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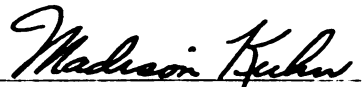
MICHIGAN RAILROAD LEGISLATION

presented by

Richard Harvey Barton

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MICHIGAN RAILROAD REGULATION

BY

Richard Harvey Barton

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MICHIGAN RAILROAD REGULATION

I. Introduction

The State of Michigan has maintained an extremely liberal policy toward its railroad corporations. In the early days of Statehood, the Legislature, through the issuance of special charters, conferred vast powers upon the railroad companies. These powers were granted in the confusion of a move to establish a transportation system which would enable the State to secure a prominent place in the nation. The companies that received these perpetual charters soon grew into powerful corporations and dominated the future development of the State.

Large gifts of public lands were bestowed upon many of the rail companies by the State, while the people gave liberally of their money. These donations appear, in some instances, to be sufficient to have financed the entire construction of the roads. Therefore, it may be said that the people of the State furnished the financial basis for the construction of some railroads and that the directors of the roads were thus given tremendous advantages over other forms of business.

The laws of the State have often been loosely construct-

ed and offered little or no protection to the public. This inadequate public policy permitted the development of unsound business practices, which were financed by excessive demands upon the patrons of the road. Had the Legislature early enforced adequate regulation, the railroad system of the State, at the present time, might well have been more efficient.

The presence of the Great Lakes caused many Legislators to feel that the establishment of maximum rates was unnecessary. It was thought that the competition of Lake shipping would reduce rail rates to a point where maximum legislation would be unneeded. This does not appear to have been a valid contention. Shipping on the Great Lakes could only be carried on during summer months, and since the expenses of the Vessel Associations continued in the winter or off-season, they were forced to charge rates that would yield a profit for the entire year. The railroads could operate during the entire year and their unit cost of transportation could be lower because of this seasonal advantage. The railroads possessed still another advantage over the vessels because of their virtual freedom from taxation. The roads up to 1900, paid only a small tax, either upon capital stock or gross earnings. The vessel associations, however, paid their taxes upon the cash value of their property. The situation within the City of Detroit illustrates the disadvantage of the Lake Shippers

in this problem. The total taxable property of the vessel associations within the city amounted to \$10,042,940 upon which they were taxed at cash value. The railroad property, upon which there was no tax, amounted to nearly \$7,000,000 in fixed investments, or \$37,000,000 if rolling-stock was included.¹ The Lake Shippers, then, had to exact considerable money from their patrons before they could compete upon equal terms with the railroads. Furthermore, the assumption that rates were competitive was not borne out in practice. Governor Pingree asserted that there was no competition between the railroads and the shippers. He charged that the rail corporations controlled or owned nearly all of the vessels,² therefore, competition could not restrain freight rates.

The inability of the State to establish corporate regulation has often been alleged to be the result of the direct political influence of the railroad companies. There seems to have been no lack of public demand for such regulation. Evidences of discriminations and partiality indicates that the railroad policies were not as favorable or beneficial to the development of the State as they might have been. The failure to properly supervise the railroad corporations paved the road to monopoly, speculation, discrimination, and scores of other evils. This unsupervised exercise of corporation power gave the State a much weaker and inefficient transpor-

1 Hazen S. Pingree, Facts and Opinions (Detroit, 1895), 48.

2 Ibid. ,50

tation system than would probably have resulted had the Legislature established a definite policy. Had the State exercised its authority to set up maximum freight rates earlier in its history, the wide scope of speculation and manipulation might well have been lessened. Since this was not done the railroads were enabled to exert tremendous economic power over the life of much of the State. Through the grants of favors in the form of reduced and special rates the railroad corporations actually determined the future of Michigan's smaller cities. By giving partiality to the large business interests, the directors of the railroads determined the State's industrial and agricultural structure at the expense of the smaller business units. Therefore had these roads been subjected to a more definite public policy, the whole history of the State might have been a vastly different and improved story.

II. The Beginning of Special Privileges

It was during the period from 1830 to 1855 that the State of Michigan formulated its policy toward railroad corporations. In its extreme haste to establish a transportation network, which would permit the development of Michigan, the Legislature made many concessions that it later regretted. During the 1830's, the precedent of furnishing financial aid to private companies was made. Vast special privileges were granted by virtue of the charters issued to the railroad corporations. The Legislature surrendered to these companies powers that it should have retained for itself. The power to regulate their own rates, virtual freedom from reasonable taxation, and a perpetual charter, were the outstanding characteristics of the railroad corporations formed in this early period. The State, from the outset, failed to provide

adequate regulatory safeguards to control or curb these excessive powers. The people of the State offered considerable vocal and physical opposition to the granting and use of such widespread powers, but these early evidences of oppression of the public were overlooked by the government. The exigencies of early Statehood produced an official attitude toward private corporations which was largely responsible for their gaining ascendancy over the Legislature.

From 1830 to 1836, the Territorial Government granted special charters to ten private companies interested in the construction of railroads. However, progress on these projects was extremely slow and, by 1836, only four roads offered¹ evidence of materialization. It was apparent that the problems of early railroad building were too difficult for purely local enterprise. Michigan, being sparsely populated, could not adequately finance such undertakings. The Territorial Court also ruled that cities, towns, and counties were incompetent to lend their money to private railroad companies. The result of these financial and judicial limitations meant that Michigan's transportation system would be inadequate for many years to come unless other measures were adopted.

In 1837, after Michigan attained Statehood, the Legislature began taking decisive steps to aid the growth of railroads. During the Legislative Session, four acts were passed placing the State in the position of furnishing aid to

private companies.² Two of the acts were designed to guarantee stock issues of the Detroit and Pontiac and the Palmyra and Jacksonburg railroad companies. The other two acts authorized a State loan of \$100,000 to both the Allegan and Marshall and the Ypsilanti and Tecumseh railroads. These four acts seem to have opened the way for the liberal flow of public funds which were to follow.

The Legislature chose to go even further in its plan to encourage rail growth within the state. It decided, in 1837, that the State should build the railroads which were vitally needed before Michigan could develop its area and resources. The Legislature proposed that three railroads be constructed across the Lower Peninsula, to be known as the "Northern", "Southern", and the "Central" railroads. The State bonded itself to the extent of \$5,000,000 an exceedingly large sum when it is realized that the 100,000 people of Michigan were primarily engaged in agriculture.³

The Legislature probably considered three principal factors in taking up such an ambitious task. First, the added railroads would encourage settlers to seek Michigan as a new home. Second, the agricultural and business interests of the State would have an improved outlet to the Eastern markets. Third, and probably uppermost in the minds of the

¹ Special Report of the Michigan Railroad Commission (Lansing, 1919), 6. Hereafter cited as Special Report.

² Ibid., 6.

³ Laws of Michigan (1837), Act 67.

Legislature, it was expected that the income and profit from the operation of the roads would more than pay all the expenses of the State government. The people were enthusiastic over the prospect of living in a taxless state, therefore the whole project was viewed with general approval.

Difficulties arose from 1837 to 1846 which completely shattered this early attempt at government ownership of public utilities. The financial panic of 1837 had seriously impaired both the finances and the credit of the State. Materials used and methods of construction of the "Central" and the "Southern" roads were inefficient and expensive. The cost of maintenance of those portions of the track already completed was excessive. Even the assistance received from the sales of a Federal Land Grant, in 1841, of 500,000 acres was not enough to complete the projects. The State made no progress on the "Northern" route and only about sixty miles of the "Southern" road was ever completed. It was decided that the "Central" route would be the most important, and all efforts were directed upon it to the exclusion of the other two roads. The proceeds, from the sale of 254,000 acres of the land grant and the remaining resources of the state, were not sufficient to complete the road to Lake Michigan.⁴ Also the public mind, which earlier had urged state construction,

⁴ Special Report, 6.

had suffered a change and, from 1842 onwards, demanded that the Government give up its role of railroad promoter. By 1846, the credit of the State was dangerously undermined. The interest on the public debt had reached a yearly total of \$240,000 while the total yearly tax return was only \$72,305.23.⁵ Both the Legislature and the people were extremely anxious to escape further association with this financial handicap. Thus in 1846 the decision was easily made to sell the roads to private concerns. The State having expended \$2,902,632.48 upon the Central and Southern roads managed to dispose of these two roads for the sum of \$2,500,000. Eastern capitalists comprised the most important elements in the two new companies. From 1846 to the present day, Michigan railroads have been dominated in large part by eastern or foreign financial interests.

The transfer of the railroad property and the incorporation of the new Michigan Central and Michigan Southern Railroad Companies was accomplished by special acts of the Legislature. It was through these acts creating the new companies, that the Legislature itself founded the evils which were to harass the general public for the next seventy-five years. In their haste to rid themselves of a financial burden, the Legislature authorized the formation of corporations so powerful that they came to dominate the government who created them.

⁵ Wilbur O. Hedrick, The History of Railroad Taxation in Michigan (Lansing, 1912).

An examination of the provisions of the special charters reveals the magnitude of the powers and privileges contained therein.⁶ The outstanding feature of the special charter is the perpetual life given to the corporation receiving it. The only restriction imposed upon corporate life was found in the right of the state to amend, alter, or repeal the charter at any time after the charter had been in effect for thirty years. These alterations could only be effected by a two-thirds vote of both branches of the Legislature. In the event of Legislative action the company was to be compensated for any losses resulting from the amendment or repeal. From 1846 to 1900 when the charter was finally repealed, the Michigan Central enjoyed tremendous privileges. It could reject or accept amendments to its charter as the directors saw fit. For example, in 1859, the directors of the road refused to accept an act of the Legislature which gave to the stockholder certain powers over the actions of the directors.⁷ This enviable privilege of rejecting all attempts toward regulation was enjoyed until 1900. Privileges of this nature placed the charter roads beyond the power of the State and its agencies.

The Legislature of 1846 still retained the hope that the State might some day re-enter the field of government ownership of railroads. The special charters contained the provi-

⁶ Laws of Michigan (1846), Act 42 created Michigan Central Railroad Company.

⁷ Laws of Michigan (1859), Act 95.

sion that the State might repurchase the roads at any time after January, 1867. The cost of such a transaction was to be the market value of the capital stock and bonds plus an additional ten per cent of that value. The ten per cent figure reveals somewhat, the amount of profit that the promoters expected to realize upon their investment. The Michigan Central was known in railroad talk as a "ten per cent" road and much of their later action may be traced to their determination to maintain this margin of profit each year.

The power to fix rates was surrendered by the Legislature to the special charter roads. All passenger rates were fixed at three cents per mile, with an added provision that an additional ten cents might be charged for tickets sold for distances under thirty miles. The three cent maximum was never lowered until 1900 when the charter roads came under the general law. When in 1889, it was found necessary to reduce passenger rates to a two cent maximum on the general law railroads, the special charter roads were immune from the reduction. Their charters could not be amended without their consent, so they continued to enjoy excessive passenger profits long after the other roads were forced to charge more reasonable rates. The provisions governing freight rates were somewhat more detailed. On all grain and flour the railroad might not charge more than three-fourths of the rate asked by the State, when it controlled the rail-roads on January 1st, 1846. On all other items the rate was not to exceed the average amount per mile charged on the Boston and Lowell, the Boston and

Providence, and the Boston and Worcester railroads during September and October, 1845. These rates were not to be revised oftener than once every ten years. If revision was found to be necessary it would be accomplished through a committee, consisting of state officials and directors of the railroad. It is worth noting that these rates were never revised. While this maximum level may not have been excessive in 1846, it might well have been excessive in any period following that date. Since the State did not establish maximum rate regulation until 1907, the charter roads were authorized to charge rates well in advance of any that might have resulted from competitive forces.

In addition to the foregoing powers, the charter roads were allowed to escape their share of the tax burden of the State. They were only subject to a small specific tax upon their capital stock. This tax totaled three-fourths of one per cent until 1851 when it was to be increased to one per cent. "Thereafter the property and effects of the company, whether real, personal or mixed, shall, in consideration thereof, be exempt from all and every tax, charge, or exact-ion by virtue of any laws of this State now or hereafter to be in force." This privilege was to have several repercussions. It permitted the chartered roads to escape municipal taxation and as a result the Michigan Central soon acquired large tracts of land with the city limits of Detroit and Jackson, upon which they established railroad shops and other facilit-

ies. The Central was then enabled to enjoy the facilities and advantages of these larger centers without having to contribute to the support of the local government. However it was public opposition to the inequalities of this form of taxation which eventually lead to the repeal of the special charters in 1900.

The Michigan Central charter of 1846 also gave it a virtual monopoly over the route from Detroit to Chicago. The charter provided that no railroad thereafter built west of Wayne County shall approach within five miles of the Michigan Central without its consent. Another provision stated that no other railroad shall approach within twenty miles of Detroit, or run to Lake Michigan, or the Southern boundary of the State, the line of which on an average was within twenty miles of the Michigan Central. These provisions prevented the development of any new railroads from Detroit to Chicago, thus giving the Central complete control of all of the territory between those two important centers of trade. It forced such later roads, as the Pere Marquette and the Grand Trunk, to locate their routes to Chicago north of that of the Michigan Central thus giving the later the shorter line between the two cities. Because of this monopoly the Central had more discretion over the determining of its freight and passenger rates than it would have had under more normal conditions of competition.

The absence of concern for the public welfare on the part of the Legislature is further revealed by an examination of some of the features of the charter of the Detroit and Milwaukee Railroad Company. This company acquired the franchise of the original Detroit and Pontiac Railroad Company which had been chartered in 1834. The Territorial Legislature had given the Detroit and Pontiac complete power to regulate their own passenger and freight rates. In 1855, the Legislature amended the old charter so as to fix a specific tax of one per cent upon the capital stock of the Company, and also exempted it from all future taxation. The glaring omission of the Legislature of 1855 was found in the failure of that body to provide any means for the amendment or repeal of the charter of the Detroit and Milwaukee. This resulted in the creation of a corporation which was completely beyond the authority or power of the State. When, in 1900, the special charters were repealed it was discovered that this company held a truly perpetual charter which could not be revoked by any action of the state. This charter continued in force until 1925 when it was finally surrendered by the officials of the company.

To each special charter was added a provision forbidding discrimination and declaring that the railroad shall transport merchandise and property without showing partiality or

favor. This revision was never obeyed by the chartered roads. Of all the charges leveled against the railroads during the next seventy-five years, discrimination occupied the major role. In fact, discrimination and partiality became an accepted policy of all the principal roads of the state. The people soon discovered that the mere enactment of laws prohibiting discrimination would not suffice. There must be adequate enforcement of that law before the evil was to be corrected.

Just what power did the State retain over the chartered roads to prevent their exploitation of the generosity so liberally given by the Legislature? There was no control of any effective nature. The only visible link appeared in the provision that the railroads must submit an annual report of the condition of their company to the Secretary of State. However, this report represented no imposition of the authority of the State upon the control and management of the railroads. Therefore it must be concluded that the Legislature, in 1846, had created corporations with such vast powers and protected by such privileges that the State could not enact effective regulatory restrictions to curb their increasing influence. The action of the legislators in 1846 had the effect of subjecting the people of the state to the will of eastern capitalists for the remainder of the Nineteenth Century.

The granting of such extensive power to eastern capitalists met with widespread opposition from several sections of the State. In the 1846 Legislature there were some persons who realized the magnitude of the concessions being made to these railroad companies. A motion was submitted in the House to amend the title of the bill forming the Michigan Southern Railroad Company to read, "A Bill to transfer the sovereignty of the State of Michigan to a company of Yankee speculators."⁸ This point of view was not held by the majority of the legislators who seemingly felt that railroads were essential regardless of the price paid.

There appeared many instances of opposition to the policies and practices of the eastern managers following 1846. This opposition to the arbitrary rule of the railroads reached its peak in the years from 1849 to 1852, along the route of the Michigan Central. These disputes involved principally the destruction of livestock by the trains of that corporation, although some ill will was aroused by the failure of passenger trains to stop at designated stations. The farmers charged that the railroad failed to properly fence their right of way, thus making it possible for the livestock to wander onto tracks and in many cases being destroyed by the new, fast locomotives. This situation had not been as serious when the State was operating the roads as their equipment was -----

⁸ "Special Report of the Railroad Committee" in Journal of the House of Representative of the State of Michigan (1877), vol. II., 1222. Hereafter cited as House Journal.

inefficient and slow. Also the State had appointed a Board of Auditors who usually liberally settled such claims. But, now with the roads in the hands of Eastern financial interests, the farmers found it considerably more difficult to secure adequate settlement of their claims for destroyed livestock. The management of the Michigan Central was anxious to reduce this rather heavy potential drain upon their treasury so, in 1849, they issued a directive stating that henceforth they would only pay one-half of the value of all livestock destroyed by their trains. This announcement caused a great amount of resentment among the farmers and violence against the Michigan Central property soon followed. In the Jackson area a secret organization known as the "Pioneers" was formed, its main purpose being that of disrupting the normal operation of the railroad service.⁹ During 1849, and for several years thereafter the Michigan Central was subjected to various forms of inconveniences. The rails were often greased on steep grades, the wood supply along the route would be destroyed by fire, obstructions would appear on the tracks, and in some instances the engineer would be fired upon by unknown persons. All these annoyances seem to have been inspired by the motive to disrupt the passenger and freight business of the company. Apparently these attacks were having some effect upon the normal business of the road for the company soon took steps

9 Alvin F. Harlow, The Road of the Century (N.Y. 1947), 224.

to end these disturbances. The Michigan Central employed as many as one hundred spies or agents at one time in Jackson County during 1850, in an attempt to discover some of the conspirators.¹⁰ When, on November 19, 1850, the Michigan Central Depot in Detroit was destroyed by fire, the company intensified its counter-operations against the farmers of Jackson County. On the night of April 19, 1851, agents of the Central arrested thirty-eight persons at Michigan Center and immediately sent them to Detroit for trial on charges of burning the Detroit depot. Public opinion generally supported the railroad at this time and particularly⁴ in Detroit where the company had great influence with the Press and the judiciary. It was due to this favorable attitude in the State's largest city that the trial was transferred there to take advantage of the forces of popular opinion. While the trial was outwardly conducted by the Court of Wayne County, actually the officials of the Michigan Central wielded the prosecution of the case. This is evidenced by the removal of the prisoners from Jackson County, where they legally should have been tried, to Detroit where public opinion was solidly aligned against them. After arrival in Detroit the bail for each prisoner was fixed so high that it could not be met. The Michigan Central then employed ten eminent lawyers to handle the prosecution of the case. In addition the company retained every lawyer of

¹⁰ George E. Baker, ed., The Works of William H. Seward (N.Y. 1853), vol. I, 528-9.

distinction, except one, in the State to prevent them from being used by the defense.¹¹ This latter action had been accomplished even before the defendants had been arrested. The defense appealed to William H. Seward of New York to represent them, being unable to engage adequate legal talent within the State of Michigan. Seward agreed to represent the thirty-eight prisoners and it was largely due to his efforts that many hidden motives in the case were exposed. He brought to light the contention that the Central had deliberately connived with paid witnesses to implicate innocent persons in the crime of burning the depot at Detroit. Senator Seward produced evidence in court that one of the chief witnesses for the railroad had received one thousand dollars from the company to wrongfully implicate some of the defendants in the details of the fire. The course of the trial revealed that many of the persons appearing for the prosecution were employed by the railroad to testify in their behalf. During the long trial, from May 29, 1851, to September 26, 1851, Seward largely discredited the evidence which previously had been compiled against the defendants. Due to the revelations of this famous statesman, public opinion was abandoning the cause of the Michigan Central and was inclined to back the seemingly victimized defendants. It is to the credit of Seward that only twelve of the

11 Ibid., lxxx-lxxxi.

prisoners received jail sentences at the conclusion of the trial. Without his support it is certain that all would have been speedily convicted without a fair trial. However, the trial did give many people of the State an opportunity to view the methods of a powerful corporation, methods which were to be employed many times in the future with more success than in 1851. The results of the trial did not have the effect that the railroad desired. The attacks continued for several years after 1851, and several other depots were burned along the route of the Central.

