

GABRIEL KOLKO

Railroads and Regulations, 1877-1916



PRINCETON LEGACY LIBRARY

**RAILROADS
AND REGULATION
1877-1916**



Railroads and Regulation

1877-1916

By

GABRIEL KOLKO



Princeton, New Jersey
Princeton University Press

1965

Copyright © 1965 by Princeton University Press

All rights reserved

L.C. CARD: 65-10829

Printed in the United States of America by Princeton
University Press, Princeton, New Jersey

ACKNOWLEDGMENTS

THIS study was awarded the Transportation History Prize of the Mississippi Valley Historical Association, which has also helped to support its publication. I am indebted to Raymond C. Miller and the members of the prize committee of the M.V.H.A. for their decision, and to Frank Freidel for his later aid and advice on the details of publication.

An earlier draft of the manuscript was submitted as my doctoral thesis to the History Department of Harvard University, and I benefited from the critical advice and insights of Frank Freidel and Arthur M. Schlesinger, Jr., advisers and readers, and Oscar Handlin. I am most grateful for the indispensable assistance given by members of the staffs of the National Archives, the Manuscript Division, Library of Congress, the Harvard University Libraries, the West Virginia University Library, and the Bureau of Railway Economics Library, Washington, D.C. I especially appreciate the fact that the Interstate Commerce Commission opened its hitherto closed vaults and archives.

It goes without saying that I assume all responsibility for the interpretation of materials in the possession of these libraries and the I.C.C., and that neither the Interstate Commerce Commission, the Mississippi Valley Historical Association, nor my advisers necessarily agree or disagree with the thesis of this book, much less assume responsibility for possible errors of judgment or fact.

I conceived of this volume as part of a larger study of the relationship of the state to the American economy during the crucial period of industrial change and development at the end of the 19th and beginning of the 20th centuries; but it was written to stand alone, and can be read as such. The theoretical generalizations in

ACKNOWLEDGMENTS

my *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916* (New York, 1963), are largely applicable to the railroad experience as well as to the broader economic and political events described in that volume. In this work I have deliberately restricted certain theoretical analyses, in part to avoid redundancy, but also because the railroad experience alone did not necessarily justify more extensive conclusions relevant to the substantially longer period of 1877-1916.

GABRIEL KOLKO

CONTENTS

Introduction	1
I. In Quest of Stability, 1877-1883	7
II. Agitation for a Federal Railroad Law, 1884-1886	30
III. Formative Years of the Interstate Commerce Commission, 1887-1890	45
IV. Competition and Crises: The Failure of Regulation, 1891-1897	64
V. The Movement for Reform, 1898 through the Elkins Act	84
VI. Pressures for Railroad Legislation, 1903-1905	102
VII. The Hepburn Act	127
VIII. Theodore Roosevelt and Regulation, 1906-1908	155
IX. Freight Rates, Politics, and the President, 1909-1912	177
X. Woodrow Wilson and the Triumph of Federal Control, 1913-1916	208
Conclusion	231
Bibliography	241
Index	265

INTRODUCTION

FROM the end of the Civil War until the beginning of the First World War, the railroad was a central, if not the major, element in the political, economic, and social development of the United States. In addition, the railroads have captured the imagination of American historians. The "Robber Barons," for the most part, consisted of railroad speculators such as Jim Fisk, Jay Gould, and Dan Drew. The Compromise of 1877, ending the political divisions created by the Civil War, was due to the intrigues of railroad men in pursuit of government aid. Until the rise of big business in steel, agricultural machinery, and oil, the epic villains in American history in the period from 1870 to 1900 were, John D. Rockefeller excepted, railroad men.

The traditional interpretation has seen the epic struggles for a resurgent democracy as primarily, and at times exclusively, struggles against the overwhelming economic power of the railroads and their political hirelings. The Granger Revolt, the Great Strike of 1877, and the major labor conflicts of the period, and in large measure Populism, are portrayed as part of a larger effort to obtain justice from the rulers of the railroads. The goal of this effort, historians commonly supposed, was regulation primarily by the federal government. In their interpretation of the federal regulation of the railroads until 1916, the writers of specialized as well as general history have traditionally assumed that the villainous railroads, with very few exceptions, strongly and consistently opposed the extension of federal control over their industry. "The entire period of almost two decades," I. L. Sharfman has concluded, "discloses a basic struggle for supremacy between the government and the railroads. . . ."¹

¹ I. L. Sharfman, *The Interstate Commerce Commission* (New York, 1931-1937), I, 39.

