversy between the two parties. In this year the Democrats held no convention and nominated no candidates; instead they gave their support to the Anti-Monopolists.

The platforms and campaign statements of both parties in the field in 1873 made it abundantly clear that the question of railroad control still was not a partisan issue. So far as the probability of restrictive legislation was concerned, it seemed that the election was to be very much a formality. This appraisal later proved to have been substantially correct. In the election, the Republicans retained control of the Senate and again won the governorship as well as most of the higher state offices, although by a slimmer margin than in the election of 1871. Seats in the House were divided about evenly, forty-nine for the Anti-Monopolists and forty-eight for the Republicans. It was said that sixty or more Representatives were Grangers. When the legislature convened in 1874, a long contest took place between the parties over the organization of the House.⁷² At its conclusion a number of regulatory bills was quickly brought forward, everyone wishing to be known as "the champion of the people against the railroad monopolies."⁷³ The desire to frame a workable law, and one fair to all concerned, caused the usual difficulties and delays, but there was never any real doubt that a bill would be passed. The bill finally adopted by both houses divided the roads into four classes according to their earnings, and established a schedule of maximum freights and passenger fares for each classification.⁷⁴

The great contribution of the Grange to the achievement of railroad control had been that of providing a rallying point at a time when statewide public opinion was in the later stages of assuming its final form and needed an organizational structure in order to complete the process and become an effective voice. The Grange organization furnished a sounding board from which agitation could be directed in such a way as to make it virtually impossible for any candidate to be elected in 1873 who did not promise his wholehearted support to railroad regulation. The success of this agitation is to be seen, not only in the passage of the regulatory law,

⁷¹ Annual platforms of both parties are collected in Fairall (ed.), *Manual of Iowa Politics* . . . , 16-93.

⁷² Throne, "The Grange in Iowa, 1868-1875," 29; *House Journal*, 1874, 8-53.

⁷³ *Ottumwa Democrat*, April 2, 1874.

⁷⁴ *Laws of Iowa*, 1874, Ch. 68.

but more strikingly, in the record of votes cast for and against it. In the Senate, where the bill passed 39 to 9, only one of the 22 Senators elected in 1873 voted against it. The other 8 negative votes were cast by men who were holdovers from the election of 1871. The House, all of whose members were elected in 1873, gave the bill a majority of 93 to 4.⁷⁵

Despite the importance of the Grange in securing state railroad control, the statute of 1874 was not, strictly speaking, a "Granger law." Designation of it as such has been the source of much popular misunderstanding of the function actually performed by the Grange. In reality the State Grange in 1874 refused to press for an acceptance of its views concerning the form regulatory legislation should take. Grange officials pointedly ignored several legislative resolutions inviting them to submit the draft of a regulatory law, and it was only with an air of reluctance that a committee representing the State Grange eventually met with the House committee on railroads to discuss Grange desires in the matter. The Grange recommendations offered at this meeting contained two essential features: the prohibition of discrimination; and the creation of a board of commissioners having broad powers to gather information, investigate alleged violations, and judge disputes. When requested to draft a bill embodying these points the Grangers of the committee declined to do so, explaining that they "had not been appointed by the State Grange for that purpose."⁷⁶ Nevertheless, both proposals were incorporated in several of the numerous bills introduced. Neither of them, however, appeared in the regulatory law as it was finally enacted. Legislative objections to an act based on the principle of anti-discrimination were much the same as those that had defeated the ill-fated O'Donnell bill in 1872. And with the approval, instead, of a measure based upon a fixed schedule of maximum rates, a board of special enforcement officers was considered unnecessary.

Several reasons may be advanced to explain the refusal of State Grange spokesmen to insist upon their version of a regulatory law. Viewing the outcome of the election and the temper of the General Assembly, Grange leaders must have been confident that the session would not adjourn until restrictive legislation had been passed. Probably, too, they were not un-

⁷⁵ *House Journal*, 1874, 403-404; *Senate Journal*, 1874, 295.

⁷⁶ *House Journal*, 1874, 153-4, 159, 172, 177; *Iowa City Daily Press*, Feb. 10, 18, 19, 20, 1874; *Des Moines Iowa State Register*, Feb. 20, 1874; *Keokuk Gate City*, Feb. 18, 25, 1874.

mindful of the provision of the National Grange constitution enjoining involvement in politics as an Order. Finally, there is every indication that the Grange, in the hour of victory, was anxious to avoid the appearance of official or semi-official action and thus allay growing hostility arising from the fear that its program supported aggressive, destructive warfare against railroads and other business interests.⁷⁷ Actually the official attitude of the State Grange, as its suggested means of control indicated, was more moderate than its enemies supposed it to be. It is to be noted that later observers have failed to emphasize this point, tending, rather, to see a direct correspondence between Grange demands and the law of 1874. Some of the confusion may be due to the fact that Grange suggestions spurned in 1874 were put into practice four years later when a revision of the law instituted the railroad commissioner plan.

The Grange also had had no part in formulating the theory of government applied in subjecting Iowa's railroads to public control. This was a legacy of the state's founding fathers, who had suspected that great amalgamations of economic power in the hands of a few always posed a threat to democracy, and who had believed that the acquisition of economic advantage through the connivance of government not only led to concentrations of economic power but was contradictory to a most fundamental postulate of democracy — the right of all citizens to equal treatment under the law. Unquestionably, reverence for these principles became relaxed in the warm glow of the almost incredible optimism of the early period of railroad building, when it appeared that *everyone*, not just a favored few, would be enriched through the magic of the rails. At the height of the frenzy of obtaining railroads, the original ideas of government receded into the background — not to be lost entirely from view, for they gradually became assimilated in the thinking of those who had always emphasized the general community interest in preference to the more abstract idea of equal rights, and tended to emerge as it became progressively clearer that railroads were something other than benevolent public service institutions. The result of all this was a certain ambivalence, apparent in all public dealings with railroad affairs from the late fifties onward.

In view of the fact that litigation over "Granger" legislation led to the Supreme Court pronouncement of the doctrine of "public interest," it is

⁷⁷ See remarks of A. B. Smedley as reported in the *Des Moines Iowa State Register*, Feb. 20, 1874.

hardly to be questioned that "midwestern farmers made an original and important contribution to the theory and method of democratic control over corporate enterprise."⁷⁸ No doubt proponents of strong government prominent in Iowa's early railroad history, particularly Governors Grimes and Stone, desired an interpretation of the relationship between public utility corporations and government very similar to the one established by Chief Justice Waite in 1876.⁷⁹ On the other hand it does seem clear that in their quest for a method of control, most of Iowa's citizens believed they were proceeding along lines implicit in the strongest traditions of their political heritage. For them, slogans such as "anti-monopolism" and "equal and exact justice to all" symbolized not so much a desire to experiment with new interpretations of the law to cope with a changing world, as a revival of faith in ideas much older than the state itself.

⁷⁸ Chester McA. Destler, "Western Radicalism, 1865-1901: Concepts and Origins," *Mississippi Valley Historical Review*, 31:346 (December, 1944).

⁷⁹ Perhaps the best indication of Stone's views was his prophetic statement of 1866. See footnote 38. Grimes's political and social ideas are reflected by his public addresses and private letters relating to the campaign of 1854. A number of these are collected in William Salter, *The Life of James W. Grimes . . .* (New York, 1876), 34-50. Also see, Fred B. Lewellen, "The Political Ideas of James W. Grimes" (M.A. thesis, unpublished, State University of Iowa, 1932), 2-12.