Other milder forms of opposition to the chartered roads appeared in other areas of the State. Early in 1851, the directors of the Michigan Central attempted to change the route of their line from the one fixed by their charter. The charter required that the western terminus of the line be the town of New Buffalo on Lake Michigan, but the company was attempting to shorten the route to Chicago, and they were making efforts to by-pass New Buffalo. This contemplated action brought a protest from the citizens of the town who petitioned the State Senate in an attempt to prevent such a move.¹² The town protested that many people had settled in the area on the basis that the railroad would soon be a reality. Also the citizens had provided the Central with a right of way on extremely liberal terms, expecting to -----

12 Documents Accompanying the Journal of the Senate of the State of Michigan (1851), document no. 17.

be compensated in the form of benefits received from increased business activity. The Michigan Central had control of the harbor of New Buffalo and only permitted their own ships to use that harbor and its facilities. The citizens charged that the railroad levied excessive rates for their water transportation and that therefore they were entirely at the mercy of the railroad both from the land and the water. The people of New Buffalo asked redress for these grievances, but expressed fear that they would not be granted because of the influence which the Michigan Central held over the Legislature. The petition further charged that the Company used three methods to control the Legislature and other high officials: first, the issuance of free passes to legislators and their families; second, the giving of lavish parties featuring oysters and champagne; and third, outright bribery of legislators.

The Michigan Central was not allowed to alter their route by the Legislature, but this decision probably resulted more from the influence of the Michigan Southern Railroad and not the thought of the welfare of the citizens of the petitioning town. The Michigan Southern Company at this time was engaging in a race with the Central to determine which would reach Chicago first, therefore it was to the interests of the Southern to have the Central adhere to

the original terminal at New Buffalo.

Although there was competition between the two main roads in the struggle to reach Chicago, it does not seem to have carried into the field of freight and passenger rates. The persons who lived between the routes of the Central and the Southern felt doubly oppressed. In 1853, the citizens of Hillsdale County called the attention of the Legislature to their condition.¹⁴ The petition pointed out that both roads had large and unusual powers, including the authority to fix their own rates. The rates were then considered unreasonable and oppressive. It was stated that the tariff for freights and passengers was from thirty to forty per cent higher than on eastern roads under Legislative control, and that the cost of construction of the Michigan roads was not more than one-third that of the eastern roads. Petitions of this nature could not be expected to have any response from the Legislature for two reasons. First, this body was powerless to amend the charters of these roads; and second, the railroads were beginning to exert such a political influence as to block all other attempts to establish regulatory agencies.

These examples of public displeasure resulting from practices of the railroad corporations, while not harmful to the charter roads, did result in Constitutional limitations being adopted. The new Constitution of 1850 reflect-

¹³ James F. Joy, "Railroad History of Michigan", in Michigan Pioneer and Historical Society XXII (1893), 302-4.

¹⁴ Documents of the House and Senate of the State of Michigan (1853) House document no.9.

ed some of the resentment which the people of the State carried from their previous experiences with the rail companies. The Constitution ended the practice of incorporation by special act of the Legislature when it made provision for such incorporation by general law.¹⁵ This did not disturb the life of the special charter roads, but it did serve to prevent a birth of any more such powerful entities. Further, to prevent a repetition of the mistakes in public enterprise, the State was forbidden to engage in any work of internal improvement, except in the expenditure of grants of land which were set aside for that purpose. Neither could the State grant its credit to any corporation nor could it subscribe to the stock of any corporation.¹⁶

Even these Constitutional restrictions were to be violated by future Governors and Legislatures. The municipal aid movement and the State swamp land grants of the 1860's seem to have completely circumvented the spirit if not the letter of this Constitution.

Many of the later evils of railroad corporations which befell the people of the State may be said to have originated by virtue of the actions of the Legislature of 1846. The Michigan Central and the Michigan Southern were each given virtual monopolies of the territory between Detroit and Chicago. Because of this early origin and the many special

¹⁵ Constitution of 1850, Article XV, section 1.

¹⁶ Ibid., Article XIV, sections 6,7,8,9.

privileges each enjoyed, this section of the State has never witnessed competitive railroad conditions. With in a short time these two corporations made traffic agreements, and by 1870, both companies came under the ownership of the Vanderbilt family. The inefficient railroad facilities of the remainder of the Lower Peninsula may be largely blamed upon the monopoly held over the southern section of Michigan by the Central and Southern railroads. The actions of the Legislature in surrendering the sovereignty of the State to Eastern capitalists finds little justification even in view of the desperate financial conditions of that day. Absentee ownership and management did not attempt to provide reasonable or adequate rail service for the people of the State. Through political influence and financial manipulation the Eastern managers were to skim off the cream of the results of the industry of the people of Michigan.

III. The Era of Liberality

During the fifteen year period from 1855 to 1870, the railroads received liberal assistance from various sources. The Federal and the State governments offered generous grants of public lands to the railroads in an effort to stimulate rail development. The people of Michigan, through their local governmental units gave financial and other types of aids to the railroad corporations. It is difficult to determine whether these various types of aid furnished enough financial assistance to permit the construction of the entire railroad line of each corporation to which they were extended. However, there is some evidence which indicates that in many instances the aid was sufficient, had it been judiciously applied, to cover the expenses of construction and in addition permit purchase of rolling stock. The General Railroad act of 1855, permitting the general incorporation of railroad companies, was so weakly constituted that it abetted unsound business practices. Many promoters of railroad corporations were enabled to speculate with the public lands and also to take advantage of the public generosity for their own personal profit. The need and desire for additional rail service was so widespread that the Legislature hesitated in harnessing the vast powers of the railroads.

This hesitation on the part of the law-makers served to encourage Eastern capitalists to seize complete control of the Michigan railroad system.

The practice of granting special charters to railroad corporations in Michigan did not end until 1855. This was an unwieldy procedure and the previous experiences with the Michigan Central and other similar corporations proved that it was also a costly method. The lawyers of the companies seeking charters seemed to have been exceedingly adept in winning handsome concessions from the Legislature. Accordingly many people came to demand a different method of incorporation. Some wanted to facilitate the formation of new companies to promote needed rail facilities, while others wanted a definite incorporation structure which would prevent the continuation of such liberal special privileges as those granted in 1846. These feelings had found expression in the Constitution of 1850 which contained a provision for a general incorporation procedure. However, the enactment of a specific statute was delayed until 1855. The fact, that five years elapsed before the General Railroad Law was formed in 1855, involves some interesting considerations. There had been a general public demand for such legislation but certain powerful opposition may well have delayed the passage of the act. The special charter roads and especially the Michigan Central would have looked with disfavor upon any method which would have easily allowed new competitive roads to emerge. The Central enjoyed a monopoly of trade through

the lower section of the State and would not encourage any increase in railroads in this area which they could not control or dominate. Another powerful, but totally different group, that opposed a general increase in the transportation system of the State, were the small-town merchants. This group also enjoyed a relative monopoly of the local business in its respective areas, a monopoly which would be lessened or destroyed by the advent of competitive railroads service.

The over-all demand for additional railroads finally forced the passage of the General Railroad Act of 1855.¹ This law was hastily constructed and contained many provisions which later served to promote speculation and mismanagement in the formation and development of railroad companies. The general procedure, that was followed in incorporation under the Act of 1855, consisted of five basic requirements. The persons interested in forming a company had to file, with the Secretary of State, papers known as the "Articles of Association"² with the following information:

1. Name of the proposed corporation.
 2. Purpose of the Corporation.
 3. Amount of the capital stock.
 4. Amount of capital stock actually paid in.
 5. Place where operations are to be carried on and terms of the existence of the corporation.
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¹ Laws of Michigan (1855), Act 82.

² Alfred Russell, "Corporations in Michigan", in Michigan Political Science Association (March, 1894), 97-108.

The sections of the Act regulating capitalization were so weak that they invited speculation and excessive stock issues. Any company could incorporate under the general law at any time after one thousand dollars per mile of stock was pledged and when only five per cent of that amount was actually paid in. After being incorporated the company was limited to not less than eight thousand dollars per mile in capital stock if an iron T-rail was to be used in the construction of the road. There was no limit as to how high the corporation might capitalize for each mile of road, nor was there any restriction governing the issuance of stocks or bonds only when backed by specific assets. These omissions allowed the railroad corporations to become heavily over-capitalized in the immediate future, a condition which greatly aided the railroads in their struggle to evade rate regulation and to conceal their earnings.

The General Railroad Act attempted to impose some regulations over freight and passenger rates to be charged by the companies formed under its provisions. Passenger rates were fixed at a flat three cents per mile maximum for all travel exceeding five miles. This limit was raised in 1873 to five cents per mile for all railroads in the Upper Peninsula. The Legislature apparently felt that roads operating in that sparsely settled area needed special consideration. The Upper Peninsula roads enjoyed these attractive rates until 1889, notwithstanding the fact that nearly all of these

roads were controlled by powerful corporations directed by Eastern and Foreign capitalists. The principal feature of this double standard of passenger rate regulation lay in the Legislative action in discriminating against the people of the Upper Peninsula who were forced to contribute heavily to absentee ownership.

Freight regulation under the Act of 1855 was not as definite as that of passenger fares. Section 35 of the Law provided that, "The Legislature may...from time to time alter or reduce the rates of toll, fare, freight, or other profits upon such road, but the same shall not, without the consent of the corporation, be reduced as to produce less than fifteen per cent per annum on the capital actually paid in". Since there was no limit upon capitalization, any trend toward overcapitalization would have resulted in increased profits as the roads seem to have been guaranteed fifteen per cent on their capital stock. This section was soon repealed and never became an important force in rate regulation in the State. However, after the repeal of this provision the Legislature did not substitute any other form of regulation upon railroad rates, and the State remained without such protection until 1907.

The Railroad Law of 1855 also failed to provide for any effective control of the railroad companies which it created. In instances of violations of any of the laws of the State there were no provisions for police action or penalties to be assessed. Therefore it was possible for many companies

to be formed with the primary purpose of speculation in bonds and stocks. The people of Michigan have invested millions of dollars in such companies principally benefiting the promoter who seemed more interested in the financial scheme than in building railroads. The Special Report of the Michigan Railroad Commission reveals the fluctuating and uncertain corporate history of the majority of Michigan's railroad companies. Much of this early uncertainty must be attributed to the weaknesses of the General Railroad Law of 1855.

It is doubtful whether the enactment of this Law alone would have provided the needed impetus for rail expansion had not other forms of aid been forthcoming. Federal and State land grants combined with individual and municipal aids offered the financial inducement that seemed to be needed by railroad promoters. In 1856, in response to repeated pressures from the State level, the Federal Government granted to several States, large grants of public land solely designed for railroad aid. Specifically, the act granted to the railroad one-half of the land lying in a strip six miles wide on each side of the proposed road. It undoubtedly was the intent of the Federal Government that these lands be applied to the needed construction of rail systems either through the direct sales of the acreage or else by obtaining credit on the basis of the enhanced values that the lands were expected to acquire. This intent has been real-

ized. A summary of the financial history of the land grants reveals that the net amounts received by the railroads through sales, rentals, and royalties have been considerably larger than was the original value of the land grants.

The State of Michigan moved quickly to accept the benefits of the Federal liberality and in 1857 established the administrative machinery necessary to the disposal of the land to the railroads.³ A six member Board of Control was formed whose duty it was to manage the disposal of the lands to the companies authorized by the Legislature to receive a specific grant. It seems that it was not the intent of the Legislature that this Board should regulate the railroad in any manner, but rather the primary function was one of assistance in speeding rail construction. This would have been the ideal occasion to have instituted regulatory agencies or practices upon the railroads as a condition of receiving a grant of land. But the need for transportation seemed to have been more pressing than the need for adequate regulation and the State failed to take advantage of this opportunity. Perhaps the attitude of the State toward railroads is summarized in the words of Governor Warner who, in 1859, addressed the Legislature in this manner, "The State bears to them the same relationship that the guardian bears to his ward...These new roads ought not be taxed too high, no higher than other roads".⁴ The Legislature heeded

³ Laws of Michigan (1857), Act 126

⁴ George N. Fuller, ed. Messages of the Governors of Michigan (Lansing, 1927), vol. II 364.

the Governor's advice and in the same year imposed a small specific tax of one per cent upon capital stock upon all roads formed under the General Law. It appears that the State still regarded this type of tax sufficient to meet the expenses of government, which may in part account for this slight levy.

The features of the Michigan law accepting the land grant provided for favorable terms to any railroad company receiving a grant. The original law provided that a company who possessed a grant would receive and could sell sixty sections of land after completing each twenty continuous miles of track. Upon completion of the entire route, as prescribed by its charter, the company would receive the remainder of the land grant to dispose of as it desired. The law was liberalized by an amendment in 1859, which increased from sixty to one hundred and twenty sections the amount of land that might be sold after completion of twenty miles of road.⁵ This later action meant that the railroad would receive 3,840 acres of land for each mile of road constructed or 76,800 acres for each twenty miles. The acreage of the Federal land grant was located in the Northern half of the Lower Peninsula and in the Upper Peninsula, and these acres possessed a value far in excess of any return for the land alone. Much of this land was covered with valuable timber and in the Upper Peninsula there existed a considerable mineral wealth, in addition to the timber stand. The possibilities of the

5 Laws of Michigan (1859), Act 157

land grants appealed to many people of the state. Following 1857, numerous petitions were received by the Legislature from railroad companies and from private citizens requesting grants of land to either continue construction or to initiate new roads. The directors of the Amboy, Lansing, and Traverse Bay railroad in their petition stated that a grant of land to them would greatly benefit the State. They proposed to connect the southern terminus of their route with the northern tip of the Cincinnati and Mackinaw of Ohio, thus making Michigan the Northern link of a route running to the Gulf of Mexico.⁶ The citizens of Allegan County appealed for land, the proceeds of which would be used to build a road from Grand Rapids to Allegan and from there to New Buffalo. "This is an important lumbering and agricultural area and we are now seriously handicapped for want of railroad facilities".⁷

This latter petition reflected the high value which many people placed upon railroads. Transportation was imperative to the economic prosperity of the greater portion of the State. It was this prevalent feeling that prompted hundreds of citizens to earnestly petition the Legislature for grants of land to various railroad companies. However, other less desirable forces were being organized which capitalized on the enthusiasm of the people and the generosity of the State. Many companies were being organized

⁶ Documents Accompanying the Journal of the House (1857), Document no. 11.

⁷ Documents Accompanying the Journal of the Senate (1857), Document no. 23.

throughout the State with the primary purpose of obtaining a portion of the public land. Not infrequently, several companies were organized in the same locality all seeking a land grant which could only be given to one of the companies. Therefore, each such company employed all the means it could muster to influence the Legislature to enact legislation conferring upon them alone the land grant. Many of the petitions arising from the citizens may have been sponsored by such promoters. However, in many instances stronger or more unethical methods may have been used. One early Historian makes this statement concerning the successful attempt of the directors of the Grand Rapids and Indiana to secure a grant: "The officers returned from the stubborn fight, victorious to be sure, but with a depleted treasury..."⁸ Perhaps the keen competition for the rights to a land grant did produce some sharp pressures upon the Legislature, but all of the details behind the granting of specific lands to individual companies have not been revealed. The Legislature, being subjected to this barrage of pressure, began in 1857, to parcel out the acreage to those companies who were able to secure the necessary legislation. From 1857 to 1889, when the grant was finally terminated, the Legislature made twenty-four separate grants of land designed to speed and encourage railroads construction.⁹ Originally most of the land was granted to small, privately formed

⁸ Albert Baxter, History of the City of Grand Rapids (N.Y. 1891), 537.

⁹ Special Report of the Michigan Railroad Commission, 10-12.

companies dominated by citizens of the State. But within a comparatively short period of time the control of these companies fell into the hands of other powerful corporations dominated by Eastern Capitalists. Therefore, the various land grants which were solely designed to promote transportation development came under the control of persons who sometimes used them more for purposes of financial manipulation or to establish monopolistic rail systems. Because these grants were located in distinct sections of the State, the company or persons controlling those grants would be enabled to obtain a virtual monopoly of the rail facilities of that section. The possession of a land grant gave tremendous advantages which other roads could not overcome.

In 1861, the State supplemented the land grant acreage with additional grants from its own swamp lands. These lands were located in the Upper Peninsula and were naturally granted to prospective companies interested in construction in that area. The important consideration involved in the Swamp Land grants appears when the Constitution of 1850 was recalled. This instrument specifically prohibited the State from giving aid to private companies for purposes of internal improvements, and this action in 1861 would appear to be a violation of that provision. However, no one appeared to contest this move and the railroads of the Upper Peninsula continued to receive this direct aid from the State.

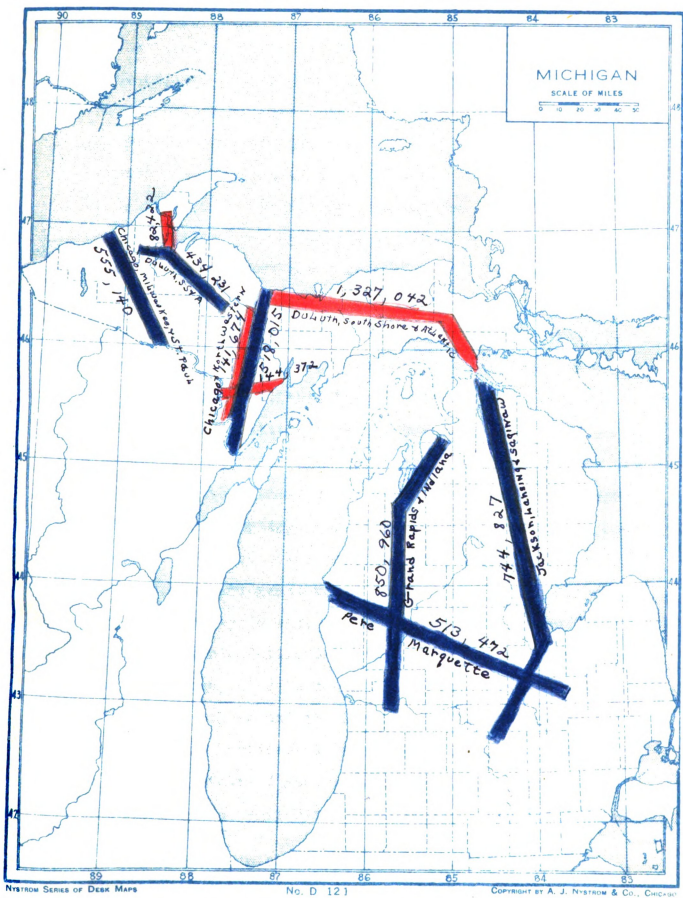
Through the contributions of both public and swamp lands,

the railroads received approximately 5,348,623 acres to disposed of in a manner primarily designed to defray the cost of construction. Specifically, the total acreage fell under the control of a few major railroad corporations.

<u>COMPANY</u>	<u>LAND GRANT</u>	<u>SWAMP GRANT</u>
Duluth, South Shore & Atlantic	434,231	1,409,464
Pennsylvania (Grand Rapids & Indiana)	850,960	
Chicago & Northwestern	518,015	286,046
Chicago, Milwaukee & St. Paul	555,140	
Michigan Central (Jackson Lansing, & Saginaw)	744,827	
Pere Marquette	513,472	
Grand Trunk Western	6,468	
	<u>3,653,113</u>	<u>1,695,510</u>

The map on the following page shows the general location of the major grants of public and swamp lands in the State. The shaded areas are approximately six miles in width and it was from these shaded limits that the railroads selected the lands actually patented to them.

