

Elaine B. Bailey. THE PASSAGE AND REPEAL OF IOWA'S GRANGER LAW, 1868-1878. (Under the direction of Dr. Joseph F. Steelman) Department of History, East Carolina University, May 1974.

The purpose of this paper is to explore the real economic and political forces which culminated in the passage of Iowa's "Granger Law" in 1874. For more than seventy five years after passage of this and similar railroad rate laws in the Midwestern states, it was thought that the farmer's organization, the Patrons of Husbandry, more popularly known as the Grange, was responsible for passage of these measures. The fact that the Grange mushroomed in membership coincident with passage of these regulatory laws and that the farmer seemed to be the primary beneficiary of railroad regulation gave credence to this point of view.

However, research in this area by George Miller in regard to the Upper Mississippi Valley and Mildred Throne's studies of the period in Iowa lead to the view that desire for railroad regulation came from a long standing suspicion by Iowans of all corporations and Eastern investors, not only by farmers, but many small businessmen, both in the developed interior and along the Mississippi River. These people saw their suspicions confirmed as competing railroad lines trampled or ignored them in their frenzy to retain contracts with the larger shippers.

Research for this particular study reveals that sentiment for the regulation of railroad rates followed in the wake of railroad construction as it spread north and west over the state. In addition, river merchants were vociferous in their demands for regulation because railroads were rapidly bringing the era of trade via river routes to a close. Finally, it was the formation of the Anti-Monopoly party, primarily by Democrats,

who saw the growing resentment of outside monopolies as a vehicle for a return to power, which made for speedy passage of Iowa's regulatory law.

A study of the Grange newspaper, the Iowa Homestead, and correspondence of Grange members shows the movement for railroad regulation to be only one concern among many for the farmers' social and economic welfare. In addition, the Grange sought diligently to remain separate from political partisanship; and in a large measure succeeded, as was evidenced by the number of Grangers working and voting for both parties in the election of 1873, which brought the so-called "Grange Legislature" to Des Moines. The study concludes with a review of the law which was known as Iowa's "Granger Law" and the reasons for its repeal in 1878.

THE PASSAGE AND REPEAL  
OF IOWA'S GRANGER LAW,  
1868-1878

A Thesis

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the Faculty of the Department of History  
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In Partial Fulfillment  
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by

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## FOREWORD

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Elaine B. Bailey

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## CHAPTER I

### INTRODUCTION

Settlement of the Iowa Territory began in earnest during 1833, when federal lands acquired from the disgruntled Sac and Fox Indians in the Blackhawk Purchase of 1832 were opened. The river routes of the Missouri and Mississippi rivers and their Iowa tributaries shaped the early patterns of settlement within the state.<sup>1</sup> The early settlers came in two waves. The first wave, from the Ohio River Valley, began to trickle into the southern "leg" of Iowa near what would become Keokuk and Burlington. The second wave came by way of the Great Lakes in the 1850's. Pioneer settlers recalled their travel routes when they began to choose a route for marketing their produce. Southerners shipped their produce to world markets down the Mississippi River to the port at New Orleans, and easterners looked toward New York by way of Chicago.<sup>2</sup>

For the first decade or two, Iowa farming was of the "pioneering" sort although many farmers did manage to sell to newcomers in the area, and as time passed, to Mormons and others heading for the Great Plains, as well as to gold seekers.<sup>3</sup> The general type of farm was a combination of prairie and patches of woodland. The farmer planted corn, wheat or oats, raised some pigs and a few cows of doubtful lineage. Many of them owned a yoke of oxen or a few nondescript horses. By the 1860's it was

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<sup>1</sup>Allan G. Bogue, From Prairie to Cornbelt (Chicago, 1963), 8, hereinafter cited as Bogue, From Prairie to Cornbelt.

<sup>2</sup>George H. Miller, Railroads and the Granger Laws (Madison, Wisconsin, 1971), 9, hereinafter cited as Miller, Railroads and the Granger Laws.

<sup>3</sup>Bogue, From Prairie to Cornbelt, 123.

common to have a few of the latest agricultural implements. A farmer's machinery was generally well in advance of his methods, which continued to be those of his grandfather. In spite of his careless cultivation, the rich black earth annually produced a large surplus, which he sold in a nearby town.<sup>4</sup>

However, the practice of selling exclusively to local markets could not continue indefinitely, as more and more settlers produced larger and larger surpluses. Railroads were not considered a viable means of transportation to the conservative, tradition-bound farmer. Therefore he looked for accessible water routes, again along the routes traversed earlier--the Great Lakes for those in the north, tributaries of the Mississippi River for those in the south.

The bulk of southern shipping began at St. Louis, the prime market for Iowa grain. Above that lay the difficult rapids at Keokuk and Rock Island. To compound the difficulties of Iowa farmers, the merchants at New Orleans were more interested in cotton and sugar than grain. But the river merchants along the borders of Illinois and Iowa were not easily daunted and felt that if the problem of the rapids could be solved, the world would be rapping at their door. An interesting example of this enterprise in the area of transportation was the activity in Burlington, Iowa, before the advent of rails.

A perspicacious Burlington editor noted in 1839 that the newly formed Territorial Assembly ignored canals and railroads as methods of transportation for Iowa. However, farsightedness existed only in his own mind, for

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<sup>4</sup>Mildred Throne, "Book Farming in Iowa, 1840-1870," Iowa Journal of History, XLIX (April, 1951), 119, hereinafter cited as Throne, "Book Farming."

he felt this was wise, since Iowa would have no use for railroads for at least twenty-five years, perhaps never.<sup>5</sup> A Muscatine lawyer of the same period went further, declaring that railroads might be successful in some places, but not in Iowa. This state was destined to be an agricultural one, and products of farms could not be carried on railroads. "Livestock cannot be carried such distances, and flour carried such distances would shake the barrels to pieces."<sup>6</sup>

In spite of such comments, most Burlington merchants wanted the newest and fastest means of transportation they could obtain. Their primary goal was to make the rapids navigable, and enough interest was elicited to call the Memphis Convention of 1845 on the matter. Unfortunately, St. Louis was not interested in the project, and numerous petitions to Washington for federal aid to promote the project brought no results.<sup>7</sup>

Since the nearest rails still lay in Chicago, the next scheme was to build plank roads, from interior points to the river town of Burlington. One such road was completed to Mount Pleasant simultaneously with the onslaught of railroad fever in the 1850's. Plans were drafted for a trans-Iowa railroad following the Old Mormon Trail to Council Bluffs, and Burlington won out over Keokuk and Davenport as the eastern terminal. Connections were made with Illinois lines from Galesburg and the through line to Chicago was an accomplished fact. However, river men were slow to give up their

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<sup>5</sup>Iowa Territorial Gazette (Burlington), November 23, 1839.

<sup>6</sup>Cyrenus Cole, The History of the People of Iowa (Cedar Rapids, Iowa, 1921), 282, hereinafter cited as Cole, History of the People of Iowa.

<sup>7</sup>George A. Boeck, "A Decade of Transportation Fever in Burlington, Iowa, 1845-1855," Iowa Journal of History, LIII (April, 1955), 133.

dream of an improved river route, and the Democrats continued to make special efforts through Senator Stephen A. Douglas to gain federal aid for this project until the outbreak of the Civil War.<sup>8</sup>

The two transportation systems in Iowa managed to divide the volume of trade fairly evenly at first. The Great Lakes route had its navigation problems too, the greatest of which was that all rivers, except the Fox in Wisconsin flowed away from the Lakes, making a canal or rail system up to the Lake ports necessary. Support for the Great Lakes route seemed to come primarily from Whigs, or Republicans, who were pressing as hard for federal aid to their route as were the Democrats for a southern line. They advocated a three point program: (1) the enlargement of the Illinois-Michigan canal; (2) construction of a canal across Wisconsin, and (3) a Saint Lawrence Seaway. The Whig program met with the same lack of response on the part of the federal government as did the Mississippi River improvements.<sup>9</sup>

The prosperous decade of the 1850's brought steel plows, reapers and corn shellers to multiply farm crops, along with a dissatisfaction with the progress of waterway improvements. Rails were being laid everywhere east of the Mississippi River and feeling commenced to grow that rails would be the answer to a frontier producer's prayers. By 1856 Congress had granted enough Iowa land to build four east-west roads. There was some effort to finance a north-south road along the Des Moines River Valley, but the builders of east-west roads fought this and all other

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<sup>8</sup>Miller, Railroads and the Granger Laws, 13.

<sup>9</sup>Miller, Railroads and the Granger Laws, 15.

such attempts.<sup>10</sup> The emergence of Chicago as the major midwestern railroad center upset for all time a strong system of north-south roads, which when built were easily bankrupt and remained weak sisters to the east-west lines.

In the case of the Des Moines Valley land grants, vacillation over which body had granted what land to which settlers resulted in murky titles, lost homesteads and much resentment by hundreds of settlers in central Iowa toward inaction by the federal and state governments, and especially toward the railroads. A Supreme Court decision in 1859 found that the land in question had not been clearly granted to the state for river improvement as had been originally intended; therefore the land would inure to the railroad, in this case the Dubuque and Pacific. As was often the case, rail construction did not keep pace with agreements, and so the state had a lever to make the Dubuque and Pacific relinquish the land. However, the state was increasingly eager for more rails, and though sympathetic toward settlers who were losing their land to the Dubuque Road, reluctantly did nothing.

It was not until the disillusionment with the railroads set in during the 1870's that the state government moved to resolve the situation. Governor Cyrus C. Carpenter sent one of his best men, Charles Aldrich, to Washington to get clear title to the lands from Congress. Carpenter then set up a commission headed by Aldrich to straighten out the title snarl. It was almost twenty years before the 245 cases were cleared.

The significance of the Des Moines Valley fiasco lies in the effect

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<sup>10</sup>Leonard F. Ralston, "Iowa Railroads and the Des Moines River Improvement Land Grant of 1846," Iowa Journal of History, LVI (April, 1958), 100, hereinafter cited as Ralston, "Iowa Railroads."

this early struggle with railroad power must have had on the attitude of hundreds of farmers in the Des Moines area, whether their lands were directly affected or not. Simultaneous with glowing predictions of the prosperity railroads would bring to the West, newspapers were obliged to publish reports of the nasty land grabs one railroad actually made. Thoughtful citizens could see that rail companies were insisting on settlement on their own terms. This attitude must have been "construed a want of good neighborship by other portions of the State" and undoubtedly contributed to the anti-railroad sentiment of the 1870's.<sup>11</sup>

When Iowa became a state in 1846, its first constitution contained a specific prohibition of state aid to any corporation. This prohibition was retained when the constitution was revised in 1857. Iowans' attitude toward state aid for internal improvements had been shaped by the experiences of their fellow Midwesterners, whose state support of canal building had left wiser but sadder souls.<sup>12</sup> Therefore Iowa's only money-raising method was through county or municipal bonds, which communities traded for railroad stock. However, this was never enough, and railroad builders continued to press for a constitutional change which would allow them state bonds--a commodity much easier to resell in the East.

But if the General Assembly were against any type of monetary aid, its members were responsive to constituent pressure for some kind of help with rail construction. Many organizational meetings were held between

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<sup>11</sup>Ralston, "Iowa Railroads," 128.

<sup>12</sup>Leonard F. Ralston, "Governor Ralph P. Lowe and State Aid to Railroads: Iowa Politics in 1859," Iowa Journal of History, LVIII (July, 1960), 283.

1846 and 1850 for the purpose of finding methods to finance rights of way at reasonable cost. The final result of these meetings was an agreement by the General Assembly to grant chartered railway companies the power of eminent domain. This was the first breach in equal rights under the anti-corporation law.

Now the way lay open for large scale rail construction in the state, and with it all the shady deals and swindles that sometimes accompany new business ventures. Iowa's first railroad swindle occurred with the Lyons and Iowa City Railroad. There appeared in the Iowa City area one H. P. Adams from the "East" with ambitious plans for a road from Lyons to Iowa City. In reality Adams was a fugitive from justice in the East, having been involved there with similar stock swindles. A "General Ney," a purported lawyer and congressman from the East, came to Iowa to apprehend Adams, but the fugitive adroitly lured him into helping with the swindle. A great show was made of surveying and cutting rails, but when all possible subscriptions and bonds were in hand the pair disappeared. It was the first such large scale operation in Iowa, and although there was real need for a railroad in that area of the state, needless to say, no one was able to raise legitimate funds for such an enterprise for many years after the great Lyons swindle.<sup>13</sup>

A depression in 1857 drastically curtailed rail construction. Since municipal bonds were harder than ever to sell, railroad managers succeeded in calling a state meeting aimed at constitutional change. The Republican leadership saw this for the political bombshell that it was and were able to head off the attempt. Such maneuverings by the railroad companies

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<sup>13</sup>Cole, History of the People of Iowa, 281.

fueled a mistrust of railroad builders in 1859 and 1860.<sup>14</sup>

Before rail construction and the general economy could recover fully from the 1857 depression, the guns were fired at Fort Sumter and the attention, energy and resources of the state were channeled into feeding the Union soldiers. Iowa was too much of a frontier state to be directly involved in the conflict although many of her citizens formed companies and went to fight. Her primary role was as supplier of meat and grain, and agricultural technology had progressed enough to make this possible. Prices rose, and farmers in the more populous eastern half of the state had rails for transporting their goods. From 1859 to 1865 the railroad mileage of Iowa was doubled.

With the end of the Civil War attention was focused upon problems in the home state. In 1865, the rumor spread through Illinois and eastern Iowa of the existence of a large upper Mississippi railroad and steamboat combination. Caught in the squeeze between falling prices for produce and stationary rail rates, the farmer's suspicions deepened, and demand for regulation became more general.

The triple alliance of railroads, banks and the tariff-protected industry of the East dominated Midwestern economics at this point. All the farmer's problems seemed to emanate from the East. One farm journal editor called it "A profound and universal plot of Wall Street to reduce the Midwest to vassalage."<sup>15</sup> This feeling was widespread and continued

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<sup>14</sup>David A. Sparks, "Iowa Republicans and the Railroads, 1856-1860," Iowa Journal of History, LIII (July, 1955), 283.

<sup>15</sup>Russell B. Nye, Midwestern Progressive Politics: A Historical Study of Its Origins and Development 1870-1950 (East Lansing, Michigan, 1951), 9, hereinafter cited as Nye, Midwestern Politics.

in varying degrees until the national "trust-busting" of the Progressive era. In 1864, D. W. Kilbourne, a railroad lobbyist for the Keokuk, Fort Des Moines and Minnesota Railroad wrote a friend, complaining of the legislature, "There are too many Methodist ministers and lawyers.... Then there [are] a good many farmers--and they are all afraid of monopolies--as they call railroad corporations."<sup>16</sup>

As early as 1866 an anti-monopoly meeting was held in St. Paul, Minnesota. The assembled farmers and merchants advocated patronage of independent shippers and recommended the formation of a steamboat company to be owned cooperatively. A similar convention was held in Illinois in January of 1867.<sup>17</sup> These occasional meetings to plan ways to combat the monopolies helped the farmer to see that effective action could be taken only if there were sufficient numbers backing a proposed action. Continuity and consistency could be achieved if there were permanent organizations willing to publicize abuses, organize cooperatives, or lobby in the legislatures. In Iowa some merchants' associations would do this. Would the Patrons of Husbandry, just gaining a toehold in Iowa in 1868, be one of these organizations?

The farmers of Iowa first organized themselves as a State Agricultural Society in 1853. In that year, the General Assembly provided to each county a sum equal to that which it could raise on its own for the purpose of holding an agricultural fair. The Agricultural Society was a loosely structured organization which handled these funds and published

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<sup>16</sup>Ralston, "Iowa Railroads," 119.

<sup>17</sup>Horace Samuel Merrill, Bourbon Democracy of the Middle West, 1865-1896 (Baton Rouge, Louisiana, 1953), 35.

some news articles on the fairs and on farming methods in general. Reading about and attending these fairs gradually broke down the farmers' resistance to change and his desire to go it alone. The first State Fair was held at Fairfield in 1854, with ten thousand in attendance. In addition, farm journals began to proliferate in the late 1840's and most newspapers carried an agricultural column.

The first farmer's club appeared in Des Moines County in 1847. Some of these clubs would be the forerunners of the Granges. A "Legislative Farmer's Club" was organized in February, 1868, to discuss agriculture and horticulture and suggest laws to aid farmers, for example, fencing laws. However, others continued an independent existence with their avowed purpose of education and entertainment.<sup>18</sup> They differed from the Patrons of Husbandry primarily in that they had no state or national organization; nor did they attempt any cooperative ventures, such as grain elevators or agricultural implement production.

The first state agricultural society formed in Iowa was the Horticultural Society, organized in 1866. The first local Grange was founded in Newton, Iowa, two years later. Perhaps it would be well at this point to review the reasons for the founding of the Patrons of Husbandry.

At the close of the Civil War, President Andrew Johnson, cognizant of the devastation wrought in the South, authorized the Department of Agriculture to send a clerk through the southern states to determine the actual state of conditions there. Oliver Hudson Kelley was sent, and was struck not only by their financial distress but by the "blind disposition to do as their grandfathers had done, their antiquated methods of

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<sup>18</sup>Throne, "Book Farming," 120.

agriculture, and their apathy."<sup>19</sup> Kelley felt that these dreary, alienated people would greatly benefit from some kind of social-educational organization, which would teach them how to make a living from their land and would provide them a social outlet. His new organization would be based on the type of secret ritual and steps for advancement that was provided in the Order of Masons, of which he was a member. He felt the secrecy involved would arouse the interest of these apathetic people.

