

THE REPEAL OF THE IOWA GRANGER LAW, 1878

By *Mildred Throne*

On March 23, 1874, Iowa's governor, Cyrus Clay Carpenter, noted in his diary: ". . . read the Rail Road Bill . . . and one or two other acts not signed and put my fist to them. So at last the State has a Rail Road Law fixing maximum rates. I have doubted as to whether the people would reap all the benefit from this that they expect but I hope for the best."¹ Four days later the *Des Moines Register* echoed the governor's doubts: "What it is, how good it shall prove to be, remains to be tried." The members of the General Assembly in framing the law had "honestly tried to do what was best as their knowledge gave them to see the best," continued the *Register*; if the law fails, "it will prove an honest failure."²

Thus, without too much hope, Iowa's governor and Iowa's leading newspaper greeted the passage of the so-called "Granger Law" — a law establishing a schedule of maximum freight and passenger rates for the railroads operating within the state. The law was not just a result of the Granger and Anti-Monopoly agitation, brought to a peak by the panic of 1873; rather it was the culmination of long years of controversy regarding the power of a state to regulate its railroads, a high-point in the struggle between the power of capital and the power of the state, an answer to the age-old contest in America between the rights of property and the rights of the people. Temporarily, in 1874 in Iowa, the people had won a measure of victory.³

The General Assembly which passed the bill had been elected in the heated Anti-Monopoly campaign of 1873, a campaign in which the question

¹ 1874 Diary of Cyrus Clay Carpenter, *Carpenter Papers* (State Historical Society, Iowa City, Iowa).

² *Des Moines Iowa State Register* (weekly), Mar. 27, 1874. (Hereafter this paper is listed as *Des Moines Register*.)

³ For the law, see *Laws of Iowa, 1874*, Chap. 68, pp. 61-89. The problem of railroad regulation in Iowa is covered in Earl S. Beard, "The Background of State Railroad Regulation in Iowa," *IOWA JOURNAL OF HISTORY*, 51:1-36 (January, 1953).

of the control of monopolies had been a major issue.⁴ That the Granger movement which reached its Iowa peak in 1874 was one of the major factors in the movement for lowered railroad freight rates is unquestioned, but that the law as finally passed was sponsored or even approved by leading Iowa Grangers is a misinterpretation of the facts. Forces opposed to railroad regulation promptly dubbed the act the "Granger Law," a name which clung to the whole Middle Western railroad control legislation of the 1870's. In the case of Iowa, the appellation is a misnomer, for although the Grangers wanted some type of state control over railroads, the law approved by the General Assembly was not the law they wanted.

It is true that in January of 1873 the State Grange had adopted a resolution addressed to the members of the General Assembly requesting "a law prescribing maximum rates for passengers and freight on the railroads of Iowa."⁵ By 1874, however, wiser heads in the State Grange had come to realize that the solution was not that simple. When the railroad committees of the General Assembly asked the State Grange for suggestions, a committee headed by John Scott was appointed to advise with the legislature. Appearing before the Senate and House railroad committees on February 17, 1874, the Grangers gave their views which "were not as violent or revolutionary as the enemies of the order would like to represent them to be."⁶

In substance, the type of bill suggested by the State Grange would have provided for a board of commissioners, to be appointed by the governor, which would have supervision of the railroads of the state. The Grange opposed a "cast iron tariff bill" as an injustice both to the people and to the railroads, until sufficient study of the problem had been made by a duly appointed board of commissioners which would then either pave the way for "legislation in detail, or prove it to be impracticable." But the members of the General Assembly, lamented Chairman Scott, "entertained the most crude notions as to the whole matter, and grappled the subject in that spirit of innocence with which an infant would play with a serpent."⁷ The result was the "Granger Law" — of which leading Iowa Grangers disapproved.

⁴ See Mildred Throne, "The Grange in Iowa, 1868-1875," *IOWA JOURNAL OF HISTORY*, 47:289-324 (October, 1949), particularly 314-18 for the Anti-Monopoly movement.

⁵ *Proceedings . . . Iowa State Grange . . . 1872*, 24.

⁶ *Estherville Northern Vindicator*, Feb. 28, 1874.

⁷ *Des Moines Register* (weekly), Feb. 20, 1874; *Iowa City Daily Press*, Feb. 19, 20, 1874; *Keokuk Gate City*, Feb. 25, 1874; *Proceedings . . . Iowa State Grange . . . 1874*, 40-42.

The Fifteenth General Assembly which had passed this controversial legislation would be roundly criticized in the days to come as either stupid or inexperienced, or both. As for lack of experience, there were probably no more new men in the 1874 legislature than in others in the past and future. In the 1874 Assembly, 17 of the 100 House members and 32 of the 50 Senators had served in 1872. In the 1876 legislature, as a comparison, 14 members of the House and 26 of the Senators had been in the 1874 Assembly. This was not unusual and was the result of a rather stern tradition at that period of Iowa history that a public servant should hold office for only two terms and then retire to obscurity or go on to bigger and better things. As to stupidity, there was the usual amount of political naivete in the General Assembly of 1874, and also the usual amount of political sagacity. In addition to a number of the active political leaders of the state, there were three future governors — John H. Gear, Joshua G. Newbold, and William Larrabee — and a future United States Senator, Lafayette Young, in this legislature.

Of the 158 members in both Houses in 1874, some 70 were classed as Grangers, while politically they were equally divided between Republicans and Anti-Monopoly-Democrats. The bill, in its final form, passed with unusual unanimity — in the Senate by a vote of 39 to 9; in the House, 93 to 4.⁸ In the last analysis, the General Assembly of 1874, elected by a people demanding some action against the high freight rates which bore heavily upon them in a period of falling prices, was determined to put through stringent legislation. The legislators were in no mood for half-way measures; thus the milder law suggested by the State Grange had no chance of passage.

With the bill on the books, these legislators waited anxiously for the reaction — seemingly surprised at their own temerity in defying the corporations. They had come to believe, however, that they had the power to pass such legislation in spite of strenuous denials by the railroads. Governor Carpenter had stated firmly in his first inaugural address in 1872 that he did not consider the “pretense that railways are beyond the control of law, in respect to fare and freights, as worthy of more than a moment’s consideration.”⁹ Now the governor and the executive council were faced with the

⁸ *Senate Journal, 1874, 295; House Journal, 1874, 403-404.*

⁹ Benj. F. Shambaugh (ed.), *Messages and Proclamations of the Governors of Iowa* (7 vols., Iowa City, 1903), 4:20.

enforcing of a law which they well knew the railroads would fight through the courts, and they were provided with the puny sum of \$10,000 to be pitted against the millions at the command of the roads.¹⁰

The reaction of the railroads was not long in coming. Only a few weeks after the law had passed, reports began to appear in Iowa newspapers of a meeting in New York of the officials of the Chicago & North Western and the Milwaukee & St. Paul roads, two of the five railroads in Iowa whose actions would determine the future of the enforcement of the law.¹¹ (The other roads were the Burlington, the Rock Island, and the Illinois Central.) Among the attorneys retained by the roads were William M. Evarts, a leader of the New York bar, and Judge B. R. Curtis, a former United States Supreme Court Justice.¹² Evarts and Curtis flatly declared the law unconstitutional because it impaired the obligations of contract. Railroad regulation, they stated, was beyond the power of a state.¹³ Thus the North Western and the Milwaukee declared they would ignore the Iowa law.

In May, James S. Clarkson, editor of the *Des Moines Register*, was in Chicago for a meeting of newspapermen, and he took occasion to make the rounds of the railroad offices, sounding out the officials on their reactions. His report was far from encouraging. The Chicago, Burlington & Quincy had not yet decided on a course of action, but the law would certainly cost them money, which they intended to make up by raising through-freight rates. The Rock Island, whose land grant contained certain provisions for state regulation, was in a more difficult position. The Illinois Central promised some sort of action by June. They echoed the Burlington's statement: they probably would observe the law in Iowa but would make up their losses by increasing through rates. The North Western defiantly announced that they would contest the law in Iowa, just as they were then doing in Wisconsin where the "Potter Law" had already gone into effect.

¹⁰ *Laws of Iowa, 1874*, Chap. 68, p. 88.

¹¹ *Dubuque Times and Eldora Ledger*, quoted in *Des Moines Register* (weekly), Apr. 17, 1874.

¹² William M. Evarts, in addition to his distinguished legal career, had served as Attorney General in the cabinet of President Andrew Johnson; in 1877 he became Secretary of State under President Hayes. *Dictionary of American Biography*, 6:215-18. B. R. Curtis, a Massachusetts lawyer, had been appointed to the Supreme Court in 1851, at the age of forty-one. His was one of the two dissenting opinions in the Dred Scott case in 1857, a dissent which led to a controversy with Chief Justice Taney and Curtis' resignation from the Court. *Ibid.*, 4:609-611.

¹³ *Des Moines Register* (weekly), May 8, 1874.