One of the major points of dispute which has arisen from the land grant program, centers around the extent of the financial returns enjoyed by the railroad corporations from these grants. The questions has often been asked, did the railroads receive enough from the sale of their lands to finance the construction of their line? Did they receive enough to also purchase rolling-stock and erect depots and other facilities? These questions cannot be accurately answered because of the incomplete public records offered by the railroad corporations. However, an examination of some



Public Lands
State Swamp Lands

of the reports to the stockholders during the early land grant period, reveals some evidence which indicates that the benefits were extremely liberal. A close inspection of the Grand Rapids and Indiana Railroad is offered as it involves two aspects of the land grant problems. First, it shows the method which large eastern corporations used to gain control of land grants made to other companies; and second, it discloses the approximate value of a land account to a railroad corporation. The Grand Rapids and Indiana was given a land grant in 1857 by the Legislature. The original grant began at the City of Grand Rapids and extended north to Big Traverse Bay, this latter point being extended still further north to Little Traverse Bay at a later date. The original company experienced financial difficulties in attempting to extend their route north of Grand Rapids, and by 1867, had not completed the first twenty miles of the road. Unless this twenty miles was completed within a ten year period the entire grant would be forfeited. The directors of the Grand Rapids were forced to seek assistance from the Pennsylvania Railroad Company. In 1867 and 1868, this Eastern Company came into control of the Grand Rapids through a financing scheme and the formation of a construction company. The Continental Improvement Company was incorporated in the State of Pennsylvania solely for the purpose of building the remainder of the route of the Michigan road. 10

10 Baxter, op cit. 533. See also H.W. Schotter, The Growth and Development of the Pennsylvania R.R. Company (Philadelphia, 1927), 108.

This Improvement Company was promoted by the President of the Pittsburg, Fort Wayne, and Chicago Railroad, a subsidiary of the Pennsylvania. The method of financing the Grand Rapids was unique in that the Pennsylvania Company came into control of a road through a very small outlay of money. The Grand Rapids and Indiana was to issue bonds to the amount of \$8,000,000., these bonds being secured by a First Mortgage upon the road and its land grant. These bonds were to be paid to the Continental Improvement Company to be used for the construction of the northern route. In addition to the bond issue the Grand Rapids and Indiana was to assign to the Improvement Company \$100,000. of its capital stock for each twenty miles of road constructed. The entire land grant was also assigned to the Construction Company, The Pittsburg Fort Wayne and Chicago R.R. Company then guaranteed the principal of, and the interest on \$4,000,000 of the First Mortgage Bonds, in return for which the Grand Rapids and Indiana turned over such amounts of its capital stock as would give control of the company to the Pennsylvania R.R. Company.¹¹ Through these financial arrangements the Pennsylvania came into control of a company who was then bonded to the extent of financing its own construction. Then the Eastern Company came into possession of a land grant of 850,000 acres which could be used to retire the bonds of the Grand Rapids and Indiana, thus one of Michigan's larger railroad companies fell to the Eastern capitalists. The

11 Ibid., 533

Pennsylvania Company appears to have received large returns from the land grant. The actual amount received for the land is difficult to determine, but the reports to the stockholders during the early years of the grants gives evidence that it was considered a valuable asset. The report, of 1861, by the Directors, points out that this land would be valuable, for most of the public lands in Illinois, Indiana, and the other prairie States had been taken up by settlers, thus this land in Michigan was one of the few remaining public land areas in the Mid-west. The report also states that the land would be sold rather cheaply at first, about five dollars per acre, then as the road progresses, "We will be able to sell it for ten dollars an acre, realizing enough to pay the mortgage on the road..."¹² This would seem to indicate that the proceeds from the land grant were considered ample to complete the road and in addition leave it in a debt-free condition. However, as indicated earlier, this Company was unable to complete the first twenty miles of the road which would have qualified them for the grant. After the Pennsylvania Railroad Company came into control of this road in 1868, there is further evidence that the value of the land account was considerable. A pamphlet issued by the parent company in 1870, advertising the sale of the bonds of the Grand Rapids, gives an optimistic account of the value of the land grant.¹³ This report states that the United States Government

¹² Annual Report of the President and Directors of the Grand Rapids and Indiana Railroad Company (1861).

¹³ Bonds of the Grand Rapids and Indiana Railroad Company, \$4,000,000 Bond Issue (Pittsburg, 1870).

had sold nearly all its public lands in the vicinity of this grant, thus eliminating all competition in the sales of land. It further reveals that the acreage would not be sold too fast as, "We would lost a portion of the appreciation in the value of the lands by reason of the completion of the road through them".¹⁴ The report went further and specifically listed the value of its land. It estimated that the 850,000 acres contained 290,000 acres of pine timber worth from ten to sixty dollars per acre for the timber alone. William A. Howard, the Land Commissioner of the Grand Rapids Railroad, is quoted in the report as saying, "By no possibility can these lands fail to net less than eight millions of dollars over and above all expenses of the department, past and future..., they probably will make more than ten millions of dollars...". Mr. Howard then presented the following conservative estimate;

290,000 acres of pine land @ \$20.00 per acre.	\$5,800,000
870,000 acres of farm land @ 7.50 per acre.	\$6,525,000

These figures would seem to indicate that the value of the land grant was sufficient to finance the cost of the road and in addition leave a sizeable profit. There is also reason to suspect that the Pennsylvania received even more for the land than the amount estimated in 1870. One County history states that the value of the land sold averaged nearly twelve dollars per acre, this being the highest

14 Ibid, 13.

average price ever paid for railroad land grants in America.¹⁵
If this twelve dollars per acre is added to the amount received from the sale of timber from each acre then it can be realized that the company received adequate resources to construct its road.

Another factor to be considered is the cost of building the road. Again this figure is difficult to isolate as the company seems to have attempted to conceal the exact cost. However, in 1859, the cost per mile of the road in the area south of the City of Grand Rapids was \$14,978 per mile.¹⁶ This figure is probably a truer amount than the one given to the Commissioner of Railroads after 1870, which averaged nearly \$55,000 per mile, which probably included Rolling stock. Also, it appears that the costs of materials used in railroad construction after 1870 were considerably less than before that date. The price of steel rails alone dropped from one hundred and twenty-five dollars per ton to forty dollars per ton in the period from 1870 to 1880.¹⁷ Perhaps the directors of the Grand Rapids and Indiana had reason to conceal the cost of construction so that public opinion would not be aroused. If the total value of the land grant had been publicly recognized this might have given impetus to undesirable demands for more stringent regulations. Therefore it may have been to the advantage of the land grant

¹⁵ Ernest Fisher, Grand Rapids and Kent County, Michigan (Chicago, 1918), vol. 554.

¹⁶ Report of the President and Directors of the Grand Rapids and Indiana Railroad Company (1859).

¹⁷ Annual Report of the Commissioner of Railroad (1881), xix.

railroads to hide the actual cost of building their roads. The Michigan State Grange often charged that the railroads were heavily overcapitalized. This group stated that the real cost of rail construction in the State did not exceed \$20,000 per mile, this figure being some \$30,000 per mile less than the amount estimated by the corporations themselves.¹⁸ The figure given by the Grand Rapids and Indiana of \$14,000 per mile and that given by the Grange of \$20,000 per mile would appear to indicate that the actual cost per mile is to be found somewhere near those estimates. Thus with some 3,840 acres per mile of road selling at a price of twelve dollars for the land alone, we find that the Company may have enjoyed an income of nearly \$46,000 per mile or over twice the amount which the Grange charged to be the actual cost. This figure does not include the money received from the sale of timber which should have exceeded the land sales. Therefore with these various figures and facts available it appears that the land grant was of enough value to completely finance this road and in addition provide for some other facilities and equipment. Possibly these funds were not judiciously applied to the purpose for which they were originally intended and became unidentifiable through corporate financial manipulation.

The story of the disposal of the land grant of the Grand Rapids and Indiana is typical of many of the other

18 Seventh Annual Proceedings of the Michigan State Grange (1880), 62-64.

land accounts of the railroads of the State. Nearly all of the land came into the possession of large corporations through stock or bond manipulations, consolidations, and associations. The fact that the routes of these land grant roads are often circuitous in reaching their northern termini can be attributed to the desire of the directors to acquire the most valuable of the timber lands within the land grant area. James Bowman describes how the Chicago and Northwestern Railroad in 1873, sent forty skilled "land cruisers" into the Upper Peninsula.¹⁹ These men were instructed to select the most valuable timber land lying within the land grant limits. The final route of the company was then constructed so as to take advantage of the decisions of the "land cruisers". This practice also gives a clue to the value of the grants over and above the actual amount received for the land alone.

The importance of determining the scope of the complete returns to the several railroads from these land grants is closely related to the problem of corporate regulation. If these companies received enough aid to completely construct and equip their roads, then there was little justification for their spirited refusal to submit to regulation of an effective nature. The railroads consistently resisted all attempts to establish regulative agencies on the basis that their construction costs had been so excessive that such regulation would impose disastrous financial burdens

¹⁹ John E. Nelligan, The Life of a Lumberman (n.p. 1929), Chapter IV.

upon them. They further asserted that the imposition of maximum rates coupled with the highly competitive railroad conditions of the day would reduce their revenues to an unproductive level. However, it now appears that these charges were not based upon valid ground, for in many cases competitive conditions did not exist, and the actual cost of building the road was much less than claimed.

The land and swamp grants were not the only form of aid offered to the railroad corporations. The Civil War period inaugurated a new movement of direct aid to railroad companies by the various local governmental units of the State. Townships, villages, cities, and counties came to the aid of both new and old railroad corporations, all hoping to receive the benefits of rail service. The economic stimulation of the war seems to have initiated a new spirit of liberality on the part of the citizens. Localities with rail connections as well as those without were contributors to this "municipal aid" movement. The former hoped to create competitive practices among the several railroads entering their area. The areas without any railroads at all hoped to break the monopolist grip held over them by large rail corporations who feared the advent of additional roads.

Municipal aid was given to railroads through one or more of several methods. Aids in construction consisted of outright grants of land for rights of way, free donations of labor, or other types of materials. Many communities made

loans to the railroads in the form of bonds or through the pledge of credit to subscribe to the stock of the company. Finally, in many instances, there would be an outright contribution of cash by individuals or groups.²⁰ It is virtually impossible to determine the final value of these types of aid for many of them were not publicly recorded. It is known that several millions of dollars were loaned or given to the railroads in the period from 1860 to 1870. Some \$7,000,000 in such aid was authorized by legislative acts during that period but only \$1,646,300 was in the hands of purchasers or railroads in 1870 when such aid was declared unconstitutional.²¹ In addition to this figure there must have been other large sums given to the roads in the form of direct gifts for which there is no record.

The spirit of giving aid to private companies seemed to have prevailed in spite of the apparent prohibition of such action by the Constitution of 1850. The Constitution specifically banned the State from lending or giving aid to private companies for internal improvements. However, it apparently was felt in the 1860's that such action was not prohibited to the local municipalities of the State and this flood of aid continued until 1870.

Even the highest officials of the State were often in agreement with the aid movement. Governor Blair, in 1864, advocated the encouragement of railroads through such aid

²⁰ Special Report of the Michigan Railroad Commission (1919), 16-23.

²¹ Ibid.

and he further suggested that a general law be enacted which would allow each community to initiate such support as they might decide upon.²² A general law was considered desirable at this time because each instance of furnishing aid to a railroad had to be authorized by a separate act of the Legislature, which caused much delay and confusion to all parties concerned. The question of the legality of municipal aid was given additional support in 1867 by Attorney-General Stoughton who advised the Legislature in these terms: "I entertain no doubt that the Legislature may constitutionally authorize towns and cities to raise money and issue bonds to aid in the construction of railroads".²³ In the election of 1867, Governor Crapo brought into office a person who was determinately opposed to such legislation. He persistently contended that the continuation of this practice would seriously retard the development of the State instead of promoting it as the advocates of municipal aid insisted. The Governor argues that this movement would drive the local units deeply into debt thereby discouraging settlers from choosing this area as their new home. In addition many persons would leave the State to escape payment of the oppressive burden of taxation which would be inaugurated by local aid to the railroads. The agricultural interests would suffer more acutely than the other professional groups from this increased taxation. Farmers were more closely

²² Fuller, op cit., 490.

²³ Documents Accompanying the Journal of the Senate (1867), Document no. 9.

tied to their land or occupations than would be a doctor or lawyer. Therefore when the tax burden increased to intolerable levels the professional groups could easily leave the community and seek areas not so heavily burdened with taxes. This would leave the farmer behind to bear the entire cost of aid which he perhaps had not even voted for.²⁴ With these arguments as a basis the Governor repeatedly vetoed municipal measures passed by the Legislature and the Legislature in turn overrode the veto. The height of the aid movement was reached in 1869 when a general law was passed authorizing this type of aid directly by the local units. This law was also passed over the Governor's veto.

The municipal aid frenzy was soon halted by a decision of the Michigan Supreme Court in 1870.²⁵ The Court by a two-to-one decision held that the act of 1869 was unconstitutional. This decision, of course, brought a cessation to direct municipal aid, but did not affect the outright contributions of cash and materials which continued for many years. It is interesting to note that this decision also did not apply to the Swamp Land grants which would appear to involve direct aid from the State to railroad corporations. One far-reaching result of the decision arose from the problem of aids which were already in the hands of purchasers. If the holders of such securities lived in the State then they possessed worthless bonds or stock. However, the railroads and several other

²⁴ Fuller, op cit., 519.

²⁵ People vs Salem, 1870 20 Michigan 452.

purchasers quickly transferred such assets to other states where the collection of the cash equivalent was enforceable. A Federal Court ruling shortly after 1870, held that municipal aid bonds held by non-residents of Michigan were legal and collectible instruments.²⁶ Because of this ruling many Michigan localities were forced to raise money for a purpose which had been declared unconstitutional, but a purpose that had been authorized by the Legislature of the State. This burden undoubtedly contributed to the growing feeling of bitterness which converged upon the railroad corporations following 1870.

Outwardly the picture of municipal aid appeared to be a movement on the part of the people to develop the rail facilities of the State. However, a closer examination of the period from 1865 to 1870 reveals that the aid resulted not primarily from a spontaneous desire of the people but from clever promotions on behalf of a new type of railroad company. This new type of company arose after the Civil War in areas of the State which were relatively heavily populated. Since the State had already given away its quota of land grants in the Lower Peninsula, these roads could seek no assistance from that source. Thereupon, a new type of promoter arose, one who was to take advantage of the loosely-constructed railroad laws of the State. A few persons would join together and form a company to construct

²⁶ Henry M. Utley, et. al., Michigan as a Province, Territory and State (Publishing Society of Michigan, 1906), vol. IV. 57.

a railroad from one city to another. This new company would then take advantage of the liberal capitalization requirements and would sell only enough stock to pay for two or three surveys over the general route of the proposed railroad. Each survey would be made through as many different cities or townships as possible. Each area which had been included in a survey would become vitally interested in the possibility of having a road in their locality and the promoters could then take advantage of this eagerness. Each city would be asked for contributions for the construction of the new railroad, thereby injecting an element of competition into the contest.²⁷ It simply became a matter of selling a road to the highest bidder. It may be in promotion of this nature that one can find the roots of the whole municipal aid movement.

Through methods similar to these a small group of men would be enabled to construct a railroad without any expense to themselves. They used varied methods of financing which often resulted in complete loss to the investor and personal gain to themselves. The following account is taken from the Journal of the House of Representatives of the State of Michigan, which describes with some bitterness the activities of various post-war promoters. The author of the article is not given but his words illustrate somewhat the popular attitude toward some railroad officials.

²⁷ Talcott E. Wing, History of Monroe County (N.Y. 1890), 234.

A charter is obtained and a few men get together without a dollar in ready money, form a Company, issue construction bonds, secured by a mortgage upon the road. Then a committee of directors is sent to New York to place the bonds. The Committee enters into negotiations with some prominent banker to undertake the placing of the bonds, he to get what he can for them and he allows the road, say seventy cents on the dollar, the road to pay the advertising bills. If the committee are honest the road ultimately gets seventy cents, less the advertising bills, but many committees are not honest, and as soon as they have found a banker to undertake the job at seventy, they communicate with the board of directors at home, stating that the best they can do is sixty and ask for authority to place bonds at that figure. Having their confederates at home in this inside ring, the authority is easily obtained, and by arrangement with the banker he settles with the road at sixty cents and pays ten cents over to this syndicate for their personal use and benefit. If there is a happy combination of circumstances, such as an absence of financial disturbances, suspension of the banker, etc., and if they get all the counties, cities, and towns along their route to issue bonds liberally, the road may be finally built and furnished with rolling stock; then our worthy friends of the board of managers divide the stock among themselves, fix the rates for freight and passenger high enough to pay interest on the par value of the stock and then, after voting themselves fat salaries, proceed to foist the stock upon an unsuspecting public. As soon as the members of the ring manage to sell most of their stock they go to work and organize a "fast freight line" to which they give a contract which soon impoverishes the road and enriches them, so that when the road passes into bankruptcy they are able to buy it in, issue new stock and repeat their little financial arrangement over again. In sketching the completion of this road we forgot to say that there was a construction ring, this ring had their slice from every contract made, and not a mile was graded, or tie laid, or engine purchased, or depot erected, or nail driven but a percentage went into the pockets of the ring.... As for the banker, by a free use of the religious press (who lend the weight of editorial columns to the project) he succeeds in placing the bonds at ninety or ninety-five cents on the dollar to the public who have confidence in the banker and editor that recommend the conversion of Government Bonds

into the "equally reliable and better paying railroad securities...." In the meantime the managers of the road find it necessary to buy the usual number of legislators and retain all the best legal talent along the line of the road in order to protect their rights from the encroachment of the people....²⁸

When the above account is summarized, it is discovered that individuals benefited from the formation of railroad companies by one or more of the following means: by securing private profits from the sale of bonds; by persuading municipalities and individuals to pay all or part of the cost of construction; and by the formation of "construction" and "operating" companies that secured the profits of the railroad company. This account must be accepted with some reservations as it probably does an injustice to many an honest railroad builder who was caught in the wave of popular outbursts against the unscrupulous type of promoter. Still there are many evidences that unsound promotion was not a rarity in Michigan. An examination of the many railroads which were constructed following the Civil War discloses that very few became financially solvent and that nearly all fell under the control of the older, more powerful charter roads. Also many of these post-war companies were periodically undergoing bankruptcy reorganization. The use of "fast freight lines" to divert excessive profits and conceal earnings from the stockholders received such attention that a Governor of the State publicly denounced the practice. Governor Bagley in 1875 spoke out against the use of these "lines" which was depriving the stockholders of much of their rightful dividends. ²⁹ Personal experiences of men

²⁸ House Journal, 1877, vol. II, 1217-1218.

²⁹ Fuller, op cit., vol III, 220

who had direct relations with the municipal aid movements in the State also attests to the element of speculation and uncertainties in railroad construction. Johnson Montgomery in speaking of his early experiences in the City of Eaton Rapids tells of a municipal aid plan which; "went just far enough to benefit a few and then died away"³⁰. James Gallery also relates his story of the same railroad, a branch of the Michigan Southern. Gallery stated that the City of Eaton Rapids, to secure the passage of the road through its limits, gave outright some \$23,000 to the road: "The only re-³¹turn being the advantage of sharp competition in freights". In 1865 specific charges were levied against the directors of the Amboy, Lansing, and Traverse Bay Railroad by several of the stockholders. These charges include many of the ones described by the article quoted in the preceeding paragraph. The stockholders accused three directors of this land grant railroad of fraud and manipulations.³² The three directors were charged with assigning the contract of constructing the road from Lansing to Owosso to another director. After a long period of time, this track was not only uncompleted but exhorbitant sums of money had been expended in this partial construction, and the stockholders felt that most of the money had gone into the pockets of these officials.

30 Johnson Montgomery, "Reminiscences of Eaton County", in Michigan Pioneer and Historical Society, Historical Collections (1894), vol. XXII 518-524.

