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## A Background and Analysis of the Railroad and Warehouse Restrictive Sections of the 1870 Illinois Constitution

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A BACKGROUND AND ANALYSIS OF THE RAILROAD AND  
WAREHOUSE RESTRICTIVE SECTIONS OF THE  
1870 ILLINOIS CONSTITUTION

by

Neil Ellsworth Lloyd

A Thesis Submitted to the Faculty of the Graduate School  
of Loyola University in Partial Fulfillment of  
the Requirements for the Degree of  
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## CHAPTER I

### Introduction

Six themes run through the pages of the following study.

First, sectional disputes were apparent and rather highly developed between the northern and southern sections of Illinois. The southern section was settled first by immigrants from southern states who tended to develop ties with St. Louis and the route of trade along the Mississippi River. The settlement of the north came a little later and is best represented by Chicago. Illinois products had always found their largest market in the East. Thus, Chicago, as it developed faster and more direct routes to market, soon overshadowed its southern competitors.

Second, while the attitude toward railroad development was always favorable, definite stages could be discerned. The first important approach to railroad construction in Illinois was based on state ownership. The Illinois legislature engaged the state in the enormous task of creating a relatively complete system of rail lines within its borders. On the collapse of this scheme, the development of railroads was left in the hands of private companies. As rail transportation developed, abuses

appeared and the anti-monopoly attitudes, inherent to the American tradition, came to the forefront.

Third, farmers, dependent on the efficient new means of transportation carrying their produce to market, became active in the movement to control their unruly servant.

Fourth, merchants, too, found the railroads to be a mixture of benefit and annoyance. The rise of metropolitan areas such as Chicago was closely linked to the development of railroads. But, as abuses developed, the businessmen realized control of the railroads was as important to them as it was to the producer.

Fifth, Adam Smith's theory of the "guiding hand" of competition was deeply interwoven into the American scene. The application of this principle was to create a serious dilemma when applied to the railroads.

Sixth, the sanctity attached to contract and private property, developed during the early years of the republic, was to be pitted against the movement for control of the corporations.

The resolution of these issues did not take place during the period of this study. Sectionalism was not destined to disappear; the theory of competition was to be altered but not severely shaken; the sanctity of contract and private property was never abandoned; farmers and merchants would open and close banks many times again. The Illinois Constitution of 1870 was

a mere waystation in the movement for government restriction.

But the period studied would be exceptionally useful in viewing the multitude of currents which helps to create the stream of American history.

## CHAPTER II

### Illinois and Transportation: 1829-1840

The first freight railroad employing a steam engine was opened between Helton Colliery and the docks at Sunderland, Great Britain, in 1822. By 1829 the United States had its first commercially operating steam engine running between coal mines at Honesdale and the Delaware and Hudson Canal.<sup>1</sup> Within a month the Galena Advertiser was proposing a railroad for Illinois to connect Pittsburgh, Pennsylvania, with the head of steamboat navigation on the Illinois River.<sup>2</sup>

This early demand of frontier Illinois for internal improvement should not come as a surprise. The major problem of the new western states was one of commerce with the East. Neither business nor agriculture could develop to any degree until a cheap means of transportation was opened.

The numerous rivers of Illinois offered only an unreliable route down the Mississippi River to New Orleans where Illinois' goods had to compete with products from Ohio, Indiana, Kentucky, Tennessee and Missouri for a local market.<sup>3</sup> Transportation of goods to the East via the Great Lakes was hindered due to the



fact that most Illinois rivers flow south and west. Thus the majority of the population, still located in southern Illinois, was cut off from the north.

The opening of the Erie Canal in 1825 had a definite effect on the development of Illinois. Immigrants from the northeastern states came by the thousands to settle in northern Illinois, and new trade routes were opened along the Great Lakes. The character of the state changed rapidly as the Yankees took root in the north and southern oriented groups held fast in "Egypt."<sup>4</sup>

The canal fever quickly spread to Illinois. However, early proposals to construct canals connecting various rivers came to naught due to lack of funds. Furthermore, sectional rivalries developed within the state as a result of the local advantages to be obtained from parochial projects.

On the national scale upstate interests criticized Mississippi and Louisiana for their opposition to a federal land grant for the Illinois and Michigan canal. The construction of this waterway would divert trade from the Mississippi River and New Orleans.<sup>5</sup> However, the grant was made in 1827,<sup>6</sup> and the basis for a sectional dispute between northern and southern Illinois was created.