Clarkson closed his two-column summary of the situation with a warning to Iowans:

The people of Iowa, in grappling with the iron-armed monster of monopoly, may as well expect business. The railroads have not gathered within their employ vainly the best brains and the shrewdest managers and the most eminent legal talent that the country affords. Against this day they, in their might have been long preparing. They will have all their rights and all that they can get besides. Our Iowa people are now nearing the real railroad crossing, and Gov. Carpenter, even before he hears the bell ring, may as well be looking out for the cars.¹⁴

And Governor Carpenter was doing just that. A mild-mannered little man, but with a will of iron when he believed himself to be in the right, he had no intention of bowing to the power of the mighty railroads. In answer to a Grange resolution sent to him by Coker F. Clarkson, *Register* farm editor, active Granger, and father of Editor J. S. Clarkson, the governor replied that he "hoped the railroad companies of Iowa will consult their own interests and the interests of the people by voluntarily conforming to the laws passed by the last Legislature," but if they did not he would "not hesitate in the duty which will then be upon me, to see to it that all the authority possessed by the executive is invoked to secure its enforcement."¹⁵ This firm attitude confirmed the opinion of "Father" Clarkson, which he had already published in his column, that "Iowa is fortunately situated in her chief executive officer. His education and natural composition is not such as will quail before power or succumb to money." Furthermore, wrote Clarkson, "no bluster or bluff game should deter any one from enforcing the law. . . . It were better no railroad train moved in the State for two years, than to have it said that we dare not, or cannot enforce our laws in defiance of overgrown monopolies."¹⁶ Editor James Clarkson — popularly known by his famous nickname, "Ret" — also added his backing to Carpenter's position. "The Governor deals with the question without palaver and frankly," he wrote; the statute passed for the protection of the people of Iowa would be strongly and vigilantly enforced by their governor and their attorney general.¹⁷

¹⁴ *Ibid.*, May 15, 1874.

¹⁵ Letter published in *ibid.*, June 12, 1874.

¹⁶ *Ibid.*, Apr. 24, 1874.

¹⁷ *Ibid.*, June 12, 1874.

Although he was sustained by the powerful Clarksons, yet Carpenter did not have unanimous support in the state. Almost before the bill had passed, the editor of the *Estherville Northern Vindicator* warned that he "saw naught of encouragement to either the farming or mercantile interests of north-western Iowa"¹⁸ in the law. The fact that northwestern Iowa was practically barren of railroads of course influenced the attitude of residents there, where they dreamed of the advantages of railways and had yet had no experience with what eastern Iowa, where railroads were a commonplace, called "extortionate rates." In northeastern Iowa, however, another and more personal type of opposition appeared. A. M. May, editor of the *Waukon Standard*, had once been a strong Granger but had turned against the Order and now took every chance to attack it. Since the railroad regulation law had already been christened the "Granger Law," May delighted in publishing articles derogatory to it. On June 18, under the heading, "Granger Legislation," May quoted the "Wall Street view of the railroad question," from the *New York Bulletin*. "Grangerism," said "Wall Street," would make the investments in railroads unproductive by "one of the most stupendous acts of injustice ever undertaken in the name of law." If the people of the Midwest, after experiencing all the benefits and advantages of railroad transportation, should turn against their benefactors, "mass themselves in 'Granges,'" and try to deprive the roads of "self-management" by adjusting rates to suit the customers, "what security is there for corporate investments?" The article continued, sadly:

It is a matter of infinite regret that a large and influential class of American citizens should have been found willing to commit themselves to an act of such glaring injustice and bad faith. Their agitation reveals a condition of political morals which is anything but honorable to the nation, and anything but conducive to confidence in our investments. If there is a fundamental dishonesty in the hearts of large masses of our people, the basis of our hopes of commercial greatness is gone, and the future of the Republic is imperiled. . . . They have adopted laws which cannot be sanctioned by the Supreme Court of the nation, and which will, therefore, fail to accomplish the unjust purpose contemplated; and all they gain is a permanent degradation of character.¹⁹

Here the issue was really joined. The believers in the sanctity of property

¹⁸ *Estherville Northern Vindicator*, Mar. 28, 1874.

¹⁹ *New York Bulletin*, quoted in *Waukon Standard*, June 18, 1874. For A. M. May, see Throne, "Grange in Iowa," 302.

were arrayed against those who sought justice for the people as a whole. The *Register*, in retaliation, quoted from the *New York Graphic*:

These legal tribunals will decide whether the railway corporations exist for the convenience and use of the people, or whether the people exist for the convenience and profit of the railway corporations. This is indeed the fundamental question at issue. At the present time the railway corporations assume that they are superior to the State and above its control. . . . The sooner this question is settled by some legal tribunal the better for the country. A great many plausible objections are raised against the State owning and running railroads. There are just a few strong objections against the railroads owning and running a State. . . .²⁰

The law was to go into effect in Iowa on July 4, 1874. As that date approached, interest in what the railroads were going to do mounted. On June 26 the *Register* reported from a Chicago paper that interviews with the railroad managers had revealed that the Burlington, the North Western, and the Illinois Central were "disposed to disregard the enactment." The Rock Island was wavering, however, because of the clause in its land grant, while part of the Illinois Central grant also contained a like provision acknowledging the right of the state to regulate rates. Should the Rock Island bow to the law, the other roads would almost surely have to follow suit.²¹ On June 29 the answer came: Hugh Riddle, vice-president and general superintendent of the Rock Island, wrote Governor Carpenter a long and lecturing letter, the gist of which was that the road would "experimentally" obey the new tariff schedule. "While this company denies the justice and constitutional validity of the act," wrote Riddle, "it is disposed to subject it to the test of actual experiment before assailing it in the courts. . . . While engaging in the experiment of operating that portion of the road in Iowa in accordance with the schedules named in the act it is their duty to so adjust the rates applicable to inter-State commerce as to secure from the entire business of the company the revenue to which it is entitled."²² Here was the loophole in the bill, through which the railroads could eventually force repeal. While a state could affix certain rates to traffic carried within its borders, it could do nothing about freight carried across those borders.

²⁰ *New York Graphic*, quoted in *Des Moines Register* (weekly), June 19, 1874.

²¹ *Des Moines Register*, June 26, 1874.

²² Letter of Hugh Riddle to C. C. Carpenter, published in full in *ibid.*, July 3, 1874.

On July 5 Albert Keep, president of the North Western, wired Carpenter that his road would "comply under protest."²³ Following his wire with a letter to the governor, Keep pointed out the injustice of the arbitrary classification of roads according to income.²⁴ Certain branch lines owned by the North Western had been operating at a loss; if included in the North Western "A" classification, the operation of these branches would involve such a great loss as to amount to "virtual confiscation." Keep also reminded the governor that his company considered the law unconstitutional, but that it would operate under the law "for such length of time as will demonstrate the absolute injustice of these rates."²⁵ On July 24, the *Register* reported from a column in a Chicago paper for July 14 that the Chicago, Burlington & Quincy "had no idea of complying with the regulations made under the new law, and that the President, in asserting that he would comply, merely wanted to imply that he would obey the law, but not these regulations." How a road could obey a law which set maximum freight and passenger rates without abiding by those rates, the paper did not explain.²⁶

In the meantime, Iowa and the railroads had been watching carefully the progress of regulation in Wisconsin, where the "Potter Law" had gone into effect on May 1. When, early in July, a suit growing out of the railroads' refusal to comply with the law was decided unanimously in the Circuit Court in favor of the state, the news "fell like a bombshell" on the railroad men of Chicago. They were "in a perfect state of demoralization," reported the Chicago papers, and could find no common ground for action.²⁷ Here was an answer to the railroads' cry of "unconstitutionality." Threats of injunction, of the closing of certain stations, of a general defiance of the law lost their force.

For a few months the whole matter seemed to be held in abeyance. Some of the Iowa roads obeyed the law, some ignored it, and all raised their through rates, thus nullifying any advantage the shippers had hoped to ob-

²³ Albert Keep to Carpenter, July 5, 1874, *Carpenter Papers*.

²⁴ Class "A" roads were those with annual gross earnings of over \$4,000 per mile; Class "B" roads, those with earnings of from \$3,000 to \$4,000 per mile; Class "C" roads, those under \$3,000 per mile. See *Laws of Iowa, 1874*, Chap. 68, p. 61.

²⁵ Letter of Keep to Carpenter quoted in *Keokuk Weekly Gate City*, July 15, 1874.

²⁶ *Des Moines Register*, July 24, 1874.

²⁷ *Chicago Tribune*, July 7, 1874, quoted in *Muscatine Weekly Journal*, July 10, 1874; *Keokuk Weekly Gate City*, July 15, 1874.

tain. Within a month after the law went into effect, "the first cry for repeal" came from Clinton lumbermen. In the past a large amount of lumber had been shipped from Clinton to points within Iowa; as was customary, the railroads had given the shippers special rates. Since such special rates were prohibited by the new law, the railroads promptly eliminated them and charged a higher rate for the lumber from Clinton, with the result that lumber shipments fell off markedly.²⁸ Another report from Clinton claimed that the earnings of the North Western had fallen so drastically within the first month of the operation of the law that the men in the railroad shops there were reduced to only five days' work a week. A Muscatine paper, in commenting on this state of affairs, suggested that it was "only a 'scare' manufactured by the railroad company to cause a let-up in the enforcement of the law."²⁹ From Cedar Rapids came the complaint that the law had proved a "boomerang" — the roads had raised their through freights. Denison estimated that the law could cost the farmers \$10,000 or \$12,000 more per year; Fort Dodge reported that the increased through freights had added 5½ cents per bushel on wheat. "We have saved the waste at the spigot, but the flow has doubled through the bunghole," was the comment of the Fort Dodge editor.³⁰

In southern Iowa, where the Burlington was calmly disobeying the law both as to freight and passenger fares, the question was raised as to why Governor Carpenter did nothing to force compliance. "He should enforce the law," insisted one editor, ". . . but as the Executive of this State he has quietly witnessed the violation of the law for three months, and made no attempt to see it enforced." The answer to this lack of action by the governor could be found in the law itself, which provided such meager funds for enforcement (\$10,000), that, as Carpenter wrote a Mount Pleasant editor, "if I should do what some seem to regard as my duty, I would fritter away the appropriation made to employ counsel, and accomplish no good purpose."³¹ Furthermore, before the state could act or institute a suit, at least twenty taxpayers of a county where there was a violation had to appeal to the executive. By November, choosing among these complaints

²⁸ Waukon *Standard*, Aug. 6, 1874.