31 Ibid. 509-518.

32 Documents Accompanying the Journal of the House (1865), document no. 16.

The petition stated that the following assets of the company had been expended in the construction of the twenty-seven mile track from Lansing to Owosso.

First Mortgage and Mortgage Bonds.....	\$224,000
Second Mortgage and Land Bonds.....	\$200,000
88,000 Acres of Company Land @	
\$2.50 per acre	\$220,000
Stock Subscriptions	\$50,000
Stock of the Company	\$125,000
Total Cost	\$819,000
The actual value of work done	
on the road was only	\$210,000
The directors received for their	
personal benefit	\$609,000

The Legislature was asked by the stockholder to investigate and correct the evils which they offered in this petition. However, the Committee appointed by the Legislature ruled that there was insufficient evidence to warrant any official action and they quickly dismissed the hearings. This instance serves to illustrate the extent to which the State was willing to go to encourage rail construction. The Amboy, Lansing, and Traverse Bay Railroad soon failed and was replaced by another company under the direction of the Michigan Central. But in 1865, the Legislature apparently considered the expenditure of \$800,000 for twenty miles of road not unduly extraordinary. Other examples of misappropriations of this nature, plus the one already described, gave some validity to the article quoted in the House Journal and more persons after 1865 came to associate these practices with all

rail corporations and there would appear to be some justification for their resentment and displeasure.

The municipal aid movement, and the malpractices which prompted its initiation, found its greatest opposition, not among the people, but rather from the large rail corporations and the small town merchants. These two groups viewed with alarm the mushrooming of additional railroads throughout the Southern section of the Lower Peninsula. The annual report of the Michigan Central in 1870, reveals that this corporation was worried over the ease with which municipalities grant money to railroad companies. The reason for this alarm is contained in the statement: "That many of these roads are not beneficial to the Michigan Central"³³ The Central had had a monopoly over trade in the lower portion of the State and feared that these new roads would come under the control of rivals, especially the Michigan Southern. If this occurred the trade monopoly would be greatly weakened. Therefore, as far as possible, the Central gained control of those roads most likely to injure it when built and which might, if controlled by the Central, become tributary to it.³⁴ The report of 1874 states that the Company received its best rates from those feeder roads which might have fallen into the hands of other corporations. Because of the municipal aid movement which encouraged rail development the Michigan Central was

³³ Report of the Directors of the Michigan Central Railroad Company to the Stockholders (Boston, 1870), 9.

³⁴ Ibid., (1871).

forced to expand its railroad into a vast network covering the greater portion of the Lower Peninsula. Thus while the people of the State attempted to build more roads to escape the monopolist grip of the large corporations they only contributed still further to the power of the corporation. The Michigan Central which opposed the municipal aid movement became its greatest benefactor. The following chart listed some of the feeder lines of the Central and the aid each received:

Kalamazoo and South Haven	\$48,400
Grand River Valley	\$29,804
Michigan Air Line	\$23,750
Jackson, Lansing, & Saginaw	...\$214,830
Kalamazoo, Allegan & Grand Rapids	\$93,800
Total	<u>\$410,584</u>

The Central was able to absorb these feeder lines without any expense to itself. The Annual Report of that company for 1875 discloses how easily this railroad built up its vast network. These companies, still being new, needed aid to their credit in the market for the sale of their bonds. The directors of the new roads would make application to the Michigan Central for such aid. The latter would then make a traffic contract with the feeder road. By the terms of this contract the Central would agree to set apart enough money to buy the bonds of the new road from the profits realized by

 35 Federal Coordinator of Transportation, Public Aids to Transportation (Washington, 1940), 129.

the increased traffic. Thus the feeder roads actually paid for their own bonds by virtue of the agreement to send their freight and passengers over the Michigan Central route. Of course the bonds were owned by the Central and the ownership of several roads passed to that company in this manner. What had begun as a defensive move quickly turned into a scheme for railroad empire in Michigan.

The other group opposed to the aid movement and the subsequent encouragement of railroad facilities did not fare as well as did the large corporations. The business man in the small towns was also desirous of preserving his monopoly over the economic life of the local area. The advent of several railroads into the smaller communities would have had a serious effect upon the local business interests. It would mean the introduction of newer and cheaper merchandise which could be ordered directly by the consumer from the larger cities sometimes had the advantage of competitive freight rates, a condition which usually was denied the small town merchants. Hence the latter group often opposed this unchecked desire to encourage the expansion of new and additional rail services into the smaller areas of the State.

Eventually it was not the opposition of the small town merchant or the large railroad corporation which finally checked the lavish assistance and aid the railroad received

from the people of the state. As noted earlier it required a decision of the Michigan Supreme Court to halt this unwise public policy, a policy which had been prompted and encouraged by speculative individuals. Had not this aid movement been discouraged, the credit of the State and its local units would have been seriously undermined. In addition it is not unlikely that a few large railroad corporations would have complete control over the State if this movement had continued. The corporations would have been the creditors of all the local units who aided this movement and as such would have been able to exert even greater influence than they did.

IV . Consolidation and Discrimination

The impetus given construction by the land grants, municipal aid, and increasing business prosperity in the 1860's also had the effect of generating large-scale hostility against the railroad corporation. More and more people had personal experiences with railroads following the Civil War; thereupon the demand for public regulation of the railroad increased. Throughout the Middle-West the cry for regulation was widespread but the Michigan corporations escaped the scope and severity of public wrath which characterized the demand in such states as Illinois, Wisconsin, Minnesota, and Iowa. The people of Michigan did give their Legislature the necessary authority to permit the establishment of maximum freight rates, but a combination of forces prevented the enactment of definite legislation. By 1870, a few railroad corporations, almost wholly dominated by Eastern capitalists, were presumed to have gained enough influence over the Legislature to block any effective attempts toward regulation. The consolidation of Michigan's roads into a small number of large rail corporations during the period from 1870 to 1900 did much to forestall competition and to prevent the people from establishing adequate regulation. This consolidation also gave the corporations

sufficient power to enable them to consistently discriminate against the many people and communities of the State. The forces struggling to suppress railroad excesses were comprised of the farmers and the small-town merchant; the latter seemed to be the most important and influential element in the coalition. Meanwhile the corporations gained the support of the business interests in the larger rail centers where some degree of competition existed. While the groups who attempted to impose regulation upon the railroads failed to do so during the years from 1870 to 1890, their efforts were the roots of later successful public action.

Prior to 1870, the railroads had not been severely harassed with public demands for regulation. There had, of course, been some instances of dissatisfaction with certain railroad practices but these had not been widespread enough to cause harm to the roads. Before the Civil War, construction had been limited and therefore only a small portion of the people of the State had any direct relationship with these companies. However, during the period of public liberality beginning in 1860 and continuing until 1870, certain changes in the public outlook were being fashioned. Railroad mileage increased from 770 miles in 1860 to 1,739 miles in 1870, which brought many additional people within the scope of railroad excesses and discriminations. Mis-

management of the land grants and the abuses of the municipal aid campaign aided in changing the public mind in its outlook upon the railroad problem.

Two specific examples of railroad mismanagement may serve to explain why some of Michigan's railroads were being subjected to the growing ill-will of the public. For many years, the patrons of the Detroit and Milwaukee had suffered abuses forced upon them because of the special privileges of that company's charter. These citizens pressed their demands for reform upon the State Legislature with such persistence that by 1867 an investigation of the affairs¹ was ordered. The result of the investigation did reveal several valid grounds for the complaints. Passenger rates were found to have had a wide variance; from three and one-half to ten cents per mile. This road had authority to charge more than the maximum three cents per mile because of provisions in its antiquated charter of 1834. The committee also found that freight rates were higher on this road than on other Michigan roads. It was also discovered that many patrons had difficulty getting just and equitable claims against the company promptly settled. Finally the Senate Committee made the conclusion that most of the agents and conductors of the Detroit and Milwaukee were foreigners: "Whose deportment toward patrons are felt to be supercilious

1 Documents Accompanying the Journal of the Senate of the State of Michigan (1867), Document no.11.

and haughty and to a high degree repugnant to the Republican ideals of this country".² The only recommendation that Committee made towards the solution of these grievances was that if the Company replaced its foreign employees with Americans, then an improvement in relations with the public might be expected. The importance of this investigation is revealed in the impotence of its recommendation. It emphasizes the lack of any power or authority of the State over any of the railroads operating within its limits. The people of the State were completely at the mercy of the decisions of the directors of the roads.

The Western portion of the State, which was completely dominated by the Grand Rapids and Indiana Railroad, began to feel the adverse effects of Eastern management. Many complaints from the patrons of this road began to reach the Legislature after 1870, this being the date that the Pennsylvania Railroad Company had come into control of the Grand Rapids. Finally, in 1873, a House Committee investigated the conditions upon that railroad.³ Many instances of mismanagement were uncovered, practices generally associated with absentee control. Rates were found to be excessive at noncompeting points. The local freight rates from the village of Pierson to Grand Rapids were sixteen dollars per car. However, the through rate for identical freight for the same distance was

² Ibid., 1.

³ House Journal, (1873), p.1437-9.

only six dollars per car. The committee declared that this practice of discrimination was crippling those businesses at the non-competing points. The Grand Rapids further discriminated against its patrons by not furnishing cars for the transportation of freight when it was offered for shipment. This practice could easily determine the success or failure of the business affairs of an individual or even of a community and was used extensively by all roads. The committee also discovered that the station and passenger facilities of the Grand Rapids Railroad were inadequate and often unfit for public use. The Representatives charged that any road possessing a land grant worth over \$7,000,000 might very well apply some of that money to provide adequate facilities for its patrons. This finding seems to indicate that the proceeds of the land grants were not directed in all cases to proper functions. The committee stressed that most of these forms of mismanagement were directly the result of absentee control by the Pennsylvania Railroad who failed to realize the needs of the public. Finally the Investigating Committee recommended that the State establish Maximum freight rates to prevent the wide variances in rates found upon this and many other Michigan roads. This later recommendation was disregarded by the Legislature in 1873. The net effect of these two investigations discloses the number and severity of abuses familiar to railroad mis-

management during the post-war period. It would seem to indicate that a real need for reform existed, in addition to emphasizing the weakness of the State's authority to control or surpress these abuses. However, the Legislature failed to make any moves designed to relieve the citizens of this burden.

These two investigations reveal why some of the people were beginning to demand a more effective regulation program. As railroad construction spread to all sections of the State, these demands for control became more prevalent. This growing antagonism produced some concrete results in 1870. In that year three proposed constitutional amendments were offered to the people for approval. The first two provisions concerned the imposition of restrictions upon the railroad corporation. The first authorized the Legislature to regulate freight and passenger rates, and in addition prohibited discriminations against persons or communities by railroads. The second prohibited the consolidation of parallel and competing lines. The third proposal would authorize the legality of continued municipal aid to railroad companies. The results of the voting upon these three proposals indicates clearly⁴ the mood of the people of the State.

<u>Amendment</u>	<u>For</u>	<u>Against</u>
1	78,602	51,397
2	76,912	51,194
3	50,078	78,453

The sharp vote against municipal aid reflects the per-

4 Michigan Official Directory and Legislative Manual
(1873).

sonal experiences of many persons with the railroads in the preceeding ten years. The final result on the three amendments clearly establishes the point that the people demanded some form of regulation of the railroads. This election had also given to the Legislature the authority to establish rate regulation, an authority, however, which was not to be exercised until 1907.

This action by the people of Michigan was also characteristic of several of the other States in the Mid-west. However, the people and Legislatures of the "Granger States" carried their reforms to more definite limits than was done in Michigan. The Michigan farmer did not establish the degree of influence over his Legislature as did the farmers of Illinois, Wisconsin, Minnesota, and Iowa. Therefore the 1870 reform movement in Michigan lacked sufficient force to effectively check the vast powers of the rail corporations. The ideals of this early reform movement were not realized until 1907, when a national reform wave successfully completed the regulation problem.

Within three years from the adoption of the Constitutional authority in 1870, the State moved toward a consolidation and clarification of its policy toward railroads. This policy had heretofore been an ineffective method of regulation. Actually it appears to have been devised more to assist rail development than to regulate it. However, by 1870 construc-

tion was proceeding at such a pace that many more persons realized the need for new or additional limitations upon the unchecked authority of railroad directors. In 1873, Governor Bagley asked the Legislature for a law establishing the Office of Commissioner of Railroads who would cause the laws of the State to be obeyed and enforced. The Governor also added; "At the present time it seems to be the duty of no one to do this."⁵ The Legislature apparently was of the same mind as the Governor and during the session of 1873 created the office of Commissioner of Railroads.⁶ At the same time there was also a considerable revision of the existing railroad law of 1855. This mainly clarified the latter law and resulted in no new restrictions upon the railroads. However, in establishing the office of Commissioner of Railroads the Legislature created what might have been a powerful and useful instrument in the hands of a capable person. But there were several limiting restrictions upon the exercise of the authority of this office which often handicapped the few sincere men who filled this post. An examination of some of the powers of Michigan's first regulatory agency offers clues to some of its weaknesses.

1. The various railroad companies were required to submit annual reports to the Commissioner, giving such information as would assist him in the exercise of his duties.
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⁵ George N. Fuller, ed., Messages of the Governors of Michigan (Lansing, 1924), vol. III, 159.

⁶ Public Acts and Joint Resolutions of the State of Michigan (1873), Act 78. Hereafter cited as Public Acts.

2. The Commissioner had the authority to examine the conditions and management of any railroad company.
3. The Commissioner could recommend that specific legislation be enacted.
4. The Commissioner could initiate proceedings against any railroad for violation of the laws of the State.
5. Control of technical matters which concern public safety also come under the authority of the Commissioner.

These powers were largely undermined by weaknesses or limitations which in many cases negated constructive action by an earnest Commissioner. While the Commissioner had the power to initiate criminal or civil proceedings against a particular company, the actual handling of the case fell to the Prosecuting Attorney of the County in which the offense accrued. Very few convictions ever resulted from this legal method for the railroads usually retained the best legal talent in every community to represent them. An individual who suffered some wrong at the hands of a company could hope for very little relief through the law of the State because of this comparative monopoly of legal talent. Therefore most of the instances of discrimination against the individual citizen of the State never reached the courts. The small shipper could not afford to press charges against

a powerful corporation. On the other hand, the large shipper benefited from discrimination in the form of reduced rates and other privileges and therefore did not have to resort to a use of the courts.

The Commissioner was given no authority over freight or passenger rates, these functions being retained by the Legislature. The only concern of the Commissioner with these rates would occur when or if the Legislature passed definite laws establishing particular rate scales, then he would have the function of enforcing these laws. Since maximum freight rates were never enacted until 1907, the only association of the Commissioner with rates came in the enforcement of the three cent per mile passenger fares. Perhaps one of the reasons why authority over rates was not given to this office was the existence of a widespread misunderstanding of the constitutionality of such an action. Many persons in the State believed that the Legislature had no constitutional authority to delegate their power to regulate rates to a commission or commissioner. It might be interesting to discover to what the extent the railroad corporations contributed to this belief. No one attempted to determine the legality of such action until 1907 when the Courts ruled that such a move was constitutional.

Perhaps one of the greatest weaknesses of the Office of Commissioner of Railroads came when the Legislature limited

the personnel of the agency to one individual. The physical and mental labor which would be necessary to efficiently examine and judge the affairs of the many railroad companies of the State were often beyond the ability of one person. Even the addition of a Deputy Commissioner with a duty of supervision of technical affairs did not basically reduce the volume of work which the Commissioner would have to accomplish. It became impossible to detect all the financial and legalistic evasions of the Corporations and as later events proved, many of the annual reports were grossly falsified. The presence of one Commissioner did little or nothing to prevent the evils of overcapitalization from spreading. The many financial collapses and resulting bankruptcies of railroad companies from 1873 to 1907 would seem to bear out the contention that the office was undermanned and was unable to give adequate protection to the stockholders and the public. Many of the excesses of unrestricted corporate power, which continued after 1873, might well have been reduced had the Legislature created a three-man Commission instead of a single Commissioner. This larger board could have more easily detected weaknesses in the regulative policy of the State and also would have permitted the grouping of more ability in the agency than did the one member commission. The success of the three member Railroad Commission after 1907 seems to support this consideration.

Despite these weaknesses, the Commissioner of Railroads possessed a potent weapon in the form of publicity which might be used to effect some type of regulation. At least the proper use of publicity would tend to lessen or soften some of the harsher practices of the corporations that would fear the rallying of public opinion against them. Effective utilization of this weapon, however, required the presence of a Commissioner who sincerely intended to enforce the laws of the State and otherwise fulfill the obligations of his office. This ideal situation has not always been permitted to occur, and it has often been charged that the railroad corporations cast undue influence over the affairs of the Commissioner of Railroads.

The railroad corporations immediately realized the power that a zealous Commissioner might exert over them, so they quickly moved to neutralize the effectiveness of this office. Hazen S. Pingree and Chase S. Osborn, both of whom became Governors of Michigan, have often charged that the railroad corporations dominated the appointment of the Commissioner. Pingree asserted that the Michigan Central placed one of its attorneys in that office.⁷ He did not specifically single out this individual but he may have had reference to Stephen S. Cobb. Cobb, who served as Commissioner from 1873 to 1877, was, upon appointment, a director of the Kalamazoo and South Haven Railroad Company. This road was controlled by the Michigan Central. It is worth noting

7 Hazen S. Pingree, Facts and Opinions (Detroit, 1895), 15.

that Commissioner Cobb, during his four year term, was determinedly opposed to any attempts to impose maximum rates. An examination of the Commissioner's Reports for the period that Cobb was in office clearly demonstrates his partiality toward the railroad interests. The report for 1872-3 includes a detailed account of his objections to regulation of any nature and he recommended discretion in this matter to the Legislature: "Less we impose upon railroads unnecessary burdens or unreasonable restraints...."⁸ The Commissioner stated that if any attempts were made to regulate the corporations it would have the effect of driving the railroads from the State. He declared that they would seek other states where the people were more reasonable and did not attempt to burden these carriers.⁹ These arguments seem to be invalid. No railroad corporation with an established road would deliberately abandon that investment, especially when much of the costs of construction had been borne by the people of the State. During Cobb's four year tenure, no important regulations of any nature were instituted, and the corporations thus escaped the full force of the public demand for control. This absence of regulation, during the first important formative years of the Office of the Commissioner of Railroads, may largely be attributed to the presence of a man who carried a very personal interest for the Michigan Central. In 1883, a William P. Innes, was appointed Commissioner for a

⁸ Commissioner of Railroad Reports (1872-3), v-xix.

⁹ Ibid., v-xix.

two year period. This man had been the Chief Engineer for the Grand Rapids and Indiana, The Pennsylvania subsidiary prior to his assuming office. It may have been that these men were appointed to this important position by virtue of their superior knowledge of railroad affairs. This knowledge would perhaps enable them to treat more fairly the problems of regulations and in addition facilitate the needed expansion of the transportation system of the State. On the other hand, the appointment of persons directly interested in railroad corporations to the post of Commissioner may have been due to other considerations. Chase S. Osborn, who became both Commissioner and Governor, stated that the railroads, through political influence, had always been able to direct and control the selection of the Commissioner.¹⁰ Osborn declared that this situation prevailed because of an agreement between the corporations and United States Senator McMillan, leader of the State Republican Party. This truce lasted until 1896, when the election of Hazen S. Pingree ended the domination of the railroads over the office of Commissioner of Railroads.

This alleged domination of the Commissioner by the railroads apparently did not escape the attention of the public. In 1880 the State Grange petitioned the Legislature for the appointment of a Commissioner: "Who shall represent the interests of the people".¹¹ This appeal went unnoticed. It

¹⁰ Chase S. Osborn, The Iron Hunter (N.Y. 1919), 129.