By 1831 work on the Canal had not progressed beyond the surveying stage. Indeed, a commissioners' report suggested that

the entire project be replaced by a railroad.<sup>7</sup> While owners of upper Military Bounty Lands were definitely in favor of a canal,<sup>8</sup> the southern part of the state objected to any project which would benefit only the northern section. Two projects suggested by southern interests were the building of a railroad from Quincy to the south western part of Lake Erie and the development of a canal from the Mississippi across the state to the Wabash.<sup>9</sup> Both these projects would have by-passed Chicago in reaching the Great Lakes. The ill will developing from these rivalries was to characterize the entire period of this study.

Railroad development in the state reflected not only sectional rivalry but a varying attitude toward railroad control and ownership.

In 1831 a law was passed authorizing the survey of a railroad route crossing the American Bottom from the bluffs to the Mississippi River opposite St. Louis. Memorials were sent to Congress calling for a railroad from Buffalo, New York, to the Mississippi, and others requested that the federal government build the railways from the East.<sup>10</sup>

By 1834 a representative of southern Illinois in the state senate saw no reason to oppose the construction of the Illinois and Michigan Canal, but wanted the legislature to incorporate a railroad company meeting the Indiana canal on the Wabash and

proceeding to Quincy by way of Danville, Decatur, Springfield, Beardstown and Rushville.

The plan called for private companies to develop both the canal and railroad. Funds were to be raised privately, but the federal government was to be asked to grant a pre-emption right whereby the railroad could purchase one-half the vacant lands lying within five miles on either side of the road. The land was to be purchased at seventy-five cents an acre, and settlers were to be allowed to purchase the other half of the lands at the same price. The state was to retain the right to purchase the canal and railroad after fifty years.<sup>11</sup>

The plan in its original form offered the canal to placate Chicago interests. However, it was met with mixed feelings. The Chicago Democrat still complained of southern opposition to northern interests.<sup>12</sup> Indeed, southern legislators had amended the canal bill so that the credit of the state was not pledged. Under these conditions no eastern capitalists were willing to invest.<sup>13</sup>

Alton, which hoped to become the great Illinois outlet on the Mississippi was not satisfied that Quincy should become the western terminal of the proposed railroad. The Springfield Sangamo Journal pointed out to its neighboring town that a track from Springfield to Alton would make that river town the depot

of the Sangamon county.<sup>14</sup>

A movement was beginning. As each area contemplated the advantages of rail transportation, its citizens petitioned the legislature to act for railroad development. Bloomington requested a federal land grant for an Illinois and Ohio River railroad. Decatur urged construction of the Wabash-Mississippi line. At Quincy plans were made for a line from the Wabash and Erie Canal to Quincy and another to the Ohio.<sup>15</sup> Delegates from Macon, Madison, Macoupin and Sangamon counties met at Carlinville to secure construction of a road from Springfield through Carlinville to the Mississippi.<sup>16</sup>

One enterprising group of land speculators obtained the tract of land at the confluence of the Ohio and Mississippi Rivers where the city of Cairo now stands. Wishing to enhance the value of the swampy land which had stood idle since its first projected development in 1818, they, too, petitioned for a railroad. The line was to run from the Illinois and Michigan Canal to the town of Cairo.<sup>17</sup>

The legislature was already responding to the railroad mania. In January, 1835, the Chicago and Vincennes Railroad Company was incorporated. In February, the Jacksonville and Meredocia Railroad Company was granted its charter. The railroads were granted the power of eminent domain, allowing for

appeals to state courts. They could fix their own tolls and time schedules. They could combine with any other road.<sup>18</sup>

By January, 1836, sixteen more railroad corporations received charters. They were: the Belleville and Mississippi; Pekin, Bloomington and Wabash; Mississippi, Springfield and Carrollton; Alton, Wabash and Erie; Central Branch Wabash; Galena and Chicago Union; Wabash and Mississippi; Shawneetown and Alton; Alton and Shawneetown (apparently to compete with each other); Mount Carmel and Alton; Wabash and Mississippi Union; Warsaw, Peoria and Wabash; Waverly and Grand Prairie; Rushville; Pekin and Tremont; and the Illinois Central.<sup>19</sup>

Two things are worth noting in regard to these charters. The railroad system, as it would have developed if the lines had been built, would have centered on Alton rather than St. Louis. This reflected the desire of Alton to develop as a rival of St. Louis. It was argued that it would better serve Illinois' interests to build up a town within its boundaries rather than in Missouri. Most of the state acquiesced to the routing of lines to Alton. The southern section, however, was opposed to any legislation which would threaten the commerce of St. Louis.<sup>20</sup>

Secondly, while the charters varied in content, they granted the railroads powers which would have caused the state considerable difficulty in later regulation attempts. The state retained

the right to buy a road after a period of time in only four instances.<sup>21</sup> Only seven charters had any provisions limiting railroad rates if their profits should exceed a certain percentage-- and this was a useless regulation in light of the future practice of stock watering.<sup>22</sup> The Wabash and Mississippi and the Illinois Central corporations were the only companies required to submit a report to the state.<sup>23</sup>

But the lives of these corporations were too short to bear exacting analysis. In February, 1837, the State of Illinois passed a law whereby it pledged its credit to a vast system of state-owned railroads. What brought about this change of policy on railroad ownership?