INTRODUCTION

Historians, as a result of their comprehensive assumption about the general nature of federal regulation and Progressivism, naturally assumed the railroads opposed federal regulation. They have regarded the federal government in the Progressive Era as a neutral, impartial force attempting, in a period of rising social consciousness, to redirect the balance of economic power on behalf of the public and to eliminate the evils accompanying rapid industrial development. And, based on such an analysis, the prevalent history of the federal regulation of railroads has reinforced the larger view of the nature of Progressivism as a general movement, and has become its single most important verification. Such a view, in this writer's opinion, orients the historian toward the theory that federal regulation and Progressivism were "a counterpoise to the power of private business" and "the complaint of the unorganized against the consequences of organization."²

The suggestion that the railroads opposed federal regulation has had important consequences for the general theory of Progressivism from the era of Theodore Roosevelt until the beginning of the First World War. It has encouraged a too facile polarization of political, economic, and social forces—the railroads allegedly opposed federal regulation, and it seemed only natural that other industries, growing to power and maturity in this period, also opposed efforts to extend federal regulation over them as well. This polarization, I believe, has led to serious neglect of the origin and purpose of federal regulation as a whole, and has inspired the notion that advocates of federal regulation were progressive in the generic as well as the political sense—progressive in their fundamental desire to redress

² Richard Hofstadter, *The Age of Reform: From Bryan to F. D. R.* (New York, 1955), pp. 214, 231.

INTRODUCTION

the balance of economic, social, and political power in favor of the average citizen.

In the following pages I shall attempt critically to reexamine the relation of the railroads to federal regulation and the assumption that the national government consciously or in fact always acted in a manner that the majority of important railroad men considered fundamentally inimical to their interests. Rather, I will suggest that the intervention of the federal government not only failed to damage the interests of the railroads, but was positively welcomed by them since the railroads never really had the power over the economy, and their own industry, often ascribed to them. Indeed, the railroads, not the farmers and shippers, were the most important single advocates of federal regulation from 1877 to 1916. Even when they frequently disagreed with the details of specific legislation, they always supported the principle of federal regulation as such. And as the period advances, this commitment to regulation grew ever stronger.

From the 1870's until the end of the century American railroad history moved in a crude cycle of voluntary or, alternately, political attempts to solve economic problems. Contrary to the common view, railroad freight rates, taken as a whole, declined almost continuously over the period, and although the consolidation of railroads proceeded apace, this phenomenon never affected the long-term decline of rates or the ultimately competitive nature of much of the industry.³ In their desire to establish stability and control over rates and competition, the railroad executives often resorted to voluntary, cooperative efforts involving rate agreements and the division of traffic. When these efforts failed, as they

³ An excellent source of detailed rate data supporting this conclusion is Interstate Commerce Commission, *Railways in the United States in 1902: A Forty-Year Review of Changes in Freight Tariffs* (Washington, 1903), *passim*.

INTRODUCTION

inevitably did, the railroad men turned to political solutions to rationalize their increasingly chaotic industry. They advocated measures designed to bring under control those railroads within their own ranks that refused to conform to voluntary compacts. When political measures failed or proved inadequate, the railroads returned to voluntary efforts, mergers and the absorption of competitors as well as pooling agreements, to eliminate internecine competition. At various times the railroads attempted to implement both the voluntary and political solutions simultaneously, but until the end of the century they were unable to solve their basic problems by either means. However, from the beginning of the 20th century until at least the initiation of World War I, the railroad industry resorted primarily to political alternatives, and gave up the abortive efforts to put its own house in order by relying on voluntary cooperation. Unless the history of the national regulation of the railroads is approached in the context of the broader efforts of the railroads to attain stability and solve their problems by whatever means seemed most opportune, the history of railroad regulation will fall into one or another simple, and false, category.

In formulating a program designed to cope with the unpredictable threat of control by the various states, and to protect themselves from their competitors or large shippers demanding expensive rebates, most railroad men approached the issue of regulation with purely opportunistic motives. The doctrine of laissez-faire or the conservative interpretation of the social implications of Darwinism inhibited very few practical executives; most ignored intellectual issues and concentrated on meeting immediate problems in the most expeditious manner possible. Insofar as railroad men did think about the larger theoretical implications of centralized federal regulation, they rejected the validity and relevance of the Darwinian analogies and the entire notion of laissez

INTRODUCTION

faire. Consciously or operationally, most railroad leaders increasingly relied on a Hamiltonian conception of the national government. They saw in certain forms of federal regulation of railroads the solution to their many economic problems as well as the redirection of public reform sentiments toward safer outlets. If their motives were usually opportunistic, the functional consequences of their actions were identical to those of a growing number of railroad leaders who explicitly rejected the laissez-faire assumptions of contemporary American conservatism by suggesting that their economic interests, and genuine conservatism, would be served best by certain types of federal regulation. By 1914, in common with most Americans, the railroads overwhelmingly supported the basic premises of what is known as "Progressivism."