¹¹ The Eighth Annual Proceedings of the Michigan State Grange (1880), 64.

seems that by 1880, the Legislature could no longer administer to the interests of the people. The power of the corporation was apparently so great that they could now directly divert or defeat the establishment of any type of regulation, reasonable or otherwise. The fact that a definite public policy toward railroads was not enacted until 1907 can perhaps be attributed more to the political influence of the corporations than to any other combination of reasons.

What method did the corporations employ to avert public regulation? Perhaps the most important element in the growing political power of the railroads emerged from the rapid consolidation of the many into a few large and powerful corporations. This consolidation process became common following the Civil War, when the municipal aid movement gave rise to weakly-financed companies who quickly fell prey to the more established lines. This movement toward partial monopoly was almost entirely directed by eastern capitalists. Commodore Vanderbilt was perhaps the most dominant force behind the growth of monopolistic corporations in this State. Vanderbilt, in the early 1870's, gained stock control of the Michigan Central and the Michigan Southern railroad companies. By 1877, these two parallel lines were completely dominated by the Vanderbilt interests, thus eliminating whatever little competition there may have been in this important portion of the Lower Peninsula. Also in 1872, Vanderbilt invested heavi-

ly in the Chicago and Northwestern Railroad Company, one of the most important roads in the Upper Peninsula.¹² This action gave the Vanderbilt family control over one-fourth of the total rail mileage of the State by 1877. The trend toward Eastern financial control is reflected by a summary of the ownership of capital stock of Michigan's railroads. In 1878, the roads of the State had issued some \$148,152,011.16 in stock divided among 16,102 individual stockholders. Within the State were 4,550 of the stockholders who held the insignificant sum of \$4,685,819.00, amounting to three per cent. The remainder of the stock was in the hands of Eastern and Foreign investors. This condition permitted almost absolute control of the roads by outside interests who felt little personal responsibility to the people of Michigan. The consolidation process enabled the few corporations who emerged to successfully defy the efforts of the public to promote railroad regulation. The combined efforts of the remaining corporations appears to have been of such a nature as to protect their interests for several years.

The Vanderbilt-controlled Michigan Central is charged with dominating the Legislature of the State. These accusations have been made by several reputable persons, and some consideration must be given to their words. Hazen Pingree, in 1895, declared that: "...in this State, the Michigan Central rules the Legislature...."¹³ The alliance of the rail-

¹² Alvin F. Harlow, The Road of the Century (N.Y. 1919), 235, 282-3.

¹³ Pingree, op cit., 15.

roads with the leaders of the Republican Party, as described by Chase Osborn, has been cited earlier. This appears to have given the corporations a measure of protection, in addition to securing the appointment of a friendly Commissioner of Railroads. Another method commonly used by the corporations to protect their interests came through intervention in and influence over the political conventions and party caucuses. Through this intervention the railroads may have hoped to guide the political future of those persons who would best serve the interests of corporate wealth. Professor Mills-
paugh, in his study of the Michigan political scene, points out that this influence was originally designed as a defensive movement to control legislation. However, the intervention soon led to the deterioration of the political convention into a corporation controlled device to promote their
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interests. It was often asserted that large sums of money were used by the corporations to gain the selection and nomination of their favorites during the conventions. This practice seems to have prevailed at both the Republican and Democratic meetings. In 1902, Justus S. Stears, a candidate for Governor of the State, charged that: "...for years the Michigan Central has dominated our Legislative branches of government". Stears also stated that the Central had and still did control the Republican State Administration in 1902. He further stated that this Company had also contributed

14 Arthur C. Millsbaugh, Party Organization and Machinery in Michigan Since 1890 (Baltimore, 1917), 54.

large sums of money to the Democratic party; as late as 1898¹⁵ it had given \$13,000 to that political party. These charges by Stears also infer that the Central had given other sums of money to both parties previous to 1898. Another contributor, to the charges against railroad political power, was the Michigan State Grange, which as early as 1874 stated that "...the railroads have outgrown the Legislature and have made the representatives of the people a matter of barter and sale".¹⁶ This assortment of charges, describing the unwelcome interference of the rail corporation into political process, gives some authenticity to the accusation concerning domination of the Legislature.

In addition to the alleged control of the legislative branches of the State government, the railroads strengthened their position and power through the use of the free pass and the lobbyist. The free pass was liberally distributed among the Legislators, State Officials, newspaper publishers, large-scale shippers, and all other persons who could be expected to lend support to railroad interests. This form of discrimination continued to be an instrument of railroad policy until 1907 when it was finally abolished. Chase Osborn tells how many State Officials made extensive use of the pass in the fulfillment of their duties, then they would charge the State for their railroad mileage.¹⁷ The Legislators

¹⁵ Detroit Tribune (May 29, 1902), 1.

¹⁶ First Annual Proceedings of the Michigan State Grange (1874), 28.

¹⁷ Osborn, op cit., 136

of the period from 1870 to 1907, may have viewed this privilege of free transportation as a necessary counter-balance to their inadequate salaries, thereby justifying its continued use. Evidence of this point of view appeared in 1884. A proposed Constitutional Amendment was submitted to the people which would increase legislators' salaries and prohibit the use of the free pass. The proposal was voted down by the electorate, but the legislators still were not denied the use of the pass. This action, in 1884, may have eased the conscience of many a legislator for he could now declare that the people of the State had refused to condemn the use of the free pass. While every person receiving this favor did not become an outright convert to the cause of the railroad corporations, enough were influenced to justify its continuation.

Lobbyists of the railroads were present at every session of the Legislature, carefully checking all proposed bills and blocking all detrimental to their interests. Governor Pingree charged that several of the Legislators served in two capacities, one as representative of the people and the other as a lobbyist for the corporations. Naturally the salary for the latter capacity far exceeded that as a legislator and it follows that this type of lobbyist served the corporation with more energy and diligence than he did the people. The railroad lobbyists were often joined by the

18 Fuller, op cit., vol. IV 38-9.

lobbyists of other large business groups of the State. The lumber and mining corporations were often included among the allies of the railroad lobbyist and this coalition seems to have successfully repulsed all attempts to formulate a definite and effective public policy toward corporations. The large business interests received inducive freight rate reductions as a reward for their legislative support; therefore they were as anxious as were the railroads to forestall the enactment of maximum rate laws.

Through the previously described methods, consolidation, political influence, and use of the free pass and the lobbyist, the railroad corporations completely neutralized the effectiveness of the legislation of 1873. They also had the power to prevent the passage of any supplementary laws which would have threatened their almost complete economic domination of the State.

This political influence of the railroads may in part explain why the Legislature of 1873 failed to establish maximum freight rates. The omission of this type of legislation from the reform program of the early 1870's, can perhaps be attributed to other causes, which the Legislators of that period failed to understand. Freight rates in Michigan, prior to 1873, had been relatively stable and in many instances were considered excessive. This stability resulted from the virtual monopoly held over the traffic by the Michigan Central and the Michigan Southern. These two roads, had since 1857, divided the passenger and freight

trade between themselves, thereby eliminating the uncertainties of competition.¹⁹ Each company had also protected the local traffic along their routes by quietly absorbing all new lines which threatened to upset business stability. The annual report of the Michigan Central in 1875 explains that before 1874, this local traffic was safe, the rates not being affected by competition and were well maintained.²⁰ In 1874 a national price war on through rates completely shattered the stability which had been enjoyed previously. The Vanderbilt-controlled railroads of the East were heavily overcapitalized and it was to the financial advantage of these roads that through rates to the West be consistently maintained. A stable rate was necessary to produce a profitable return on the fictitious value of Vanderbilt's New York Central. Opposition to this strategy came from the normally-capitalized Baltimore and Ohio Railroad, which refused to follow the Vanderbilt leadership, and made a determined bid for the bulk of the traffic of the Middle West.²¹ The Baltimore and Ohio began a price war which led to a rapid reduction of through rates, sometimes reaching as low as one-fifth of a cent per ton mile. This type of competition, if maintained, would have proven ruinous to the overcapitalized roads. Therefore on August 5, 1874, in New York State, the leading national railroad

¹⁹ Report of the Directors of the Michigan Central to the Stockholders (Boston, 1858), 9.

²⁰ Ibid., (1875).

²¹ Wheaton J. Lane, Commodore Vanderbilt (N.Y. 1942), 292-9.

figures formulated the "Saratoga Compact" which attempted to restore and maintain a higher system of rates. This compromise was short-lived for the Baltimore and Ohio soon bolted the coalition and resumed the price war. This national struggle had its effects upon the Michigan railroad scene. James F. Joy, the President of the Michigan Central, in 1875, displayed considerable anxiety concerning the price decreases. He said that the decrease in earnings in 1874 was due "To an unwise policy of competition instead of agreement and compromise".²² From this statement it would appear that competition in freights was a novelty for the Michigan Central.

The Central and other Michigan railroads made considerable use of this price war to avert freight regulation by the State. In their annual reports to the State, the railroads failed to distinguish between through and local rates. Thus when the very low through rate was averaged with what was charged to be a high local rate, the result would appear to be an unprofitable average return to the railroads. This confusion of statistics, coupled with the presence of a Railroad Commissioner representing the Michigan Central, generated much sympathy for the economic plight of the railroads, especially among the members of the State Senate. The price war, combined with the severe depression beginning in 1873, may well have prevented the establishment of maximum

22 Report of the Directors of the Michigan Central to the Stockholders, (Boston, 1875).

rates in Michigan. By the time the opponents of the railroads were able to combine their strength, the time had passed for freight regulation and the corporations were so thoroughly entrenched as to resist the public will.

The first heavy attack upon the railroads occurred in 1877. The depression of 1873 had sharply affected the agricultural and small business interests of the State. The low through rate reductions had not benefited these groups, and they continued to suffer under the high local freight rate burden. The Grange charged that the average freight rate in the State was only one-third of the average local rate and on some roads it was only one-sixth.²³ Therefore many persons demanded that the charters of the special charter roads be repealed and that these roads be placed under the General Railroad Law. The 1877 petitions to the Legislature also asked for the establishment of maximum rates. Nearly all of the petitions pointed out the danger to the State of the alarming trend toward monopoly by the railroad corporations. Both branches of the Legislature were subjected to this popular pressure and the reactions of each discloses some interesting political alignments. The Senate referred the problem of rate regulation to the Commissioner of Railroads, Stephen Cobb, who absolutely rejected any consideration of maximum rates. He stressed the theme that maximum rates constituted an injustice which would only

23 Eight Annual Session, Proceedings of the Michigan State Grange (1880), 62-4.

injure the railroads of the State. He advocated that legislation of this nature would only serve to drive the railroad companies from the State. Commissioner Cobb's arguments had not changed since his early defense of the railroads in 1873, and he resubmitted the same objections in the 1877

²⁴ report. The Senate Committee, appointed to investigate the charges of increasing monopoly among the railroads, returned with findings which must have pleased the directors of the corporations. As to the charges that the railroads were forming monopolies, the committee answered that; "... While such may be the tendency of combined wealth, your committee has sought in vain for any evidence of such action on the part of the railroad companies in this State". ²⁵ This statement was made shortly after Vanderbilt had established control over one-fourth of all the railroad mileage of the State. This committee, in its investigation of excessive freight rates, found evidences of such conditions but they attempted to minimize the dangers. "...It is true that less rates of freight are charged between points, or from points, where there are competing lines, but of this, other places where there are no competing lines have no just grounds of complaint, as long as they are not charged ²⁶ unjust or exorbitant rates...." The Senators apparently

²⁴ "Special Report of the Commissioner of Railroads in Regards to Equal Mileage Rates", Joint Documents of the State of Michigan (1877), vol. II.

²⁵ Journal of the Senate of the State of Michigan (1877), vol. II, 917-22.

²⁶ Ibid.

overlooked the nature of the original complaint, which was that these non-competing rates were high and oppressive. The committee closed its report with this advice to the petitioners; "It is hoped that the good, sound common sense and wisdom of letting well enough alone will prevail among the people".²⁷

The Committee appointed by the House of Representatives to investigate the same charges disclosed findings which differed greatly from those offered by the Senate. The House committee severely criticized the over-all policies of the railroad corporations and specifically singled out the special charter roads for their heaviest attack. The special privileges which had been granted by the 1846 Legislature had increased to oppressive limits. "...These concessions have grown to such proportions that it has made their possessors very powerful, permitting them to combine and consolidate, and thereby create a monopoly sufficiently strong to prevent or crush competition, and in many cases this power is used to unduly tax and oppress the people who created them.... They are the best customers of the press; they control the telegraph lines; they have the readiest access to the public ear; many of our laws are made in their interests; and along every line of railroad they keep in their employ the best legal talent. The railroads have found in a perpetual charter the elixir of life...."²⁸

²⁷ Ibid., 25.

²⁸ House Journal, 1877, p.1213-15.

This analysis by the House Committee seems to more aptly describe the position of the railroad corporation in the State than does the report given by the Senate. It is interesting to note that two branches of the government could both undertake an investigation of the same subject and return with such widely separated conclusions.

If the report of the House is accepted as being more representative of the conditions of 1877, then it may be concluded that the influence of the railroad lobby had already spread to the Senate. From 1877 to 1907, an examination of the attempts to enact legislation designed to regulate railroads discloses that such efforts were usually blocked or defeated in the Senate. On the other hand, the House of Representatives, during the same period, seems to have more nearly reflected the demands of the people of the State. The majority of regulative bills originated in the lower branch of the State Legislature but met defeat in the upper chamber. Perhaps a break-down of the composition of the 1877 Legislature will help explain why the demands for regulations
29
fared so badly.

Senate- 32 Members

10 - Lawyers
3 - Farmers
3 - Doctors
16 - Lumbermen and Merchants

House- 100 Members

28 - Farmers
21 - Lawyers
51-- Commercial

29 Lt. Gov. Alonzo Sessions, letter to Grange Visitor
(July, 1877) v. 3, no. 4, p. 1.

This break-down reveals the extraordinary influence of the lawyer class in the Legislature, a class usually employed to good advantage by railroad corporations. At least the presence of thirty-one lawyers gave them a representation far out of proportion to their numerical strength among the general population. Their presence may also account for the passage of many laws, which seemingly appeared to regulate but actually were ineffective because of loop-holes and legalistic working.

This outbreak of popular opinion, in 1877, against the rail corporation produced little or no concrete results. The railroads emerged from the demonstrations with all their powers and privileges intact. This action of 1877 marked the height of the farmers movement against the railroads of the State. The Grange had appeared in 1874 and from that date until 1877 had enjoyed a rapid growth. Its political influence in no manner approached its numerical strength during those years and it soon passed into a state of relative unimportance politically. Therefore, after 1877, the leadership of the struggle to establish corporate regulation was in the hands of the small-town business man. This latter group soon began a determined campaign to curb the powers of the railroad corporation.

By 1877, the railroads demonstrated that they now had mustered sufficient influence to protect themselves from the public. After this date they maintained this control over

the Legislature to facilitate practices of discrimination and partiality against persons and communities. Through concealment of actual earnings the railroad corporations attempted to portray themselves as suffering from the evils of unchecked competition. The railroads were very successful in concealing their earnings, for after 1880, the public demands for maximum freight legislation died away. However, there is considerable evidence that the people of Michigan continued to be harassed by high rates even if they failed to recognize this condition.

The large railroad corporations used one or more of the following methods to conceal earnings: over-capitalization, use of "fast freight" or "car-loading" companies, and the acquisition of useless or unprofitable roads to reduce the earnings of the parent road. The weakness of the capitalization provisions of the Railroad Law of 1855 made possible the evils of overcapitalization. As pointed out in Chapter II there was no maximum limit on capitalization per mile of road constructed. Furthermore there were no restrictions requiring that capital stock or bonds be issued on the basis of worth or assets of the company. It was the duty of the Commissioner of Railroads to prevent such dilution of value, but as events proved, this detection was beyond the capacities of one official. Therefore, the corporations were continually issuing worthless stock to keep the dividend rate low in

order to forestall public demands for rate regulation. The Grange, in 1880, complained of this practice. This group charged that , while the total railroad valuation in the State exceeded \$300,000,000, this amount was four times the actual costs of the roads. Railroad statistics for 1879 indicated that the average cost per mile of road was \$55,149.00. The Grange stated that the actual cost per mile was less than \$20,000, and that the people were being taxed by the roads to secure profits on some \$30,000 per mile of fictitious value.³⁰ The Railroad Committee of the House of Representatives singled out the condition of the Michigan Southern as regards capital stock. The total capital stock and bonded debt of this company in 1877, amounted to some \$83,000,000. The Railroad Committee asserted that the actual cost did not exceed \$25,000,000.³¹ Despite the evidence that this condition was prevalent in the State, nothing was done to prevent or retard its growth. Many persons complained of this practice, but it continued unchecked until 1907, when steps were taken to stem the tide of false valuation. This unwholesome practice appears to have been used as one method of hiding true earnings. The attempts to earn profits upon such an enlarged valuation indicates that freight and passenger rates must have been considerably higher than normal conditions would justify. The common use of overcapitali-

³⁰ Seventh Annual Session, Proceeding of the Michigan State Grange (1880), 62-4.

³¹ House Journal, (1877), vol. 2, p. 1217

zation seems to have been inspired by a desire to escape rate regulation. The seemingly low dividend return would effectively reduce the demands for rate regulation for it appeared that the roads were receiving a very small profit upon their investment.

The second method used by the railroad corporations to reduce the dividend rate or to divert earnings was the use of "corporations" within "corporations". These inner companies had various titles such as; "Transportation Lines", "Dispatch Companies", "Car-loaning Companies", "Fast-freight Lines", and "Sleeping and Palace Car Companies". These companies were formed by the railroad corporations, usually in an effort to divert excessive earnings into hidden and profitable channels.³² The main purpose of these controlled companies was to rent various types of rolling-stock to the parent road. Organization of these companies was accomplished by one of two methods, stock-control and co-operative. The co-operative company was owned by several railroads. The rolling-stock of the controlled company was contributed by the various parent lines equally in the basis of miles of road owned and the amount of business done by each company. Therefore the capital of a co-operative company consisted of rolling-stock and the parent roads rented their own cars from this inner corporation. The dividends were divided among the car owners on the basis of the mileage earned by

³² Commissioner of Railroads Reports (1875), xix-xxi.

the cars they contributed, or a pro-rata sharing scheme.

The more common type of controlled company was the stock company. This organization was formed in the usual manner through stock subscriptions by the railroad corporations. The capital stock was then invested in rolling-stock. The officers of the new company then set up offices in the larger trade centers to solicit through freight traffic. Business thus secured would be directed over the routes of the parent companies who would pay mileage rates on the cars used and often an additional commission varying from five to fifteen per cent for the traffic. Large shippers used this method consistently for they could avoid the delays in transit often occasioned by stop-overs during the ordinary freight movements. The parent railroads profited from the increased volume of business and also from the large dividends on their stock invested in the controlled company.³³ This proved to be an excellent method to reduce dividend rates and also to enrich certain railroad officials who often held the stock of the "Fast Freight" company. Such an extensive use was made of this evasive technique that Governor Bagley, in 1875, took a stand against its continuation.³⁴ The Governor declared that many stock and bondholders were being deprived of: "...good money which should rightly have been theirs...." Despite this warning nothing could be done to curb this practice. All of these companies had been formed outside of the State and therefore were not subject to the

³³ Ibid.

³⁴ Fuller, op cit., vol. III, 220.

laws of Michigan. This was demonstrated in 1883 when the Legislature passed a bill calling for the taxation of these lines. The companies refused to pay these taxes on the basis that they were inter-state in nature and could not be required to pay any state tax. The United States Supreme Court upheld this contention and the State was limited to taxation upon that portion of the business of these companies which was entirely intra-state.³⁵ This decision by the court decisively proved to the Legislators that they could not hope to control these "fast freight lines". Because of their inter-state nature these companies only fell under adequate control when the Federal Government established the Interstate Commerce Commission in 1887.