²⁹ Muscatine *Weekly Journal*, Aug. 14, 1874.

³⁰ Cedar Rapids *Republican*, Denison *Review*, and Fort Dodge *Messenger*, quoted in Keokuk *Weekly Gate City*, Aug. 19, 1874.

³¹ Burlington *Weekly Hawk-Eye*, Oct. 8, 1874; C. C. Carpenter to John Teesdale, Nov. 28, 1874, *Carpenter Papers*.

carefully, several such suits had been instituted against the Burlington, whereupon the railroad acted. It sent O. H. Browning of Illinois and Judge David Rorer of Burlington to Des Moines to consult with the governor. They showed him an application for a writ of injunction to stop the attorney general — M. E. Cutts — from commencing any further suits against the company.³² This was to be the test case, and from this appeal for an injunction would come the Supreme Court's blessing on the Iowa law.

In January of 1875 the case of the Chicago, Burlington & Quincy Railroad *v.* The State of Iowa was heard by United States Circuit Judge John F. Dillon at Davenport. When his decision came, in May, it was a repetition of the Wisconsin case of the previous July: the request for an injunction was denied, and the right of a state to regulate commerce within its borders affirmed.³³ Needless to say, the case was appealed.³⁴

This decision, together with the announcement in March that Iowa railroads had shown an increase of \$1,000,000 in earnings in 1874 over 1873, in spite of the much-maligned Granger Law, served for a time to quiet the agitation. The newspapers did not fail to notice, in this connection, that the two roads which had refused to comply with the law—the Burlington and the Illinois Central — showed the smallest increase in business. In fact, the Illinois Central actually showed a small loss.³⁵ Father Clarkson reported as early as April:

The great excitement which was raised when the Legislatures of Iowa, Illinois, Wisconsin and Minnesota attempted to regulate railroads, is passing away. The roads have passed through the first year of panic on the subject in a better condition than at any former year. . . . But everything is working admirably and if the people and Legislatures stand firm, no man in the nation who has any respect for his reputation, will contend that the Legislatures have no right to regulate.³⁶

When Judge Dillon's decision confirmed this latter opinion, the railroads had no course to follow but to await the pronouncement of the Supreme Court.

³² *Des Moines Register* (weekly), Oct. 16, Nov. 13, 20, 1874; *Muscatine Weekly Journal*, Nov. 20, 1874.

³³ *Des Moines Register* (weekly), Jan. 15, May 21, 1875.

³⁴ *Ibid.*, May 21, 1875.

³⁵ *Ibid.*, March 5, 1875; *Iowa City Republican*, March 3, 1875.

³⁶ *Des Moines Register* (weekly), Apr. 2, 1875.

But this does not mean that the railroads were idle. Two lines of argument began to appear in the press of Iowa with recurring frequency in late 1875 and with increasing vehemence during the 1876 session of the General Assembly. One was to the effect that shipments under the Granger Law were actually costing the farmers and shippers of the state larger sums of money than before its enactment; the other theme was that eastern and European capitalists would no longer invest money in western railroads. The corollary to this was, of course, that no new roads would be built, but this argument was heard only faintly in 1876; in 1878 it would become possibly the strongest weapon in killing the law in Iowa. But as early as November, 1875, northwestern Iowa pointed out that some of the recent railroad failures had been due to the "anti-railway" law which had had "the effect to destroy the confidence of capitalists and put an end to building new roads."³⁷

As the Grangers declined in numbers and influence in 1875 and 1876, attacks against them increased in bitterness. "The howling has been as hideous as it has been untruthful," wrote Father Clarkson. "Every country newspaper owned or ruled by railroad officials and every location which was hankering for a railroad . . . have set up late and rose up early to abuse the Grangers."³⁸ The State Grange was not unaware of the injustice of these attacks, and had complained as early as December of 1874, in disavowing responsibility for the bill as passed: "But the most singular feature of this whole matter is in the fact that responsibility for the bill which was passed by the General Assembly is laid at the door of 'the Grange,' and it is so accepted by the railroads and the general public."³⁹ A typical example of Anti-Grange publicity came from the *Sigourney News*:

By the fruits of the Grange ye shall know them. Five Iowa railroads are to be foreclosed under mortgage the present month. In this county the Rock Island Road is pushing westward because necessity compels them to do so. Dumping off at Sigourney as a terminus was no part of their original programme. The Rock Island extension of the Sigourney branch westward is only the carrying out of a project which the hostility of fools and fanatics has menaced and delayed, by considering it their duty to obey the voice of epizootic demagogues and office hunters, and vote in favor of legislation hostile to any corporation which commands money

³⁷ Estherville *Northern Vindicator*, Nov. 20, 1875.

³⁸ Des Moines *Register* (weekly), Aug. 6, 1875.

³⁹ *Proceedings . . . Iowa State Grange . . . 1874*, 43.

and can give thousands of dollars to the future development and prosperity of Iowa.⁴⁰

In spite of sporadic attacks on the Grange during 1875, the election of that year did not turn on the railroad question. Governor Carpenter, having served his allotted two terms, was not a candidate to succeed himself. Therefore the Republicans were searching feverishly for a winning nominee, not realizing that the Anti-Monopoly movement which had given them such a scare in 1873 was now on the decline. They settled on the popular Civil War governor, Samuel J. Kirkwood, whose nomination and election broke the two-term tradition for the first time. In addition to the gubernatorial question, the General Assembly to be elected in 1875 would choose a new United States Senator, and the struggle for that political plum was already under way.⁴¹ With these two subjects agitating the voters, little attention was given to the railroad problem.

Once the gubernatorial and senatorial questions had been solved — with Kirkwood taking the prize in both contests — the legislature suddenly found itself in a hotbed of agitation for repeal or modification of the railroad tariff law. Governor Carpenter, in his swan song, had treated the subject at length. If, suggested the retiring governor, the provisions of the law have been found unjust in certain instances, either to a railroad or to a locality, "there should be no objection or hesitancy" in revising the law. Reaffirming the right of the state to pass such regulations, Carpenter insisted that the law "in its main features" should be retained. He went on to urge that the legislature consider carefully the advantage of a commissioner system such as had been tried in other states. This, of course, was essentially the plan which the Grange had recommended in 1874. The following day the new governor, Kirkwood, suggested practically the same course of action: the law was experimental, if there were provisions which did not work to the advantage of all they should be changed, but the law should not be repealed. "I also recommend the appointment of a board of railroad commissioners," said Kirkwood.⁴²

Even before the governors had spoken, the *Des Moines Register*, always a good indicator of the opinion of leading political elements in the state, had

⁴⁰ *Sigourney News*, quoted in *Des Moines Register* (weekly), Nov. 12, 1875.

⁴¹ For an excellent discussion of this nomination, and its senatorial implications, see Leland L. Sage, "Weaver in Allison's Way . . ." *Annals of Iowa* (third series), 31:485-507 (January, 1953).

⁴² Shambaugh (ed.), *Messages and Proclamations . . .*, 4:135-9, 295-9.

suggested, in a column on the work before the new legislature, that the "railroad question" was perhaps the most important task facing the lawmakers. Certain geographic areas in the state were clamoring for repeal, others were insisting on the law without modification of any kind. "We are for amending the present law, where it needs it," said the *Register* later in the month, "or for any different legislation which will better secure the interests of all the people."⁴³ From then on until the adjournment of the legislature, scarcely an issue of Iowa's leading newspaper came out without some comment, or quotations from other papers, on the overshadowing question of railroad regulation.

By the middle of February the Dubuque *Times*, an anti-repeal paper, took occasion to point out that the question of the railroad bill had played no part in the election of members of the General Assembly, "everybody supposing it to be settled for fair trial." The Senate railroad committee had disposed of the question to the *Times's* satisfaction by its report of February 12. That committee, headed by F. T. Campbell of Newton, who had been fighting for railroad control since 1869, reported:

We have examined into the workings of said law as far as it has been complied with, and are satisfied our people have been benefitted by it, the interests of the State advanced, and can find many reasons why said law should be retained upon our statute books. . . . The railroads of the State claim that the law reduced their rates on freight too largely, but as far as your Committee is aware do not ask amendments — they desire the *unconditional repeal* of the law, as far as freight rates are concerned, opposing any and all legislation, and asking to be "let alone," unrestricted. . . .