Kelley went back to Washington, interested six fellow clerks and one fruit grower in his plan, and on December 4, 1867, the constitution was framed for the National Grange of the Patrons of Husbandry.<sup>20</sup> The formation of local granges went slowly at first. Farmers in the East did not seem to feel a particular need for the Patrons of Husbandry. But when Kelley crossed the Mississippi River, he found conditions ripe for an organization such as his. Farms were greater distances apart, and so the social aspects of the Grange were important. But the real need for the Grange in the Midwest lay in its economic promise. In addition to learning about how to improve crop and livestock yields, the farmers saw that in such a far flung organization there would be a stronger economic stance in regard to manufacturing and transportation.

Growth in numbers was slow at first. The Newton Grange was the first to be established west of the Mississippi River. Kelley then went to Minnesota, where a half dozen local Granges were established before he

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<sup>19</sup>Solon J. Buck, The Agrarian Crusade (New Haven, Connecticut, 1919), 1.

<sup>20</sup>Myrtle Beinhauer, "The Development of the Grange in Iowa, 1868-1930," Annals of Iowa, XXXIV (April, 1959), 598, hereinafter cited as Beinhauer, "Development of the Grange in Iowa."

returned to Washington. During 1870 nine more Granges were established in Iowa, and from that time the organization mushroomed, until by mid-1872 over half of all established Granges were in Iowa, 652 out of 1,100.<sup>21</sup>

One reason for the rapid growth of the Grange in Iowa was the adoption in 1870 of the Iowa Homestead, the best Iowa agricultural journal, as the official organ of the Iowa Grange. The magic words used to multiply its membership lay in an editorial reply to an Illinois Grange member:

...our correspondent states a fact in regard to the objects of the Patrons of Husbandry, which should not be overlooked by those who desire to secure the advantages of efficient combination to secure sales and purchases, without the intervention of sharp middlemen. The sooner the farmers of Iowa form these Granges, the sooner they can control, instead of being controlled by, the purchasers of their produce. When any of our readers are ready for the organization of a Grange, we shall be pleased to send them all the necessary instructions.<sup>22</sup>

In order to complete the setting for Iowa's campaign to regulate the railroads, it is necessary to relate briefly various attempts at regulation previous to those in the upper Mississippi Valley. As early as 1850, there were efforts in other states to restrict railroad rates by some statutory means. In fact, this practice had been attempted in most states, but few of the existing limitations had any practical effect. The complexity of trying to set up a maximum freight schedule was gradually recognized as beyond the abilities of any ordinary state assembly, yet each succeeding state assembly, hoping to profit by the mistakes of its predecessors in other states, had to try. Almost every state east of Lake Michigan and north of the Ohio and Potomac rivers had dealt with it. Rhode Island, a

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<sup>21</sup>Beinhauer, "Development of the Grange in Iowa," 608.

<sup>22</sup>Iowa Homestead, (Des Moines) July 8, 1870, hereinafter cited as Iowa Homestead.

sort of "way station" on the New York to Boston lines, was the first to attempt it in the 1850's, where a measure passed the Senate but not the House. The same thing happened in New York, Pennsylvania, Ohio, and Maryland. Ultimately they contented themselves with setting a ceiling of about 10 per cent on the annual profits of each railroad company.<sup>23</sup>

The eastern "pro rata" movements had certain characteristics in common with the Granger agitation of the upper Mississippi Valley. Both were essentially sectional, pitting the favored terminals against the less favored, and those with no rail facilities against any regulation. Leadership for the pro-regulation faction in each case came from the merchants and businessmen--in New York it was the Clinton League and the city's merchants, in Pennsylvania it was the Pittsburg Board of Trade, while in Ohio it was the coal dealers. Finally, in both areas the debates on proposed remedies turned on economic rather than legal issues.<sup>24</sup>

And so the pieces commenced to fall into place. The farmer with means to produce huge surpluses found little monetary reward for his labors, and could barely meet his obligations. An organization, the Patrons of Husbandry, was formed which gave him knowledge and the confidence of strength in numbers. Waterways, the traditional trade routes, became obsolete against a backdrop of falling currency and the cyclical depressions of the nineteenth century. A pervasive distrust of Wall Street, "rings" and the eastern money market intensified, and the Midwest was prepared to experiment with increased governmental control of corporations. Attention consequently would be focused upon state regulation of the railroads.

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<sup>23</sup>Miller, Railroads and the Granger Laws, 30.

<sup>24</sup>Miller, Railroads and the Granger Laws, 40.

## CHAPTER II

### THE NEED FOR RAILROAD REGULATION ARISES

When Samuel Merrill was inaugurated governor of Iowa in January, 1868, the state was poised on the threshold of major expansion, economically and agriculturally. The Civil War had not materially injured the prairie state; aside from manpower loss, it had primarily stifled her growth rate. A steady stream of settlers now entered Iowa, attracted by the provisions of the Homestead Act. Returning soldiers and workers from eastern factories established farms in the central and southern parts of Iowa and demanded rails to transport their crops.<sup>1</sup> Conflict was past and Iowans, for the most part, were ready to forgive and look to the future. The key to this future lay in those railroad connections waiting just across the Mississippi River. As Governor Merrill stated in his inaugural address:

Never in our history has the spirit of internal improvements exhibited such strength of purpose as today, and energy and enterprise are everywhere striving to promote the commercial facilities of the State. Especially is this manifest in the rapid development of our railway communication. In 1859 the number of miles of railway in operation was 390; in 1865 it was 793; while at the present time it can not be less than 1200.... so we see how hopeful, how full of promise is our own future in this particular.<sup>2</sup>

The day before Governor Merrill's inauguration, the Iowa State Register exulted, "Railroad projects are being hatched out by the dozen

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<sup>1</sup>W. A. Anderson, "The Granger Movement in the Middle West," Iowa Journal of History and Politics, XXII (January, 1924), 3, hereinafter cited as Anderson, "The Granger Movement."

<sup>2</sup>Benjamin F. Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa (Iowa City, Iowa: State Historical Society, 7 volumes, 1903), III, 250, hereinafter cited as Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa.

almost every week at the present time in this state. The vast resources of Iowa are fast being developed by this instrumentality."<sup>3</sup>

This attitude of trust that rails would bring all things good to all men prevailed across the state. Farmers invested all they could in railroads which were planned near them. Towns voted bond issues to aid in rail constructions, often getting in over their heads, until the legislature imposed a limit to municipal indebtedness in 1872. Newspapers had regular columns on the railroads, announcing gleefully each mile of progress and each new railroad which was incorporated.

Yet even as Governor Merrill praised and encouraged Iowa's progress in this area he voiced the concern in some quarters that railroad power should be controlled. In a special message to the legislature after only a week in office, he said:

The development of our agricultural and mineral resources is largely affected by the completeness and extent of our facilities for transportation. This fact renders it imperative that the State pursue a liberal and even generous policy in dealing with this class of corporation.... Whatever may be the authority of the State over railroad corporations already formed and grants already ceded, it is plain that in the disposition of those which may hereafter revert to the State, regulation may be imposed for the protection of the interests of the people against the impositions of monopoly.

Fully conscious of the danger of establishing any restrictions tending to discourage these valuable enterprises, I am nevertheless persuaded to recommend the insertion of a clause in every future grant prohibiting discriminations in the arrangement of freight tariffs and fares in this State. While the people demand railroads, they also demand just and equitable rates of transportation.

The present General Assembly has asserted the power of the State to regulate tariffs and prevent discrimination in all acts conferring franchises upon railroad corporations.... We have gone no further than to declare the power to regulate tariffs, failing

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<sup>3</sup>Iowa State Register (Des Moines), February 2, 1868, hereinafter cited as Iowa State Register.

to indicate how far the power will be exercised.... I recommend the rule imposing tariff restrictions shall be inoperative until the receipts of the road equal ten per cent of the actual construction cost.<sup>4</sup>

The concern for regulation of all private corporations, not just railroads, antedated not only the development of the Patrons of Husbandry in Iowa, but the formation of a state government itself.<sup>5</sup> Most of the Democratic delegates to the first Constitutional Convention in 1844 favored corporate restrictions. The legislature was given the power to pass special acts incorporating private companies, but could repeal such acts later. In other words, companies could hold their charters only during good behavior. Prohibition was also set against the state government owning any corporate stock.<sup>6</sup>

Although some objected that incorporation under laws which could be repealed would keep railroads and other industry out of the state, at this point farmers were still laboring on a subsistence level, and were not interested in attracting outside capital. So with the state of Iowa in this mood, the constitution was ratified in August, 1846. Then, as technology increased farmers' production, they looked with favor on ways to entice rails into the state, and in 1850 the anticorporation law was breached when the General Assembly gave the railroad companies the right

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<sup>4</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, III, 415.

<sup>5</sup>Earl S. Beard, "The Background of State Railroad Regulation in Iowa," Iowa Journal of History, LI (January, 1953), 1, hereinafter cited as Beard, "Background of Railroad Regulation in Iowa."

<sup>6</sup>Committee on Incorporations, Journal of the Convention for the Formation of a Constitution for the State of Iowa (Iowa City, 1844), XV, 29-30.

of eminent domain.<sup>7</sup>

But as the rails came to frontier towns, speculation increased, inter-municipal feuds sprang up over which direction the railroads would take, and thoughtful legislators such as James W. Grimes warned against the increasing power of such corporate interests. 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.<sup>8</sup>

The state legislature appeared to be of the same mind, for a clause was provided in every railroad grant from 1856 to 1868, reserving to the state the right to enact future rules and regulations binding upon the railroad companies. This removed any protection for the company against regulation that it might have enjoyed under the decision of the United States Supreme Court in the Dartmouth College case.<sup>9</sup> Thus it is evident that the legislature was using caution in dealing with railroad's potential power long before a statewide organization, either agricultural or political, existed to influence railroad legislation.

Was this due to prescience on the part of legislators prior to the Civil War? It seems not. Hiram Price, one of the organizers of the Missouri and Mississippi Railroad, which was incorporated in 1852, found apathy among those Iowans with whom he talked. As he traveled along the proposed route, he discovered that these pioneer farmers were content with

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<sup>7</sup>Beard, "Background of Railroad Regulation in Iowa," 6.

<sup>8</sup>Beard, "Background of Railroad Regulation in Iowa," 15.

<sup>9</sup>Beard, "Background of Railroad Regulation in Iowa," 16.

slower transport, felt railroads were simply a toy of the wealthy, and could not see that railroad shipment might widen their margin of profit.<sup>10</sup> Therefore, it was probably this independent pioneer spirit and a lack of vision as to the railroad's potential, as well as a general distrust of all corporate power that caused the early legislatures to enact restrictive regulation.

Why did railway companies fail to protest these restrictions earlier? Primarily, the cause lay in the immediate value of the land grants. Controversy over regulation could wait until the roads were built. In addition, they had quickly discovered the flaw in the regulatory clause. No enforcement procedure had been provided for this regulation. So until the postwar railroad boom, restrictions could be, and were, ignored.

As early as 1865, however, petitions from several counties for a rate restriction reached the legislature.<sup>11</sup> Enough roads had been built in the eastern part of the state that the realities of corporate profit-taking had dulled the shine of the new railroads. When asked by the legislature for an opinion on the power of the legislature to regulate rates, Attorney General F. E. Bissell said the state had no such power. No "new conditions" could be introduced into a railroad's charter. He interpreted the portion of the land grant law dealing with regulatory rights to mean that the state had the authority to see that the lands were used properly and to insure public safety. It is interesting to note that, prior to his election as Iowa Attorney General, F. E. Bissell had been president of

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<sup>10</sup>Dwight L. Agnew, "Iowa's First Railroad," Iowa Journal of History, XLVIII (January, 1950), 1.

<sup>11</sup>Beard, "Background of Railroad Regulation in Iowa," 20.

the Dubuque, St. Paul and St. Peters Railroad.<sup>12</sup> His opinion was widely rejected, and one begins to see the split that involved popular discontent with the railroads and increasing influence of railroads in the state government.

A state bill to regulate intrastate rates passed the House in 1866 but was tabled in the Senate, and this pattern more or less continued until passage of the "Granger Law" in 1874. But a new condition was added to the many land grants issued in 1868. Rail construction had essentially ceased during the Civil War and many companies were defunct. The legislature resumed these grants and generally re-issued them to new railroad corporations. The grant to the Iowa Falls and Sioux City Railroad gives an example of this new and significant change--the Doud Amendment.

Provided, said railroad company accepting the provisions of this act, shall at all times be subject to such rules, regulations and rates of tariff for the transportation of freight and passengers, as may from time to time be enacted and provided for by the General Assembly of the State of Iowa and further subject to the conditions, limitations, restrictions and provisions contained in this act and the act of Congress granting said lands to the State of Iowa.<sup>13</sup>

On this short paragraph hung all the railroad controversy of the ensuing decade.

Railroads and railroad construction companies fought the amendment. The Dubuque and Sioux City Railroad halted construction in retaliation upon passage of this amendment, but Governor Samuel Merrill called their bluff. By this time, one line already reached across the state to Omaha (the Chicago and Northwestern Railroad). Merrill felt that the other four lines

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<sup>12</sup>Beard, "Background of Railroad Regulation in Iowa," 20.

<sup>13</sup>Iowa State Register, July 8, 1868.

which were so close to those Omaha markets would not relinquish them just to obtain repeal of the Doud amendment. He was right.<sup>14</sup>

Post war farm prices were on their way up, and an increasing number of people were afraid the stiffer regulation would frighten away the eastern capital necessary to continue the boom. The railroad corporations did what they could to encourage this attitude. A special session of the legislature was called for, and the Iowa State Register was doing much of the urging.

An editorial in this journal declared that most of the desire for an extra session lay in the northwestern part of the state "where, it is asserted, no more aid will be furnished by capitalists unless what is termed 'unfriendly legislation' on the subject of railroads is repealed." A petition from Hamilton County stated that various railroads projected and under construction depended wholly upon the removal of tariff restrictions inserted in bills re-granting lands to the railroads.<sup>15</sup> But the attempts at a second session failed and the Doud Amendment remained in force.

Retiring Governor William M. Stone was sympathetic toward the railroad's position, declaring in his biennial message to the 1868 legislature, "...we shall be fully justified in the exercise of still farther leniency toward them [the railroads].... Any system of legislation tending to their discouragement should be avoided, unless clearly demanded by considerations of the public good."<sup>16</sup> However, his term of office was finished, and

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<sup>14</sup>Miller, Railroads and the Granger Laws, 107.

<sup>15</sup>Journal of the House of Representatives, 1868 (Des Moines, 1868), 28, hereinafter cited as House Journal with appropriate date.

<sup>16</sup>House Journal, 1868, 116.

during his administration it had been popular to court the railroads. The Iowa House of Representatives was in a somewhat more belligerent mood. A week later bills were introduced to "prevent railroad companies from discriminating against the people and commerce of the state" and "limiting the charges of and defining the duties of railroad companies."<sup>17</sup>

Meanwhile, Representative A. R. Fulton offered a resolution, which was adopted.

That the Committee on Commerce be instructed to inquire as to the propriety of the passage of a law requiring railroad companies to fix their passenger and freight tariffs on their respective roads in proportion to distance, so as not to be allowed to discriminate against particular points on the lines of their roads.<sup>18</sup>

A strong effort was made by the Commerce Committee to pass the ambiguous House File 90 rather than the more stringent House File 91 "which House File 90 would encompass." However, a strong minority report, issued by H. H. Hamilton, B. G. Bowen and J. Y. Blackwell kept House File 91 alive. The minority report stated that:

.... we have become satisfied that discriminations are made in the charges for the transportation of freights over the roads of railroad companies operating within this State, causing exorbitant charges to many localities, thereby imposing heavy and onerous burdens upon the business and people thereof, and that such discriminations constitute abuses which should be corrected by legislative action.<sup>19</sup>

However, after nearly two months of parliamentary manipulation, the bill was tabled.

Another method of regulation was attempted in House File 373, which

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<sup>17</sup>House Journal, 1868 (House Files 90 and 91), 106.

<sup>18</sup>House Journal, 1868, 296.

<sup>19</sup>Journal of the Senate, 1868 (Des Moines, 1868), 478, hereinafter cited as Senate Journal with appropriate date.

was a bill to appoint a board of railroad commissioners. The bill was passed and sent to the Senate. However, before the Senate could act, a successful motion by Representative Samuel T. Caldwell caused the bill to be returned to the House.<sup>20</sup> Looking at the difficulties Iowa would have with the proposal of a railroad commission during the following decade, it seems clear in retrospect that this bill would have been killed at some point during Senate debate.

It is easy to see that there was enough sentiment for regulation of railroads in the House to cause the unanimous passage of the Doud Amendment (Senate File 63) when it came. The pro-railroad contingent saw it as a sop to those eager for railroad regulation, and the pro-regulation group saw it as a "make-do" piece of legislation which might work until the next legislative session, since the stronger regulatory bills could not pass at this time.