A third method of hiding earnings, used by some railroad corporations, occurred in the acquisition of useless and unprofitable roads. Many companies during their consolidation program would deliberately acquire roads of this nature in an effort to reduce their dividend and earnings. The earnings of the entire system would be divided equally among all the stock, thus giving value to some securities which formerly were worthless. It became a favorite practice of some railroad officials to acquire the stock of defunct or ailing railroads which possessed little or no value. After adding this road to their system and diverting earnings to the useless road, the official would be rewarded with the payment of dividends upon his newly

³⁵ Commissioner of Railroad Reports (1884), xxxix.

acquired securities. All this would be at the expense of the stock and bond holders of the parent road, who suffered a diminution of the value of their securities. This practice also enabled the corporation to reduce the rate per mile of earnings, a manipulation which also produced
36
a reduction in the tax return.

Through the use of watered stock, "Fast Freight lines", and the addition of useless roads the railroad corporations were enabled to obtain higher freight and passenger rates than should properly have been exacted. The general public did not seem to realize the extent and scope of these manipulations, probably because such practices were cleverly hidden by the corporations. After 1880, therefore, there was no great outcry against these malpractices, which reveals how quietly the railroad officials worked.

These hidden evils were effectively camouflaged behind a widespread railroad system of discriminations. The pattern of these discriminations aroused such a storm of protest that many of the other less apparent practices were overlooked. The railroads continually discriminated against persons, businesses, and communities, especially those living at non-competing points. These areas were completely at the mercy of the arbitrary decisions of rail officials. Persons living in the larger rail centers were able to sec-

36 Paul W. Ivey, The Pere Marquette Railroad Company (Lansing, 1919). This account describes the process by which this company acquired useless lines to reduce their passenger and freight earnings.

ure more favorable terms from the roads, expecially if they represented large business concerns. The large business interests were often rewarded by a railroad with favorable freight rates on the condition that the business use the facilities of the road. These lower rates gave the large-town merchant a considerable economic advantage over a merchant in a small non-competing business area. Because of this discrimination the railroads enjoyed the support of the large business interests in the battle against the establishment of maximum or equal rates. The small-town merchants, on the other hand, were vigorous advocates of equal rates and demanded the enforcement of the discrimination laws of the State. Each special charter that had been granted contained provisions prohibiting discriminations. In addition, one of the Constitutional Amendments adopted in 1870 had specifically prohibited discriminations of all types. There seems to have been no attempt, however, to enforce any of these laws. Perhaps the attitude of the State toward this problem is best exemplified in the remarks of Governor Croswell to the 1879 Legislature. "...The railroad corporations in the State have been organized as common carriers, with a view of providing equal facilities at all, without discrimination in favor of any. This right can only be maintained by the corporations themselves...."³⁷ This attitude seems to reflect an undue confidence that the railroad officials could be

37 Fuller, op cit., vol. III, 332.

trusted to deal fairly with all their patrons. That this confidence was violated is exhibited by the testimony given by the following account. This witness, a Detroit business man, describes clearly the many uncertainties and anxieties to which the railroads subjected their patrons.

I am a grain shipper representing the firm of J.S. Lapham and Company, Detroit....Before this law (Interstate Commerce Act) went into effect every shipper had special rates from his usual shipping point to almost every place to which he shipped where there was none. Almost every country dealer had a special rate to his nearest market anyway, if not to more remote ones. No one ever pretended to ship at tariff rates, in any amount, at least. Tariffs were made only to break. General freight agents met to make ironclad agreements, and each one then hastened to wire his sub-agents to contract all they could before he should sign the schedule. Notice would be given of an advance in the tariff to take effect at some given near date, but before this date came around, contracts would be made with favored shippers for an amount which would take them three weeks to fill. Tonnage, tonnage, tonnage was the great desideratum. It required the pretty close attention of one good clerk to make up rebate claims monthly to the different lines over which one shipped. It required more patience than most of us possessed to wait for our profits, which were tied up in rebates....Added to all this was the continued uncertainty as to whether one's neighbor was not getting a little lower rate than you were. One had to "stand in" with the freight agents, to be on the lookout every moment. We could hardly tell whether we had an established trade at all. Customers who always traded with us when they could, would occasionally wire or write us as follows, "Your neighbor is offering wheat at two cents below you; we don't want to trade with them; why can't you do as well?" Of course, everyone connected with the railroad from the President down, would deny any cut, but the fact remained and no amount of denial could change it. We doubtless had as low rates as anyone else in Detroit. It was necessary of course to have the confidence of the railroad officials to secure these cuts and one had to be discrete and silent regarding them....The whole system was a pernicious one. 38

38 James T. Shaw, "The Inter-State Commerce Act from the Shippers' Point of View", in The First Meeting of the Michigan Political Science Association (129-31).

The uncertain business conditions described by this did not fail to arouse public indignation. The leaders in the struggle to eliminate these conditions, during the 1880's came from the small towns and cities, particularly those located at non-competing points. These small-town merchants assumed the role in Michigan that was taken by the farmer in the other States. It appears then, in this State, that the farmer followed the lead of the merchant and did not make an outstanding contribution to the struggle to end discrimination. During the decade from 1880 to 1890, many bills were introduced into the Legislature seeking to establish equal rates and to curb the spread of partiality. Most of these measures were initiated by the small-town merchant group and they gave the proposed legislation a considerable amount of support. The opposition to these bills consisted of a combination of the large business firms and the railroad lobbyists. In 1885, a bill known as the Shoemaker Bill was introduced in the Legislature with a purpose of establishing equal freight rates. The political alignments of the period were soon revealed by the nature of the petitions that appeared in defense of or opposition to the bill. The Grand Rapids Merchants, and Manufacturers Exchange and the Furniture Manufacturers Association combined resources to protest the passage of the Shoemaker Bill. These merchants declared; "...That any effort on the part of a single State to control this subject will result in no bene-

fit, will restrict, hamper and injure the Manufacturing,
Commercial and Industrial interests of the State."³⁹

The proponents of equal rates had their case ably presented by some of the citizens of Barry County. This group stressed six points which they considered imperative to their welfare:

1. The smaller towns, not enjoying competing privileges, are frequently required to pay as heavy rates for twenty or thirty miles on non-competing lines as against several hundred miles on competing lines.
2. Freight rates to the extent of thousands of dollars are each year paid unjustly by small towns, thus the businesses therein are paralyzed.
3. Such excessive freight discriminations against the towns not having competing lines are not originated for the benefit of the railroad companies exclusively, but are, under the present system of cutting rates, necessarily indulged in to a large extent in order to enable the railroads to earn back the freight made too low at competing points.
4. The dealers in Grand Rapids and other large centers are naturally selfishly interested in maintaining the present discriminating system. Being blessed with abundant competition, they, by means of the reduced rates given them, are enabled to control and crush out the trade of the local points not favored with competing privileges.
5. The present system of discrimination in freight rates thus inevitably tends to the building up of the industries of towns having competing lines at the expense and ruin of towns not so favored.
6. The present system of discrimination simply builds up monopolies, and crushes legitimate trade and industry everywhere except in the favored centers. 40

The complaints offered by this petition were typical of many of the other small communities throughout the State. The

³⁹ House Journal, 1885, v. II. 1489-90.

⁴⁰ Ibid., 1494-5.

railroad corporations, through discrimination, had the power to actually determine the success or failure of business enterprises. In addition, this power could also determine the future of a small community. By giving reduced rates to firms and industries in larger trade centers, the railroads were, in many instances, retarding and blighting the development of the small town. Thus the rail corporation had an almost direct voice in the destiny of the State.

The political influence of the small-town groups was considerably less than that of the railroad and large business coalition. The Shoemaker Bill failed in 1885, but the same features of that bill appeared in another during the 1887 Legislative Session. As in 1885, the Grand Rapids business interests led the opposition to the Rogers Bill. This city embraced five different railroad companies and the total yearly freight receipts amounted to \$1,622,421.24⁴¹ for the year 1888. This rich prize was eagerly sought by all of the roads and undoubtedly many special rate inducements were offered to the merchants by the rail officials. It is not difficult to determine why these merchants so avidly opposed maximum or equal rate legislation. In the 1887 campaign, the lumber merchants from Muskegon joined the Grand Rapids delegation to oppose the Rogers Bill. The lumber companies declared that this bill would be highly destructive to their interests.⁴² The small-town merchants

⁴¹ Albert Baxter, History of the City of Grand Rapids (N. Y. 1891), 540.

⁴² Senate Journal, 1887, vol. II. Petitions no. 724, 792, 827.

of Hastings and Nashville led the contingent for passage of the bill. The Nashville group stated that the Rogers Bill was badly needed. "We consider this bill as the best legislation ever offered for the equalization of freight carried by the railroads of this State. In our opinion this bill will secure for the people at non-competing points protection against these grasping monopolies...."⁴³

As in 1885, the railroad influence proved to be insurmountable and the Rogers Bill failed to become law. The struggle to establish equal rates by the small-town merchant, however, proved to be the sternest opposition that the railroads had yet encountered in the State. Although these groups failed to secure their goal, in the 1880's they did succeed in focusing attention upon the unrestricted evils of railroad corporations. It may well be that these small cities and villages turned their attention, after failure at the State level, to the Federal Government and aided in securing the passage of the Inter-State Commerce Act of 1887. They appear to have been the only group with enough strength to take the lead in such a move as the Granger movement had largely subsided by 1887.

The appearance of the Inter-State Commerce Act was hailed by many as the savior of the public. This unfortunately did not prove to be true in Michigan. Intrastate discriminations still continued unabated and unchecked until

⁴³ Senate Journal, 1887. vol.II, Petition 848.

1907, when the State finally enacted stringent legislation bringing the railroads under adequate regulation. The people of the State were still subjected to the same types of discriminations as they had been before the passage of the Federal Legislation. The railroad corporations appear to have maintained their influence over the law-making body of Michigan. The protests of the village merchants, however, stirred up a more general and united front against the corporation following 1890. The merchants are joined by many other groups after 1890, and their strength was such as to make the coming years troubled ones for the railroads and their allies.

V. The Reform Movement. 1890 to 1910

The tremendous growth of railroads following 1870, actually hastened the decline of the political power of the rail corporation. The increase, from 1,739 miles in 1870, to 6,957 miles in 1890 brought the railroad within the reach of many additional Michigan communities. This expansion had the effect of creating many additional opponents to the continuing display of unlimited corporate abuse. By the late 1880's the railroad scene contained two factors which served to unite public opinion and produce improved methods of regulation. Public opposition to excessive passenger rates and to the existing railroad taxation methods were the two points which led to the first effective reform movement against the corporations. Prior to 1890, there had never been a completely unified popular movement against the railroads. This was partly due to the fact that not all of the people were discriminated against at the same time, therefore, no combined opposition could be easily mustered. But, by 1890, the railroads had increased in mileage six-fold and many more people had reason to feel the injustice of several of the practices of the corporation. A great number of people were dependent upon passenger service for their principal form of transportation and they had a direct interest in the problem of equitable rates. It was,

however, the virtual escape from taxation by the railroad property which contributed most to the decline of the corporations. The gross earnings tax, enacted in 1871, had allowed the railroad company to virtually avoid the payment of their fair share of the tax burden of the State. The tax enabled the corporation to pay only a little or often no tax at all during a depression or periods of economic stress. The other people of the State were required to pay taxes computed on a valuation basis, therefore, their tax was the same in depression as it was in normal periods. This injustice began to irritate the vast majority of the general public and, more than any other complaint, directly led to the first successful attempts to establish public regulation of corporations.

A new type of public official appeared after 1890, one who utilized the increasing public discontent to formulate definite programs of reform. The reform movement reached its first goal during the years from 1897 to 1901, under the guidance of Governor Pingree. This man previously had attracted attention for his reforms as Mayor of Detroit. While Mayor, Pingree had combatted the utility corporations of that city and had succeeded in initiating many reforms for the citizens. His popularity became so widespread that he was elected Republican Governor in 1896, in spite of the opposition of the leaders of that

political party. His election was important in that he was one of the few Governors to be the popular choice of the people and not a figure presented by the leaders of the Republican party. Pingree therefore, was able to proceed with his reform program unhampered by political commitments.¹ The Governor, in spite of extreme opposition from the railroad lobby, was able to bring the property of the railroads under the ad valorem method of taxation and he also secured the repeal of the special charters. Following Pingree's administration came a reaction to his often violent reforms. But in 1907 a new type of reform administration welded the complete establishment of corporate regulation. The reforms of 1907 appear to have been the result of a national anti-corporation movement made popular by Theodore Roosevelt. They may then be characterized as being formulated and instituted by the Republican party as an integral part of their platform. This meant that the final realization of the reforms came through the direction of political leaders and not from the citizenry as was characteristic of earlier reform actions.

The Legislature of the State had always exercised the right to regulate passenger fares. The special charter roads had been limited to a three cent per mile rate by the provisions of their charter. The General Railroad Law of 1855 had also established a similar limit for all other

1 Chase S. Osborn, The Iron Hunter (N. Y. 1919), 137.

companies. In 1870, the Legislature hoping to stimulate rail development in the Upper Peninsula, had authorized a four cent maximum in that section of the State. During the 1880's, it was becoming apparent to many persons that these passenger fares were higher than operating expenses justified. There were several reasons why the fares were unjust. The cost of rail construction and of rolling-stock had declined since the three and four cent limits were approved. The over-capitalization of many corporations forced the passengers to pay higher prices for tickets than would normally be justifiable. In addition, the increased number of persons using the passenger services of the railroads would usually produce a decreasing cost per mile per passenger. Because of the presence of these cost-reducing factors many persons became indignant over the continual stability of passenger fares. The situation in the Upper Peninsula appeared to be particularly acute because of the relative scarcity of competing railroads. In 1889, the citizens of Menominee County brought their plight to the attention of the Legislature. The experiences of these people, over a period of years, indicated that the passenger fares might be two cents at competing points, but at non-competing areas it was usually four cents per mile.² Many other groups also presented like grievances to the Legislature during the late 1880's. Most of the petitions favored the estab-

² House Journal, 1889, p. 342-3

lishment of a two cent limit, no doubt basing this request on the experiences of several Eastern States who had adopted a two cent maximum passenger fare. These States had discovered that action did not decrease total passenger earnings but actually increased such gross profits. It developed that the public utilized the passenger service to a greater extent after the passage of the reduced fare bills. The Michigan Legislature followed the lead of the other States and, in 1889, they passed the Graduated Passenger Fare Act creating new fares for the General Law railroad companies.³ The special charter roads were, of course, exempt from this act. The new legislation provided for the following system of fares in the Lower Peninsula;

<u>Earnings per mile</u>	<u>New Fare of 1889</u>
\$3,000 or over	2¢
\$2,000 to \$3,000	2½¢
\$2,000 and less	3¢

The fare for the Upper Peninsula were also reduced but they still remained liberal;

<u>Earnings per mile</u>	<u>New Fare of 1889</u>
\$3,000 or over	3¢
\$3,000 and less	4¢

If the passenger earnings of a company passed from one classification into a higher one, the company was required to lower its fare to the figure required by law. The adjustment also automatically applied when the earnings per mile

3 Public Acts of the State of Michigan (1889), Act 202.

declined.

The railroad corporations immediately contested the legality of the new law. The Grand Trunk Railroad refused to reduce their fare when their earnings justified such a move, and they moved their objections into the State Courts. The Case of Wellman v Grand Trunk lasted until 1892, and in that year, the State Supreme Court ruled that the Passenger Fare Act was constitutional. The decision held that the Legislature had a right to regulate fares as long as such regulation was reasonable, and it was within the jurisdiction of the Court to determine the reasonableness of the fares.

The passage of the fare reduction act, and the Courts decision that such an act was legal, did not give immediate benefits to the traveling public. This new law appears not to have been enforced for a number of years following 1889. Chase Osborn declared that he was the first Commissioner of Railroads to enforce the provisions of the law.⁴ Since Osborn did not become Commissioner until 1899, this means that the public continued to pay illegal rates for a ten year period. This situation offers some clue to the tremendous influence of the rail corporation and the equally inept power of the State to enforce its own laws.

In addition to the passenger rate controversy, which

4 Osborn, op cit., 140

served to arouse public opposition, the pressing problem of corporation taxes came up for general discussion during the 1890's. In the whole field of railroad regulation in Michigan, no other point had aroused such an intense public clamor as did the problem of taxation. The previous chapter described some of the tactics employed by the railroads to conceal or reduce earnings. One of the reasons for this evasion was undoubtedly the desire to escape the gross earnings tax of 1871. The Legislature of that year had replaced the one per cent capitalization tax with one based upon gross earnings per mile according to the following scale.

<u>Gross Earnings per Mile</u>	<u>Rate of Tax</u>
\$2,000 and below	2½%
\$2,000 to \$4,000	3½%
\$4,000 to \$6,000	4%
\$6,000 to \$8,000	4½%
\$8,000 and over	5%

This tax plan was applicable to the general law roads only, the special charter roads continued to pay the specific tax upon their capital stock. The railroads were extremely successful in the evasion of this earnings tax, for the State officials had to accept the tax figures that were presented by these companies. The task of auditing each company's financial status to determine the true tax figure would have been beyond the ability and energy of the officials responsible for the collection of taxes. The State, therefore, lost unknown but probably a sizeable sum of money each year through

this procedure. The gross earnings tax had proved to be a boon to the railroads and a burden to the public. Prior to 1871, the rail companies were paying nearly thirty-five per cent of the total State Tax returns, but after 1871, they paid less than eighteen per cent of the total. This lesser amount was paid despite increasing valuation of their property.⁵ Had the State seen the need of imposing an ad valorem system of taxation much earlier in its history, they could have prevented the widespread growth of over-capitalization by the corporations. This reduction in taxation following 1871, resulted in an increasing tax rate for the remainder of the State. This additional burden was beginning to fray the temper of the citizens by 1890, when the first signs of open rebellion appeared in the Legislature. Governor Winans, in 1891, pointed out that there was no good reason why railroad property should not be taxed on an assessed valuation basis as was other property.⁶ The Legislature of that year made some attempts to adjust the muddled taxation problem. One act of that year provided that all railroads not paying taxes under the gross earnings plan must, after July 1, 1892, pay their taxes as provided by that law.⁷ This referred specifically to the special charter roads which were still paying a one per cent capitalization tax. The charter roads rejected this act of the Legislature and refused to

⁵ George N. Fuller, Messages of the Governors of Michigan (Lansing, 1927), vol. IV, 65-6. (Gov. Pingree).

⁶ Ibid., vol. III, 657-8.

⁷ Public Acts of the State of Michigan (1891), Act 123.

submit to the earnings tax. The Michigan Central contended that the new law was only an amendment to the General Railroad Law to which they were not subject. Furthermore, they regarded the special charter of 1846 as a contract which the Legislature could not void. The next session of the Legislature, in 1893, witnessed another attempt to harness the wide powers of the charter roads. This act amended the taxation section of the Michigan Central's charter, again requiring it to pay taxes under the gross earnings tax system.⁸ The Central temporarily rejected this new law, using the authority of their charter which gave them the power to refuse any amendments to the charter which they did not consider with favor. In 1894, however, the Central consented to comply with the latest act and began payments on their gross earnings. This decision may have been prompted by the effects of the depression of 1893, which produced a decided reduction in profits for many corporations. It appears that the tax computed upon the gross earnings was less than the old specific tax upon capital stock. The Central continued its payments under this new method for only a short time when it reverted to the specific tax.

The effect of this early taxation legislation did little to equalize the overall burden of the expenses of State government. This failure to alleviate the inequalities plus the

⁸ Ibid., (1893), Act 179.

financial panic of 1893 aroused a greater feeling against the corporations. The depression caused many more citizens to question the taxation system and to ask why the corporations were practically exempt from sharing the costs of government. One group, in a petition to the Legislature, demanded the answer to a question which was being asked in every quarter of the State. "We want to know the reason why it is just for us to pay more taxes on a dollar's worth of property than they do. The gross income tax permits railroads to pay a small amount in hard times when their incomes are less, but we are compelled to pay the same amount whether times are good or bad...."⁹ The injustice of which this petition speaks is illustrated by the following figures used by Governor Pingree. In 1895, the railroads of the State were paying a total tax of \$741,408.77 on property valued at \$301,003,148.44. Had the railroads paid their taxes on the same basis as the rest of the State, their tax return would have amounted to \$8,428,088.15.¹⁰ The railroad corporations naturally could be expected to resist all attempts to collect this larger amount from them.