A minority report, signed by George D. Perkins, newspaper editor of Sioux City, and S. H. Kinne, a lawyer of Lansing, with rather heavy sarcasm questioned the "immaculate character" of the law, quoted from numerous newspaper articles attacking it, and called upon the Grangers, by quoting John Scott's report favoring a railroad commissioner system, to support them in their stand for a repeal or revision of the law. Since eleven of the railroad committee opposed tampering with the law, while only these two favored it, the majority report stood.⁴⁴

The Senate action on this resolution, however, did not end the activity

⁴³ Des Moines *Register* (daily), Jan. 9, 27, 1876.

⁴⁴ For majority and minority reports, see *Senate Journal*, 1876, 157-65. See also Dubuque *Weekly Times*, Feb. 16, 1876.

by any means. A majority of the newspapers of the state seemed to favor some modification, if not outright repeal, while only a few die-hard editors held out for retention and enforcement of the law as it stood. The "anti-railroad" papers inevitably accused the others of being in the pay of the railroads. Very possibly some struggling editor might have sold his pen to the railroaders, but on the whole newspapermen agreed with the point of view of the corporations without any financial or political urging. The Fort Dodge *Times* expressed it best:

We are for free trade, free enterprise, free labor, free capital, free competition and free commerce, and we hope the Legislature will say to the world, bring on your money, invest it in the rich fields of Iowa in Railroads, in farms, in mining, in manufactories, and fill our country with settlers, give us work and transportation for our productions, and we will give every dollar invested the same freedom, no matter in what kind of industry invested, whether commercial, agricultural, mining, manufacturing or otherwise.⁴⁵

Not only the newspapers but a majority of Iowa businessmen could subscribe wholeheartedly to the opinion of James F. Wilson, spoken in behalf of the Burlington Railroad before a joint session of the railroad committees of the House and Senate:

The speaker laid down as a maxim that whenever the State places control or interferes with private business of any kind, it interferes with the natural laws of trade and necessarily produces mischief. The speaker showed that railroads cannot be regarded as anything else than private in their capacity as conductors of business either by the theories of eminent domain, or because of their corporate organization or as common carriers.⁴⁶

That railroad lobbyists and railroad influence were being used actively throughout the state to stir up opposition to the Granger Law cannot be doubted. On February 1 the "Capital Letter" in the Dubuque *Times* reported that "The third House has now its membership looking after the land grant, and also the general tariff law. The railroad companies are working very quietly, but not the less earnestly, to secure changes of the present law, and a board of railroad commissioners." Two weeks later, the Dubuque paper found that this latter statement was not quite correct:

⁴⁵ Fort Dodge *Times* quoted in Des Moines *Register* (daily), Feb. 12, 1876.

⁴⁶ Des Moines *Register* (daily), Feb. 19, 1876. The Wilson speech was given in full in the issue of Feb. 24, 1876.

At the outset of the discussion in many of the papers it was asserted that a modification of the law was desired, not a repeal, but it was notable that the arguments offered in support of the modification had quite as definite reference to repeal. It was this peculiarity that occasioned a suspicion that the agents of the railways were planning for total repeal by indirection.

E. H. Thayer, who was combining the duties of an Assembly member with those of a reporter for his own paper, the *Clinton Age*, echoed this: "There is a powerful lobby here in the interest of the various roads, and every influence that can possibly be brought is here in favor of the repeal of the law."⁴⁷

Nine years later, in 1885, when the Cullom congressional committee was in Des Moines holding hearings preliminary to the passage of the Interstate Commerce Act of 1887, S. J. Loughran told the committee:

In 1876 an effort was made to amend the law so as to relieve the railroads of the oppression they suffered under the law, and also to relieve the people. But that amendment that was desired was opposed by the railroads. They wanted a repeal of the law, and not this amendment. They must have the law excluded from the books. They would have no amendment. And they were strong enough in the legislature to prevent an amendment in 1876.⁴⁸

Whether this statement could be adequately documented is doubtful. The railroads certainly made no secret of the fact that they desired a change in the law; they would undoubtedly have been very happy with a complete repeal. When the railroad committees of the Senate and House held joint hearings, the roads sent their best men to appeal to the legislators. John F. Duncombe, prominent Democratic lawyer and railroader of Fort Dodge, spoke in behalf of the Illinois Central, pointing out the hardships which the law had visited upon his company and urging either the repeal of the law or a revision of the classification "so as to place this road on a par with the other great trunk lines." General Manager James C. Clarke of the Illinois Central also made a plea for revision; he, too, gave many facts and figures showing that the law as it stood brought financial hardships to the line.

⁴⁷ Dubuque *Weekly Times*, Feb. 9, 16, March 1, 1876; *Clinton Age*, Feb. 25, 1876.

⁴⁸ "Report of the Senate Select Committee on Interstate Commerce," *Senate Reports*, No. 46 (2 vols.), 49 Cong., 1 Sess. (1885-1886), 2:1058. This is known as the "Cullom Report" from the chairman of the committee, Shelley M. Cullom, of Illinois. Cullom had been governor of Illinois during the passage of that state's Granger laws.

Colonel Milo D. Smith spoke for the North Western and probably damaged his case by the statement that the "State of Iowa . . . never gave a dollar for railroads."⁴⁹ This of course was true in substance, since Iowa's constitution prohibited state investments in railroads, but it ignored the fact that counties, towns, and individuals had contributed mightily to the building of Iowa's railroads. Furthermore, Colonel Smith also ignored the tremendous land grants which the various roads had received through the state's allotment of congressional land grants. This seeming lack of gratitude for past favors could not have helped the railroads in their pleas for relief from a law which, they claimed, was ruining them.⁵⁰ It was hard for the lawmakers to reconcile the cries of hardship with the statements showing that most of the roads of the state were getting better returns than for several years past — a fact no doubt due more to the subsiding of the depression of 1873 than to the presence or absence of local tariff regulations. Wilson probably gave a better clue to what the roads really wanted when he claimed that a state had no right to interfere in private enterprises.⁵¹ In spite of Judge Dillon's decision and the pending Supreme Court cases the roads hoped to circumvent judicial procedures by convincing the state to give up some of its powers. They had succeeded in forcing through repeal of Granger legislation in Minnesota and Wisconsin; they hoped the same tactics would work in Iowa.⁵²

Following the arguments of the railroad men, the joint committees heard from the supporters of the law as it had been passed. M. C. Woodruff, editor of the *Dubuque Times*, reviewed the background of the passage of the law, pointed out the evils of omission and commission of the railroad corporations, and then asked why the roads wanted repeal or modification of the law which most of them had not obeyed. This, he claimed, could hardly be a fair trial. "You are asked by a party in interest," he continued, "to repeal a law which met popular approval in larger measure than any statute you can mention, before it has been practically tested, and this on the confession of those who ask it. Further, you are asked to repeal when they confess that they have made more money under it than under

⁴⁹ *Dubuque Weekly Times*, Feb. 23, 1876.

⁵⁰ For the whole story of Iowa's aid to the railroads, see Earl S. Beard, "Local Aid to Railroads in Iowa," *IOWA JOURNAL OF HISTORY*, 50:1-34 (January, 1952).

⁵¹ See above, note 46.

⁵² For the repeal of the Granger laws of Minnesota and Wisconsin, see Solon J. Buck, *The Granger Movement . . .* (Cambridge, 1933), 164, 193.

the old schedule of rates.”⁵³ D. E. Lyon of Dubuque went beyond the mere financial arrangements of the law to the heart of the matter — a point which had been strongly urged in 1874 and so far in 1876 almost neglected — “whether the people are sovereign.” Fred O’Donnell, a former member of the legislature and strong in his support of state railroad regulation, made a good impression on the committees by his “line of dignified argument.” His position was that the railroads did not need to raise their through-freight rates to cover losses of local rates; they had done so “to create opposition to the law.” He further urged the legislature to stand firm, show the railroads that they meant business, and by so doing force them to abide by the law. “Mr. O’Donnell,” commented an observer, “met every objection advanced by the several agents of the railways who were present, and at every interruption thoroughly discomfited his antagonists and turned their weapons against themselves.” The observer concluded, “The law will not be repealed.”⁵⁴

Besieged by numerous petitions for repeal, for modification, for retention of the law, beset by interested lobbyists, and lectured to by almost every newspaper editor in the state, the legislators set to work. As early as January 27, E. H. Thayer, Democratic editor of the *Clinton Age*, had introduced into the House a bill providing for a railroad commissioner, a modification of the classification of the roads, and the retention of the schedule of rates. On February 10 Henry H. Bush, a Republican lawyer from Hancock County, introduced a bill repealing the schedule of rates and providing for an advisory railroad commission. After due consideration and hearings from railroad lobbyists and proponents of the existing law, the House railroad committee reported on March 3, with a majority favoring the Bush bill. The House, however, by a vote of 53 to 36, with 10 not voting, preferred to consider the minority report which favored the Thayer bill.⁵⁵ After the usual legislative jockeying, revisions, voting of amendments, and the appointing of a committee to iron out the resulting confusion, the bill was lost by a vote of 59 to 36, with 4 not voting, on March 14, 1876. On the following day a similar bill had reached the second reading in the Senate; on the motion of Senator D. N. Cooley of Dubuque, the bill was tabled

⁵³ Dubuque *Weekly Times*, March 1, 1876.

⁵⁴ *Ibid.*, Feb. 23, 1876.