It is not my contention, of course, that railroad leaders were the only group favoring the federal regulation of transportation. The mere fact that they did not always get their specific legislative demands indicates that not only were the railroads divided among themselves as to precisely what legislative measures they wanted passed, but that they faced opposition on many points from shipping groups who had their own goals and demands. Railroad interests differed from line to line, and the disagreements among the railroads were frequently as strong as the disagreements between the bulk of the railroads and many shippers. The crucial point is that the railroads, for the most part, consistently accepted the basic premises of federal regulation since only through the positive intervention of the national political structure could the destabilizing, costly effects of cutthroat competition, predatory speculators, and greedy shippers be overcome. Moreover, the railroads were a much more constant force for federal regulation than the shippers, and the deeper divisions within the ranks of shippers often meant that their agitation for regulation contributed to the interests of the

INTRODUCTION

railroads. Legislative proposals, to be successful, usually needed the support of both the railroads and important shipping groups, and throughout the period from 1877 to 1916 neither could obtain legislation without the support of the other for some general form of legislation.

Virtually all histories of railroad regulation have focused on the views and actions of politicians, farmers, or shippers. And while these groups played a crucial part, and I discuss them in detail in the following pages, the role of the railroads and the railroad men in the movement for federal regulation has largely been ignored, beyond the automatic assumption that they naturally opposed regulation. Such a perspective, in this writer's opinion, is like ignoring the role of the Confederates in the Battle of Gettysburg. What were the railroad journals writing while their industry was being legislated in certain directions? What were the problems of the railroad industry and their relevance to the regulatory movement? What were railroad leaders saying, writing, and doing? What did the federal regulatory mechanism consist of, what was its role in the period, and what interaction existed between the Interstate Commerce Commission and the railroads?

In an attempt to answer these and related questions, I shall lean heavily on entirely new materials, such as the hitherto unexploited railroad journals, the speeches and letters of railroad leaders, and the general files of the Interstate Commerce Commission until 1900. If the traditional view of the federal regulatory process and the nature of Progressivism is found to be inadequate in the light of such sources, our conventional understanding of the period as a whole can also be submitted to a critical review. The federal regulation of the railroads, after all, is the first example of national Progressivism, and possibly its most important single illustration throughout the period of 1877 to 1916.

CHAPTER I



IN QUEST OF STABILITY

1877-1883

THE railroad industry throughout the 1870's was intensely competitive and most railroads tried ceaselessly to bring about conditions of greater stability. The instability was caused not only by the fact that railroad mileage increased by 50 per cent from 1870 to 1876—and much more slowly until 1880—but by the inherently competitive nature of the industry in most parts of the nation. Shippers in St. Louis and Atlanta, to illustrate the extreme, had the option of twenty competitive routes between the two cities, ranging in distance from 526 to 1,855 miles. Virtually any shipper in a coastal city might send his goods westward by any number of routes merely by transporting them by water to a city with more favorable railroad rates.¹ In light of the major shipper's power to choose alternate routes for his goods, the railroads could maintain rates only by negotiating workable rate agreements with potential competitors. Their failure is reflected in the consistent decline in freight revenue per ton mile throughout this period, from 1.88 cents in 1870, to 1.22 cents in 1880, 0.94 cents in 1890, and 0.73 cents in 1900.² Under these circumstances, the bankruptcies which characterized most major railroads

¹ For railroad mileage, see U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1957* (Washington, 1960), pp. 427, 429; for competitive routes, see U.S. Industrial Commission, *Final Report*, House Doc. No. 380, 57th Cong., 2d Sess. (Washington, 1902), xix, 356.

² Industrial Commission, *Report*, xix, 280; *Historical Statistics of the U.S.*, pp. 428, 431.

at one point or another in their careers are entirely explicable. Only the growth of the total volume of freight prevented an even greater number of insolvencies.

In this context of declining income, fixed costs, growing competition, and imminent bankruptcy, the leaders of American railroads naturally attempted to stop the secret rebates, rate cutting, and over-expansion that threatened them all. The outcome was a continuous effort, from 1874 on, voluntarily and cooperatively to maintain rates, preserve existing market divisions, and end internecine competition by use of the pool.