There is an amusing footnote to the legislative session with regard to the failure of any specific railroad regulation. At the close of the session on April 8, 1868, a resolution was introduced in the Senate: "Thanks of this body are tendered to the managers of the several railroads in this State for free passes over their roads."<sup>21</sup> With free passes and other favors from an already active railroad lobby, it is somewhat surprising that the Doud Amendment could pass. But it was not until the controversy became heated and tempers began to flare on both sides, that a conflict of interest with regard to free passes would come into question. Indeed, the

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<sup>20</sup>Senate Journal, 1868, 517.

<sup>21</sup>Senate Journal, 1868, 579.

policy of disallowing free passes on the various roads would not come into being until shortly before the Interstate Commerce Act of 1887.

It is instructive to see that at this time the Iowa State Register, which would in time oppose any sort of railroad regulation, as well as the political and economic factions which advocated it, was taking the editorial position that the answer to regulating railroads sensibly was through competition. In a March, 1868, editorial it declared:

A new danger to the material interests of the country is springing up in certain quarters in the effort to consolidate competing lines of railroads under one management... The people of Iowa have a deep interest in the matter.... the state will be traversed by several parallel lines which, if they remain under separate management, will be impelled by the spirit of competition to hasten the completion of their roads and to do business at rates which will be beneficial to the people....<sup>22</sup>

The farmer also assumed that competition between lines would keep rates down, at least until 1870, but it soon became clear that the railroads had no intention of competing; instead, they either agreed on a "pool system" or consolidated. As Charles Francis Adams pointed out, the nature of the business precluded competition. It was economically wasteful to have two or more rail lines serving every point.<sup>23</sup> The nation's first big business did not conform to the accepted principles of economics or the traditional standards of public law. Railroading's economy of operation, and the necessity for competition proved a mixed blessing with unequal benefits.<sup>24</sup>

After the General Assembly inserted the clause reserving tariff

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<sup>22</sup>Iowa State Register, March 25, 1868.

<sup>23</sup>Nye, Midwestern Progressive Politics, 32.

<sup>24</sup>Miller, Railroads and the Granger Laws, 3.

regulation to the legislature, the Register began its attack on the law. It took the position that the only legal way to regulate railroad rates was through competition. In June it stated:

....we are grieved to hear formal announcement by the managers of the Iowa Falls and Sioux City Railroad that, owing to a reservation on the part of the State, of the right to control the tariffs of that road, they have abandoned the idea of extending the road... we cannot as citizens of Iowa, deplore more deeply, if possible, than we now do, the fact that the question of railroad tariffs had not been left to settle itself by fair competition of the different lines....<sup>25</sup>

On the other hand, the Iowa Homestead, the agricultural journal which would shortly become the official organ of the Patrons of Husbandry, was very pro-railroad at this time. About one fourth of its advertising came from various railroad companies and there was a regular railroad column, dealing with the progress of the various roads. In a May, 1868, editorial discussing a fraud case being tried at the time concerning the Chicago, Rock Island and Pacific Railroad, the Iowa Homestead stated:

The interest we all feel along the line of the road, from this city [Chicago] to Council Bluffs, compels us to keep a watchful eye in every quarter, caring very little who we hit, so it be one who is disposed to lay a straw in the way of the glorious work now going on in laying the iron rail west of Des Moines.<sup>26</sup>

In March, 1869, an editorial appeared in the Iowa Homestead praising all that railroads had done for the farmer; asserting that farmers cleared eight dollars more per acre than they had by hauling crops with a mule team. "If farmers had taxed themselves to build all the railroads in this country, and given them away to any companies that would stock and run them, the present increased value of their land would have repaid all

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<sup>25</sup>Iowa State Register, June 3, 1868.

<sup>26</sup>Iowa Homestead, May 6, 1868.

the outlay."<sup>27</sup>

But rather suddenly the editorial viewpoint changed with the transfer of ownership of the newspaper. Duane Wilson, who in two years would become state secretary of the Grange, became the owner and took over the editor's chair. Just one week after the aforementioned pro-railroad editorial, one appeared against government proposals to aid railroad companies planning two competing lines with the new transcontinental road. "The bill looks like a wholesale speculation at the expense of the Treasury and the Country."

The high hopes of Western farmers as to the benefits they would derive from railroads faded along with the changing editorial attitude of the Iowa Homestead. At one time it was prophesied that Burlington, Iowa, would soon exceed Chicago in commerce and it was while spirits were in this empyrean that farmers, flush with Civil War profits, invested their savings in railroad stocks and voted bonds in their townships.<sup>28</sup> But the easy going collection and distribution system already established on the river system was no match for the highly competitive organization serving the Great Lakes ports. Ignoring the river terminals, eastern grain buyers began to head toward the interior rural markets. The Mississippi ports quickly became way points, forced into competition with Chicago for its own state's business.<sup>29</sup>

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<sup>27</sup>Iowa Homestead, March 5, 1869.

<sup>28</sup>Fred A. Shannon, The Farmer's Last Frontier: Agriculture 1860-1897 (New York, 1945), V, 175, hereinafter cited as Shannon, The Farmer's Last Frontier.

<sup>29</sup>Miller, Railroads and the Granger Laws, 99.

There was much discussion in the Iowa Daily Register and other papers around the state about the merits of a government controlled railroad system. As Fred A. Shannon points out, federal construction and operation would probably have been less costly to the public, but the whole idea of government control was anathema to the leaders of that generation. As a result, the companies were not only given their railroads, they were given a bonus to accept them.<sup>30</sup>

Governor Samuel Merrill, in his biennial message of 1870 to the General Assembly, sought to soothe the ruffled feelings of the railway companies who shied away from the proffered grants containing the regulatory reservation. By this time however, all four east-west lines had accepted the restrictions. The threat of frightening away outside capital at this time seemed valid. Public meetings had been held to demand a special legislative session to revoke the law. In justifying this step by the General Assembly, Governor Merrill said, "It was thought best, at the time, to take advantage of the opportunity offered to place beyond cavil the authority of the General Assembly in this matter. The owners of these roads are possessed of the power of taking private property for the uses of their projects."<sup>31</sup>

Almost one eighth of the states' area had been granted to various railroad companies by this time, and it was this factor, more than fear of extortionate rates, that had caused the 1868 General Assembly to act. No one in Iowa was gravely concerned about a railroad combination before 1870.

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<sup>30</sup>Shannon, The Farmer's Last Frontier, 67.

<sup>31</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, III, 309.

It was assumed by almost everyone that competition would regulate prices in the traditional way and Governor Merrill concurred:

The entire question of regulating, by legislation, the tariff of rates on railroads...is of great importance. Of the benefit to be derived from such an attempt at regulation, there is, in my judgement, grave question....I have endeavored to collect statistics from the various railroad companies, and have obtained from ten of them answers....on these lines, construction costs average \$38,586.86 per mile. Their net income last year averaged \$1,817,179.72, a claimed return of four to five per cent per mile....a not unreasonable margin of profit.

But whatever views may be entertained in relation to the expediency of enacting rates of tariff for railroads, there can be none, I think, as to the policy of endeavoring to defeat any demands of these corporations for exorbitant rates by encouraging and inviting capital to build competing lines to cross our great thoroughfares in northerly and southerly directions, and in opening up our communications by water with the markets of the world.<sup>32</sup>

Water routes were a sheet anchor the river towns of eastern Iowa clung to from about 1865 until after the 1873 depression and the passage of railroad regulatory laws. Proposals were made intermittently for canals connecting the Mississippi River with Great Lakes shipping, for in warm weather, the Mississippi River and the Great Lakes were a real competitor with the east-west rail lines. One such suggestion was made by the Iowa Homestead in April of 1870, a plan to enlarge the Illinois River Canal, which would circumvent the railroad rates for half the year.<sup>33</sup>

But of course Great Lakes traffic ceased in winter, and the railroad lines which paralleled them made up for lost summer revenues with exorbitant rate increases. In addition, no road would accept produce for any point short of its easternmost terminal. A Dakota farmer wishing to

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<sup>32</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, III, 310.

<sup>33</sup>Iowa Homestead, April 20, 1870.

sell grain in Minnesota had to pay the full rate to Chicago, then sell the unused transit rights from Minnesota to Chicago at a heavy discount.<sup>34</sup>

When no substantial financial backing could be found for the development of a canal system, the river towns, after initial suspicion of a legislated system of railroad rates, threw their support behind a regulatory law. Farmers read with some interest of the attempts at establishing a permanent water route, but as yet had not enough organized power in the legislature, and certainly did not possess financial resources sufficient to bring the plan into being.

When the thirteenth General Assembly met in January, 1870, "to regulate" or "not to regulate" was a prime issue in which the pro-regulation faction assumed an increasing importance. The primary factor in the attitude of a particular district remained the status of railroad construction in that district. A secondary factor was the level of market prices. Until this time any rail service in the northwest sector of the state had been sparse, but when rails had been pretty generally extended into all areas of the state in 1870, the northwestern farmer began to see some of the pressure his southeastern brothers had been complaining of during the previous four years. Yet he could not quite bring himself to vote for regulation in this session.

As was generally the case, the strongest push for regulation came from the lower House. On January 18, 1870, Representative William Butler

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<sup>34</sup>Ray Allen Billington, Westward Expansion: A History of the American Frontier (New York, 1949), 725, hereinafter cited as Billington, Westward Expansion.

offered the following resolution:

That it is the sense of this House that the State of Iowa has the power to establish by law fixed rates of passenger and freight tariffs for all railroad companies operating railway lines within the limits of the State, and that sound policy requires the immediate exercise of this power, and that a special committee of five be appointed by the Speaker of the House and is hereby authorized, with instructions to report by bill within ten days.<sup>35</sup>

On February 23, Representative William Mills introduced House File 197, an act to provide rules and regulations for railroads and to establish uniform and reasonable rates of tariff for the transportation of certain freights thereon. It is significant that up until the panic of 1873 none of the many regulatory bills introduced in the Iowa legislature provided for any maximum rates. The only issue that really rankled those working for regulation was the discriminatory and unequal rates in force. Bill 197 was reported out of committee by Representative M. E. Cutts on March 21, 1870, recommended for passage. However, a lengthy minority report was read, which argued that while the state had regulatory rights it should not exercise them, because (1) the railroad companies' earnings were not disparately large; (2) supply and demand was the safest regulatory agent; (3) that regulation of railroads like other business, must be subject to frequent change and the legislature which would make rate changes under the proposed law only met every two years; (4) such a law would deter investment capital from entering the state.<sup>36</sup>

On March 24, seventeen legislators introduced petitions from their constituents asking for passage of a regulatory law. An attempt was made

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<sup>35</sup>House Journal, 1870, 88.

<sup>36</sup>House Journal, 1870, 400-401.

that day by Representative Charles Dudley to add a "short haul" remedy to the bill but this was defeated. The next day, however, House File 197 passed the House, sixty-two to twenty-eight. Meanwhile, a less controversial bill to regulate passenger rates, House File 216, had been introduced by Representative James Wilson on February 26. The rule had been suspended, and the bill had passed, eighty-two to twelve on the same day. In addition, on March 4, House File 260 had been introduced, which was a bill to create a board of railroad commissioners, and this bill passed the House on April 6. Ultimately all these bills met their traditional, identical fate in the hands of a Senate committee.<sup>37</sup>

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<sup>37</sup>House Journal, 1870, 542.

### CHAPTER III

#### THE EMERGENCE OF THE PATRONS OF HUSBANDRY

It is significant that three regulatory bills passed by such wide margins at a time when the Patrons of Husbandry were just getting a toehold in Iowa, and looking toward a state organization. In its first edition for the new year, an Iowa Homestead editorial discussed the upcoming crucial issues for the farmer with which the Legislature should deal. They were: (1) restraining livestock; (2) encouraging timber growth; (3) equal taxes; (4) encouragement of new investment in the state. No mention was made of problems with railroad rates.

However, the February 4, 1870 issue of the Iowa Homestead gave a front page column to a dispatch from the Dubuque Herald on a citizens meeting held to adopt a plan for action with regard to an anti-discriminatory tariff. It reported:

We need relief from the unjust and repressive discrimination in the rates of charges toward the State of Iowa, and river towns in particular, which demands immediate relief from the Legislature. It is within the power of the legislature of this State to fix tariff rates. Therefore, be it resolved that the mayor be requested to convene the city council tomorrow and said council be requested to appropriate three hundred dollars for two lobbyists for this tariff to journey to Des Moines.<sup>1</sup>

The Marshall County Times, a central Iowa county newspaper, eyed the activities of the river towns warily:

There seems to be a disposition on the part of Dubuque, Muscatine and some of the other River towns to wage a war upon the railroad interests of the state. We are well aware that these little embryotic Chicagoers have no love for the railroads for the reason that they

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<sup>1</sup>Dubuque Herald, February 1, 1870, as reported in the Iowa Homestead, February 4, 1870.

refuse to dump freight at the River at nominal rates.... [these towns] know that no sensible legislature will ever discriminate in their favor, in the matter of regulating tariffs....<sup>2</sup>

The other newspapers, west and north of Dubuque took the same admonitory stand. Members of the legislature listened to them, and to the lobbyists who fed them steak at The Savery Hotel, Des Moines' finest.

Three Senate bills had been introduced in attempting to set up uniform and reasonable tariff rates--Senate File 35, Senate File 69 and Senate File 98. However, Senate File 125, introduced by Senator M. B. Mulkern, was the most comprehensive, and it was this bill, along with House File 216 to regulate passenger fares that the Railroad Committee consolidated and reported out on March 7.

Anti-regulatory lobbyists still held the upper hand, for the majority report as read by Chairman of the Railroad Committee J. G. Patterson stated:

Deeming it unwise and inexpedient to enact any law upon that subject; [railroad regulation] and farther believing that the Legislature has not sufficient knowledge on the subject of railroad freights and tariffs to enact a law that would be just in its operations, either to the railroads or to the shippers; and believing further, that it is a subject which cannot be regulated by legislation directly prescribing freights and tariffs, a majority of your committee have instructed me to report the said bills back to the Senate with the recommendation that they do not pass.<sup>3</sup>

However, for the first time there was a vocal pro-regulation faction in the Senate, led by Senator Frank T. Campbell, who would, in eight years, serve on Iowa's first board of Railroad Commissioners and would guide the first successful regulatory bill through the 1874 Legislature. He filed

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<sup>2</sup>Marshall County Times, (Marshalltown, Iowa), March 24, 1870.

<sup>3</sup>Senate Journal, 1870, 225.

a minority report:

The present freight charges upon the railroads of Iowa are unreasonable and excessive, not uniform in their operations, are capriciously distributed, to bear with peculiar severity upon certain neighborhoods and localities, and generally made in such wise as to cripple the industry and prosperity of the State, by depriving its people of the advantages of moderate tariffs, and of different competing routes to the markets of the world. These charges in Iowa are nearly double those of the neighboring States of Illinois and Wisconsin, upon the staple productions of our farming population and upon the coarse and heavy manufactures and merchandise consumed by them.

This unreasonable double charge weighs with peculiar severity upon this class of population at this time. Our farmers as a rule are making nothing above a lean living, while our railroad companies are reaping larger and larger profits with each returning year. The price of grain and other farm products are each day declining, while the high rates of transportation upon our railroads, established in war times upon the basis of a largely depreciated currency, continue without change. The people of Iowa demand a modification of these rates and a regulation of the unjust discriminations made in many instances in favor of one point and against another.

These roads have received munificent donations of lands from the State, and in many instances more than enough in value to build and equip them, while the main East and West lines of Illinois and Wisconsin have not received an acre as a donation. Is it then unreasonable to ask that the railroads of Iowa should give to her people rates of transportation approximately as low as those given to the people of our neighboring States? For these and many other reasons, the people of Iowa demand, as the numerous petitions to this General Assembly abundantly demonstrate, some judicious law (equitable both toward the people and the railroad companies) to regulate and reduce the present freight charges upon the railroads of this State.<sup>4</sup>

The minority report was filed by Senators Campbell, Beardsley and McCulloch, and they fought hard to keep Senate File 125 and House File 216 alive. On March 17, after several attempts to attach amendments which would kill the two bills, Beardsley moved successfully that the bills be made a special order for March 25 and that they be continued until disposed of.

On March 25, Beardsley moved to table House File 216 and all efforts

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<sup>4</sup>Senate Journal, 1870, 226-228.

were concentrated on Senate File 125. An attempt was made to postpone it indefinitely. This failed narrowly, twenty-one to twenty, as did an attempt to engross it for third reading. Senator L. E. Fellows again managed to delay the bill until March 29. Meanwhile, House File 197, the House freight tariff bill, reached the Senate and was filed to be considered with Senate File 125.<sup>5</sup>

On April 8, House File 260 to establish a Board of Railroad Commissioners reached the Senate and was sent to the Railroad Committee, which four days later recommended that it not pass. However, Patterson, Griffith, McCulloch, Mitchell and Tuttle did not concur in this, and "begged leave to report that they believe a Railroad Commission should be established and recommend the following substitute be adopted for said bill." The substitute bill was rapidly tabled. The thirteenth General Assembly adjourned shortly with no further action on a tariff bill. The Fort Dodge Iowa North West told its readers one reason why. "The railroad lobby felt so jubilant over their success in defeating the various demands of the people before the Legislature that they organized as the third House and gave the other two Houses of the General Assembly a complimentary supper at The Savery."<sup>6</sup> But the real voice of the northwest, and of Fort Dodge, was the Fort Dodge Messenger, and it fought regulation every step of the way.