⁵⁵ *House Journal*, 1876, 103, 192, 386, 430; *Clinton Age*, March 3, 1876; Dubuque *Weekly Times*, March 15, 1876.

without a roll call.⁵⁶ Thus ended the first stage of the effort for repeal of the Granger Law.

The *Register*, which had led the fight for modification of the law, was disgruntled.

The result is not in any sense gratifying. It is a humiliating confession of weakness. Among the great sisterhood of States Iowa alone confesses her inability to grapple with a question that affects the interests of every citizen within her borders. Two years ago under the impulse of excitement she took a position that is simply indefensible. . . . Thus the railroad companies are well able to say, they asked for justice and it was denied them.⁵⁷

It is significant to note that in the two months of struggle for repeal, or at least modification, the voice of the farmer — the Granger — was not heard. The fight had really been between the businessmen of the interior municipalities and those of the eastern river towns, particularly those of Dubuque, Davenport, and Clinton, where early protest against the law had given way to enthusiastic support, as they began to reap a profit from its operation. It was essentially an economic struggle between the interior cities that were paying higher through rates to Chicago, and the river towns that profited by low local rates from their warehouses to the interior towns. The *Register* struck out, time and again, at the activities of Dubuque and Davenport businessmen to fight repeal of the law; that Dubuque sent a "lobby" headed by Fred O'Donnell to fight for the law seemed shocking to Clarkson, although he did not consider the presence of railroad lobbyists in Des Moines worth mentioning.⁵⁸

Why did repeal fail in 1876? There were certainly powerful forces marshalled against the law: the railroads and a majority of the newspapers in the state fought constantly at Des Moines for repeal or at least modification, while local interests sponsored many petitions to the lawmakers. A possible explanation may be that the members of the Assembly knew their constituents better than the newspapermen, knew that they still harbored ill feelings toward the railroaders and that a seeming surrender would not be accepted kindly at home. These forces had no public voice, but they undoubtedly let their representatives know how they stood. Thayer, the author

⁵⁶ *House Journal*, 1876, 531-2; *Senate Journal*, 1876, 452.

⁵⁷ *Des Moines Register* (daily), March 16, 1876.

⁵⁸ *Ibid.*, March 21, 1876.

of the defeated bill, blamed its failure on the railroads. "Some of the roads were ready to receive it," he reported, "but others demanded unconditional and absolute repeal."⁵⁹ This seems to be the explanation accepted by those on the "inside" at Des Moines. On March 20, W. H. Fleming, perennial secretary to the governors of Iowa, wrote to ex-Governor Carpenter, then in Washington.

Nothing was done with the railroad bill. One was introduced into the House by Judge Thayer providing for a railway commissioner to be appointed by the Governor, to have power with the Executive Council to increase the schedule rates 20 per cent. or lower them 15 pr. ct. It also released the connecting branches from the operation of the law so far as it identified them with the main lines. The House, of course, made the Commissioner elective. The proposed change in reference to the branches was not acceptable to the people living on them, & failed to command a majority. The bill was finally sent to a special committee, who could not agree upon a report & two of its members made one, recommending a substitute, which, after considerable debate, was killed 58 [59] to 36, and thus ended railroad legislation, except that a bill was passed releasing penalties in favor of all railroads which would bind themselves for the next two years to obey the law, & not to pile up the tariff on through freights. This was done for the especial benefit of the Illinois Central. Had Duncombe been permitted to lead the railroad side, they would have fared a good deal better, but Withrow & Bailey, & others, insolently demanded entire repeal at least of the freight schedule. They got nothing, & I fancy they will be no better off two years hence. . . .⁶⁰

The bill mentioned by Fleming, releasing the roads that complied with the law from penalties already assessed for its violation, was passed by the Senate by a vote of 40 to 2, with 7 not voting, on the same day and but a few minutes before that body tabled the Thayer bill. The House also acted promptly, passing it by a vote of 77 to 4, with 18 not voting, on the same day, March 15. Thus, a bribe was held out to the roads: if they would comply with the law, their past sins would be forgiven.⁶¹ Within the specified time of sixty days the two "renegades" — the Illinois Central and the Burlington — bowed to the inevitable and accepted the provisions of this

⁵⁹ *Clinton Age*, March 17, 1876.

⁶⁰ W. H. Fleming to C. C. Carpenter, March 20, 1876, *Carpenter Papers*.

⁶¹ *Senate Journal*, 1876, 451; *House Journal*, 1876, 593; *Laws of Iowa*, 1876, Chap. 133, p. 123.

amnesty law, agreeing to abide by the schedule of rates of the hated Granger Law.⁶²

Meanwhile, all sides had been anxiously watching the Supreme Court for its decisions on the numerous railroad bills which had been piling up from the Granger states of Illinois, Minnesota, Wisconsin, and Iowa. However, the court adjourned in 1876 without acting.⁶³ The railroads seemed to have reached a stalemate in their fight against state regulation.

At last, early in March of 1877, the Supreme Court spoke. Chief Justice Morrison R. Waite read the Court's decision in the case of *Chicago, Burlington, & Quincy Railroad Company v. Iowa*. "Railroad companies," said Waite, "are carriers for hire." They are incorporated and given "extraordinary powers" so that they may serve the public, and are therefore engaged in a public employment "affecting the public interest," and thus subject to legislative control.

It is a matter of no importance that the power of regulation now under consideration was not exercised for more than twenty years after this company was organized. A power of government which actually exists is not lost by non-user. A good government never puts forth its extraordinary powers, except under circumstances which require it. That government is the best which, while performing all its duties, interferes the least with the lawful pursuits of its people.

The legislature of a state, therefore, "must decide for itself, subject to no control from us," whether or not to exercise its powers in the case of regulation. Judge Dillon's decision was thus affirmed.⁶⁴ This case, and several other railroad cases decided during this term of the Court, all stemmed from the famous *Munn v. Illinois* decision, which was handed down at the same time, on March 1, 1877.

Far from accepting the Court's decision as the final word, the *Des Moines Register* at once took occasion to point out that Chief Justice Waite's opinion had given the states the right of control "in the absence of Congressional legislation." The cure for the "exorbitant rates of transportation," then, was not state action but "Congressional Legislation in regulation of inter-State freights."⁶⁵ Here was the argument which would eventually lead to

⁶² *Clinton Age*, Apr. 7, 1876; *Des Moines Register* (daily), May 12, 1876.

⁶³ *Des Moines Register*, May 12, 1876.

⁶⁴ 94 *U. S. Reports* (4 Otto), 155-64.

⁶⁵ *Des Moines Register* (weekly), March 9, 1877.

the Interstate Commerce Act of 1887, a type of federal legislation which had already been sponsored in Congress. In fact an Iowan, George W. McCrary, had introduced an interstate commerce bill into Congress at the very time that the Iowa Granger Law was being enacted. Regarding it, he had written to Governor Carpenter:

I do not suppose my R. R. Commerce bill is perfect — indeed I know it is not. I was obliged to compromise with the views of the more timid in order to unite my Committee upon it; but I am sure that if it becomes a law and is faithfully administered, it will correct many of the worst of the existing abuses, and will perpare the way for further legislation which will complete the work of regulation and control.⁶⁶

The idea of federal regulation was premature, however, as McCrary suspected; although his bill passed the House it failed in the Senate. Thirteen years would pass before the goal of federal control would be reached.

Meanwhile, in March of 1877 the railroads were confronted with a Supreme Court decision which, on its face, seemed to put them at the mercy of state legislatures. Two courses were open to them, both of which they followed with success in the years to come. On the one hand, the railroads could "go into politics," and this they certainly did and with outstanding success. On the other hand, they could continue to carry their fights through the courts, and this they also did until, in 1886, in the famous *Wabash* case, the Supreme Court "handed down a decision seriously impairing the legal capacity of the states to cope with the railroad problem." This, and other cases in the eighties and nineties, reflect a changing attitude toward the power of the corporation. The years from 1875 to the turn of the century were to see the tremendous development of American industry to both economic and political power. The whole spirit of the times endorsed this growth. Even the "man in the street" absorbed some of the reflected glory of America's unprecedented industrial and financial advances. The anti-monopoly agitation of the early seventies disappeared with returning general prosperity in 1880, and those who had heretofore fought the growth of monopolies now applauded them as expressions of America's might.⁶⁷

⁶⁶ George W. McCrary to C. C. Carpenter, March 29, 1874, *Carpenter Papers*. For Iowa comments on the McCrary bill, see *Des Moines Register* (weekly), June 19, July 3, 1874.

⁶⁷ For a valuable discussion of this subject, see Alfred H. Kelly and Winfred A. Harbison, *The American Constitution: Its Origins and Development* (New York, 1948), 509ff, 547.