Numerous pools were organized throughout the period—there were at least eight in operation in 1879 alone—but with only one exception they all rapidly failed.³ Although there are records of rate agreements as far back as 1856, the first genuine pool was organized in 1870, to stabilize rates in the Iowa area and exclude new competitors, by the Rock Island Railroad, the Chicago and Northwestern, the Michigan Central, the Chicago, Burlington and Quincy, plus several smaller lines. The result was a most uneasy alliance with constant infractions and rate cutting, especially by aggressive officers. In 1872, outside shorter lines, and in 1873 the Union Pacific, began attacking the pool's domain and destroyed it by 1874—although it revived and lingered on as a formal structure until 1885.⁴

The first serious pooling effort in the East came in August 1874, when William H. Vanderbilt of the New York Central took the initiative to end the decline of rates that followed in the wake of the Depression of

³ U.S. Treasury Department, *Report on the Internal Commerce of the United States, December 1, 1879* (Washington, 1879), pp. 164-183.

⁴ Julius Grodinsky, *The Iowa Pool: A Study in Railroad Competition, 1870-84* (Chicago, 1950), is the definitive work on the topic. Also see Grodinsky, *Transcontinental Railway Strategy, 1869-1893* (Philadelphia, 1962), chap. IV.

1873. He invited the major lines east of St. Louis to send representatives to his home at Saratoga—the first of many similar meetings at that place—to establish rate agreements and two regional commissions to enforce them. The New York Central, Erie, and Pennsylvania lines were represented, but the Baltimore & Ohio, under the presidency of John W. Garrett, decided to remain aloof. Despite Vanderbilt's attempt to get him to join, Garrett stayed outside the pool in the hope of obtaining a larger share of freight traffic. The pool lasted about six months, when rebates and violations by freight and ticket agents forced the railroads to abandon it. Intense rate wars followed, especially between the Pennsylvania and the B. & O., and were to persist for years.⁵

The second major pool effort came in the South in 1875, where the large number of small lines and the constant competition of river and ocean-going boats made the possibility of bankrupting competition ever-present. The Southern pool was based not merely on rate agreements, but on an informal division of traffic arranged in late 1873. Under the initiative of Albert Fink, then vice-president of the Louisville and Nashville Railroad and the nation's chief advocate and director of the pool structure until 1886, a number of Southern lines created a formal organization at a series of meetings in Atlanta in late 1875. Thirty-two lines joined the agreement, each with one vote; violations were to be penalized by expulsion. The pool appointed Fink general commissioner of the agreement, and members could appeal his decisions to a special board of three arbitrators. Rates and a division of markets were bind-

⁵ "The Saratoga Agreement," *Railroad Gazette*, VI (August 15, 1874), 317; Chauncey M. Depew, *My Memories of Eighty Years* (New York, 1922), pp. 231-234; statement of Isaac H. Sturgeon in U.S. Senate, Select Committee on Interstate Commerce, *Report*, Sen. Report No. 46, 49th Cong., 1st Sess., January 18, 1886 (Washington, 1886), p. 161.

IN QUEST OF STABILITY

ing on all members; they were revised at the end of each year. The Southern Railway & Steamship Association was the sole pool to operate successfully throughout 1876-1886, if only because Southern railways were too weak and fragmented to survive extensive rate warfare.⁶

In September 1876, the Southwestern Railway Association was formed by seven major lines. "Notwithstanding it is to the immediate interest of a road when it becomes party to a pool to adhere strictly to the agreement, such is the weakness of human nature, under the blandishments of shippers, that few are the number who firmly resist," concluded J. W. Midgley, the commissioner of the Association. "This has been the mortifying experience of all compacts, thus compelling the admission that *no* means have yet been devised whereby an *absolute maintenance* of established rates can be assured."⁷ After a brief and precarious history, the pool collapsed in early 1878.

During March through May of 1877, the major Eastern trunk lines reconvened after three years of furious competition to make another major effort at forming a pool. The meetings were an almost immediate failure insofar as the maintenance of rates on eastbound traffic was concerned, and the lines terminated the agreement after three or four months. Violations by the Grand Trunk Line of Canada soon left the entire agreement in shambles. Given the failure of voluntary pools to create some semblance of reason and stability in the railroad system, despite successive attempts too numerous to

⁶ Details of the agreement are found in Southern Railway and Steamship Association, *Agreement and Rules Adopted in Convention at Atlanta, Ga.* (Atlanta, 1875); Southern Railway and Steamship Association, *Proceedings of the Convention* (Atlanta, 1875-1876), I. The best secondary account is Henry Hudson, "The Southern Railway & Steamship Association," *Quarterly Journal of Economics*, v (October, 1890), 70-94, who concluded that the pool was successful.