The new position can best be explained as an expression of a simple desire for rapid expansion of transportation facilities, coupled with sectional desires and some fear of private monopoly. The private companies chartered in early 1836 had been unable to raise the necessary capital for development, but the people who hoped to be served by them were obviously unwilling to give up hope for rail transportation.<sup>24</sup> Fear of excessive charges imposed by private companies and a surprisingly naive belief that the state could construct the improvements at little or no cost to the taxpayer led to the passage of the Internal Improvements Act.

By 1836, every section of the state had come to support railroad construction. The greatest advocates were in the south. Little Egypt saw a system of railroads as necessary in order to offset the commercial and population gains being made in the north as a result of the opening of the Erie Canal. It was expected that a railroad to the north would divert commerce to the Mississippi route. Lead miners of the northwest favored opening transportation to the Great Lakes. The central portion hoped for lines which would give them a direct outlet to the East by way of the Wabash and Erie Canal. The northwest, developing its pet Illinois and Michigan Canal, certainly could not criticise the efforts of other sections to obtain better transportation.<sup>25</sup>

The Illinois and Michigan Canal was to be built with state funds. This left the project open to repeated criticisms and obstruction from those areas which would not benefit from the project, but which would be required to help pay for it. It is not surprising that early in 1836 the Chicago Democrat expressed its regrets that so many private railroad companies had been chartered by the legislature. It referred to dangers of monopolies and suggested that the avenues of communication should be controlled and built by the state.<sup>26</sup> Why shouldn't all sections receive aid from the state?

This was a theme which appealed to many. The general disposition of the people may be gauged in the elections of August, 1836. Both political parties in Illinois favored the system of internal improvements.<sup>27</sup>

Conventions calling for internal improvement culminated in a meeting at Vandalia in December, 1836. The delegates, many of whom were representatives in the General Assembly also convening in Vandalia, were unyielding in their requests for state improvement. A plan calling for construction of a state-wide system of railroads and river improvement was adopted. The cost was to be borne by the state.<sup>28</sup>

Governor Duncan, in his address to the legislature, expressed his views that the General Assembly pass a law:

providing that the State take a certain amount of the capital stock in all canals and rail-roads, which may be authorized by law, wherever private individuals shall take the remainder of the stock necessary to the construction of such work. Under such policy I have no doubt that many works of great value to the community would be immediately commenced and carried into effect, which, if left to individual enterprise, unaided, would remain untouched for years to come.<sup>29</sup>

But many people wanted the state to participate to a much greater extent. Petitions of instruction to members of the assembly called for "a general system of Internal Improvements, which should be founded on the credit and controlled by the



authority of the State." Others asked that "as the basis of the system, the improvements shall be made and owned by the State."<sup>30</sup>

The Internal Improvements Act of 1837 provided that the credit of the state be pledged to obtain loans for the development of six rivers and eight railroads. A sum of \$9,300,000 was to be raised for construction of the railways which were to be owned by the state.<sup>31</sup>

The passage of the act presents an interesting study in log-rolling techniques, but the final vote of 61 to 25 in the House indicates its relative popularity.<sup>32</sup> Opposition came mainly from members interested in further improvements in their area, those Whigs who were opposed to state ownership and representatives of the areas with good river transportation or close contact with St. Louis.<sup>33</sup>

Governor Duncan was strongly opposed to the act. He condemned "the steady, nay, rapid departure of power from the hands of the people to the hands of the government" and feared the evil effects of the immense patronage system which would grow with the extended public works.<sup>34</sup>

A majority of the voters of Illinois were not troubled with such thoughts. In the gubernatorial election of 1838, Thomas Carlin campaigned on a platform favoring state construc-

tion and ownership of the internal improvement system. Carlin's election was proclaimed by the Democratic press as a victory for the state system.<sup>35</sup>

Democrats had claimed that the Whigs were hostile to the internal improvement plan. However, in view of the support the state Whigs had given to the passage of the Internal Improvements Act, this claim may be dismissed as mere electioneering. Indeed, the Quincy Whig claimed the people were not opposed to the system and the issue was not even a question in the election.<sup>36</sup> The claims of both sides are most useful to indicate the relatively small part the issue of laissez faire played in the campaign -- the people were interested in development, not theories. No party wished to buck the trend.