In Iowa, from March of 1877 to March of 1878, a combination of political and propaganda activity by the railroads, coupled with a changing point of view by the people as a whole, succeeded in the defeat of the Granger Law. Even though the state had the right to regulate railroad rates, argued the *Register* in March of 1877, "the matter of policy is more than law." And it was not good "policy" for a state still in need of many more miles of railroad to antagonize the builders of those rails.⁶⁸

Since 1877 was a year for electing a new governor and a new Assembly in Iowa, the railroads had an immediate opportunity to try their skill at politics. Benjamin F. Gue, a former lieutenant governor and Fort Dodge newspaper editor, who knew his way around the political scene in Iowa, wrote many years later:

The corporation managers had been active during the summer and fall in securing the nomination and election of their friends to seats in the Legislature and when the House was organized they secured the presiding officer of that body, easily controlling the popular branch of the General Assembly. Senator Campbell had been elected Lieutenant-Governor and was President of the Senate. Here the battle was fought out. The railroad committee of the Senate was made up with a majority opposed to repeal. As the fight grew warm two members of that committee were influenced to change their minds and vote for repeal and the Railway Commission bill.⁶⁹

Another Iowa editor wrote in his memoirs:

In the summer of 1877 the railways, to protect themselves from the clamor for public control, entered the field of politics in Iowa, in full force, and were not fully put out of politics until 1910, or 33 years later. In 1877 the railways went into county conventions and often secured the nominations of candidates favorable to the railways. They gave large shippers special favors and got their aid in the political game. They used free passes freely on legislators and public officials.⁷⁰

A contemporary account is even more illuminating. The struggle for the governorship was between John F. Gear, a Burlington wholesaler who had been Speaker of the House in the 1876 Assembly; Buren R. Sherman, state auditor from Vinton; and Joshua G. Newbold, who, as lieutenant governor

⁶⁸ Des Moines *Register* (weekly), March 9, 1877.

⁶⁹ Benjamin F. Gue, *History of Iowa . . .* (4 vols., New York, 1903), 3:94-5.

⁷⁰ I. A. Nichols, *Forty Years of Rural Journalism in Iowa* (Fort Dodge, 1938), 113.

under Kirkwood, had succeeded to the governorship in 1877 when Kirkwood resigned to become United States Senator. On the eve of the state convention, W. H. Fleming wrote to his friend C. C. Carpenter:

Gear is doomed to defeat on anything like a fair expression of the Convention. He may succeed, however, through the procurement of proxies. The railroad corporations are doing all they can for him. They charge the executive office with defeating the repeal of the granger tariff law last session. Tom Withrow told Gov. Kirkwood to keep out of the fight then, so that the RR. men could make it. But the Governor didn't do a great deal, positively, although the RR. men felt his influence; but we got up some tables that played the deuce with them. Now, the RRs. want the Governorship, and Sherman got word the other day that Clinton county delegates who would agree to vote for Gear should come & go free from D. M. [Des Moines]. I fancy these tactics are pursued everywhere.⁷¹

Gear won the nomination, much to the disgust of many Iowans who suspected the sincerity of his support of the popular temperance movement — a question which was agitating the minds of voters in 1877 much more than the railroad problem. Contrary to the usual political procedure of partisan newspapers of accepting their party's nominee with enthusiasm, the *Fort Dodge Messenger* was furious over the choice of Gear and so far let down the bars as to mention railroad influence in politics, a subject usually studiously avoided by most editors.

With the nomination of the candidates for Governor and Supreme Judge we thank God that the hands of the Republicans of Webster county are clean. Mr. Gear's forced nomination by the ring, aided by the railroads and profuse and lavish use of whisky and money, will fall upon the masses of the voters of Iowa like a clap of thunder on a clear day. The same ring with the aid of railroads and monopolies of all kinds nominated Mr. Day [James G. Day], and his nomination is an insult to the honesty and intelligence of the Republicans of Iowa.⁷²

One other witness may be called on the subject of the Iowa railroads and politics. In 1905 Charles Aldrich, always an ardent politician, wrote a candid article on his activities in behalf of the repeal of the Granger Law. He recalled that "in June or July, 1877," he had received a letter from John F. Duncombe urging him to come to Fort Dodge. Upon Aldrich's arrival,

⁷¹ W. H. Fleming to C. C. Carpenter, June 15, 1877, *Carpenter Papers*.

⁷² *Fort Dodge Messenger*, quoted in the *Iowa City Daily Press*, July 12, 1877.

Duncombe explained to him that he wanted his help "in an effort to repeal or greatly modify the so-called granger law for the regulation of the charges for freight and passenger fares on the railroads." His work was to be in behalf of the Illinois Central in particular, but all the roads would benefit. Duncombe next asked Aldrich to go into northern Iowa and sound out the people there as to "any feeling of hostility to the railroads." Aldrich quoted Duncombe as saying: "Learn who is likely to go to the legislature from each of the districts. If you find a friend who needs help, we will help him if we can."⁷³

Thus the railroads entered into the 1877 political campaign on all levels, but little word of their activity found its way into the newspapers. In fact, the railroad problem was hardly mentioned. The Republican state platform did not even contain the word "railroad," while the Democrats merely stated that although the courts had established the right of state control "this right must be exercised with due regard to justice, and as there is no necessary antagonism between the people and these corporations the common interests of both demand a speedy restoration of former friendly relations through a just legislation on the one side and a cheerful submission thereto on the other." On the eve of the election the *Register* had a half-column on "The Issues in Iowa" which contained the standard attacks on the Democrats, hearty criticism of the Greenbackers, and sneers at "Temperance" men — but not a word on the railroad question.⁷⁴

Thus the violence of the newspaper campaign against the Granger Law, which began as early as November of 1877 and continued through 1878 until repeal had been achieved, must have come as a surprise to the voter who had supposed that the election was for the main purpose of saving Iowa from "Copperhead" Democrats, "communist" Greenbackers, and whisky. William Larrabee, who had long served as a Senator in the Assembly, said that there had been "no expression of public dissatisfaction during the campaign preceding the session of the General Assembly," but that "the masses of the people believed that the law was based upon just principles and desired its perfection rather than its repeal."⁷⁵

⁷³ Charles Aldrich, "The Repeal of the Granger Law in Iowa," *IOWA JOURNAL OF HISTORY AND POLITICS*, 3:256-7 (April, 1905).

⁷⁴ *Iowa City Daily Press*, Aug. 30, 1877; *Des Moines Register* (weekly), June 29, Oct. 5, 1877.

⁷⁵ William Larrabee, *The Railroad Question . . .* (Chicago, 1895), 334-5. Peter A. Dey quoted Larrabee to the same effect in "Railroad Legislation in Iowa," *Iowa*

Credit for instigating the newspaper campaign for a revision of the law is claimed by Charles Aldrich. He spent six weeks in the late summer of 1877 touring the northern counties where railroads were scarce and much desired, sounding out public opinion and lending a political hand where necessary. "In a few localities," he wrote, "where I thought an improvement could be made by helping another than the prominent candidate for the legislature, I did what I could in that direction." Upon his return he made a report to Duncombe, suggesting three things: "(1) Strike for the Massachusetts law (that is, the commissioner system). (2) To effect this change agitate the question to the utmost through the newspapers. (3) Send a man to the eastern cities to start this agitation." Duncombe sent Aldrich first to Chicago, where the president of the Illinois Central looked askance at the idea, and then to New York and to Boston. In the latter city Aldrich interviewed Charles Francis Adams, Jr., railroad commissioner for Massachusetts, and tried to interest him in writing an article for the *Atlantic Monthly* which could be used to set off the repeal campaign in Iowa. Failing in this request, Aldrich at last found a willing listener in a reporter on the *New York Tribune*, and on November 15, 1877, that paper printed an editorial on "Iowa and Its Railroads."⁷⁶

Having been fairly successful in their foray into the political field, the railroads now turned their attention to Aldrich's second suggestion: "agitate the question to the utmost through the newspapers." As was customary, the powerful *Des Moines Register* maintained a discreet silence until the other state papers had spoken. Then, carefully choosing its sources, the *Register* began in early January, 1878, reprinting without comment paragraphs from other papers which opposed the present law. The New Year was initiated with a quotation from the *Hamilton Freeman*, claiming that the need for "some modification" of the law "seems to be admitted on all hands." Buried in the middle of this quoted paragraph was a sentence which was to be repeated and enlarged upon many times: "Little of importance in the way of railroad building has been done since the passage of this law."⁷⁷

Historical Record, 9:558 (October, 1893): "Governor Larrabee, who was probably the most active of all the members of the Seventeenth General Assembly in favoring the repeal . . . claims that the legislation was due to the persistent pressure brought by the corporations who had recovered somewhat from the conflict of 1874. . . . He states positively that the law was generally popular and its repeal was against the drift of popular sentiment."

⁷⁶ Aldrich, "Repeal of the Granger Law in Iowa," 256-70.

⁷⁷ *Hamilton Freeman*, quoted in *Des Moines Register* (daily), Jan. 1, 1878.