⁷ In Senate Select Committee on Interstate Commerce, *Report*, (1886), p. 230.

IN QUEST OF STABILITY

itemize here, railroad men then turned to the government for possible salvation.

The one item that the railroads managed to agree upon, however, was an understanding that in June and July 1877 the wages of railroad workers would be cut by 10 per cent. The result was the most important and extensive strike in American history, certainly until 1877 and probably since that time as well, and a frightened period of reflection by men of wealth on the problem of their economic security in a democracy.⁸

The Great Strike of June and July 1877, not surprisingly, was quite unexpected by railroad leaders and conventional opinion makers after four years of the deepest depression in American history and extensive wage cuts. The strike involved all of the major roads east of St. Louis, and spread to most of the major cities. It "seemed to threaten the chief strongholds of society and came like a thunderbolt out of a clear sky, startling us rudely," wrote banker-turned-historian James Ford Rhodes in 1909.⁹ His widely shared shock over the many riots and scores of deaths was natural—after all, it had never happened before. For the Great Strike focused attention on the new problems of an economy susceptible to intensive depressions, and especially on the growth of a working class capable of subverting and destroying by political, or even more direct means, the existing power structure.

During this first industrial conflict in the United States the presumably democratic commitments of the dominant economic classes were strained to the breaking

⁸ For the wage cut, see the testimony of Thomas Scott in Pennsylvania Senate and House of Representatives, *Report of the Committee Appointed to Investigate the Railroad Riots of July, 1877*, May 23, 1878 (Harrisburg, 1878), pp. 928-929. See also *Railway World*, XXI (October, 6, 1877), 950-951; Robert V. Bruce, *1877: Year of Violence* (Indianapolis, 1959), pp. 40ff.

⁹ James Ford Rhodes, *History of the United States, 1850-1896* (New York, 1920), p. 46.

point. Out of the crisis came a working view of the role of the state in industrial society which was consistently applied during the next three decades: if for some reason the power of various key business interests was endangered, even for causes of their own making, the state was to intervene to preserve their dominant position. This principle, more than a logical extension of the older tenet of exploiting the state for capital accumulation or profitable favors, was almost consistently applied by big business to labor relations and internal business instability from the late 1870's. The pretense that the state was a neutral arbiter between conflicting segments of the population was restricted to theory. The year 1877 is the first in which major American anti-democratic ideologies relevant to an industrial society are articulated. This reconsideration centered on the problem of labor and the franchise, the role of the recent European immigrant, and the militia as a means of social control.

In 1877, Edwin L. Godkin was fairly representative in shifting his concern from the manners of Jay Gould to the "universal suffrage [which gives] an air of menace to many of the things civilized men hold most dear."¹⁰ Another writer, commenting in the *International Review*, declared, "That form of government will wither and die like a girdled tree if the thousands who pay taxes get no protection from the millions who govern."¹¹ Democracy no longer seemed to hold out that inspiring promise of human and social progress which stirred the imaginations of pre-Civil War orators. "For a long series of years," remarked the *New York Times*, "the better class of our urban population have seen with comparative indifference the control over their affairs pass into the

¹⁰ *The Nation*, xxv (August 2, 1877), 68.

¹¹ W. M. Grosvenor, "The Communist and the Railway," *The International Review*, iv (September, 1877), 586.

hands of the nominees of the roughs—the nominees of the corner groggeries.”¹²

Under these circumstances spokesmen for the upper class applauded the general mobilization of the National Guard for the strike and the first major use of federal troops in a labor dispute, and proposed their continued use in the event of future economic crises. “It is a pity,” the *New York Tribune* declared charitably, “that the very first resistance to law was not met by the shooting of every rioter within range of a musket ball.”¹³ The future course of action was outlined by *Harper’s Weekly*: “The time has come in this country when there must be the most ample and ready supply of the organized force necessary to maintain order at all costs.”¹⁴

The National Guard had declined to little more than a fancy-dress parading society after the Civil War. During the strike they proved to be worse than useless in Pennsylvania, where many troops deserted to the strikers, and generally ineffective elsewhere. Immediately after the strike the Guard was reorganized in most states, its officer corps chosen by criteria related to military functions, discipline sharply increased, and street fighting and riot control taught. State appropriations increased sharply, and most Northern cities constructed new armories, usually with public funds, but when the 7th Regiment of New York lacked funds for its new armory, the Vanderbilts, Astors, Lenox’, Morgans, and other leading financial figures provided the cash. “The future historian of the National Guard will write of A. D. 1877,” commented *The National Guardsman*, “‘In this year began the Era of Appreciation.’”¹⁵

¹² *New York Times*, July 29, 1877.