Sentiment in the Iowa Homestead began to change with the failure of the legislature to pass any regulatory bill. But the first outcries were

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<sup>5</sup>Senate Journal, 1870, 385.

<sup>6</sup>Iowa North West (Fort Dodge), April 21, 1870.

against the unfair methods of taxing Iowa railroads. In a letter to the editor, published on the front page of the April 8, 1870 issue a reader complained:

Capital is fully able to build roads without the State or nation granting such privileges as lands and exemptions from taxes....It is said nearly one fifth of Iowa lands are already given to railroads....This was done to get roads quicker than it was supposed capital would build them without aid....now to have the shameless, unblushing impudence to ask exemption for these lands from taxation while skinning the people in freights beats all the brazen faced avarice I ever heard of.<sup>7</sup>

An interesting "pro-railroad" editorial was published a month later on May 6. It declared, "If the home demand for all kinds of farm productions was properly attended to there would not be such an outcry about freight bills, etc....calling upon our Legislatures to compel our railroads to reduce their freight tariffs has not the sympathy of those who see the farmer has a remedy in his own hands...."<sup>8</sup> This was not a very effective argument, and it was the last sympathetic piece this farm journal published, for in the same issue appeared the report of the Farmer's Convention on January 15, 1873, in Bloomington, Illinois. Iowa's farmers looked with interest at the resolutions of this convention which led to the country's first so-called Granger Laws.

- 1) That all legislatures chartering railroads and other corporations which by any fair construction can be used to oppress any portion of the people by unjust and extortionate charges, is to that extent subversive of the end for which the government was established and is therefore null and void and should be so declared by the courts.
- 2) That Railroad companies are, in their nature, public corporations, subject to be regulated and controlled by legislation and that this principle should be plainly so declared in the organic law.

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<sup>7</sup>Iowa Homestead, April 8, 1870.

<sup>8</sup>Iowa Homestead, May 6, 1870.

- 3) That the claim of the vested rights set up by the chartered companies by which they assume that people have transferred to said companies any essential portion of their sovereignty, is an assumption which cannot be tolerated in a free government.
- 4) That the practice of the railway companies of delivering grain to warehouses owned or operated by private industry without the consent and against the protest of the grain owners and shippers, thereby subjecting them to extortionate charges and still more extortionate frauds is a high handed violation of law and justice, calling for united action on the part of all the people.
- 5) That the tendency of railroad companies to form combinations and consolidations and through them, by corrupt means, to influence legislation and the courts, to further their selfish interests and to establish more firmly their power, is the most threatening political evil of the times and should be met with instant and decided opposition, both in primary assemblies and at the polls.
- 6) That water channels are the cheapest of all known methods of transporting freight, and the surest and most comprehensive means of controlling railroad charges by competition.<sup>9</sup>

Although the Bloomington Convention was watched with interest, Iowa farmers in general, and the Iowa Homestead as their spokesman, were wary of linking the newly formed Granges to one particular cause. Over and over it was emphasized that the Patrons of Husbandry was an organization for education, mutual economic interest and socialization, not for political motives. In a letter on the Bloomington Convention a new Patron wrote, "We don't want any claptrap organization with only one object and that purely political, whose life will last only until that object is gained.... [the Patrons'] aims are to advance education in the rural districts, to secure pleasing recreation and social intercourse."<sup>10</sup>

But the Patrons of Husbandry, as they grew in strength and number, had a more historically significant purpose than as a social group. The upper Mississippi (Minnesota, Iowa, Wisconsin and Illinois) Granges began

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<sup>9</sup>Iowa Homestead, May 6, 1870.

<sup>10</sup>Iowa Homestead, May 20, 1870.

to negotiate with agents in Chicago for direct sale of their grains, and commenced to organize cooperative stores to cut out the middleman's fees.

As a Patron wrote to the Iowa Homestead:

Let the Granges in Iowa, Wisconsin, Kansas, Minnesota and Illinois work in harmony and they will readily control fifty million bushels of wheat this coming fall and give them some influence on the market. You can see the point. That amount of wheat has not to beg long for elevators to receive it or railroads to move it. This Order means business and it is rapidly getting the means to do a heavy one.<sup>11</sup>

When the Iowa Homestead commenced to publish the progress of these cooperative ventures, as well as their pitfalls, the concept of a farmers' combination was envisaged. Granges located in the same vicinity hired purchasing agents, and published in the Iowa Homestead the names of manufacturers or "rings" in the agriculture-related industries that attempted to gouge farmers. Boycotts of certain brands of farm machinery were organized, and the unfavorable publicity for the companies which resulted from the boycotts caused several companies to lower prices. For the next two years this Grange publication would advocate regulation through the farmer's own combination rather than by pressing for legislative controls.

The Iowa Grange was organized at the state level early in 1871, and the Iowa Homestead began a regular Grange Column, which grew in 1872 and 1873 to encompass an entire page. Throughout 1871 the editorial thrust of this weekly remained against the large combinations of the East. Its entire front page in the February 3 issue was devoted to the "voluntary slavery" of farmers.

As our public domain is opened up and developed by the hardy pioneer, it is gobbled up by those greedy men [eastern financiers] and held at prices that shut out the settler of small means....Such

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<sup>11</sup>Iowa Homestead, July 8, 1870.

men and such powerful combinations will soon be able to dictate terms of travel and transit to a whole nation.<sup>12</sup>

The attitude of Iowa farmers prior to the fall elections of that year is best summed up in the address of Dudley Adams, state Grange President, to a Des Moines gathering:

All business relations have their unions....But how is it with Agriculture?....Immense in numbers and wealth--yet we are powerless. Railroads, telegraphs, commission men, mechanics, plunder freely from our pockets.

A farmer has a field of wheat that must be cut. Laborers fix the price at which they will assist with the harvest; the farmer submits. Threshers fix among themselves the price they will have for threshing and again the farmer submits. The railroad companies fix the price at which they will carry the grain to Chicago; elevators fix the price of handling it; and buyers finally agree how much they will give for it....and the farmer timidly submits....The farmers have got the lines, why don't they drive!<sup>13</sup>

It was evident that farmers felt themselves to be the victims of a whole system of unions and combinations, of which high railroad rates were only one result. In fact, on the front page of the March 17 issue, the Iowa Homestead protested the innocence of the Patrons of Husbandry on this point. It declared that just because they were bent on exposing the manipulations of the various monopolies, they (the Patrons) were not against the railroads. "On the contrary, we are the real friends of the railroads under proper management."

Indeed, the Iowa Homestead continued to play down any resentment of the railway companies' high handedness for the rest of that year. Meanwhile the Iowa Register, the most powerful newspaper in the state, published at the capitol, demonstrated a little high handedness of its own. In an

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<sup>12</sup>Iowa Homestead, February 3, 1871.

<sup>13</sup>Iowa Homestead, March 10, 1871.

editorial entitled "Railroads and Those Who Make Them," it declared:

The Press builds and runs railroads as well as enlightens and runs the world. It is by the labors of the Press that all public improvements and especially railroads are first brought prominently before the public....Scarcely a road in the State could have been built without the assistance of the Press, and when the road is finished the same power greases the axles to keep it running. The Honorable C. C. Gilman [a state legislator] of the Central Railroad of Iowa appreciates the aid and wishes us to say to the editors of Iowa that they can all get passes upon written application.<sup>14</sup>

Distribution of passes to legislators, editors, preachers, relatives and friends of railroad officials, or those with a measure of influence in a community, was common. Honest, scrupulous men accepted them as a means to supplement rather meager incomes, as well as men who expected to return the favors with a sympathetic vote or news article. As yet no outcry was raised against this practice, and no secret was made of the acceptance of such favors. Governor William Larrabee was the first administrator who inveighed against the conflict of interest this acceptance raised, and who pushed for legislation to make the practice illegal.

Governor Cyrus C. Carpenter, under whose leadership the regulatory legislation was passed, a farm owner and sympathizer with the farmer's position, was chosen by acclamation of his party to be the Republican gubernatorial candidate in the upcoming election in the fall of 1871. He was tendered passes by essentially every railroad line in the state, yet had earned such a reputation for honest government and objective treatment of the railroad question that he was able to survive the onslaught of the Anti-Monopoly party in the 1873 elections.

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<sup>14</sup>Iowa Weekly Register (Des Moines), February 1, 1871.

In researching his inaugural speech, Governor-elect Carpenter knew he would have to speak to the railroad question. The executive department of the state searched out some pamphlets on the subject at his request. In a letter to Mr. Carpenter, William H. Fleming, Secretary of State, enclosed some pamphlets "particularly on railroad monopolies," and promised to look about the capitol for any other papers having any bearing upon the subject generally.<sup>15</sup>

Another correspondent from Ottumwa, Iowa, far enough south and east to have developed strong anti-railroad sentiment, wrote:

I trust that you will deem it expedient to refer to this subject in your forthcoming message, since nothing affects the welfare of our people....as does railroad legislation. The growing evils, arising from the grasping power of these corporations should be remedied. In all states where Commissioners have been appointed, it has operated as a decided check, and promoted the interests of the people. I should be pleased to see some such law passed....<sup>16</sup>

Apparently this was only one voice among many because both C. C. Carpenter in his inaugural address and Samuel Merrill in his biennial message to the General Assembly advocated some regulation. Yet ex-Governor Merrill seemed reluctant to deal in specifics. He stated that the railroads of Iowa were at that time valued at more than eighty million dollars.

This interest is now so formidable as....to demand some measure of official supervision....I would recommend a board of commissioners, clothed with the authority to inspect the several railroads in the State, their mode of construction,

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<sup>15</sup>William H. Fleming to Cyrus C. Carpenter, November 14, 1871, C. C. Carpenter Papers, State Historical Society, Iowa City, hereinafter cited as Carpenter Papers.

<sup>16</sup>John J. Safely to C. C. Carpenter, November 27, 1871, Carpenter Papers.

management, mode of operating, charges, connections, etc. and with the power to compel an observance of the laws of the State concerning railroads.<sup>17</sup>

The new governor's inaugural message was a little stronger, yet he was not ready to accept rate control by statute. He stated:

It cannot be conceded that a corporation, when asking the right of eminent domain, may avow the purpose of building a public highway....and when the right has been conferred and accepted and is enjoyed, may declare itself independent of statutory control in the limitation of fares and freights, on the ground that a railway is private property.<sup>18</sup>

Governor Carpenter continued in this vein by asserting that arbitrary statutes were not fair, account should be taken of the nature of the carloads, geographical differences, time of year and other variables. He admitted that competition did not seem to be the answer, and suggested a fact-finding tribunal to report to the legislature.<sup>19</sup>

Thus admonished that it had better give serious attention to the problem of railroad regulation, the fourteenth General Assembly set to work. Almost immediately, Representative Fred O'Donnell introduced House File 12--a bill to prescribe rules and regulations for railroads and to establish uniform and reasonable rates of tariff. Ten days later, House File 92 was introduced, to provide for the election of railroad commissioners and for the taxation and equalization of the railroad tariffs. Although several other regulatory bills were introduced, these two were

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<sup>17</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, III, 368.

<sup>18</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, IV, 20.

<sup>19</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, IV, 21.

the ones the pro-regulatory forces chose to work on.<sup>20</sup>

On March 14, a substitute was reported out of committee with passage recommended. On March 20, O'Donnell moved that the bill be taken up and continued until disposed of. Representative Frederick Teale had offered a stringent amendment to the bill, requiring that reports of rates and rate changes be made to every county auditor through whose county a railroad passed. The amendment also disallowed short haul rates and provided penalties of from \$1,000 to \$10,000 per month for failure to report rate changes. It seemed that such a rigorous amendment was designed to kill the bill since Teale was not known for any anti-railroad sympathies. However, his amendment failed.

Representative John Duncombe, the leader of the anti-regulation forces for many years, then attempted to add a more general amendment, designed to prohibit rebates and short haul discrimination. It also provided that the railroads should pay the litigation costs if a suit against them were proved, which would have been an immense benefit to the small farmer, but this too failed. Such strong amendments had become a favorite tool of those who opposed any regulation, for they could earn both praise from their farming and small merchant constituents and also frighten wavering legislators into line with the stiff provisions, which might ultimately cut into some legislators' pockets, since many of the lawyers in the assembly numbered railway companies among their clients. With the failure of Duncombe's amendment, he then attempted to have the bill recommitted, for it still contained too many loopholes, and first, maximum rates based

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<sup>20</sup>House Journal, 1872, 146.

on averages at that time should be set. In addition, provision for a Railroad Commission should be added. This motion also failed.

Finally an amendment proposed by B. F. Keables providing for uniform rates and the voiding of any rates higher did pass. The next day Representative A. R. Wright, a railroad sympathizer, attempted to add an amendment which would put railroad lines from the Iowa state line to Chicago and other out-of-state points under jurisdiction of the act, and would allow charges no higher than the minimum rates of the period January to February, 1872. Clearly this interstate provision would not have stood up in a court suit, and the pro-regulation faction was able to defeat it. The bill then passed the House by a wide margin, eighty to thirteen.

A week later, the Senate reported the substitute House File 12 back to the House with six additional amendments, the most important of which provided for a Railroad Commission. On April 3, O'Donnell moved that House File 12 be taken up. Representative William Hopkirk proposed that the House not concur in the Senate amendments and asked for a Committee of Conference. Proposals of this conference committee were rejected by the Senate, and two later conference committees were set up. Finally, on April 22, the proposals of the third conference committee met Senate rejection and the best efforts of the House to regulate railroad rates failed for this session.

On the same day that regulatory legislation was introduced in the House, Senator Frank Campbell introduced Senate File 9, to prevent unjust discrimination and extortions in the rates to be charged by different railroad companies for transportation of freight. A similar bill to regulate passenger rates was introduced by Senator G. R. Willett the next day.

Two similar bills were introduced in the next month with a resolution from the Senate that the railroad committee report a bill as soon as possible.

In March, Senate File 211 was introduced by the Railroad Committee, but it was not very comprehensive. Senator John Y. Stone attempted to remedy this through a series of amendments (1) providing for three commissioners with power to readjust rates; (2) penalties for violation of the commission's recommendations; (3) publication of an annual Commission Report; (4) imprisonment of commissioners who accept a bribe. These amendments failed narrowly, twenty-two to twenty-three.

Senator Willett then proposed an amendment requiring railroad reports to the county auditors through whose counties the railroad passed, with fines for failure to adhere to rate regulations. This measure passed at this point twenty-four to twenty, but the bill was eventually recommitted.

House File 12 then arrived for Senate debate. Senator Stone offered six amendments, dealing with the same matters he tried to attach to Senate File 211, detailed above. The amendments passed, twenty-six to twenty-three. Stone then moved suspension of the rules and the vote was taken. The bill passed by a wide margin, thirty-nine to ten, and was returned to the House. As was previously discussed, the House would not accept the amendments. Senator John P. West then moved that the Senate recede from its amendments, but this motion failed after some fancy parliamentary footwork by Senators Joseph Dysart and Samuel H. Fairall.

The conference committee which was subsequently formed failed to agree. Again, Senator Dysart attempted to induce the Senate to recede from the amendments, and again the Senate refused, twenty-three to twenty-three.

A second conference committee was formed which proposed some compromise amendments which failed in the Senate by one vote, and a third conference committee was formed. Increased restrictions were placed on the proposed railroad commission, and proposed salaries lowered. However, in the end the Senate refused to accept the report by two votes, and a last attempt by Senator West to remove the amendments to House File 12 lost twenty-four to twenty-four.<sup>21</sup>

How did the fourteenth General Assembly's action differ from previous regulatory fights? The pro-regulation forces were better organized and surprisingly strong. Surely the railroad lobby and its employers were much shaken by the close margin of victory at every point. It was only necessary for the upcoming economic crisis of 1873 to couple with increasingly vocal discontent of the farmers for the heretofore disarrayed Democrats to have a real issue around which to coalesce. This would lead to the rise of the Anti-Monopoly party of 1873-1874 which would, in Iowa, be responsible for pushing through the railroad legislation which would acquire the misnomer, "Granger Law."

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<sup>21</sup>Senate Journal, 1872, 861.

## CHAPTER IV

### FORMATION OF THE ANTI-MONOPOLY PARTY

The Grange newspaper, the Iowa Homestead, in 1872 had little faith that the legislature could or would aid farmers in any way, nor did Grangers particularly desire any aid. Weekly resumes of legislative activities appeared in the Iowa Homestead without any editorial comment. In speaking to the first state Grange convention at Des Moines before the legislature convened, Dudley Adams, Grand Master for Iowa, said nothing about legislative action. The "first business" of the Grange was the cooperative sale of produce and the purchase of farm machinery.<sup>1</sup> The Patrons of Husbandry felt little confidence in legislative controls anyway--the state and the law were too easily perverted into instruments of advantage to the commercial classes.<sup>2</sup> Only in a letter to the editor which appeared approximately one month after the legislature adjourned was a complaint registered.

Why was there no railroad tariff law enacted in the General Assembly this year? Because one third of the General Assembly is railroad attorneys or directors, one third are from the unsettled areas of the state that still want railroads and one third of the members are clearly irresponsible! Now General, [Wilson, editor of the Iowa Homestead] I know you do not want the Grange to become a political organization--but I would like to see some of these gentlemen promoted to a seat in Congress.<sup>3</sup>

However, most complaints about failure of the legislature to act until this time lay in letters to the editors of the Iowa Homestead and on

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<sup>1</sup>Iowa Homestead, January 5, 1872.