This was the propaganda line which was to be used with great success during 1878. No longer did the papers print stories showing how the railroads were being hurt financially — yearly reports of increasing profits belied this. There were no more complaints of the increased cost to Iowa shippers. But again and again two facts were emphasized, one stemming from the other: eastern and foreign capital shunned investment in Iowa railroads; therefore, no more roads would be built in Iowa until the removal of the odious Granger Law. This attitude was expressed by a "Des Moines man" who signed himself merely "J" in a letter to the *Register*:

It is an absolute impossibility to induce any of the capitalists, or parties representing capital in the East, to invest *one dollar* in a railroad in Iowa, until the present tariff law is abolished or greatly modified. The writer speaks from personal experience and interviews had with many of the capitalists of Philadelphia and New York within the past ninety days. These capitalists say unhesitatingly that they will not invest any more money in a State where they cannot have any control of their property. . . . Repeal the tariff law at the present session and there will be more miles of railroad built in Iowa within the next two years than have been during the past six years.⁷⁸

This appeal, of course, would have great influence in northern and northwestern Iowa where the need and demand for railroads was strong. It was part of a well-laid plan, wrote Benjamin F. Gue, "to unite the citizens of the sections of the State where railroads were wanted, and had not yet been extended . . . in a well organized movement for the repeal of the Granger Law." Construction companies announced that no further roads would be built, and newspapers were "influenced" to attack the law and demand repeal or modification. "To the public," wrote Gue, "who knew nothing of the secret concert of action, it appeared that there was a change in public opinion and a demand for repeal of the Granger Law." I. A. Nichols recalled that the railroads "played up and secured the support of parts of the state without railways, claiming that no new roads could or would be built until the railway laws were repealed." Linn County residents had appealed to the North Western for an extension of its lines to the northern part of the county. General Manager Marvin Hughitt's answer of February 15, 1878, was revealing: "Our stockholders would not invest a dollar in immovable railroad property in the State of Iowa under the existing laws

⁷⁸ Des Moines *Register* (daily), Feb. 28, 1878.

of that State. . . . If the Legislature, which is now in session, shall decide to change the law abolishing fixed schedules, our company might be willing to consider the question . . . but it is useless to talk about such extensions under existing statutes."⁷⁹

This type of argument was tremendously effective in gaining support for a change in the Granger Law. The fact that very little railroad building had been done not only in Iowa but throughout the nation since the panic of 1873 was ignored. From the close of the Civil War until 1870 there had been a tremendous expansion of Iowa's railroads. Then came the panic of 1873, and railroad construction had come to a sudden halt. As early as January, 1874, before the passage of the Granger Law which now was blamed for this lack of construction, Governor Carpenter had told the Assembly: "During the past two years the construction of railroads in this State has largely fallen off, as compared with the biennium immediately preceding." In 1878 retiring Governor Newbold said, "I see no good reason for the entire repeal of the law. I am aware that it is argued that its retention has the effect to deter capital from investing in railroads in Iowa. This may be, but I do not find that the absence of such a statute has had the effect to hasten more rapidly the construction of railroads in neighboring states." He then went on to point out that railroad mileage in Iowa had actually increased during 1874-1876, "both absolutely and relatively," at a higher rate than in any of the surrounding states. Percentage-wise, the miles of road in Iowa were increasing at about the same rate as in the nation as a whole; an increase which was admittedly very small everywhere.⁸⁰ Both the decline in railroad building and the Granger Laws of the Middle West could be said to be the results of the financial panic brought on by the railroads themselves, through stock-watering and overexpansion. Yet, in the heated propaganda campaign of 1878 in Iowa, the Grangers and their law were given full blame for the lack of construction, and few saw the fallacy in the argument.

Instead, newspaper readers found such arguments as this presented time after time:

⁷⁹ Gue, *History of Iowa* . . . , 3:94; Nichols, *Forty Years of Rural Journalism in Iowa*, 113. The Hughitt letter, published in *Cedar Rapids Republican*, Feb. 16, 1878, was quoted in *Des Moines Register* (daily), Feb. 19, 1878.

⁸⁰ Shambaugh (ed.), *Messages and Proclamations* . . . , 4:90, 360. For miles of railroad constructed, see *Historical Statistics of the United States, 1789-1945* (Washington, 1949), 200.

When the law was passed we were building railroads at a rapid rate, and thereby developing our many resources. We were doing this with capital drawn largely from the East. But when it was known that we, as a State, proposed to place such restrictions upon capital that no profit could result from its investments within our borders, we couldn't get another dollar, and our railroad improvements were brought to a standstill.

The Burlington *Hawk-Eye* thundered: "Cast-iron tariffs preclude any increased supply of railroads." Regulations of the laws of commerce "are communistic in conception and piratical in practice," concluded the editor. A letter to the *Register* from Alex Graham of Cedar Falls, who was described as "an extensive shipper and leading business man," stated firmly that "all legislation restricting trade and business must ever be essentially defective because it is outside the ability as well as the legitimate province of legislation. . . . All experience proves that *the laws of trade* are wiser than all human legislation." Iowa's future prosperity, wrote the *Register*, now lay in every encouragement for the investment of eastern capital in her industries and her railroads, particularly the latter, for "that which, in the long run, is conducive to the prosperity of the transportation lines will enhance to the prosperity of the public."⁸¹

Such were the arguments, expressive of the accepted economic thought of the era, which filled the columns of the newspapers and poured in upon the General Assembly sitting in Des Moines. Four days after the legislature assembled, the first bill for the repeal of the Granger Law was introduced into the House by Representative Oll Coomes of Cass County, a newcomer to Iowa politics who was to achieve fame as a prolific writer of dime novels. Four other bills were later introduced, all with the same objective — to repeal the Granger Law and replace it with a commissioner system. On February 27 the five bills, plus a substitute which combined some of the features of all of them, were reported favorably by the House railroad committee. On March 7 the bill passed the House by a vote of 55 to 43, with 2 not voting; on March 12 it was referred to the Senate; on March 19 it passed the Senate by a vote of 29 to 21; on March 23, four years to the day after the signing of the Granger Law, Governor Gear signed the act repealing it.⁸²

⁸¹ Lansing *North Iowa Journal*, Jan. 16, 1878; Burlington *Hawk-Eye* quoted in Des Moines *Register* (daily), Feb. 2, 1878; see also issues of *ibid.*, for Feb. 8, 12, 1878.

⁸² *House Journal*, 1878, 344; *Senate Journal*, 1878, 367; *Laws of Iowa*, 1878, Chap. 77, pp. 67-72.

All this did not come about without opposition, however, nor was the bill repealed with anything like the unanimity with which it had been passed. A majority of only 12 in the House and 8 in the Senate indicates that, in spite of the newspaper publicity for repeal, there must have been a hard core of opposition to a change in the law throughout the state. The exact factors motivating this opposition are not clear. Part of it was geographic — several eastern river towns (Davenport, Clinton, Dubuque) fought repeal bitterly, while western and northern Iowa counties, where there were few railroads, fought just as bitterly for repeal. The case for the eastern river cities had been given in 1876 by the *Davenport Gazette*: repeal of the law would "be the death of the shipping and wholesaling interests of all eastern counties," which "now do a part of the business formerly monopolized by Chicago."⁸³ Other business interests in the state, not so favorably situated geographically, did not agree, evidently, since the businessmen of Des Moines and Burlington sent petitions and delegations to the General Assembly in 1878 to plead for repeal. The petitions sent to the legislature show a certain geographic emphasis: of the 95 received by the Assembly, 68 opposed repeal, 27 favored it. Of the 68 in opposition, 50 were from the eastern half of the state; of the 27 asking repeal, 16 were from the western counties. Further emphasizing the geographic division is the fact that of the 68 votes in the eastern half of the state, 33 opposed repeal; of the 36 votes in the western, less populated portion, 10 were cast against repeal.

Politically, the vote seems to have no significance. In the legislature there was a total of 109 Republicans, 37 Democrats, 3 Greenbackers, and one who classed himself as an "independent." Of the 109 Republicans, 46 voted against repeal; of the 37 Democrats, 16; of the 3 Greenbackers, 2. Economically, the picture is still vague: of the 65 farmers, 28 opposed repeal; of the 47 lawyers, 19; of the 27 men whose varied occupations could be classed under the heading of "business," 13; and of the 11 professional men of one kind and another, 4. Since about the same percentage of the total vote opposing repeal (43 per cent) appears in each economic class (farmers, 43 per cent; lawyers, 40 per cent; businessmen, 48 per cent; professional men, 36 per cent), it would appear that this type of explanation does not indicate a trend.⁸⁴

⁸³ *Davenport Gazette* quoted in *Dubuque Weekly Times*, Feb. 16, 1876.

⁸⁴ These figures and percentages come from a comparison of the vote as shown in the House and Senate *Journals* for 1878; the information given on the various mem-

In discussing the course of the bill in the House, the *Des Moines Register* gave credit for the large number of votes against it to "the remarkable zeal and activity of Dubuque and Davenport." Of the 43 who voted against its passage in the House, the *Register* claimed that "there were at least 10, to our personal knowledge, who endorsed the bill, personally, and desired to vote for it, being satisfied it was right, but who were led by local reasons to vote against it." Furthermore, said Clarkson's paper, "of the remonstrances sent in nine out of ten were procured and sent in by the hired agents" of Dubuque and Davenport. This may or may not have been true (newspaper ethics were rather flexible in the 1870's); possibly it was the *Register's* way of justifying the rather large vote against the bill.⁸⁵ One explanation of the activity of the Dubuque and Davenport businessmen in fighting for what was originally considered a farmer's bill was given by a Floyd County newspaper:

Dubuque and Davenport are excited over the vote of the House repealing the railroad tariff law. We do not blame them. The law was conceived in the interest of the river cities and they are the only ones benefitted thereby. The reduction of local tariff enabled the Dubuque merchant to sell his wares to the country dealer at a higher profit; in other words he added the reduction on local rates to his former price and delivered the goods to his customers at the old price. No country dealer ever received any of the difference. While the law benefitted a few dealers in the river towns it was a tax upon the produce of every farmer in the State. . . .