¹³ *New York Tribune*, July 24, 1877.

¹⁴ *Harper’s Weekly*, XXI (August 11, 1877), 618.

¹⁵ *National Guardsman*, I (October 1, 1877), 42, 70.

IN QUEST OF STABILITY

Railroad spokesmen immediately called for protection by the national government. "A departure must now take place," editorialized the *Railway World* in the midst of the conflict. "The lines of railway[s] are no longer to be considered merely state organizations, and under state control, but national in their character . . . the Government must be placed, by law, in such a position as to protect, when necessary, the railways, or take control of them, without the interposition of state authority."¹⁶ General federal supervision of the railroads was receiving greater consideration in railroad circles because of the strike, the *Railway World* noted a few weeks later.¹⁷ And in August, John A. Wright, a long-time director of the Pennsylvania Railroad, called for the protection of the federal government against strikers, Granger states, and railroad speculators driving the roads to bankruptcy with their cutthroat rate policies. "The General Government should assume the direct protection of the property of the railways," including not merely control over stocks and bonds or federal charters, but the right to fix rates for various classes of service, to be maintained "under penalty of criminal prosecution."¹⁸ The national government, Wright noted, was far less likely than the states to respond to the people.

In September, Thomas A. Scott, president of the Pennsylvania Railroad, added his weight to the demand for federal intervention by calling for a 75,000-man militia for labor disputes. ". . . with the increasing population of our large cities and business centres . . . the late troubles may be but the prelude to other manifestations of mob violence. . . ."¹⁹ Congress must "take all neces-

¹⁶ *Railway World*, XXI (July 28, 1877), 698.

¹⁷ *Ibid.*, XXI (August 11, 1877), 747-748.

¹⁸ John A. Wright, "Control of Railways by the General Government," *ibid.*, XXI (August 17, 1877), 771-775.

¹⁹ Thomas A. Scott, "The Recent Strikes," *North American Review*, CXXV (September, 1877), 357.

sary measures to secure protection to life and property. . . .²⁰ In late September, *The Nation* complained that railroad men were advocating federal intervention in every labor dispute.²¹

A laissez-faire attitude on the part of railroads at this time would have been incongruous. After all, the federal and state governments had intervened during their ordeal in their behalf and for their protection. Even more important, the railroads during the 1870's were the products, in large measure, of the financial efforts of the state and federal governments—about \$350 million in state and federal funds, plus many millions of acres in land-grants, were pumped into the canal and railroad system until 1873.²² And despite this massive government investment, the extent of governmental management within the various railroads was very slight indeed—railroads found they could work with the government largely on their own terms, and to their own profit.²³ More likely than not, the average railroad president in the 1870's had a background in politics—over half held some political job before or during their careers as railroad presidents.²⁴ Surely the ogre of government intervention could not have appeared too formidable to men with important political connections themselves and familiar with the intricacies and possibilities of politics.

The rise of state commissions may have prejudiced some railroad men against regulation, but more often

²⁰ *Ibid.*, 361.

²¹ *The Nation*, xxv (September 27, 1877), 193. Evidence supports it; see *Railway World*, xxi (October 13, 1877), 965-966, for example.

²² Carter Goodrich, *Government Promotion of American Canals and Railroads, 1800-1890* (New York, 1960), pp. 268-271.

²³ *Ibid.*, p. 290 discusses this problem.

²⁴ Ruth Crandall, "American Railroad Presidents in the 1870's: Their Backgrounds and Careers," *Explorations in Entrepreneurial History*, II (July 15, 1950), 295. Of fifty-three presidents studied, twenty-eight held political jobs before or during their presidency, fourteen after—for a total of eighty-five different posts at any time.

than not, as we shall see, these agencies converted them to a belief in federal as opposed to state regulation. State commissions, which existed in one form or another in New England from 1839, were not so ominous as has been commonly supposed—and the railroad leaders undoubtedly appreciated this fact. The New England commissions, for the most part, protected the railroads from the farmers. The Massachusetts commission was reconstituted in 1869 with the power to recommend rates to the Legislature, but the chief architect of the Massachusetts commission, Charles Francis Adams, Jr., surely did not win the antipathy of railroad men—he quickly became a pool arbitrator and ultimately the president of the Union Pacific.²⁵ The first commission with mandatory rate powers was established in Illinois in 1873, and by 1887, although all but twenty states had commissions, only eight states assigned rate-making powers to their regulatory bodies. But the railroads in these Midwestern “Grange” states discovered the existence of these commissions did not prevent the railroads from being as profitable as those in unregulated states. Significantly, the National Grange soon turned against commissions as the means of regulating railroads.²⁶ Chaun-