Because of the failure of earlier administrations to equalize the tax problem, the people, in 1896, sought new leadership. The great popularity of Hazen Pingree and his previous record as a foe of the corporations promoted his election as Governor. He came into office virtually free

⁹ "Petition from Senatorial District No. 1" in House Journal, 1898, p. 55.

¹⁰ Fuller, op cit., vol IV, 84-5.

and independent of the powerful Republican party Machine, a condition which made him rather unique among the Governors of the State up to this period. Pingree was also a strong advocate of public ownership of public utilities, and this attitude was beginning to win acclaim in several sections of the country.¹¹ Soon after taking office in 1897, the new Governor moved quickly and surely to prepare the way for the ultimate regulation of the railroad corporations. Early in the first year of his administration he urged and secured the appointment of A Special Investigating Committee from the House. The purpose of this committee was to furnish a means for the people of the State to submit their complaints against the railroads and their discriminatory practices. This investigation was given complete publicity by the Governor through all of the newspapers of the State to assure that no one who had caused for complaint would be overlooked. There are two significant characteristics of this action by the Governor. First, in selecting this Special Committee from the House, the Governor recognized the relationship of that body to the popular mood. Pingree was aware of the powerful influence which the railroads held over the Senate, and this action indicates that he intended early in his administration to combat the corporations. Secondly, this committee was the first ever appointed to investigate the -----

11 Ibid., 135-6.

railroad problem in its entirety. Formerly, committees were only appointed to deal with a specific complaint concerning one railroad company, thus the whole problem of discriminatory tactics was never discussed or revealed at any one time.

The Special Committee of 1897 marked the first instance where the people of the State could freely offer complaints against the railroad corporations without excessive fear of retaliation. In the past this fear undoubtedly deterred many persons from joining the attack against the corporations. But in 1897, there appears to be a growing confidence that the period of regulation is at hand and more individuals and businesses rush to join the movement.

The investigation was completed in 1897, and the publicity resulting from the findings may have contributed greatly to the growing trend toward regulation. Discriminations constituted the bulk of the complaints uncovered by the Committee. Some of the more common types of discriminations were; making better rates to large shippers than small; extending privileges to some and not to others; some communities were discriminated against by the practice of allowing other communities better rates when both were the same distance from the markets. The following tables list the specific charges made against each of the roads of the

12 House Journal, 1897, p. 1590-1606.

13
State.

<u>Complaint</u>	<u>Michigan Central</u>	<u>Number of Complaints</u>
Excessive rates.....		1
Discrimination in favor of large shippers.....		2
Increase in weights at terminal points.....		1
Neglect to care for perishable goods.....		1
Excessive car service charges.....		1
Discrimination against non-competing points.		1
		7

Duluth, South Shore & Atlantic
Excessive rates..... 4

Chicago and Western Michigan
Discrimination in train service 2
Excessive rates..... 1
Excessive rates on livestock..... 1
Discriminations in rates..... 1
Trouble in settling claims..... 1

6

Cincinnati, Jackson & Mackinaw
Excessive rates on livestock..... 1

Chicago, Kalamazoo & Saginaw
Excessive rates on livestock..... 1

Grand Rapids and Indiana
Discriminating against non-competing points. 1
Discriminating by permitting under-weight
or charge privileges..... 1
Rates not uniform..... 1

3

13 Ibid., 1600-1.

Wabash Railroad

<u>Complaint</u>	<u>Number of Complaints</u>
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Excessive rates.....	1
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Manistee & Northwestern

Charging more for less than a carload..	1
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Chicago & Grand Trunk

Excessive rates.....	1
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Flint & Pere Marquette

Excessive rates on stock.....	2
Excessive rates generally.....	3
Poor through car service.....	1
Difficulty in adjusting claims.....	1
Discriminating in stop-over privileges.	2
Discrimination against small shippers..	5
Discrimination in classification.....	1
Discrimination in storage priveleges...	1
Illegal charges for car switching.....	1

17

An examination of some of these specific charges indicates the extreme power which the railroads held over the lives and business affairs of the people of the State. The first letter explains why many persons accepted discrimination rather than attempting to settle their claims in courts. "I am fully convinced that the road has constantly discriminated against me, but of course I have no redress, for it is hard to get proof of the fact, and should they find out that I sent you this information they might discriminate still more; so if possible, I would request

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that my name be not mentioned". This statement attests to the complete futility of the State's attempts to protect its citizens. The often unduly friendly attitude of the Commissioner of Railroads toward the corporations gave the persons who suffered discriminations little opportunity of seeking relief from that office.

A letter from Port Huron illustrated the damaging effects of the railroad policy of extending privileges to one person while withholding the same from other persons.

The Flint and Pere Marquette at this time are giving the McMoran Elevator Company the privileges of billing oats at any station this side of Saginaw through to New York and Boston rate points with the privilege of stopping the car here at Port Huron at the McMoran Elevator for cleaning or clipping the oats without any extra charge; while we are denied this privilege and have been at all times in the past. The result is this; we are obliged to bill our oats in to Port Huron on a local rate making a difference of a cent per bushel, and you can readily see the result when we are handling the grain on a profit of only one-half cent per bushel. We ask for no special privileges not accorded to others, but feel that we should have the same as others. 15

Another example of Pere Marquette discrimination centered around the lumber industry.

We are glad for the opportunity of expressing some of our grievances in regard to the Flint and Pere Marquette Railroad Company. J.S. Stearns of Bennett, Michigan, has a rate of \$1.00 per car on logs from points on the F. & P.M. to his mill at Bennett, in consideration of his shipping his manufactured product over the said road.... The railroad grants us a rate of \$3.00 to \$5.00 per car for a like agreement to ship our output over the road. This is simply because they have more influence with the traffic manager than we have. 16

14 Ibid., 1590.

15 Ibid., 1591-2.

16 Ibid., 1593.

These two previous examples illustrate the power of a railroad company to determine what businesses will remain in existence and what margin of profit or loss they will receive. At non-competing points this power was dictatorial.

The Committee found evidences of the inequality involved when shippers forwarded less than car-load lots. The rate and total cost for a carload of hay from Ludington to Scottville was \$7.00 for 20,000 pounds: however, one person, who shipped 10,000 pounds of hay over this route, was forced to pay \$12.00 for his cargo.¹⁷ This type of discrimination bore more heavily upon the farmer and small business man whose volume of business did not permit the shipment of produce in carload amounts.

One undisclosed complainant suffered considerable financial loss from the arbitrary decisions made by directors of the Ann Arbor Railroad. This experience indicates that the road attached little meaning to agreements or contracts.

I would like to call your attention to the high-handed dealings of the Ann Arbor railroad. In consideration of station and side track to be maintained by the railroad, which provision is also in the deed, I gave them the right of way for two hundred rods through the very best of farming land. They built a depot and have always taken passengers and freight until February 1, last, and now they refuse to recognize the station in anyway. I also built an elevator on their siding at an expense of eight hundred dollars, and now they have taken up the siding and refuse to ship my produce.¹⁸

Many shippers complained of encountering excessive car service charges. This practice allowed the railroad to charge one dollar per car for each twenty-four hour period

17 Ibid., 1603.

18 Ibid., 1595.

that a car was detained over forty-eight hours after arrival at the destination. The railroad, on the other hand, was not required to pay shipper damages for any delays in transit.¹⁹ In addition, shippers, suffering damages or shortages to their produce while in transit, found it virtually impossible to satisfy their claims for such losses. There were several instances in which shippers discovered that differences in the weight of their produce often appeared between the initial and the terminal points. The shippers were surprised to learn that their cargo would increase in weight between those two points; the railroad would naturally deduct the added cost when the cargo arrived at the terminal area.²⁰

The problem of shipping livestock had always been a precarious one for the shipper. The railroads had not been declared common carriers of such products, and as a result were not required to have any definite procedure regarded such shipments. This indefiniteness produced a great element of risk for all who were involved in this type of shipping. The only certain element was the freight charge and this proved to be most inflexible. The following table compares the less than carload lots classification for Michigan and Illinois.²¹

19 Ibid., 1603.

20 Ibid., 1602.

21 Ibid., 1602.

ArticleArbitrary Weight Classifications.

	<u>Michigan</u>	<u>Illinois</u>
One horse, mule or horned animal.....	4,000 lbs.	2,000 lbs.
(each additional animal).....	3,000 lbs.	1,000
One cow and calf.....	4,400	2,560
One mare and colt.....	4,400	2,500
Calves under six months.....	500	500
Calves over six months.....	4,400	2,000
Stallions.....	5,000	2,000
Hogs.....	500	actual weight

Since the majority of livestock shippers in the State were farmers with less than carload lots, it can be seen that they paid dearly for the privilege of marketing their produce. The difference in the weight classifications between the two States is interesting. Illinois had been one of the first States to impose regulation upon its railroads during the reform wave of 1870's. Her attention to the livestock classification alone reveals the improved conditions of her shipper as a result had an economic advantage over his counterpart in Michigan. This economic advantage was also typical of all other products where the shippers of Michigan had to pay extra fees and charges. Therefore, the average shipper of the State was in an unfavorable position in the market when his products met with competition from products of the States which had adequate regulation over the railroads.

In addition to offering an opportunity to air grievances, the Investigating Committee asked the various shippers to formulate a series of recommendations which they felt would

alleviate the existing transportation system. As a result,
the shippers came forth with six specific points:²²

1. A committee of three should be appointed by the Governor to arbitrate upon all claims and grievances between shippers and railroads.
2. All freight rates should be under the jurisdiction of the State.
3. Railroads should be obliged to furnish freight cars to shippers when served with written notice for the cars to be placed for loading, and the shipper should be entitled to one dollar a day for all cars detained beyond forty-eight hours.
4. The railroads should be required to furnish storage room for perishable property, when such property is offered as freight, until such time as the railroad will be able to furnish cars to transport such freight.
5. All railroads receiving freight billed or shipped to any destination outside the State should be held liable for any and all loss or damage occasioned in any way to said property.
6. All "fast freight lines" should be required to incorporate under the laws of this State so as to be brought under the laws of the State.

The Committee concluded its report with the recommendations that the creation of a Railroad Commission would be a desirable move. The powers of this Commission should include authority to fix maximum freight and passenger rates, prepare classifications, hear and adjust grievances, and enforce the laws relating to the railroads. While these recommendations were not immediately adopted by the State, they had the effect of forming the basis for the legislation of 1907. In that year most of the findings of the 1897 Committee

²² Ibid., 1604-6.

were incorporated into Law creating the Michigan Railroad Commission. Within the ten year period following 1897, the influence of the railroad corporations seems to have prevented the passage of this type of legislation.

Governor Pingree employed the findings of this committee to strengthen his case for effective control of the railroad corporation. Early in the 1897 Legislative Session, the Governor urged consideration of the taxation problem. A bill was passed at this session which increased slightly the rate²³ of the gross earnings tax. A much higher increase had been the original goal of this legislation, but the Senate had reduced the increase to an insignificant amount. This action by the Senate marked the first in a long series of defeats inflicted upon the Governor's reform program. Pingree repeatedly accused the Senate of being so dominated by the railroad lobby that it was impossible to secure the passage²⁴ of needed reforms. The new tax bill also emphasized another aspect of the railroad problem. The Michigan Central and the other charter roads announced that they had decided not to pay their taxes under the gross earnings plan, but they were returning to the older and cheaper specific capital tax. This situation of allowing corporations the privilege of accepting or rejecting the laws of the State could not be tolerated if good government was to be achieved. Privileges of this nature could only be removed by the out-right re-

23 Public Acts of the State of Michigan (1897), Act 228.

24 Fuller, op cit., vol. IV, 308.

peal of all special charters. Furthermore, no reforms in taxations could be effective without the repeal of these charters, for it seemed that the charter roads were not subject to the general law. Governor Pingree, then, to further his program to equalize the tax burden, also urged the repeal of the special charters. In 1898, the Legislature appointed a three man Commission to negotiate with the Charter roads to determine the conditions upon which they would surrender their charters. It was two years later before the railroads agreed to surrender their charters, and then, only on the condition that they be allowed to sue the State for all damages or losses suffered due to the surrender and reorganization. While these negotiations were being carried on, the struggle for tax reform continued with little success in the Legislature. By the end of the 1899 Session, four separate actions proposed by the House had been rendered useless or ineffective by the Senate. Governor Pingree summarized the results of his first term in 1899 by listing these four points which encountered set-backs in the Senate.

1. A Joint Resolution providing for submission to the people of an amendment to the Constitution so that railroad property can be taxed upon its actual cash value. The Senate refused to pass this Resolution.
2. The Senate defeated a bill providing for a permanent Tax Board, one whose functions was to have been gathering information relating to the value of railroad property in the State.
3. The bill of 1897 which passed both Branches called for a \$410,000 increase in the Tax upon gross earnings, but the Senate amended practically all the increase out of it.
4. The Senate refused to pass a bill providing for an

amendment to the charter of the Michigan Central, compelling that Company to pay the same type of tax as other roads. 25

The failure to secure adequate reforms during the first Legislative Session was somewhat compensated for by the repeal of the special charters in 1900. After the roads had announced their willingness to surrender their charters, Governor Pingree quickly summoned a Special Session of the Legislature. Within a few days the necessary legislation was enacted repealing all of the special charters. This action removed one of the principal obstacles to the tax reforms, for all of Michigan's railroads were now subject to the General Railroad Law. This Special Session also managed to pass the resolution calling for an amendment to the Constitution authorizing the taxation of railroad property upon its cash value. This proposal was submitted to the people in 1900 and was overwhelmingly approved by a 422,728 to 54,757 vote. This would appear to have been the removal of the last obstacle to equal taxation, but when the next regular session of the Legislature opened in 1901, the Senate resumed its delaying tactics. In view of the action of the voters in approving the taxation of the railroads, the action of the Senate in refusing to pass the needed legislation must be attributed to the pressure of the railroad lobby. Governor Pingree deplored this delay and emphasized the reasons why the people demanded equal taxation.

25 Ibid., vol. IV, 180-82

The railroads have been, since the early history of the State, most generously treated by the people of the State and the general government by the gifts to them of millions of acres of valuable timber lands, and it ill becomes these corporations which have become so rich and powerful to show their gratitude for these gifts by refusing to contribute their share of the expenses of supporting the State Government.... That under the system of taxing upon earnings, the State is entirely at the mercy of these corporations, and is compelled to take such reports of earnings as they choose to make, in other words these corporations are their own assessors and themselves decide how much taxes they will pay to the State. During hard times these corporations pay less taxes and other property as a result pay higher taxes....²⁶

In the face of united opposition of the Governor, the House, and the people of the State, the railroad interests were unable to prevent the passage of equal taxation. The Legislative Session of 1901 finally enacted a bill providing²⁷ for the taxation of railroad property on its cash value. The bill also established a State Board of Assessors who were to determine the average rate of taxation to be levied upon all property. Thus, for the first time since their origin, the rail corporations of the State were compelled to contribute their fair share of the expense of government. These corporations had for many years enjoyed the benefits of governmental protections and services, the costs of which were borne by the people of the State.

Governor Pingree completed his last term of office in 1901, and following his retirement, the reform movement declined for a number of years. A reaction to his liberal pro-

²⁶ Ibid., vol IV, 239

²⁷ Public Acts of the State of Michigan (1901), Act 173.

gram set in and the railroad corporations attempted to retrieve some of the influence that was lost to them in the preceeding four years. In 1902, Justus S. Stears, a Republican candidate for Governor, charged that Governor Bliss was dominated by the Michigan Central. Stears also accused the Central of having directed the appointment of all the members of the State Tax Commission.²⁸ It is difficult to determine the validity of Stears charges, but in view of the past actions of the Michigan Central, this statement may well carry some weight.

The repeal of the special charters in 1900, had not been forgotten by the corporations. By 1903, the Michigan Central initiated a damage suit for \$6,000,000 against the State for alleged damages and losses suffered during reorganization under the General Law. Just what losses would occur in this instance is difficult to ascertain, but the directors apparently were attempting to use this opportunity to gather one more prize from the State. The State officials in preparing their case against the Central made a discovery which decided the outcome of the suit. Attorneys, examining the books of the Michigan Central, uncovered evidence that the Company had, for many years, made false tax statements to the State. The Central had concealed its actual capitalization during the past, thus escaping the full payment of their already small tax.²⁹ On the basis of this evidence,

²⁸ Detroit Tribune (May 29, 1902), 1.

²⁹ Fuller, op cit., vol. IV. 453.

the State instituted a suit against the Central for the collection of the back taxes. Both cases continued until 1910, when the railroad abandoned its damage case and paid \$125,000³⁰ to the State in recognition of its evasion of taxation.

The Michigan Central Tax case was not the sole reminder of the era of the special privileges. Another Court decision announced that the charter of the Detroit and Milwaukee Railroad could not be repealed. This charter, containing no provisions for its repeal, was indeed perpetual and its privileges would continue until such time as the directors of the company decided to surrender it. This court decision meant the company could continue to pay its small tax upon capital stock. The total return was only \$25,171.40 per year, while the total return under the ad valorem methods would have been nearly \$350,000 yearly. The Detroit and Milwaukee maintained this privilege until 1925, when it finally surrendered its charter.³¹

These two instances of railroad privileges served to remind many persons that the railroads were still not yet subject to effective or adequate regulation. The repeal of the special charters and the passage of the equal tax bill had only removed some of the evils associated with unrestricted corporate power. Following 1901, the same pattern of discriminations, as were previously experienced, continued to

30 Ibid., 539.

31 Ibid., 840-1.

plague the citizens. So from 1903 to 1907, there continued to be an unusual amount of agitation for additional regulation.³²

Several forces were uniting during the early 1900's which finally resulted in the creation of an effective Railroad Commission. Under the leadership of Theodore Roosevelt, a national demand for more complete public regulation of corporations was developing in many sections of the United States. This national feeling for reform had its counterpart in Michigan. By 1907, the agitation for modernization of governmental machinery resulted in a revised and improved State Constitution. The sections of the new Constitution, dealing with regulation of corporations, were broader and gave more authority to the Legislature. One section conferred upon the Legislature the authority to delegate it power to regulate freight rates to a Commission.³³ Since this authority had not been explicitly mentioned in the previous Constitution, many persons had formerly held that the creation of a Commission with this power would have been unconstitutional. However, this objection had been removed in 1907, and the last abstacle in the path of regulation had disappeared. The Legislature of 1907, then passed a bill creating the Michigan Railroad Commission.³⁴ This Commission was composed of three members, appointed by the Governor and

³² Commissioner of Railroads Report (1907), ii.

³³ Constitution of 1908, Article XII, Section 7.

³⁴ Public Acts of the State of Michigan (1907), Act 312.

approved by the Senate. One of the three must be an attorney and not more than two Commissioners shall be from the same political party. The Commission was given the authority to regulate freight rates, while the Legislature retained control over passenger fares. Some of other duties and powers of the new Commission are listed below:

1. The Commission could alter, reduce, or order into effect any freight rate that it judged proper.
2. Had authority to inquire into the management of any railroad operating in the State.
3. Commissioners had authority over the issuances of additional stocks and bonds of the railroads.
4. Full authority to prescribe conditions of service to be maintained by a railroad for its patrons.
5. Power to initiate proceedings against a company, to hear the case, and then make a decision on the charges.

The authority of the Railroad Commission was now as nearly complete as could be expected. The State now had the power, to reduce and eliminate nearly all of the illegal practices of the rail corporations. However, it was impossible to rectify all of the mistakes of the past seventy-five years with one act of the Legislature.