<sup>2</sup>Miller, Railroads and the Granger Laws, 162.

<sup>3</sup>Iowa Homestead, May 24, 1872.

the editorial pages of other newspapers. The Centerville Citizen, a pro-regulation paper, felt that, following the ineffectiveness of Iowa's legislative attempts, pressure should now be exerted in the Congress. "...as that body could pass a law establishing a uniformity of rates in all the States which would be of greater benefit to the people and more just to railroads than if rates were fixed differently by different states."<sup>4</sup>

The Wayne County Republican was a little more vehement and shows that desire for regulation was a bipartisan issue. "... we have seen the influence of the railroad defeat and for the present completely thwart the known wishes of nineteen twentieths of the people in our state. The farmers of Iowa were and are now unanimously in favor of a law regulating the rates and fares of railroads."<sup>5</sup> When reminded that if there had been no railroads, there would have been no farmer and no West, the farmer retorted that if the railroads persisted in oppressing him, there was likely to be neither farmer nor West.<sup>6</sup>

Throughout the whole battle for regulation of the railroads, the Iowa Homestead maintained a reasonable but firm stand on its editorial of April 21, 1871.

The remedy for such wrongs and abuses lies in legislative action. An organization to correct these abuses is demanded. The people should therefore ask their legislatures to pass laws regulating the rates of fare and transportation on every railroad within the limits of their states. Also to pass a law authorizing the appointment of commissioners to supervise the operations of these roads.... In the

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<sup>4</sup>The Centerville Citizen (Centerville, Iowa), April 13, 1872.

<sup>5</sup>Wayne County Republican (Corydon, Iowa), March 8, 1873.

<sup>6</sup>Nye, Midwestern Progressive Politics, 30.

matter of through freight the Federal Government could and should interfere, in virtue of the power it possesses to regulate commerce between the States.<sup>7</sup>

The middle western farmer was no longer grubbing on his 160 acres for subsistence, but had now become a businessman, producing goods for the nation's and world's markets for a profit. The new agriculture was clearly capitalistic--not the simple, self-sufficing system of frontier days. The midwestern farmer raised a money crop so he could purchase staples and luxuries from the industrial East. He was a businessman, selling at home and abroad in a free market in competition with the farmers of Europe and South America, buying from a protected eastern market the clothes, shoes, machinery and transportation he needed.

Every crop he raised was a speculative venture and the farmer of the Midwest, once a self-sufficient individualist, became an agricultural capitalist, with a heavy investment in land, crops and machinery, at the mercy of a strange and terrifying set of natural phenomena and economic laws.<sup>8</sup> But by 1870 he was more likely to be literate, and if the Iowa Homestead was any sort of barometer, he saw value in an organized farm movement to gain for himself what other businessmen had--control over his prices.<sup>9</sup>

As the winter of 1872 drew on, corn was being burned for fuel in Iowa. It was standing in the cribs for 15¢ a bushel, while in New York it was selling for 64¢ a bushel, costing the farmer three bushels to get one

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<sup>7</sup>Iowa Homestead, April 21, 1871.

<sup>8</sup>Nye, Midwestern Progressive Politics, 7.

<sup>9</sup>Mildred Throne, "The Grange in Iowa, 1868-1875," Iowa Journal of History, XLVII (October, 1949), 293, hereinafter cited as Throne, "Grange in Iowa."

to market. To make matters worse, these high freight rates were also ruining America's competitive position in world markets, because the European government-owned railways could undersell the Americans every time.

Yet the appeal of the Grange went deeper than financial advantages. Underlying their protest was a philosophy harkening back to Jefferson's ideas of an agrarian utopia--and John Irish, the editor of the Iowa City Daily Press and a future leader of the Anti-Monopoly party, displayed this idea on his masthead, "Let us return to the "Farmer Republic"... up with the good old Jefferson maxim, 'The greatest good to the greatest number.'"<sup>10</sup>

The Iowa Grange was preparing for its first major state convention as conditions were building toward the "Panic of '73." Throughout the state everyone saw the potential this convention had for turning to politics and Duane Wilson, Homestead editor, worked to head it off. As early as July he had written:

Effectiveness of cooperation in securing other benefits leads some of them [Grange members] to believe they may legitimately attempt as Granges to put into office whom they please....our reply is to comply implicitly with the injunctions of the order--"to meddle not, as an Order, with politics in any shape."

But as citizens to do their duties as such....As Democrats let them attend the primary....as and Republicans do the same in theirs ....but as Granges have nothing to do with partisan politics. Those that do it will proclaim their own death, for they cannot be recognized after it as legitimate members of the Order.<sup>11</sup>

In December Mr. Wilson replied to a letter which said:

....we must become an organization of political policy or die... They may call us a Third Party if they choose....we can alleviate, protect and foster the interests of the agriculturist.

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<sup>10</sup>Throne, "Grange in Iowa," 294.

<sup>11</sup>Iowa Homestead, July 19, 1872.

Wilson answered:

We emphatically say and believe, that when the Patrons of Husbandry as an Order use the machinery of the Order for political purposes, its days for permanent usefulness are numbered.<sup>12</sup>

Certainly one reason the soon to be formed Anti-Monopoly party did not gain more permanent strength was the diligent attempt by Grange leaders to keep its members from wholesale membership in a third party. The reason that the Anti-Monopolists did not gain the statehouse in 1873 was the immense popularity of its Republican incumbent, C. C. Carpenter, and his sympathy for the farmer's plight. Since his inauguration he had been quietly supportive of at least limited regulation of railroad rates.

He saw the shape of coming events and so prepared his most stinging reproach to railroading's unfair rate schedules for an address to the State Agricultural Society in December, 1872, a speech that would be quoted and reprinted throughout the nation.

If then, today there is a shadow resting upon the prosperity of the Great West, which it is no exaggeration to compare it with the fleshless fingers, the rattling joints, the eyeless sockets and the grinning teeth of a skeleton, it is found in the cost of exchanging commodities over long lines of communication, by expensive agencies, and at exorbitant charges for transportation. This is the skeleton in every Western farmer's corn crib.<sup>13</sup>

Up to this point attention has been focused upon the attitudes and feelings which led to an election of an "anti-monopoly legislature" in 1873. It would be wise to pause and explore the railroad's point of view at the time regulatory legislation was passed. Were their rates exorbitant as the farmers and small shippers believed, or was there good reason for

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<sup>12</sup>Iowa Homestead, December 13, 1872.

<sup>13</sup>Iowa State Agricultural Society Report, 1872, 195.

the divergent and often stiff rates?

The conflict between the farmer and the railroads was over shipment of grain and livestock, both perishable commodities. Some farmers believed that railroad rates added as much as 50 per cent to the retail price of important commodities. From the farmer's point of view, freight charges should be based upon the cost of producing his crop. The railroad managers contended that the rates must be fixed on the cost of rendering the service, and the cost of service was higher in the West.<sup>14</sup>

Actually, railroad companies did not like the system which determined their rates much better than the shippers did, since it caused some rates to be too low. Neither did they want to lose the business at all the intermediate stops, because competition was too heavy at the major trading centers. In 1873, Robert Harriss, general superintendent of the Burlington Railroad warned, "It behooves General Managers to mend some of their ways and particularly in the wild, unreasonable and unnecessary cuttings and discriminations that are at the bottom of all this noise."<sup>15</sup>

The only hope for an adequate return for a railroad company lay in the building up of the country, and until that time arrived, competition in rates would be suicidal. This feeling led to the formation of the first railroad pool, the Omaha Pool.<sup>16</sup>

The railroads had to have classifications for their traffic. It was

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<sup>14</sup>Hallie Farmer, "The Railroads and Frontier Populism," Mississippi Valley Historical Review, XIII (December, 1926), 388.

<sup>15</sup>Miller, Railroads and the Granger Laws, 22.

<sup>16</sup>Robert E. Riegel, "The Omaha Pool," Iowa Journal of History and Politics, XXII (October, 1924), 569.

a great deal more difficult and expensive to haul a carload of pigs than a carload of textiles. Neither did they want to haul empty cars back from the East, a profitless exercise. They asserted, truthfully, that certain costs existed in maintaining the depots, cars and tracks whether or not there was business to pay for them. They felt the rates had to be "developmental," that is, as the country around the line prospered, they should pay an increased rate, to make up for the early periods when the railroads had spent large sums to encourage settlement and then had operated at a loss in the area until it became productive. Unfortunately this philosophy led to a policy of charging all the traffic would bear.<sup>17</sup>

The competition which shippers devoutly hoped would curtail rates only led to rate wars, which resulted in pools such as in Omaha, an attempt to "own" shippers as in the case of the coal mines, secret rates, passes, and rebates--the whole Pandora's Box against which the anti-monopoly forces inveighed--all in the name of making a "decent profit" for the stockholders. Because railroad companies in most cases had to construct and maintain their own highways, and had to provide elaborate terminal facilities, it was obvious they had high fixed costs, which led to most of the early assumptions about rate making policies. Costs did not increase according to the distance traveled, the primary expenses being the cost of switching and terminal facilities; therefore, the railroads sought long haul traffic which would cost the company less per mile. Practical men and theorists alike knew that it was impossible to determine the cost of each individual service performed; therefore the unit expense per ton mile of any commodity was

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<sup>17</sup>Edward C. Kirkland, Industry Comes of Age: Business, Labor and Public Policy, 1860-1897, (New York, 1961), 75.

beyond accurate measurement.<sup>18</sup>

An article appeared in the Atlantic Monthly in 1873 which sought to put the whole issue in perspective. Its final objective, however, was criticism of the Illinois regulatory law, which had been in effect for nearly a year. The author commenced with a tirade against the railroad barons:

The bandits of modern civilization, who enrich themselves by the plunder of others, come with chests full of charters; judges are their friends, if not their tools; and they wield no weapon more alarming than the little pencil with which they calculate differences of rate, apparently so insignificant that public opinion wonders why the farmer should complain about such trifles.<sup>19</sup>

William M. Grosvenor, the author, then elaborated upon the plight of northwestern farmers. The animals produced in that area were far in excess of what the country needed, he claimed, as was the surplus production of cereal grains, which overproduction was not the result of whim or accident, but of fixed laws. The increasing density of population and cost of land steadily drove larger operations of agriculture to regions remote from population and manufacturing centers, which these large agricultural concerns again overdeveloped. Apparently he would favor a return to subsistence farming.

But then he cited a specific case of how a slight increase snowballed into a disastrous effect:

Raising transportation costs five cents per one hundred pounds on grains shipped from Chicago to New York in 1871 would cause a value loss of \$37,679,000 to northwest farmers, or eighty four cents

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<sup>18</sup>Miller, Railroads and the Granger Laws, 17.

<sup>19</sup>William M. Grosvenor, "The Railroads and the Farms," Atlantic Monthly, XXXII (November, 1873), 591, hereinafter cited as Grosvenor, "Railroads and the Farms."

an acre. At seven per cent interest, a reduction in net profit of over seventy cents an acre results in a land value reduction of ten dollars per acre. Therefore the loss of thirty seven million in income results in the loss of \$538 million in land values.<sup>20</sup>

The farmers had a legitimate complaint.

Grosvenor concluded with a discussion of the "short haul" issue. He agreed that railroad company costs had tripled since 1860. He also argued that distance shouldn't be the only criterion for rate regulation. "Hundreds of roads have been built in part by the aid of people who desired the advantage which competing lines would give them; after they have paid for this advantage, must they also be taxed to pay part of the cost of transportation for other people who have given nothing?"<sup>21</sup>

He finally admitted that there were grave abuses in the existing system. The average charge of  $2\frac{1}{2}\text{¢}$  a mile was 82 per cent higher than on the six competing routes eastward. The through rates were  $1\frac{1}{2}\text{¢}$  so the charges at non-competing points must be  $3\frac{1}{2}\text{¢}$  or higher.<sup>22</sup>

And what remedy did he propose? More competition, not less, which would result from regulation. He warned of frightening away eastern capital. "No possible change in the rates of freight which can be reached by a State Legislature, by the pressure of public opinion, or by the miraculous Christianization of railroad managers can do as much good as the removal of the unjust and unnecessary burdens now imposed by the tariff."<sup>23</sup>

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<sup>20</sup>Grosvenor, "Railroads and the Farms," 594.

<sup>21</sup>Grosvenor, "Railroads and the Farms," 604.

<sup>22</sup>Grosvenor, "Railroads and the Farms," 609.

<sup>23</sup>Grosvenor, "Railroads and the Farms," 609.

The average reader of the Atlantic Monthly and other journals of opinion during the period probably saw this article as reasonable defense of the railroad's position. The railroad giants entertained no such well thought out justification. Their attitude was that of Cornelius Vanderbilt --it was his line to operate as he saw fit. "If people don't like my policies, let them grease their wagons and take to the highways!"<sup>24</sup>

Few Iowa farmers had the time to read the Atlantic Monthly. At any rate, they were unimpressed with "overproduction" as the explanation of their poverty. They insisted that the problem was not overproduction, but underconsumption. They pointed out that eastern workers starved because bread prices were too high, while western farmers burned their grain because prices were too low. Why were makers of clothes underfed while makers of food were underclad?<sup>25</sup>

The argument, a favorite with Eastern editors such as those at The Nation, that freight rates as a whole had declined since 1870, had little basis in reality for the Iowa farmer. The reason rates appeared less was because great industrial shippers were receiving rebates, but not the farmer.<sup>26</sup>

Pro-railroad authors pointed out that prices for farm products compared very closely with prices for other commodities, but this was a fallacy, because all middlemen's costs such as elevator operators, and shipping costs came out of the farmer's pocket. Another fallacy was that published rates were an average, and were not shown by the railroad agent to the farmer.

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<sup>24</sup>Shannon, Farmer's Last Frontier, 177.

<sup>25</sup>Billington, Westward Expansion, 724.

<sup>26</sup>Shannon, Farmer's Last Frontier, 175.

He might have to pay the price of a rate war elsewhere.<sup>27</sup>

Because shipping costs were more reasonable at competing points, prices of supplies were lower; so producers, when possible, took their business to competitive centers. Therefore grain buyers, retail merchants, bankers, lawyers and other businessmen at way points saw trade diminish, land values lowered, and the return on their investments threatened. So many of these people added their powerful voices to complaints of discrimination against the farmers and short haul abuses of the river tradesmen.<sup>28</sup>

Just across the Mississippi River, Iowa's sister state of Illinois was in the vanguard of railroad regulation, and Iowans were watching the effect carefully. One of the initial effects of rate regulation in Illinois was a rise in rates for Illinois' neighboring states; "to compensate for lost revenues in Illinois under the new rate ceilings" but actually to serve as a veiled warning against the efforts of regulation elsewhere. This only added fuel to the spark that had been glimmering in Iowa, and helped to coalesce the diverse segments of the population who were unhappy with their economic prospects.

Fortunately for the Republican party in Iowa, Governor Carpenter was attuned to the unrest that was running across his state and was vocal about his support of a legislated remedy. In an address to the State Agricultural Convention on January 12, 1873, he admitted that competition had not proved

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<sup>27</sup>Shannon, Farmer's Last Frontier, 300.

<sup>28</sup>George H. Miller, "The Origins of the Iowa Granger Law," Mississippi Valley Historical Review, XL (March, 1954), 668, hereinafter cited as Miller, "Origins of the Iowa Granger Law."

to be the remedy--indeed, he had commented privately and with some accuracy, that competition had been the cause of the railroad crises, not the remedy. Therefore, "the last hope of the producer must be in legislation....I am not prepared to say that a Legislature can successfully and wisely fix a schedule of tariff charges and in fact am inclined to the opinion that it is impractical...."<sup>29</sup> Governor Carpenter pointed out the flaws in an inflexible schedule, and voiced the opinion that government operated roads would be the ultimate answer. For the immediate future, he felt supervision should be undertaken by the county boards of supervisors.

As had been true in the past, the split in attitudes toward regulation came along geographical lines. The southern and eastern "have" areas supported direct legislative control, while western and northern members held out for the more flexible commission system. The more numerous "haves" were in turn divided between river interests who were determined to have fixed legal maxima and men from way station areas more concerned with obtaining a long and short haul measure.<sup>30</sup> So a sizable pro-regulation body existed, if members could only agree on their goals.

The next important steps came in February, 1873, when a special session of the Iowa legislature was called to revise the Iowa Code. The State Grange meeting was to be held in Des Moines at the same time, and opportunities to do some lobbying outside the Grange meetings were abundant. An editorial in the Iowa Homestead encouraged the delegates:

Now it looks as though a good time has come to go for the railroad tariff bill....the tariff men are organized and expect to make

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<sup>29</sup>Iowa Homestead, January 17, 1873.