²⁵ See Edward Chase Kirkland, *Men, Cities, and Transportation: A Study in New England History, 1820-1900* (Cambridge, 1948), II, 232-263, for an excellent history of New England commissions.

²⁶ John E. Benton, “The State Commissions and the Interstate Commerce Commission,” in *Interstate Commerce Commission, Exercises Commemorating the Fifty Years’ Service of the Interstate Commerce Commission* (Washington, 1937), pp. 22-36; Solon Justis Buck, *The Granger Movement, 1870-1880* (Cambridge, 1913), pp. 232ff.; Lee Benson, *Merchants, Farmers, and Railroads: Railroad Regulation and New York Politics, 1850-1887* (Cambridge, 1955), p. 201. George H. Miller, “Origins of the Iowa Granger Law,” *Mississippi Valley Historical Review*, XL (March, 1954), 657-680; and Benson, *Merchants, Farmers, and Railroads*, pp. 59-61, both illustrate the extent of merchant control of state regulatory movements. Miller suggests that the movement for regulation to prevent discrimination between locations preceded the Granger organization by many years, and was based on the desire of the eastern Iowa grain merchants to hold on to their share of the grain market against the more advantageously placed St. Louis and Chicago merchants.

IN QUEST OF STABILITY

cey M. Depew, the attorney for the New York Central, after opposing commissions for a few years, admitted that he "became convinced of their necessity . . . for the protection of both the public and the railroads. . . ." ²⁷ And he converted William H. Vanderbilt to this view as well.

In 1877, the main danger posed to the railroad was not from state and federal governments that had provided cash in time of need and troops in time of labor conflicts, but from cutthroat competition, rate wars, and the manipulators of stocks.

But even the Great Strike did not produce sufficient political intervention to bring about stability. The railroads therefore embarked on another effort at self-regulation.

In July 1877, the major Eastern trunk lines met again as the Joint Executive Committee, with Fink as its head, to reconstitute a pooling agreement, hoping for greater effectiveness than had resulted from earlier agreements. By September, it was discovered that the Grand Trunk Line of Canada and the Wabash Railroad were cutting rates, especially on livestock. A minimum of one meeting a month to perfect the organization, and end weaknesses in cotton and grain rates, failed to establish the desired stability. ²⁸ In February 1878, the pool agreed to blacklist all employees secretly granting rebates, but failed to create a contract pool necessary to control the actual rebating going on. By March 1878, the Joint Executive Committee's regulation of the division of freight shipped via Detroit and Milwaukee collapsed because of disagreements among smaller lines, and Toledo,

²⁷ Depew, *Memories of Eighty Years*, pp. 241-242.

²⁸ For the roads east of the Mississippi, see Joint Executive Committee, *Proceedings*, September 27, 1877, October 4-6, 1877, November 21, 1877, December 13, 1877 (New York, 1878-1880); *Railway World*, xxi (October 6, 1877), 950-951.

IN QUEST OF STABILITY

Peoria, Cincinnati, Louisville, Columbus, and other cities soon were outside the pool agreement. In June, N. Guilford, one of the Committee's commissioners, resigned because the pool's plan for "maintaining remunerative freight rates . . . had utterly failed to accomplish that end."²⁹

The railroads, however, were not quite ready to throw all caution to the winds, and continued talking as they cut their rates and embarked on vast expansion programs. Most of their time was spent discussing violations, adjusting rates, and reapportioning tonnage quotas. In December 1878, in an effort to end rebates distributed by freight agents, presumably without the knowledge of their superiors, through-rates for the eastern and western branches of the roads were established, Pittsburgh to the Mississippi marking the western territory. The whole structure was brought under the directorship of Fink, and a number of irate lines cajoled back into the agreement.³⁰

The railroads, however, failed to take the pool seriously and again prepared for warfare. In 1878 and 1880, the major trunk lines began disputing the existing division of eastbound freight from Chicago. Charges of rate cutting, illegal freight classifications—a favorite

²⁹ Joint Executive Committee, *Proceedings*, June 11, 1878, p. 5, also see February 6, March 7, March 26, 1878; *Railway World*, xxii (June 15, 1878), 579. D. T. Gilchrist, "Albert Fink and the Pooling System," *Business History Review*, xxxiv (Spring, 1960), 41, maintains that the new pool was a success until mid-1880. The Joint Executive Committee, sometimes called the "Trunk Line Association" east of Pittsburgh, never attained its goal of ending rebating and establishing reasonable market divisions. Only its degree of failure varied.