This new Commission had been created over the opposition of the railroad corporations. There are several important reasons why the corporations could not prevent the passage of the bill establishing this new agency. They previously had enjoyed the support of the large mining and lumber companies of the State in their efforts to block regulation.

But by 1907, these two types of industries had waned considerably and could no longer exert an effective influence in the State. In addition, the reform movement of 1907 was of a different nature than any formerly encountered by the railroads. The earlier programs largely originated from the ranks of the people and it had been comparatively easy for the corporation to intercept and block these reforms. The movement of the earlier 1900's was stimulated and encouraged by a few National and State figures who carried their reforms into the various political parties. Hence, the legislation in Michigan in 1907, would appear to have been sponsored largely by the leaders of the Republican Party, instead of arising directly from the "grass roots" of the party. It was difficult for the railroads to deal with this situation and they were unable to prevent the creation of the Railroad Commission. This latest reform movement had an air of respectability which caused it to be considered more desirable than the earlier movements. Therefore, its opportunities for success had been much greater, and it received general support from all quarters.

The need for a new type of regulation was demonstrated by the reception given the Commission in 1908, its first full year of operation. Six hundred and thirty-six informal rate complaints were handled and of this total, four hundred and ninty-six involved freights. This large response indi-

35 Report of the Michigan Railroad Commission (1908), 18

cates two aspects of the railroad problem. This was the first time in the history of the State that a complainant had an opportunity to carry his charges directly to an agency with any expectation of securing a hearing. Also, this heavy number of rate complaints, might indicate that the subject of freight rates might not have been as inconsequential as was generally regarded. This is further borne out by the fact that freight rates were reduced by the railroads after the establishment of the Railroad Commission. In 1908, when the railroads were required to submit their tariff schedules to the Commission for publication, it was noted that eighty-three per cent of the Companies reduced their rates from the level of the previous year. It seems that the force of publicity caused a general reduction of rates, and that the directors felt that they could not justify their previous tariff level.

The results of the 1907 reform movement was to erase the bulk of the undesirable practices of the rail companies. It seems unfortunate that this legislation had been delayed for such a period of time, for the State of Michigan might have taken this step at a much earlier date. Had this action been initiated earlier, both the public and the railroads would have benefited. The public would have been spared the uncertainties which harassed their personal and business affairs and the railroads would have conducted their normal business operations on a sounder basis. Many roads were

constructed in the State for which there was no real need or justification for their use. A wiser policy of regulation and supervision by the State over the expansion of the transportation network might have prevented the construction of useless lines. This type of construction encouraged the practices of overcapitalization and stock manipulation, which were financed in large part by excessive fares and rates.

VI. Regulation and Aftermath, 1910-1948.

The story of railroad regulation in Michigan actually ends with the establishment of the Michigan Railroad Commission in 1907. Since that date there have been no further outbursts of popular expression against the railroad corporations. The impact of new forces has relegated the problem of State regulation of railroads to one of a lesser importance than was experienced prior to 1907. The increasing growth of Federal supervision over inter-state commerce, has taken from the Railroad Commission, many of its original powers. Since most of Michigan's railroads are only links in larger inter-state routes, the question of Federal jurisdiction over these roads has been of considerable importance. One of the problems remaining under the authority of the Railroad Commission has been the one regarding the abandonment of railroads or rail services. This tendency to relinquish existing routes may indicate that much of the earlier construction was unwarranted, although it also reflects the competition of the truck, bus, and the automobile.

The over-all program of regulation of railroads since 1910 has lost nearly all of the characteristics generally associated with it prior to that date. The creation of the Michigan Railroad Commission proved to be the instance which established workable public control over corporations. The realization that railroads have lost their relative importance in the economic life of the State is indicated by the

dwindling importance of the Railroad Commission. In 1919, the Commission became a part of the new Public Utilities Commission and in 1939 it was transferred to the Public Service Commission. Due to the rise of other types of corporations and utilities, the railroad has lost the important role which it once held in the economic field.

Of the vast powers enjoyed by the Railroad Commission in 1910, only a few now remain. The bulk of the authority has been assumed by the Federal Government and its various agencies. This transfer of authority appears to have been necessary to assure the efficient operation of the nations railroad system. The problem of shipping products over a railroad running through several States, each imposing different forms of regulation, produced nearly as many uncertainties as did the complete absence of regulation. It was found in many instances, that the action of a State Commission, in ordering reductions in intra-state rates, was tantamount to regulation of inter-state commerce by the State. The railroads contested this action, and through a series of United States Court decisions, forced limitations upon the authority of State Railroad Commissions. The final result of these decisions has been the reduction of State authority over inter-state carriers.¹ Two important rulings have contributed to the growth of Federal authority and the consequent limitation of the State's power.

1. Minnesota Rate Case, Shreveport Rate Case, The Wisconsin Passenger Fares Case.

One resulting clarification of the problem of jurisdiction states that in the absence of Federal regulation, the States had no authority to burden or control interstate commerce directly. A later case held that where Federal and State regulations come into conflict, the Federal control takes precedence even to the extent of requiring a modification² of purely intrastate regulations. Since the great majority of Michigan's railroad mileage is of an interstate nature, this growth of Federal authority has removed much of the States original authority over the railroad. The only freight jurisdictions remaining to the Railroad Commission are those of a purely intrastate nature, which is relatively small.

The period of Federal control of the railroads from 1918 to 1920 did much to remove the railroads from the authority of the State. During this period the control of the State over its roads was negligible. In the Transportation Act. of 1920, restoring the roads to their owners, were provisions strengthening the authority of the Interstate Commerce Commission over the railroads. The Commission was given the power to deal directly with intrastate rates where they unduly discriminate or place burdens upon interstate commerce.

The effect of this pattern of Federal authority expanding into the level of the States has been to take much of the initiative in freight regulation from the State Com-

² Irston R. Barnes, The Economics of Public Utility Regulation (N.Y.1942), 156-160.

missions. Today these agencies largely follow the lead of the Federal Commission, which largely determines the freight rates for all roads that bear any relationship upon interstate commerce.

The authority of the Michigan Legislature over the passenger fares has also been taken from it. This power to regulate such matters has been exercised since the early days of the special charters. Mr. Pierce, the present Director of the Railroad Division, discloses that this power no longer resides in the Legislature. The railroad companies secured a Federal injunction against the State of Michigan preventing it from interfering with passenger rates. This action was taken in the 1920's, and has never been contested by the State. This may indicate that the Legislature has been satisfied to give up that authority, feeling that the consequent Federal regulation was sufficient to protect the people of the State.

This passing of authority over freight rates and passenger fares to the Federal agencies has not appeared to have reduced the overall regulation of railroad corporations. It has only resulted in the transfer of control from one agency to another, and the basic principles of Michigan's original Railroad Commission of 1907, still find expression through Federal authority.

One of the most important problems that faced the Railroad Commission since 1910 has involved the attempts

of many railroads to abandon unprofitable lines, or service upon such lines. Prior to 1910, many railroads were constructed or acquired which were not based upon any long-range business needs. In several instances these lines were possessed simply to escape the payment of the earnings tax or to permit stock manipulation. Others were built to take advantage of the quick profits of the lumber and mining industries. But when the railroads decided to abandon these lines, there were other considerations which the Commission had to judge before allowing the discontinuation of service. Many towns and communities depended for their prosperity and well-being upon the presence of a railroad. Several business enterprises within each of the areas might be destroyed if the railroad were removed. After 1910, the railcorporations were forced to consider the welfare of their patrons to an extent which was not known before that date and they could no longer make arbitrary decisions to abandon services. The Michigan Railroad Commission has developed a procedure to handle all cases of abandonment. When notification of the intent to abandon a route is filed with the Commission, such a proposed action is publicized to all points on the affected line. If the patrons of the road can show good cause why the railroad service should be continued, the Commission may require the railroad to continue its services. Of course, if the patrons of the road offer no complaints to the withdrawal of service, then the railroad is permitted to abandon the line. Since the advent of the extensive use of the auto-

mobile and the passenger buses, there has been a continual contraction of passenger train service in the State. This process of abandonment appears to be ended, and the railroad system of the State might be said to have reached its optimum size. Mr. Pierce stated that he did not anticipate any more contraction of railroads within the next ten years.

The importance of the railroad problem to the citizens of the State has shifted completely since the early years of the Twentieth Century. Within forty years the railroads have ceased to be the object of public wrath, and demands for extensive regulation have changed to an attitude of only casual interest. The combination of State and Federal control appears to have satisfactorily settled the railroad problem as it affects the average citizen. The only regret is that such control might well have been established at an earlier date in the history of the State.

MILEAGE OF MICHIGAN RAILROADS BY YEARS

<u>Year</u>	<u>Mileage</u>	<u>Year</u>	<u>Mileage</u>
1838.....	63	1862	811
1839.....	71	1863	812
1840.....	104	1864	891
1841.....	147	1865	931
1842.....	147	1866	943
1843.....	180	1867	1,060
1844.....	220	1868	1,120
1845.....	233	1869	1,362
1846.....	279	1870 ,.....	1,739
1847.....	279	1871	2,298
1848.....	326	1872	2,822
1849.....	353	1873	3,252
1850.....	380	1874	3,313
1851.....	421	1875	3,347
1852.....	425	1876	3,410
1853.....	425	1877	3,455
1854.....	425	1878	3,564
1855.....	462	1879	3,657
1856.....	530	1880	3,823
1857.....	579	1881	4,252
1858.....	703	1882	4,609
1859.....	770	1883	4,966
1860.....	770	1884	5,120
1861.....	777	1885	5,247

MILEAGE OF MICHIGAN RAILROAD BY YEARS

<u>Year</u>	<u>Mileage</u>	<u>Year</u>	<u>Mileage</u>
1886.....	5,577	1897.....	7,816
1887.....	5,768	1898.....	7,875
1888.....	6,411	1899.....	7,928
1889.....	6,759	1900.....	7,945
1890.....	6,957	1901.....	8,199
1891.....	7,274	1902.....	8,366
1892.....	7,447	1903.....	8,505
1893.....	7,511	1904.....	8,506
1894.....	7,512	1905.....	8,642
1895.....	7,609	1906.....	8,713
1896.....	7,759	1907.....	8,619

Since 1900 the rail mileage of the State has remained relatively constant. There has been some construction of new lines but this increase has been generally off-set by the abandonment of older lines.

Bibliography

Documents of the State of Michigan

Attorney General, Report of the Attorney General of the State of Michigan (1881 to date).

Auditor General, Report of the Auditor General of the State of Michigan (1874 to date).

Department of State, Michigan Official Directory and Legislative Manual (1869 to date).

Legislature, Acts of the Legislature of the State of Michigan (1836-1873).

_____, Public Acts and Joint Resolutions of the State of Michigan (1875 to date).

_____, Journal of the House of Representatives of the State of Michigan (1837 to date).

_____, Documents accompanying the Journal of the House of Representatives of the State of Michigan (1840, 1841, 1847, 1848, 1849, 1850, 1855, 1857, 1859, 1861, 1863, 1865).

_____, Michigan House Bills (1861 to date).

_____, Journal of the Senate of the State of Michigan (1837 to date).

_____, Documents Accompanying the Journal of the Senate of the State of Michigan (1841, 1842, 1843, 1845, 1847, 1848, 1849, 1850, 1855, 1857, 1859, 1861, 1865).

_____, Michigan Senate Bills and Joint Resolutions (1861 to date).

_____, Documents accompanying the Journal of the Senate and the House of the State of Michigan (1843, 1844, 1846, 1851, 1853, 1862, 1864, 1867).

_____, Joint Documents of the State of Michigan (1847 to date).

Public Utilities Commission, Orders and Opinions of the Michigan Public Utilities Commission (1919-1939)

_____, Report of the Michigan Public Utilities Commission (1919-1924).

Commissioner of Railroads, Annual Reports of the Commissioner of Railroads (1872-1907)

Railroad Commission, Annual Reports of the Michigan Railroad Commission (1907-1919).

_____, Special Report of the Michigan Railroad Commission (1919)

Compiled Laws of the State of Michigan

The Compiled Laws of the State of Michigan (Lansing, 1899)
4 vols.

The Compiled Laws of the State of Michigan (Lansing, 1916)
3 vols.

The Compiled Laws of the State of Michigan (Lansing, 1930)
4 vols.

Michigan Statutes Annotated (Chicago, 1934)

Howells' Annotated Statutes of the State of Michigan (Chicago, 1913) 6 vols.

Railroad Laws of Michigan, with Digest of Decisions of the Supreme Court (Lansing, 1890)

Documents of the Government of the U.S.

Federal Coordinator of Transportation, Public Aids to Transportation (Washington, G.P.O., 1940)vol. II.

United States Transportation Investigation and Research Board, Public Aids to Domestic Transportation (Washington, G.P.O., 1945).

Newspapers

Detroit Free Press

Detroit Tribune

Grange Visitor (Schoolcraft, Michigan, 1875-1887)

Lansing State Republican

Michigan Farmer (Detroit, Michigan)

General Works

Anonymous, Bonds of the Grand Rapids and Indiana Railroad Company (Pittsburg, 1870)

_____, History of Genesee County, Michigan (Philadelphia, 1879)

_____, History of Jackson County, Michigan (Chicago, 1881).

_____, History of Kalamazoo County, Michigan (Philadelphia, 1880).

_____, History of Livingston County, Michigan (Philadelphia, 1880).

_____, History of Macomb County, Michigan (Chicago, 1882)

_____, History of the Upper Peninsula of Michigan (Chicago, 1883)

_____, Michigan Biographies (Lansing, 1888).

_____, Michigan Biographies (Lansing, 1924) 2 vols.

_____, Report upon the Grand Rapids and Indiana Railroad and the Land Grant of that Company (New York, 1861).

_____, Representative Men of Michigan (Cincinnati, 1878).

Adams, Henry C, "The Farmers and Railway Legislation", in Century Magazine (March, 1892) 780-783.

Barnes, Irston R, The Economics of Public Utility Regulation, (N.Y., 1942)

Baxter, Albert, History of the City of Grand Rapids (N. Y. and Grand Rapids, 1891).

Bliss, A. N, "Federal Land Grants for Internal Improvements in the State of Michigan", in Michigan Pioneer and Historical Society, Historical Collections (1884) VII, 52-68.

Bowman, James C, "Life in the Michigan Woods", in Michigan History Magazine XXI, (1937) 267-283.

Buck, Solon J, The Agrarian Crusade (New Haven, 1920).

Buckley, John M, History of Monroe County, Michigan (N.Y., 1913) 2 vols.

Buck, Solon J, The Granger Movement (Cambridge, 1913).

- Burton, Clarence M, ed., The City of Detroit, Michigan
(Detroit and Chicago, 1922) 4 vols.
- Calkins, Edmund A, "Railroads of Michigan since 1850", in
Michigan History Magazine XIII, 1929 5-25.
- Carlisle, Fred, "Comparative Sketches of E.B. Ward, James
F. Joy and others", in Michigan Pioneer and Historical
Society, Historical Collections (1894) XXII, 290-292.
- Clark, Frederick C, State Railroad Commissions (Baltimore,
1891).
- Collins, Henry P, History of Branch County, Michigan (N.Y.
1906).
- Dasef, John W, History of Montcalm County, Michigan
(Indianapolis, 1916)
- Dilla, Harriette M, The Politics of Michigan, 1865-1878
(N.Y. 1912)
- Drake, Morgan L, Lake Superior Railroad (Pontiac, 1852)
- Durant, Samuel W, History of Kalamazoo County, Michigan
(Philadelphia, 1880).
- Farmer, Silas, History of Detroit and Michigan (Detroit, 1884)
- Fine, Nathan, Labor and Farmer Parties in the United State,
1828-1928 (N.Y. 1928).
- Fisher, Ernest B, ed., Grand Rapids and Kent County, Michigan
(Chicago, 1918) 2 vols.
- Fuller, George N, Messages of the Governors of Michigan
(Lansing, 1927). 4 vols.
- _____, Michigan, A Centennial History (Chicago, 1939) 4 vols.
- Gallery, James, "Reminisencies of Eaton County", in Michigan
Pioneer and Historical Society, Historical Collections
(1894) XXII, 509-518.
- Gilbert, John, "The Great Conspiracy", in Michigan Pioneer
and Historical Society, Historical Collections -(1901)
XXXI, 232-238.

Grand Rapids and Indiana Railroad Co., Annual Reports of the President and Directors of the Grand Rapids and Indiana Railroad Company (1859-1900)

Grange, Michigan State, Proceedings of the Annual Sessions of the Michigan State Grange (1874 to date)

Harlow, Alvin F, The Road of the Century (N.Y. 1947)

Hedrick, Wilbur O, The History of Railroad Taxation in Michigan (Lansing, 1912)

Hungerford, Edward, Men and Iron (N.Y. 1938)

Ivey, Paul W, The Pere Marquette Railroad-Company (Lansing, 1919)

Jenks, William L. St. Clair County, Michigan (N.Y. 1912)

Josephson, Matthew, The Robber Barons (N.Y. 1934) chaps. VI-VIII.

Joy, James F., "Railroad History of Michigan", in Michigan Pioneer and Historical Society, Historical Collections XXII (1893), 292-304.

Lane, Wheaton J., Commodore Vanderbilt (N.Y. 1942)

Locklin, D. Phillip, Economics of Transportation (Chicago, 1938).

Michigan Central Railroad Co., Report of the Directors of The Michigan Central Railroad Company to the Stockholders (Boston & Detroit, 1847-1880)

Mills, James C., History of Saginaw County, Michigan (Saginaw, 1918) 2 vols.

Montgomery, Johnson, "Reminiscences of Eaton County", in Michigan Pioneer and Historical Society, Historical Collections (1894) XXII 518-524.

Nelligan, John E. The Life of a Lumberman (n.p. 1929)

Osborn, Chase S., The Iron Hunter (N.Y. 1919)

Pingree, Hazen S., Facts and Opinions (Detroit, 1895)

Ransom, W. C., "The Railroads of Michigan", in The Semi-Centennial of the Admission of the State of Michigan into the Union (Detroit, 1886).

- Ross, Robert B, and George B. Catlin, Landmarks of Wayne County and Detroit, (Detroit , 1898).
- Rowland, O. W., History of Van Buren County, Michigan (Chicago & N.Y. 1912).
- Russell, Alfred,. "Corporations in Michigan", in Michigan Political Science Association (March, 1894) 97-108.
- Seeley, Thaddeus D., History of Oakland County, Michigan (N.Y. 1912)
- Seward, William H., The Works of William H. Seward George E. Baker, ed,. (NY. 1853) 5 vols.
- Shaw, James T., "The Interstate Commerce Act from the Shippers Point of View", in The First Meeting of the Michigan Political Science Association. (129-31)
- Stevens, Frederick W., "Wanted, an Impartial Tribunal for Trial of Special Proceedings against Railroad Companies Involving Intra-State Rates", address, (n.p., 1909)
- Stimson, Glen K., "Rail Growth of Michigan's Capital City", in Michigan History Magazine (XXI, 461-492.
- Stocking, William, "New England Men in Michigan's History", in Michigan History Magazine (1921) V 128-30.
- Streeter, Floyd B., Michigan Bibliography (Lansing, 1921) 2 vols.
- _____, Political Parties in Michigan, 1837-1860 (Lansing, 1918).
- Utley, Henry M, and others, Michigan as a Province, Territory and State (Publishing Society of Michigan, 1906) 4 vols.
- Vanderblue, Homer B, and Kenneth F. Burgess, Railroads, Rates, Services, Management (N.Y. 1923)
- _____, and Eliot Jones, Railroads, Cases and Selections (N.Y. 1925)
- Webber, William L., "The Relation of Corporations to the State", in Michigan Political Science Association (December, 1897) vol.II., no. 9.
- Wing, Talcott E., History of Monroe County. Michigan (N.Y. 1890) .

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