<sup>30</sup>Miller, "Origins of the Iowa Granger Law," 674.

the fight of the session on that measure. They think that enough of the senators have been converted during their contact with the people at home....when our [Grange] Masters start for the meeting of the State Grange on the 28th, let them be instructed to make it a point to see the members from their counties and impress on their minds the desires of the people....Patrons in council can do no better than help the measure through.<sup>31</sup>

The Grange felt no compunction against lobbying, but drew the line at actually backing a candidate as an organization, or trying to elect one of their own. However much the Grange hoped to avoid direct participation in politics, it was useless to attempt to keep the farmer out. The only way to separate the Grange from the farmer was to urge him to speak out as an individual, not as a Granger. Yet it was the Grange organization which gave him the confidence and knowledge to speak out. As Ignatius Donnelly said, "A non-political farmers' organization is like a gun that wouldn't shoot." Pressures within the order would finally force the National Grange to modify its stand in 1876, and decide that "agitation for desirable legislation is acceptable."<sup>32</sup>

A memorial was then sent by the State Grange offices to the special session:

The state Grange, representing more than forty thousand Patrons of Husbandry respectfully represent:

That the people of our state, and especially the agricultural portion, are suffering under unjust and burdensome railroad tariffs, which by their exorbitant rates absorb almost the entire profits of our labor, and by their unfair and iniquitous discriminations prevent our reaching remunerative or competing markets....

And we further represent, that without legislative interference we are completely at the mercy of these grasping corporations .... this state of affairs cannot continue without producing a general bankruptcy of the agriculturists of this State.... We look to you to correct the

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<sup>31</sup>Iowa Homestead, January 24, 1873.

<sup>32</sup>Nye, Midwestern Progressive Politics, 43.

abuses of which we complain, and regulate and limit their charges for passengers and freight, by the enactment of a railroad tariff law.<sup>33</sup>

In addition to this memorial to the legislature, the Grange convention proposed a government-built, double track, all freight railroad to the eastern seaboard, and state-owned narrow gauge feeder routes within Iowa.<sup>34</sup>

Enough pressure was exerted on the legislature from this and other sources to produce a joint petition from the legislature to the Congress, that Iowa senators and congressmen be instructed to use their influence in favor of some bill which would correct existing railroad abuses and grant relief so much needed. The right of the General Assembly to control freights and passenger tariffs on railroads within its borders would not be surrendered. This resolution was read into the record by M. M. Walden on February 13. There were not yet enough votes in the legislature to push through a tariff bill for Iowa, but most senators by now realized the value of paying lip service to regulation.

In the February 14, 1873 edition of the Iowa Homestead, an editorial appeared on the action taken by the legislature in regard to railroads. A bill had passed the House, and was acted upon by the Senate the day before adjournment, but was defeated "in consequence of the defection of two weak-kneed Senators, Howland and Reed, who were bound...to vote for it and whose friends had reason to believe would come to the rescue of the agriculture interests of the State...." But the balance was about to tip in favor of regulation, and every legislator knew it. As a sop to the

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<sup>33</sup>Iowa Homestead, February 24, 1873.

<sup>34</sup>Miller, Railroads and the Granger Laws, 112.

disappointed farmers, Senator Jacob G. Vale offered the following resolution which was passed:

Whereas the General Assembly has failed to accomplish by legislative enactment a railroad rate of tariff law; and whereas the seventy thousand honest, industrious producers of Iowa making this request has been unheeded by this Senate, and whereas these petitions are indicative of a power behind the throne, therefore, be it resolved that these petitions be delivered by the chairman of the railroad committee to the Secretary of State, to be presented to the several members of the Senate of the Fifteenth General Assembly from the districts whence these petitions emanated, that their requests may then be heard.<sup>35</sup>

Publication of how various senators and representatives voted on the tariff issue began through reports of the local Granges to the Iowa Homestead. However, a group of Grangers from Blackhawk County (Waterloo) became somewhat overenthusiastic in their actions, and met at the first of April to nominate Dudley Adams, the National Grand Master of the Grange, for governor, and James Wilkinson for lieutenant governor. When Adams heard of this, he immediately repudiated the nomination and the organizers of this action were immediately and widely chastized. To a certain extent, the damage was done. Anti-Grange publications and individuals leapt on this action as proof that the Grange was primarily out for political power, and bent upon a takeover of one of the major parties, just which, depending on the leanings of the critic. The incident was enough to label the succeeding legislature as "Grange" in the eyes of some, and lead to the conclusion that these Grangers had produced the railroad legislation which came into being in that session. Indeed, Coker Clarkson, who wrote the farm column for the Iowa Daily Register, wondered if the enemies of the Grange had not instigated this action to give the Grange some bad

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<sup>35</sup>Iowa Homestead, February 28, 1873.

publicity.<sup>36</sup>

Dudley Adams' repudiation appeared in the Waukon Standard on April

24. He wrote:

.... as our order was not organized as a political party, permit me to say in all kindness to my brother patrons, that it seems most injudicious to divert it from its original plan, as tending not only to defeat the very object aimed at in the present, but also endangering our usefulness in the future.<sup>37</sup>

Of course Governor Carpenter was watching this "new party effort" with interest, because for ten years opposition to the Republican party in Iowa had been weak and fragmented. He must have read with interest the account of the Waterloo meeting by his friend and political advisor, Charles Aldrich.

....delegates from twenty counties have nominated D. W. Adams... for Governor. I have discussed this with Woodruff and Hartman, and they are both apprehensive of its effect....They are making Grangers every day and they now have nearly ten thousand voters enrolled. I think this matter deserves the fullest investigation by your friends. The corruption of Congress, the extortion of the railroad companies, the low price of produce, hard times and all have "fired the farmer's heart." I think they are now determined to frost the heads of the politicians. They have thrown the tea into the harbor and wisely or unwisely they are in a determined struggle.<sup>38</sup>

Several letters of apology and repudiation followed the "Waterloo Convention." The president of the Franklin County Grange asserted that none of the Patrons in that area knew of the meeting, and all condemned it. Furthermore, he was confident that Franklin County would send delegates to the Republican convention instructed for Carpenter, "and that no

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<sup>36</sup>Throne, "Grange in Iowa," 312.

<sup>37</sup>Standard (Waukon, Iowa), April 24, 1873.

<sup>38</sup>Charles Aldrich to C. C. Carpenter, April 1, 1873, Carpenter Papers.

manipulation can control the farmers of the party to desert you."<sup>39</sup>

Another Granger wrote that he planned to offer a resolution disapproving the Blackhawk County action.

Governor Carpenter understood what was happening, and in his speeches throughout the spring and summer, emphasized his feelings against monopolies, and effectively dampened many anti-monopoly anti-Republican spirits by stealing their thunder. Mr. O. H. P. Buchanan added a postscript in a letter to Governor Carpenter which effectively described the new party which was aborning "... there was a move made on Saturday to organize an opposition party to the republican party. Will embrace all the factions and a few good republicans."<sup>40</sup>

A group met in Des Moines in May to plan a Polk County (Des Moines) convention in June for the purpose of consulting about nominations for the October elections of "those who opposed the encroachment of the rings and monopolies on the rights of the people." The Polk County convention then called for a state convention on August 13. Politically the county convention was divided between Democrats and Republicans, but the Democrats were in charge, aided by a few liberal Republicans. James S. Clarkson, editor of the Iowa Daily Register, charged that this leadership had changed the movement's direction from anti-monopoly to anti-Republican, anti-Grant,<sup>41</sup> a perceptive observation.

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<sup>39</sup>Arthur Reeve to C. C. Carpenter, June 23, 1873, Carpenter Papers.

<sup>40</sup>O. H. P. Buchanan to C. C. Carpenter, June 23, 1873, Carpenter Papers.

<sup>41</sup>Mildred Throne, "The Anti-Monopoly Party in Iowa, 1873-1874," Iowa Journal of History, LII (October, 1954), 293, hereinafter cited as Throne, "Anti-Monopoly Party in Iowa."

Democrats in Iowa had had no voice for nearly twenty years, and they welcomed the anti-monopoly sentiment with open arms. They were still saddled with the stigma of being the "Party of Rebellion," and the scandals of the Grant administration in Washington were too remote from Iowa's concerns to encourage much defection from Republican ranks.

However, the Bourbon Democrats of Iowa, never very influential, saw the new anti-monopoly movement as a potentially destructive force with regards to their wealth, and to meet this threat, many Bourbons united with and became leaders of the Anti-Monopoly party, hoping to sabotage any real reform efforts. Their whole effort was rather feeble, but they had nothing to lose. They realized there was little real chance to defeat Carpenter, but with some party machinery to control, they could look toward future elections. Actually, many non-Bourbon Democrats also entered the party and provided leadership, but they were genuinely in sympathy with the Anti-Monopoly aims.<sup>42</sup>

Fred E. Haynes maintained that the diversity of the new party was a weakness, but was also a strength. Another important point, reiterated by Republican papers, was the condition of the Democratic party at this time. It was still hopelessly in the minority, and its leaders were ready to grasp any opportunity to climb back into power.<sup>43</sup> John Irish of the Iowa Daily Press declared the Democratic party dead, and the new Anti-Monopoly party to be the new party of the people. This was certainly not

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<sup>42</sup>Horace Samuel Merrill, Bourbon Democracy of the Middle West, 1865-1896 (Baton Rouge, 1953), 84.

<sup>43</sup>Fred E. Haynes, Third Party Movements Since the Civil War with Special Reference to Iowa: A Study in Social Politics (Iowa City, 1916), 69, hereinafter cited as Haynes, Third Party Movements.

the attitude of the Grange, whose newspaper continued to warn the Patrons against "going political" or letting themselves be used by the new party. Many grangers must have listened, because they took possession of the primaries which sent the delegates to the Republican convention. There they renominated C. C. Carpenter and adopted a platform favorable to farmers. Carpenter dropped Henry C. Bulis, an avowed railroad man, as his lieutenant governor and chose Joseph Dysart, a pro-regulation state senator, to replace him. The incumbent's personal popularity kept many farmers within the Republican party, and stemmed a landslide in the General Assembly for Anti-Monopoly candidates. Another step which saved the election for the Republicans was a strong plank in their platform advocating railroad rate regulation.

The Anti-Monopoly party held its August convention in Des Moines. Farmers, who had not much experience with politics, handed over the leadership to the Democrats, chiefly John Irish, the Iowa City editor. Jacob G. Vale, a Van Buren County lawyer, was nominated for governor.<sup>44</sup> At this convention, and throughout the campaign, the battle cry was "end railroad abuses," but by 1874 the party would come out for states' rights, hard money and free trade, strange doctrines for Midwestern farmers.<sup>45</sup> Thus the Anti-Monopoly party, built on paper issues and cardboard slogans, with no genuine underlying philosophy, crumpled under its own weight, and lost the chance to be a real alternative to the Republican viewpoint.

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<sup>44</sup>Haynes, Third Party Movements, 72.

<sup>45</sup>Throne, "Anti-Monopoly Party in Iowa," 298.

## CHAPTER V

### COMPARISON OF THE 1874 AND 1878 REGULATORY LAWS

Agitation against trusts and monopolies served the purpose of moving the Republicans to popular action at this time and made railroad regulation a certainty. Both parties were courting Grangers. Coker Clarkson of the Register tried to equate Grange principles and the war on the railroads with Republicanism. He warned that if the Grange plunged into politics it would alienate both parties--which was true, since the party leaders wanted to run the campaigns and not have to tolerate amateurish farmers.

For the time being the Democratic party disappeared, except for a few old line Democrats, such as the editor of the Clinton Age, Judge Edward H. Thayer. He was past president of the Southwest Railroad Company, and hardly fitted into the anti-monopoly mold. He scoffed at the name "Anti-Monopoly" and at founding a party on negative principles. He subsided for the duration with the statement, "Then when all of us shall have tired of running after strange gods, we have no doubt we shall return to the inimitable principles of the Democrats, no matter what may be the name of the organization which shall carry the old banner."<sup>1</sup>

As soon as the Anti-Monopoly convention gathered there were signs that the farmers had lost control. James Clarkson, Register editor, inquired why the convention was held at harvest time? Porte C. Welch, a railroad reformer since 1869, had all his platform resolutions shelved. Then J. B. Grinnell addressed the convention, saying at one point, "Railroads are the great civilizers and improvers of our country..." Strange

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<sup>1</sup>Age (Clinton, Iowa), July 18, 1873, hereinafter cited as Age.

words for a railroad reform party.<sup>2</sup>

The Anti-Monopolists dealt mostly with local issues, and so won a slight edge in the lower House, 49 to 48 Republicans, with a sprinkling of Independents rounding out the membership. In the Senate, the Republicans won fourteen seats to the Anti-Monopolists' eight.<sup>3</sup> The Anti-Monopolists came from the southern half and eastern third of the state. It is clear that the Republicans had been won over to the cause of railroad regulation; otherwise the regulatory legislation which would soon be passed could have been blocked almost as easily as in past legislatures.

In January the fifteenth General Assembly convened, and on the fifteenth of that month heard the Governor's biennial message. He stated that railroad construction in the state had diminished in the previous two years and "so long as this remain true, the hope of diminishing railway rates through competition will be futile." He also felt that this slow-down came before the depression struck, as a result of the threat of restrictive regulation.

So long as the proposition for legislative restriction is a vague and undefined threat, capital will shrink from taking the risk of subjecting itself to what it fears may be a capricious ebullition of unreasoning anger; but let this public sentiment once crystallize into sensible, conservative, wholesome law, and there will be a reaction in favor of investments in western railways.<sup>4</sup>

Governor Carpenter further outlined a plan for setting maximum charges and a classification of roads according to their margin of profit and volume

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<sup>2</sup>Throne, "Anti-Monopoly Party in Iowa," 305.

<sup>3</sup>Throne, "Grange in Iowa," 319.

<sup>4</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, IV, 90.

of business. Four days later, at his second inauguration, he explored in greater detail means by which the stranglehold of the railroad combination upon Iowa's economics might be broken.

They should be prevented from making unjust discriminations against places or individuals....their business offices should be located within the state, so they may be brought nearer the customers with whom they deal. They should be prevented from discouraging the manufacturing industries by charging more for shipping the same weight and bulk in a manufactured article than in the raw material. They should be prevented from charging more when business is brisk....than when they have less work and equally large expenses....They must be treated fairly and consistently, yet firmly by our lawmakers so they will feel no temptation to employ lobbyists to besiege legislatures.<sup>5</sup>

Insuring himself of continued Grange support, Carpenter continued:

The farmer is moving to take care of himself. There is today a social organization among the farmers which is becoming an element of the social life of the people of the entire country, particularly the West. And in whatever respect this organization may seek to promote the material social and moral interests of the agricultural producer, to widen his influence, to broaden his enterprises, to quicken his intelligence, every lover of his race will sympathize with its objects. And, while less of its purpose will be accomplished through legislation.... whenever it speaks for such legislation as will promote the prosperity of its members and cripple no other industry... the wise legislature will heed the voice.<sup>6</sup>

And the legislature did indeed heed the voice of the farmer. Judge Edward H. Thayer grumbled, "When we see a dozen different bills for the regulation of railroads introduced into the two houses of the General Assembly in a single morning, we feel like crying out against such mischievous and injurious legislation."<sup>7</sup> The Iowa Homestead worried:

A law to please the eastern part of the State will not satisfy the Western portion and unless there can be some concession, no

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<sup>5</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, IV, 111.

<sup>6</sup>Shambaugh (ed.), Messages and Proclamations of the Governors of Iowa, IV, 116.

<sup>7</sup>Age, February 6, 1874.

bill will ever pass....The railroad companies are interested, and it is a virtual bribe to a western constituency to offer them an extremely low rate to ensure their opposition to any equal and just law to the whole commonwealth.<sup>8</sup>

Thirteen bills dealing with some form of railroad regulation were introduced in the lower House during the first three weeks of the session. On February 24, Chairman John Q. Tufts of the Railroad Committee reported that eight of these bills relating to charges for transportation and freight on Iowa's railroads had been under consideration, and a substitute for these bills had been recommended for passage.

On February 28, the House substitute railroad bill was taken up, and the Senate package railroad bill arrived. The Senate package went to the Railroad Committee and was reported out on March 2 with certain amendments, chiefly an amendment against short haul abuse, and one requiring transport of other companies' cars with reasonable dispatch. On March 6 the Senate package was again taken up. Representative Jacob W. Dixon proposed sixteen new sections in place of the existing bill, including the advertising of rates, prevention of short haul abuses, and penalties for rebates, but this was voted down. The bill as first amended by the House passed, ninety-three to four. On March 10 the House substitute for the Senate package passed the Senate with only minor amendments.<sup>9</sup> Iowa finally had a railroad regulatory law.

The original Senate package had a vague catch-all look about it. William Larrabee attempted to add specific rates, but this failed. Senator John Y. Stone tried to include provision for a Railroad Commission, but this,

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<sup>8</sup>Iowa Homestead, February 13, 1874.

<sup>9</sup>Senate Journal, 1874, 295.

too, failed. Moses A. McCord, a strong anti-monopolist, proposed that the General Assembly approve rates, and grand juries be empowered to investigate violations, but this failed. The bill then went to the House with Senate approval, forty to eight. Senators Stone and Larrabee, two pro-tariff men, voted against the bill and must have been glad to see the stronger House bill finally become law. It was widely felt by thoughtful men who endorsed the idea of regulation that such a specific measure as the one which passed would shortly prove unworkable. However, the final product was not a bad bill, and even some Republican newspapers were cautiously optimistic.

A curious note is that neither the Iowa City Anti-Monopolist nor the Daily Press run by John Irish commented on the passage of the law which had theoretically been the basis for the Anti-Monopoly movement.<sup>10</sup> The Iowa Homestead seemed satisfied with the bill, but hardly jubilant.