³⁰ Joint Executive Committee, *Proceedings*, August 20-24, September 5-6, September 24, October 10-11, November 8-9, December 18-19, 1878 (New York, 1878-1880). See also *Railway World*, xxii (August 24, November 30, December 14, 1878), 813-814, 1153, 1194-1195. At the same time, independent efforts to build pools in the far West were going on. See *Railway World*, xxii (June 8, 1878), 555-556.

IN QUEST OF STABILITY

form of rebating—and unfair divisions continued. By September 1880, Fink was pleading with the railroads that "*the good faith of the members of this committee is the only guarantee for the continuance and permanency of this organization.*"³¹ But the good faith of the railroads was insufficient, for in 1879, with the return of prosperity, they embarked on a massive road-building program. Mileage increased from 105,000 miles in 1879 to 141,000 miles in 1882, with no corresponding increase in the volume of business. It was inevitable that existing pool divisions would collapse.

In 1881, as a result of pressure from New York merchants, the New York Central initiated an unprecedentedly severe rate war in the East. The railroad and the merchants correctly claimed that lower rates to Baltimore and Philadelphia were diverting to those cities much of New York's usual traffic.³² In March 1881, the Joint Executive Committee decided to cut all its rates to the lowest then prevailing, in order to meet the competition. Between July and October 1881, freight rates fell 50 per cent in the East, and to a nearly equivalent degree in the West.³³ The Wabash Railroad and the New England railroads were dangerously weakened.

By January 1882, the Eastern lines were ready to appoint an independent commission to determine the fairness of the existing rate differentials to the major Atlantic ports. Its report, which decided on the pre-rate-war status quo so unsatisfactory to New York, left mat-

³¹ *Proceedings of the Joint Executive Committee*, September 16, 1880 (New York, 1880), p. 196. Italics in the original. Also see *Argument Regarding the Division of East Bound Freight from Chicago between the Terminal Roads, Submitted to the Board of Arbitration, August, 1879* (New York, 1879); *Railway World*, xxiv, (September 11, 1880), 875.

³² Depew, *Memories of Eighty Years*, pp. 240-241.

³³ Joseph Nimmo, Jr., *The Railroad Problem* [reprinted from U.S. Treasury, *Annual Report on the Internal Commerce of the United States*, October, 1881] (Washington, 1881), pp. 22-24.

IN QUEST OF STABILITY

ters seething. The Joint Executive Committee, after having given up meetings since August of 1881, decided to try to reconstitute the organization in March 1882. For a time competition continued merely at the normal rather than the disastrous level, with rate cutting of the more casual sort being reported regularly for adjustments. But by the end of the year more than usual signs of weaknesses in rates began appearing. The brief respite was to end.³⁴

In 1881, Jay Gould began acquiring control over the Wabash and developing the West Shore Line to compete with the New York Central. In early 1883, the two lines embarked on a two-year rate war that was to drag in the entire Eastern railroad system. By this time the Joint Executive Committee was merely an empty piety without real power or meaning. Fink warned the railroad men that they would lose money by their policies—which they very well realized—but he was unable to obtain their cooperation.³⁵ There were too many parties, too many potential areas of friction, for successful control to come via voluntary agreements.

Businessmen, Grangers, and Regulation

The movement for federal regulation of the railroad system was not, in any strict sense, deliberately initiated by the railroads. The dominant theorists on the origin of regulation claimed, as in the case of Solon J. Buck, that it was the agitation of the Grangers that led to the creation of the Interstate Commerce Commission in 1887, or, as Ida M. Tarbell suggested, the activities of

³⁴ Report of Messrs. Thurman, Washburne & Cooley, *Constituting an Advisory Commission on Differential Rates by Railroads* (New York, 1882), *passim*; Joint Executive Committee, *Proceedings and Circulars, 1882* (New York, 1882), *passim*.

³⁵ Joint Executive Committee, *Proceedings and Circulars, 1883* (New York, 1883-1884), *passim*; Joint Executive Committee, Passenger Department, *Proceedings*, June 12-14, 1883 (New York, 1883), pp. 58-78.