A truer explanation was probably that lower freight rates in Iowa enabled the Dubuque and Davenport merchants to undersell their Chicago rivals. The *Cedar Rapids Republican*, a repeal paper, commented that: "the low local rates enable the wholesale merchants of the large cities of the State to more successfully compete with the Chicago merchants," and concluded that: "If the principal business of Iowa was wholesaling dry goods and groceries, the tariff law would be a good thing to keep." This was the reason, continued the editor, "why an immense merchant lobby force two years ago was able to hold the law." The *Marshalltown Times*, another repeal paper, wrote in the same vein: ". . . the law benefits only the river

bers is in "Rules of the Seventeenth General Assembly . . . 1878," in *Iowa Documents, 1878*, Vol. 2. Petitions sent to the House and Senate may be found by consulting the index for the *Journal* of each chamber for 1878.

⁸⁵ *Des Moines Register* (daily), March 7, 8, 1878.

towns and only a class of jobbers in these towns." A hint that the Mississippi River steamboat interests may have been active in the fight on the question was given by the *Des Moines Register*. This would be understandable, since lower local rates might have encouraged shippers to send their produce to the river cities for trans-shipment, via the cheaper river route, to New Orleans.⁸⁶ Thus it was that 1878 saw the interesting spectacle of businessmen fighting for a law which had been passed originally, so it was supposed, for the benefit of the farmer. In 1878, with the Grange on the decline and in financial difficulties, few farm voices were raised in support of the bill. For that matter, the bill as passed in 1878 was practically the type of bill recommended by the State Grange in 1874. It had taken four years for the legislators to come around to the Grange way of thinking and to pass what was, in reality, the "Granger Law."

The agrarian protest movement, sparked by the Grange, was declining by 1878. Greenbackism, the next phase of Midwestern radicalism, made small headway in Iowa in the seventies, although a few Greenbackers found their way into the General Assembly, and two — James B. Weaver and Edward H. Gillette — went to Congress in the eighties. It was in this period of calm, after the hiatus of the Granger years, that the railroads quietly stepped in and took over — through propaganda in the newspapers and through political pressure — and defeated the laws passed and declared constitutional that hampered the exercise of corporate freedom. Again it should be pointed out that all newspapers that fought for repeal of railroad regulation were not necessarily railroad-owned; their economic philosophy did not always have to be bought. The editors of probably the greater majority of the papers of the country reflected the prevailing laissez faire beliefs of what came to be known as "big business." The tremendous commercial and industrial expansion of the so-called Gilded Age was a source of wonder and pride to Americans; only when the financial structure of the country lost its delicate balance and a depression resulted were voices raised to question the gospel of wealth. Once the economy righted itself and continued its steady climb, the voices of protest were stilled. But there was always an echo of these voices, an echo heard again with each ensuing panic.⁸⁷

Almost forgotten was the question of constitutionality, of the power of

⁸⁶ The various papers mentioned are quoted in the *Des Moines Register* (daily), Jan. 12, Feb. 9, March 9, 15, 1878.

⁸⁷ For discussions of American radicalism, see Benton H. Wilcox, "An Historical Definition of Northwestern Radicalism," *Mississippi Valley Historical Review*, 26:

the people through their government to control state-chartered corporations. The Supreme Court had given its blessing to this power, now the state abrogated it, and the action was greeted with applause. As is often the case, legislative triumphs in the interest of the whole people — achieved during times of financial distress — are willingly given up when “good times” return. Governmental interference with the economy was contrary to the whole spirit of American life in the 1870’s. “Most Americans despised any suggestion of paternalism in government,” according to a recent constitutional study.⁸⁸ The statement of an Iowa Senator, during the debate over repeal in 1876, would probably have been accepted without question by a majority of the people: “It is morally right for railroads to violate the spirit of the law if it is such a law that conformity to it will result in financial embarrassment to them.”⁸⁹

One other phase of the contest over railroad regulation in Iowa should again be pointed out. The bill, the result of the Granger-Anti-Monopoly agitation of 1874, was defended in its last battle not by farmers but by businessmen. The fight had become, in the last analysis, a struggle within the capitalist framework between big and little business. The “shipping and wholesaling interests” of the river towns were probably looking only to their own cash drawers and not to the larger issue of public interest versus the vested rights of monopolies, but they fought hard to keep the farmers’ law on the books. The river town businessmen profited from the law because of their geographic position. Other business interests in the state, not as fortunately situated geographically, saw things in a different light. They needed more railroads which they thought would bring competition and a resulting decline in freight rates, in response to the law of supply and demand. That they could argue this in the face of the earlier history of pooling of railroad rates at competing points seems rather short-sighted, but the argument appeared time and again.⁹⁰ The repeal of Iowa’s Granger Law, then, actually was achieved by one group of businessmen, backed by the railroads, and opposed by another group of businessmen, backed only by

377-94 (December, 1939); Chester McA. Destler, “Western Radicalism, 1865-1901: Concepts and Origins,” *ibid.*, 31:335-68 (December, 1944); Russel B. Nye, *Midwestern Progressive Politics . . . 1870-1950* (East Lansing, Michigan, 1951).

⁸⁸ Kelly and Harbison, *American Constitution . . .*, 510.

⁸⁹ *Des Moines Register* (daily), March 14, 1876.

⁹⁰ See Julius Grodinsky, *The Iowa Pool, A Study in Railroad Competition, 1870-84* (Chicago, 1950).

their local needs and the aid of a scattering of farmers and lawyers also motivated, no doubt, by their varying local interests.

The resulting law establishing a board of three commissioners had few teeth. The railroads were taxed for the expense of the commission and could easily control the board set up to control them. The caliber of the men selected by the governor to serve on the board was, therefore, of importance. That Governor Gear chose well is without question. His first choice was ex-Governor Carpenter, whose reputation for honesty and fair play was as high as that of any man in the state. Unfortunately for the working of the commission, Carpenter resigned after a few months to accept a nomination to Congress from his district. He was replaced by M. C. Woodruff of Dubuque, editor of the *Dubuque Times*, one of the papers which had waged a strong fight against the repeal of the original law. The second choice was Peter A. Dey of Iowa City, a civil engineer with extensive experience in building railroads. Dey began a long career on the board in 1878, serving with distinction until 1895. For the third place, Gear chose a lawyer, James W. McDill, a former district judge and Congressman. McDill served only three years.⁹¹ Hampered as it was by a weak law, the board could show no great achievements, and all eyes were soon turned to Washington for a solution to the "railroad problem." Experience had shown that state regulation of segments of railroad lines, which were essentially interstate highways, would not work. If there was to be some regulatory power over the railroads, it must come from the federal government.

Many felt that with the failure of Iowa's Granger Law a long step backward had been taken. Gue commented that "It took ten years to recover the lost ground and cost the people of the State millions of dollars." William Larrabee, who had supported the law of 1878 in the legislature, wrote:

. . . in the course of time it became apparent that either the law had not lodged sufficient authority in the commission or the commission did not make use of the authority which the law had given them. In spite of the commission, the railroad companies maintained pools and charged extortionate and discriminating rates, in direct violation of the law. . . . The people soon found that the new system of control was almost as inadequate as that which it had displaced.

⁹¹ *Des Moines Register* (daily), March 24, 1878; Dey, "Railroad Legislation in Iowa," 558-9; Jack T. Johnson, *Peter Anthony Dey* . . . (Iowa City, 1949), 180-89. For McDill, see Gue, *History of Iowa* . . . , 4:175-6.

In spite of efforts of the legislature from time to time to strengthen the law, the railroads were always able to defeat any revisions until 1888, when they were at last defeated by a strong-minded legislature. The law was then strengthened, and peace came at last to the long period of agitation over the railroads.⁹²

The year before, in 1887, the federal government had at last adopted the Interstate Commerce Act, and the principle of government control of "carriers for hire" was established. Another blow at monopolies was struck in 1890 with the passage of the Sherman Anti-Trust Act. That these acts were not at first effective was inevitable, since the will to enforce them was weak. However, they wrote into law the principles fought for by Grangers, by Alliance men, and by Populists — that the rights of the people as a whole are superior to the rights of corporations. That the original Granger laws were ineffective and often unfair to the railroads is unquestioned. After all, this type of legislation was new and subject to all the weaknesses of such experiments. Peter A. Dey, when testifying before the Cullom committee in 1885, said that the Iowa law, "for fixed legislation, was the most perfect that man could get up."⁹³ William Larrabee, who had served in the Iowa Assemblies of 1874, 1876, and 1878, differed with Dey:

The Iowa law was imperfect in detail, and yet its enactment proved one of the greatest legislative achievements in the history of the State. It demonstrated to the people their ability to correct by earnestness and perseverance the most far-reaching public abuses and led to an emphatic judicial declaration of the common-law principle that railroads are highways and as such are subject to any legislative control which may be deemed necessary for the public welfare.⁹⁴

The "public welfare" had been served by the Granger Laws, and although these laws were repealed, the principle they had established was preserved and expanded through succeeding decades in state and federal legislation. The history of the law in Iowa is one segment of the whole movement in American history by which the rights of the many have been recognized as superior to the rights of the few.

⁹² Gue, *History of Iowa* . . . , 3:95; Larrabee, *Railroad Question*, 336-42.

⁹³ "Cullom Report," 2:958.

⁹⁴ Larrabee, *Railroad Question*, 333.