There is reason to believe that the rates proposed will tend to achieve steadiness in the markets, and give equal justice to the different towns and communities and allay the feverish and unsettled condition of the public mind....We trust that the system will receive a fair trial and that the best interest of the people will be served.<sup>11</sup>

After all that has been written about the Grange as the author and instigator of railroad regulation in the Midwest, it is instructive to learn that the Legislature had an extremely difficult time obtaining the views of this organization. Several resolutions came before the House and Senate, requesting that the twelve Grangers appointed at the State Grange convention to memorialize the legislature be invited to appear before that body and

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<sup>10</sup>Throne, "Anti-Monopoly Party in Iowa," 317.

<sup>11</sup>Iowa Homestead, March 13, 1874.

present a model bill. Representative Gilbert H. Woods presented such a resolution which was tabled by motion of Representative George Paul, as was a Senate resolution. A similar resolution by Representative John Parmalee lost, eighteen to sixty-one.<sup>12</sup>

Finally the twelve men appointed by the Grange convention did, with reluctance, meet with the Railroad Committee. The Grange recommended only two broad features, neither of which appeared in the final bill. They were prohibition of discrimination and the creation of a board of commissioners to investigate violations.<sup>13</sup>

The most important result of the so-called Granger legislation was the establishment of various principles relative to state control of the railroads by the decisions of the United States Supreme Court. They were:

1. Under the police power, a state can regulate any business which is public in its nature or has public interest, to the extent of fixing maximum charges.
2. Warehouse business and the business of operating railroads is of a public nature and is therefore subject to regulation.
3. Until the Congress acts, the states have a right to regulate interstate commerce so far as its citizens are affected.
4. Charters do not interfere with the states' rights to regulate charges unless they contain stipulations to that effect.
5. Courts are not competent to pass on the reasonableness of charges fixed by the legislature and the power of the state to regulate railroad rates is subject to no court restraints.<sup>14</sup>

But these principles were not conceived and carried out by members of the Grange. Neither did they represent the thinking of the Grange with

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<sup>12</sup>House Journal, 1874, 153-176.

<sup>13</sup>Beard, "Background of Railroad Regulation in Iowa," 34.

<sup>14</sup>Anderson, "Granger Movement in the Middle West," 50.

regard to ideal or even fair railroad regulation. The Grange felt the new legislation to be unfair in many respects to both the railroads and the people. But it was at least a temporary measure of victory, and did offer the farmer some financial respite. John Scott, who had been appointed by the Grange as one of the twelve to deal with the two railroad committees in the legislature, complained of the ignorance and innocence of the General Assembly on the subject.<sup>15</sup> This attitude was somewhat unfair--most of the members of the two railroad committees had labored for years with this knotty problem. It was true that the rest of the legislature was somewhat naive in regard to the dilemmas the subject raised, but many of them were serving their first term, and without their sympathetic attitudes, no law would have passed at all.

The railroads immediately challenged the law in the courts, but lost their suits at every point. Finally in March, 1877, when the United States Supreme Court found in favor of the state, the railroad companies tried a more effective and ultimately successful tactic--use of the press. When it appeared that public sentiment had turned against regulation, the 1878 legislature was quick to repeal the law; and a commission was substituted. Ironically, the law which was passed that year, and which would remain in effect until passage of the Interstate Commerce Act a decade later, was very nearly a carbon copy of the bill recommended by the Grange in 1874--a genuine "Granger Law."

To disregard active Granger participation in the regulation movement would be quite wrong. Grange literature contained much commentary on the

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<sup>15</sup>Mildred Throne, "The Repeal of the Iowa Granger Law," Iowa Journal of History, LI (April, 1953), 99, hereinafter cited as Throne, "Repeal of the Iowa Granger Law."

railroad problem, but eastern journalists, epitomized by E. L. Godkin of The Nation, blew their influence far out of proportion. They were too quick to identify the movement for rural organization and rate regulation as one and the same. It seems that they did this with malice aforethought in order to fix the stigma of agrarian radicalism on all subsequent efforts to regulate rates.<sup>16</sup>

Ultimately the Granger ideas about regulation were to prove the best. An examination of the bill that became law on March 23, 1874, reveals that it was too specific to be practical for an indefinite period of time. Another weakness was that the initiative for the enforcement of the law was placed in the hands of the individual shippers and travellers.

The bill provided only for the establishment of reasonable maximum rates of charges for the transportation of freight and passengers on the different rail lines of the state. Section one classified the railroads of the state by their annual gross earnings within the state as follows:

Class A: \$4000 or more a year per mile

Class B: \$3000 to \$3999 a year per mile

Class C: less than \$3000 a year per mile

Section two dealt with maximum passenger fares allowable. Class A roads were allowed to charge 3¢ a mile, Class B roads were allowed 3½¢, and Class C roads could charge 4¢ per mile. Children under twelve could be charged no more than half the above rates.<sup>17</sup>

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<sup>16</sup>Miller, Railroads and the Granger Law, 165.

<sup>17</sup>Public Laws of the State of Iowa passed by the Fifteenth General Assembly, 1874, C. 68, 61, hereinafter cited as Laws of Iowa with appropriate date.

The first two sections were in answer to the railroad's complaints that any restrictive law would discriminate against the newer roads, those without multiple connecting points or any road that, for whatever reason, did not carry a maximum volume of freight. The rates were therefore established rather on an "ability to pay" basis.

Section three was the most elaborately detailed part of the law, prescribing the maximum tariff rates for freight. The model for this portion of the bill was the 1874 Report of the Illinois Railroad and Warehouse Commission, which gave Iowa some guidelines for the statutory rate limits.<sup>18</sup> A schedule was set up from 1 mile to 375 miles, which presumably would cover the farthest distances within the state. Merchandise was categorized within the mileage table in four classes. The first class subdivided raw materials and agricultural products in the following manner: (1) flour and meal, per barrel; (2) salt, cement, plaster and stucco, per barrel; (3) grains other than wheat, per hundred weight; (4) lumber, per carload; (5) horses and mules; (6) cattle and hogs; (7) sheep; (8) coal, per ton. Finally, Classes A, B, and C were scheduled for all goods not specified.

Section four of the law made it unlawful to exceed the rates established in section three by more than a specified percentage, which percentage increased as profits per mile declined. Apparently it was felt that this clause allowing for a slight increase over the prescribed maximum would permit economic fluctuations from year to year.

Section five was the second longest portion of the law, classifying every conceivable type of freight by double first class, such as fresh

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<sup>18</sup>Miller, Railroads and the Granger Laws, 114.

produce, one and a half first class, for cattle and comparable freight that required speed and care in handling, through first, second, third and fourth class. This was an extremely specific schedule of more than one thousand items, containing six descriptions of flour and hides to five different descriptions of zinc.

Section six stipulated that every railroad corporation should keep a copy of these freight classifications and rate schedules posted in each freight and passenger office. Section seven stated the necessity that each railroad corporation forward to the Governor, by January, 1875, and each January thereafter, a statement of their gross receipts for the preceding year. The penalty for failure to comply with this requirement was set at \$100 a day. Unfortunately, several railroads felt that it was less expensive in the long run to pay the penalty than to have a classification assigned to them which would significantly lower their rates.

Section eight of the law provided a certain sum to qualified taxpayers to press charges for violation of the law. Twenty taxpayers of the county where the alleged violation of the law occurred could notify the Governor of the alleged violation and qualify for \$10,000 from the State Treasury to prosecute their case.

Section nine declared all connecting railroads in the state which were controlled by the same person or company should be regarded as one rail line. This clause would prevent corporations from making up for cutbacks in rates on their Class A sections with overly high charges on their less traveled sections.

Section ten allowed no discrimination between individuals, companies or corporations. This anti-discriminatory clause, along with the provision

for an annual financial statement, were the only two sections reminiscent of the Granger proposals. It stated, "All concessions of rates, drawbacks and contracts for special rates founded upon the demands of commerce and transportation shall be open to all persons, companies and corporations alike."<sup>19</sup>

Section eleven stated that any officer of a company which violated this act could be punished by a fine from \$20 to \$100 and imprisonment from five to thirty days. He would be required to pay five times the overcharge to the injured party, plus the court costs and \$500 to the Iowa school fund. The final two clauses of the law dealt with the definition of terms and the repeal of any previous acts inconsistent with this law.

In order to make comparison simpler, it seems wise at this point to discuss the measure which the seventeenth General Assembly of 1878 would pass to replace this "Granger Law." Through rates in the intervening period declined, making the schedule of maximum rates obsolete soon after it was put into use in July, 1874. River traffic never again flourished and the primary goal of most of the agitators for a maximum rate restriction therefore was never realized. As will be seen, the new law corrected most of the mistakes of the 1874 law, and stood Iowans in pretty good stead for the next decade, until passage of the Interstate Commerce Act of 1887.

The new law was an act repealing Chapter 68 of the fifteenth General Assembly, and provided for the establishment of a board of railroad commissioners, defining their duties and terms of office. It retained sections one, two, and seven of the old law, classifying the railroads and setting maximum passenger fares as well as the requirement of an annual financial

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<sup>19</sup>Laws of Iowa, 1874, 89.

statement by each company.<sup>20</sup>

The second section provided that the Governor should appoint three commissioners, one to be a civil engineer. They would serve staggered terms from one to three years. No one who owned any railroad stock or was employed in any capacity by a railroad company would be eligible to serve on the commission.

The third section dealt with the duties of the commission. They were required to hear alleged violations of railroad laws, to inspect the condition of the roads and trains, to see that strength and safety of the railroad bridges were maintained, and to examine the annual financial statements. In addition, they were to investigate all railroad accidents in which there occurred injury or loss of life.

The fourth section provided for an annual report to the Governor on the state of each railroad. This report would include the amount of stock issued, the debts incurred, the cash value of the road, plus its other property, including land grants and the percentage of the grants sold, the tonnages carried, the names of all officers and any other relevant statistics.

The fifth section stated that the annual report should be submitted to the commission by September 1, with a \$100 penalty for each day's delay. Sections six and seven set the salary of the commissioners and bonded them, while section eight provided that the railroads should pay this expense on a pro rata basis.

Section nine gave the commission subpoena powers, and stipulated a

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<sup>20</sup>Public Laws of the State of Iowa passed by the Seventeenth General Assembly, 1878, C. 77, 67, hereinafter cited as Laws of Iowa with appropriate date.

\$1,000 fine, plus costs for any railroad corporation which refused to cooperate. The next two sections were sympathetic to those anti-discrimination forces of past years, providing that the companies should furnish cars to all who asked for them and should transport goods in a reasonable amount of time. They also provided that railroad corporations should not discriminate in rates and should allow concessions, drawbacks and special rates to all persons and corporations alike.

Section thirteen required any company to be found in violation of the provisions of this act to forfeit three times the damages incurred plus court costs. The next section required a report of any accident causing injury or death.

The last important section of the bill provided the machinery for the reporting of an abuse. The mayor or trustees of any town which felt itself to be a victim of an abuse by a railroad line should report the town's case to the commission. If the mayor of the town in which the violation occurred would not handle the case, a petition by twenty five taxpayers to the commission would suffice. If the allegation were found to be true, the incident would be reported to the Governor.

Unfortunately, at this point, enforcement machinery for any action was indefinite, since no funds were provided under this act to take the railroad companies to court. The only method of censure that had much effect during the ensuing decade under this type of commission was that of public opinion, primarily generated by the newspapers, which had been historically sympathetic to the railroads. Therefore, even a conscientious commission had difficulty exercising any real influence in railroad operations or practices.

The law concluded with minor clauses defining terms and repealing previous laws inconsistent with the existing law. An interesting note was that this law was approved on March 23, 1878, just four years to the day after the approval of the 1874 regulatory law.<sup>21</sup>

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<sup>21</sup>Laws of Iowa, 1878, 72.

## CHAPTER VI

### RAILROADS' EFFORTS TOWARD REPEAL, 1874-1878

It is now necessary to explore the reasoning and events which occurred in the interval between the aforementioned laws to see why the change came about. As the provisions of the "Granger Law" of 1874 became known over the state, almost every newspaper that had fought regulation, most notably the Estherville Northern Vindicator and the Waukon Standard, denounced the bill and the stupidity and ignorance of the legislature that had passed it. The four railroad companies which traversed the state declared their intent to disregard the law, although the Burlington and Rock Island Line stood on rather shaky legal ground, since a clause in its land grant was rather specific as to the powers of the state to regulate it.

William Evarts, a New York lawyer, and B. R. Curtis, a former Supreme Court Justice, two lawyers representing the Burlington Line declared the law would be found unconstitutional on the grounds that it "impaired the obligations of contract."<sup>1</sup> Preparations for the coming battle in the courts were being made before the ink was dry on the bill, although the law would not go into effect until July 4. James S. Clarkson, editor of the Des Moines Register, who now supported the law, at least on a "wait and see" basis, after years of battling the pro-regulation faction, commented in a June 26 editorial that if the Rock Island submitted to the law, the other lines would follow along, their charters notwithstanding.<sup>2</sup>

As the fourth of July approached, Hugh Riddle, vice-president of the

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<sup>1</sup>Throne, "Repeal of the Iowa Granger Law," 100.

<sup>2</sup>Iowa State Register, June 26, 1874.

Rock Island Line, wrote Governor Carpenter, saying that his road would "experimentally" comply with the new tariff schedule. Several days later a similar letter was received from the Chicago and Northwestern Line.<sup>3</sup> One reason for their compliance was that the railroads had discovered a weapon with which to retaliate. Obviously the state had no control over rates beyond its borders, so the roads could adjust these rates correspondingly higher to make up for any loss of revenues within the state. This plan served the dual purpose of "teaching a lesson" to those shippers who had worked so hard to get some relief from exorbitant rates. In many cases it now cost more than ever to get a load of cattle or grain to the Chicago markets.

Meanwhile, Iowa proponents of the tariff law were watching the fate of Wisconsin's similar "Potter Law" which had gone into effect on May 1. A suit filed by a railroad company failing to comply with the law lost in the circuit courts of Wisconsin.<sup>4</sup> This decision was a great boon to the Iowa Attorney General, M. E. Cutts, whose office was readying for the upcoming test case.

As the Iowa law went into effect, compliance was mixed within the state, but all roads raised their through rates. The first cry for repeal came by August 1 from the lumbermen at Clinton, who, before the law was enacted, received a special rate from the roads. Although the Muscatine Weekly Journal warned that the rate rise was only a scare tactic of the railroad companies, the lumbermen were vociferous about their financial

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<sup>3</sup>Throne, "Repeal of the Iowa Granger Law," 104.

<sup>4</sup>Throne, "Repeal of the Iowa Granger Law," 104.

ruin.<sup>5</sup> But the through rate rise turned out to be a blessing in disguise for the lumber industry on the river as months passed.

W. J. Young, the owner of a sawmill at Clinton, recounted the feelings of Clinton's lumbering community at that time. Although he had been receiving a \$10 per car rebate since the establishment of his sawmill, he felt most of the lumbermen supported the idea of a regulatory bill, since it would give them lower Council Bluff to Clinton rates in spite of the rebates. He admitted there was displeasure when the railroads retaliated with higher through rates, but then they realized these higher through rates would also affect the Chicago wholesalers who were their chief rivals. This fact made the Mississippi River businessmen more enthusiastic supporters of the law than the farmers had ever been.<sup>6</sup>

The Chicago, Burlington and Quincy Railroad was the most flagrant in its disobedience of the law, but the machinery for the prosecution of the road took some time to set in motion. The Illinois Central Railroad also did not comply, but the charter it held was older, with regulatory powers of the state less specifically defined. Therefore the Burlington suit was made the test case for Iowa. As was stated in section eight of the law, twenty taxpayers from the county in which the violation had occurred had to submit a petition to the state executive office. By November, several petitions had arrived, citing the Burlington.

The Burlington Railroad, after agreeing on its course of action with

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<sup>5</sup>Weekly Journal (Muscatine, Iowa), August 14, 1874.

<sup>6</sup>George W. Sieber, "The Railroads and Lumber Marketing, 1858-1878: The Relationship between an Iowa Sawmill Firm and the Chicago and Northwestern," Annals of Iowa, XXXIX (Summer, 1967), 41, hereinafter cited as Sieber, "Railroads and Lumber Marketing."

its trunk lines, went to court, thinking it would profit from the mistakes made by companion roads in the adjoining states' courts.<sup>7</sup> The Burlington Railroad fired its opening shot by sending O. H. Browning and Judge David Rorer to Des Moines with a writ of injunction to stop Attorney General M. E. Cutts from commencing any further suits against the company. The case was heard in January, 1875, in the United States Circuit Court at Davenport by Judge John F. Dillon who denied the request for an injunction and affirmed the right of the state to regulate the tariff.<sup>8</sup>

When the annual financial reports of the various railway companies were published in March, 1875, it was found that the railroads in Iowa had shown a \$1,000,000 increase in earnings during 1874 over 1873, despite passage of the tariff regulations. Interestingly, the two roads which showed the smallest increase, the Illinois Central and the Burlington, were the two roads that failed to comply with the law. Records for the four years, 1874-1878, demonstrated that the reduction and equalization of the rates not only increased the roads' business and income, but their net earnings as well.<sup>9</sup>

After the Circuit Court decision, the railroads, while continuing to press their case in the courts, decided to try a more indirect approach through the press. This was ultimately the most effective weapon although it would take almost three years to succeed. News articles began to appear,

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<sup>7</sup>George H. Miller, "Chicago, Burlington and Quincy Railroad Company v. Iowa," Iowa Journal of History, LIV (October, 1956), 299, hereinafter cited as Miller, "Chicago, Burlington and Quincy Railroad v. Iowa."

<sup>8</sup>Throne, "Repeal of the Iowa Granger Law," 106.

<sup>9</sup>William Larrabee, The Railroad Question (Chicago, 1893), 266, hereinafter cited as Larrabee, The Railroad Question.

charging that shipments under the new law were costing more than they had before the Granger law, and that no longer were Eastern or European investors interested in Western railroads.<sup>10</sup> In addition, the Grange began an imperceptible decline during 1875, and the railroads were quick to take the offensive against them. The Iowa Homestead was quick to deny any decline, and to lay out statistics proving the detractors wrong. But for some months the section of the Grange page, listing newly chartered granges, had been missing.

Early in 1875, Governor Carpenter declared his intention not to run again, and for a time party politics turned to the selection of gubernatorial and senatorial candidates. Once these were chosen, repeal or modification of the railroad tariff law became the prime issue. Most of the newspapers, and all of the railroads, were decrying the results of the law, and began gathering their resources in Des Moines for a fight. W. J. Young, the Clinton sawmill operator, made several trips to Des Moines with other Clinton business men to lobby against repeal.<sup>11</sup>

In Governor Carpenter's outgoing annual message to the legislature, he suggested some modification in the tariff law, with the establishment of a board of commissioners. The incoming governor, Samuel J. Kirkwood, reiterated this recommendation in his inaugural speech. On January 27, Judge E. H. Thayer, editor of the Clinton Age, introduced House File 197 to establish a Railroad Commission, and several similar bills followed. On March 7 a substitute bill was agreed to by a vote of 90 to 0. However, the

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<sup>10</sup>Throne, "Repeal of the Iowa Granger Law," 107.

<sup>11</sup>Sieber, "Railroads and Lumber Marketing," 42.

bill in its final form failed of passage 36 to 59.

The issue was fought more heatedly in the Senate. The Railroad Committee researched the advisability of modifying or repealing the law. Frank T. Campbell, author of the 1874 bill, had by this time risen to chairman of the Senate Railroad Committee, and it was probably for this reason that the small majority of the committee recommended that the law be allowed to stand. However, Senator Campbell's majority report defended this recommendation, by stating, in part:

We . . . are satisfied our people have benefitted by it, [the tariff law] the interests of the State advanced. . . . While some of the railroads have complied with the law, others refused to obey it and are fighting. . . . through the courts to the highest tribunal in the land. The courts below have affirmed the constitutionality of its provisions and we anticipate a similar decision from the United States Supreme Court. . . . the law has reduced rates within the State, has wiped out the unjust discriminations and extortions that existed throughout the State. . . . opened up markets within the State. . . . fostered the building up of manufactures at different points, developed our agricultural resources, . . . . Not a petition for repeal from our constituents has reached us. . . .

The railroads of the State claim that the law reduced their rates. . . . too largely but as far as your Committee is aware, do not ask amendments--they desire unconditional repeal. . . . opposing any and all legislation and asking to be "let alone"--unrestricted.<sup>12</sup>

Therefore the majority of the Railroad Committee recommended that the law be left to stand for the time being, until further tests proved its inadequacy. A lengthy and vigorous minority report, sarcastic in tone, was then submitted by George Perkins and S. H. Kinne, which declared that the Senate resolution to have the Railroad Committee consider repeal of all or part of the tariff law, for some reason never having been presented to the committee, made the whole majority report improper. Perkins then

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<sup>12</sup>Senate Journal, 1876, 157.

continued to question the effectiveness of the law:

....there is good reason to doubt that the law as it stands is such as was demanded two years ago by the producing classes and those most interested in the question of cheap transportation....that law is an exaggerated attempt to meet what was then styled the grange sentiment of the State.... Public prints of many communities affirming that the cost of transporting grain to market has been increased under its operation from three to five cents a bushel, while it is generally regarded as having placed an embargo upon railroad building the state over.<sup>13</sup>

Perkins went on to point out the modification of Minnesota's tariff law and read an excerpt from a Madison, Wisconsin newspaper announcing the passage through their lower house of a bill repealing the "objectionable parts" of the Potter Law. He declared that only Frank Campbell's paper, the Newton Head-Light, along with a Muscatine and a Davenport paper, wholeheartedly supported the law. Finally Perkins included an extract from the fifth annual session of the Iowa State Grange, which showed them to be in opposition to the law. This was the report of the Grange Committee which had advised the Railroad Committee prior to passage of the "Grange Law" of 1874.

It was not the sense of your committee that a "cast iron tariff bill" would do justice to the people and to the railways....when transportation levies a tax upon corn greater than the first cost of its production, it is easy to see which is king....Your committee made no suggestions tending to control in minute detail the charges of the roads [but instead] the following propositions:

1. Every tariff be general in form and apply to all persons alike.
2. No intervening station be charged more than a station more remote for the same or similar services.
3. All railway companies be required to transport the cars of other companies, corporations and individuals for a just and reasonable compensation and with dispatch.

.....Abuses should be corrected through the appointment of capable and true men....constituting a system of commissioners....

A member of your committee prepared a bill, one section only

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<sup>13</sup>Senate Journal, 1876, 158.

of which was embodied in the act that was passed....Others [of the General Assembly] agreed this action was a wiser and better course; but alleged that the people demanded a tariff bill; it had been promised on the stump, and they dare not face the Grangers at home unless they supported it....Our propositions were not meant to apply simply to a period of low prices and general depression, such as then existed, but were to be adopted as great principles, and to control the transportation of the future....the most singular feature of this whole matter is 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. It is to be hoped that through this report that error may be corrected, at least so far as the Patrons of Husbandry may have misunderstood the facts.<sup>14</sup>

The several bills introduced in the Senate to modify the tariff bill were postponed and finally tabled by mid-March. Why did all attempts at modification fail in this session? Mildred Throne, writing in the Iowa Journal of History, speculates that the legislators still felt the majority of their constituents wanted a specific law, but probably the primary cause for inaction lay with the railroad lobby. They had succeeded in forcing through repeal of Granger legislation in Minnesota and Wisconsin, and they hoped the same tactics would work in Iowa. In addition, they were demanding "whole hog" repeal, whereas if they had backed the growing sentiment for some modification, there would have been momentum enough to carry it through.

It is significant that in the two month struggle for repeal, the voice of the farmer--the Granger--was not heard. The fight was between the businessmen of the interior, such as John Duncombe of Fort Dodge, and eastern border business men such as Fred O'Donnell and D. E. Lyon of Dubuque. There continued to be an economic struggle between the interior cities which were now paying higher through rates to Chicago and the river towns that

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<sup>14</sup>Senate Journal, 1876, 162-163.

profited by local low rates from their warehouses to the towns of the interior.<sup>15</sup>

The railroad corporations now pinned their last hopes on the upcoming decision by the United States Supreme Court. This would be the first time the Supreme Court had to rule on the question of price controls. The legal issue was this: it was accepted that businesses "affected with the public interest" were subject to statutory rate control. The "Granger states'" position was that railroads and grain elevators were clearly affected with the public interest; therefore, the newly enacted laws were constitutional.<sup>16</sup>

George Miller, who has studied the course of the Granger legislation extensively, describes the rail corporation's position. The Chicago, Burlington and Quincy executives claimed that obedience to the law would reduce their earnings to half. By this time the rail companies realized they could not expect a policy of complete laissez-faire and would have to accept some degree of government regulation, but at the same time the railroad men could not accept a "politically oriented, transient and completely inexperienced body as a suitable authority on rate making."<sup>17</sup> Regulation through the judiciary would give the corporation an opportunity to state their cases in individual suits and would permit them to bring the full measure of their power and influence to bear where it would be most effective. The courts or boards of commissioners acting under judicial supervision could be counted on to give the railroads a respectful hearing

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<sup>15</sup>Throne, "Repeal of the Iowa Granger Law," 115.

<sup>16</sup>Miller, "Chicago, Burlington and Quincy Railroad v. Iowa," 289.

<sup>17</sup>Miller, "Chicago, Burlington and Quincy Railroad v. Iowa," 294.

while a state legislature could not.<sup>18</sup>

The Chicago, Burlington and Quincy line based its case on three points:

1. The law impaired the obligation of contract between the state and the Burlington Railroad.
2. The law attempted to regulate interstate commerce.
3. The law did not act uniformly on all railroads in the state.<sup>19</sup>

When Judge John Dillon of the Circuit Court upheld the Iowa Attorney General's position, the railroads moved on to the Supreme Court with a repetition of this argument. Another argument was added--that the loss of profits was leading to the issuance of drastically reduced dividends. Was this depriving stockholders of property without due process of law?

In writing the majority opinion for the Supreme Court, Chief Justice Morrison R. Waite said:

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 the non-user....

It is very clear that a uniform rate of charges for all railroad companies in the State might operate unjustly upon some. It was proper, therefore, to provide in some way for an adaptation of the rates to the circumstances of the different roads; and the General Assembly in the exercise of its legislative discretion, has seen fit to do this by a system of classification. Whether this was the best that could have been done is not for us to decide. Our province is only to determine whether it could be done at all, and under any circumstances. If it could, the legislature must decide for itself, subject to no control from us, whether the common good requires that it should be done.<sup>20</sup>

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<sup>18</sup>Miller, "Chicago, Burlington and Quincy Railroad v. Iowa," 297.

<sup>19</sup>Miller, "Chicago, Burlington and Quincy Railroad v. Iowa," 303.

<sup>20</sup>Chicago, Burlington and Quincy v. Iowa 94 U.S. Reports (4 Otto), 155.

Defeated in the courts, the railroad managers now endeavored to make odious the new law which deprived them of their manipulative powers. They complied with part of its letter and none of its spirit, contriving to create hardships for certain localities. The allowed maximum was charged in certain cases and when this worked hardship for the producers in that area, the managers pointed to the Granger law, pleading the legislated schedule as an excuse.<sup>21</sup>

However, the railroads expended most of their time, money and effort behind the scenes to rid themselves of the law. Charles Aldrich, a sort of aide-de-camp to Governor Cyrus Carpenter during his four year tenure, was approached in 1877 by John F. Duncombe, an Illinois Central official, and long time opponent of railroad regulation in the Iowa legislature. He had continued his battle against the law since 1874, and he felt the seventeenth General Assembly would be ripe for repeal of the measure with a bit more pressure from the press and the folks at home. Aldrich, something of a political opportunist, had bowed to the prevailing winds during the Grange's zenith and had been uncommitted in the regulation controversy, particularly since his mentor, the governor, had been such a strong supporter of regulation. During his service to Carpenter, Aldrich had come to know many influential people in Chicago and the East, and long years of lobbying in behalf of the Des Moines River lands had taught him diplomacy and dexterity in attaining his goals. For these reasons John Duncombe requested his help in turning public opinion against the law.

First, Duncombe asked Aldrich to travel about the state and seek out

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<sup>21</sup>Larrabee, The Railroad Question, 334.

legislative candidates who might be friendly toward the railroads, so that he could befriend them and put a little money in their campaign chests. In addition, he wanted Aldrich's ideas on ways to turn the public more vociferously against the law. Aldrich suggested that the railroads give up on total repeal, and work toward a commissioner system similar to that in effect in Massachusetts. They should then "agitate the question to the utmost" through the newspapers, and send a capable man east immediately to implement this plan.<sup>22</sup> Of course Aldrich felt that he was the man to do this, and he was chosen.

He traveled first to the Illinois Central offices in Chicago, where his ideas were received coolly, and then on to New York, where he talked to Charles Francis Adams, William Dean Howells of the Atlantic Monthly, and several editors of the daily newspapers. Finally the New York Tribune agreed to hit the subject hard with an editorial right after elections. An editorial appeared on November 15 which "read the riot act" to the Iowa legislature about the disastrous effects of its Granger law. Its major thrust was that all the dire predictions concerning the effects of the law had come true--shipping prices had not been reduced, and railroad construction and investment had virtually ceased in Iowa. The fact that railroad building on a national level had been seriously curtailed since the depression of 1873 was, of course, not mentioned. This editorial was widely reprinted in the Iowa press, and it was effective in tipping the balance for repeal.

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<sup>22</sup>Charles Aldrich, "The Repeal of the Granger Law in Iowa," Iowa Journal of History and Politics, III (April, 1905), 258, hereinafter cited as Aldrich, "Repeal of the Granger Law."

Reminiscing about the incident in 1905, Aldrich stated:

Few would contend at this day for the passage of a law, specifically regulating all the minutia of railroad charges for freight and passenger fares in so many sections and schedules ....At the start the functions of the commission were simply advisory; but both the people and the railroads were willing to be advised.<sup>23</sup>

This last comment by Aldrich must have been a memory softened by the passage of time, for the people as a whole must not have been petitioning for repeal. William Larrabee's recollection of the period found no public expression of dissatisfaction outside the editorial pages of certain newspapers. He felt the "masses desired its [the law's] perfection rather than its repeal. Certainly the railroads were not "willing to be advised." But if they were to be taxed for the commission's salaries, then they felt they could do as they pleased with the advice.

The new governor, John H. Gear, recommended a commission in his inaugural address, as had his three predecessors at various times. The 1878 Iowa statute had indeed been modeled on the Massachusetts system. The success of the new statute now depended entirely on the expertise and integrity of the men who made up the commission, and it is to John Gear's credit that he made the appointments on the basis of merit, not politics. This was especially commendable, since Gear had been elected through railroad influence. As W. H. Fleming wrote to C. C. Carpenter in June, "... the Railroads want the governorship, and Sherman got word the other day that Clinton County delegates who would agree to vote for Gear would come and go free from Des Moines. I fancy these tactics are pursued everywhere."<sup>24</sup> Even the Fort

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<sup>23</sup>Aldrich, "Repeal of the Granger Law," 267.

<sup>24</sup>W. H. Fleming to C. C. Carpenter, June 15, 1877, Carpenter Papers.

Dodge Messenger, a traditional supporter of the railroads, was so furious at the railroad's meddling in state politics that it let go with a blistering editorial: "Mr. Gear's forced nomination...aided by the railroads and the profuse use of whiskey and money, will fall upon the masses of the voters of Iowa like a clap of thunder on a clear day...."<sup>25</sup>

None of the dozens of applicants were seriously considered. Instead, three men were chosen on the basis of their experience in law and with railroading. James W. McDill was a district court judge, C. C. Carpenter was a surveyor and had served as Iowa's chief executive through the turbulent anti-monopoly years and the regulation controversy, and Peter Dey had been in railroad construction, and was the civil engineer required by the statute. In keeping with the provisions of the new law, he was no longer a stockholder or employee of any railroad.

The new administrative agency had little legislated power, but knew how to use the clout of public opinion.<sup>26</sup> Returning good times, and the willingness of the railway companies to soften abuses in force at selected points led to equanimity in rail shipment for some years. Not until after the recession of the mid-eighties did demand for more reasonable rates again rear its head. Then, just prior to passage of the Interstate Commerce Act in 1887, Governor William Larrabee, still seeking a method of regulating railroads effectively, succeeded in pushing through legislation giving Iowa's Railroad Commission some real power.

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<sup>25</sup>Messenger (Fort Dodge), quoted in the Daily Press (Iowa City), July 12, 1877.

<sup>26</sup>Jack T. Johnson, Peter Anthony Dey: Integrity in Public Service (Iowa City, 1939), 182.

Because of the unusually competitive nature of railroad enterprise in the upper Mississippi Valley, and the high degree of absentee control in the area, the Granger states became major centers of experiment with the railroad question. Perhaps the most characteristic trait of the Midwesterner in politics was his clear and direct desire to protect his own interests. If the railroads overcharged, the voters passed a law and fixed rates. If grain elevators monopolized the fields, farmers tried to establish a state elevator. If farm machinery cost too much, they formed a cooperative to buy or make it.<sup>27</sup> A strong sense of sectionalism in the states of the West, their burgeoning economics, and their political immaturity were all factors giving a distinctive character to this reform movement, but the farmer's movement was not a major force in the shaping of this regulation,<sup>28</sup> particularly not in Iowa.

In this case, it was the river merchants first, then the businessmen from way stations in Iowa's interior, who pressed for legislation, distributed petitions and publicized railroad abuses. The completion of the major rail lines combined with the plummeting prices of 1873 needed the catalyst of a grass roots organization such as the Patrons of Husbandry to provide the base the regulation forces needed. It was in this capacity, as hundreds of discontented local Grangers seeking relief and complaining of their plight to their legislators, rather than as a well organized anti-railroad pressure group that the Grange played a part in this event.

The Granger movement was not a failure, although it left few permanent marks in the statute books. It prepared the way for the Farmer's

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<sup>27</sup>Nye, Midwestern Progressive Politics, 30.

<sup>28</sup>Miller, Railroads and the Granger Laws, 196.

Alliance, Populism, and Progressivism. It taught the farmer that joint action got results--and it marked the beginning of the end for the unregulated development of the corporation. The farmer did not gain much in the Midwest of the seventies, but he caught hold of the valuable idea of political action.<sup>29</sup>

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<sup>29</sup>Nye, Midwestern Progressive Politics, 53.

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