Governor Carlin's message to the legislature at the close of 1838 was full of hope. He saw a quick return to prosperity following the collapse of the national economy in 1837. While questioning the advisability of undertaking all the improvements concurrently, he wished to see them all completed.<sup>37</sup>

But the ambitious development program of Illinois was doomed to failure. Even if the depression of 1837 had not occurred, the complex system of rail lines contemplated by the state was beyond the financial ability of the people to bear. Furthermore, there was no need for this extensive system in the

1830's.<sup>38</sup>

The legislature was proceeding under the illusion that the entire system would pay for itself out of profits obtained when the lines became operable. Between January, 1838, and July, 1839, bonds were issued in Illinois for a sum of \$6,751,000,<sup>39</sup> and loans, which eventually fell through, were being negotiated in London. Despite the earlier estimate of cost at about ten million dollars, the money raised was insufficient to complete the construction of any line.<sup>40</sup>

As it became apparent that the system would not be completed at its original estimate of cost, nor yield any revenue to offset its expense, charges of fraud, collusion, graft and waste were made against the administration of the program.<sup>41</sup>

But the major opposition arose when it began to appear that taxes would be raised to meet the expense of the project. Conventions were held in fifteen counties denouncing state expenditures on the internal improvements.<sup>42</sup> It is possible to trace twelve of these conventions to Bond, Montgomery, Morgan, Hancock, Pike, Madison, White, Crawford, Warren, Adams, Peoria and LaSalle Counties.<sup>43</sup> It is interesting to note that everyone of these counties was either serviced by a river or was not included in a proposed railroad route. Edgar County declared itself in favor of continuing the public works.<sup>44</sup> Edgar County

was to contain a terminal of one of the projected railroads.

It must be observed that the opposition or support of the people did not reflect any legal or economic theories of laissez faire which were to arise at the Constitutional Convention of 1869, but rather an assessment of immediate needs and a fear of burdensome taxation.

## CHAPTER III

### Development of Illinois Railroads, 1840-1865:

#### The Private Corporation

By no means was the opposition to the state internal improvements system universal in the state. Indeed, there was strong resistance to the repeal of the state ownership plan.

In early 1839 an attempt to incorporate the Albion and Grayville Railroad Company was rejected in a committee report. It was argued that it would be inexpedient for the legislature to authorize corporations or individuals to construct railroads which might compete with the state system.<sup>1</sup>

Opposition to repeal of the state system was strongest in southern Illinois which was now rapidly losing ground to the northern section of the state in most fields of economic endeavor. William Gatewood of Gallatin County warned that any attempt to set aside the internal improvements plan would result in southern opposition to the Illinois and Michigan Canal.<sup>2</sup>

In December, 1839, a bill repealing the internal improvements project was passed in the senate by a vote of twenty-one to nineteen, and in the house by a vote of forty-seven to thirty-

five. However, this slim margin was offset by the efforts of a group which invoked a technicality to set aside the act and save the state system.<sup>3</sup>

But no amount of parliamentary trickery could revive the bankrupt plan. Fraud, collusion, bureaucracy, political pressures, lack of experience in railroad building, poor financing arrangements, a major depression, the weight of a system too ambitious for the needs of a frontier state -- all these factors help to account for the collapse of the system.<sup>4</sup>

While progress on the railroads came to a standstill, the two political parties tried to place the blame for the state debt on each other.<sup>5</sup> In the meantime, the state's financial condition was rapidly deteriorating. Finally, in January, 1841, the house appointed a commission to study the debt problem and make arrangements for disposing of the internal improvements.

In February the committee reported back calling for a total suspension of all operations upon the several works and the sale of perishable materials belonging to the state. It also suggested that the rail lines should be sold to private companies with the condition that the state was to remain a joint proprietor and participate in any profits.<sup>6</sup>

It was not until April, 1844, that the Northern Cross Railroad between Springfield and Meredosia (the only railroad built)

and the lands acquired by the state were placed on auction.<sup>7</sup>

Apparently, little of the land was purchased, since the state turned much of the roadbeds over to local governments with the provision that it might retake the land for its own use.<sup>8</sup>

Whether it was wished to be or not, the state was out of the railroad business. As it became apparent that the state would not develop the needed lines, the attitude toward state ownership changed. By 1847, the question of railroads was not even considered at the convention drawing up the 1848 Illinois constitution.<sup>9</sup>

The convention of 1847 is interesting in that seventy-six of the one hundred sixty-two members were farmers. Fifty-four members were lawyers.<sup>10</sup> The predominance of farmers helps to explain the strong anti-corporate sentiment aimed at the banking system.<sup>11</sup> Absence of any restrictions aimed at railroad corporations can be explained by the fact that few railroads existed. More important, there was a great desire for more railroads in Illinois, and it was felt that restrictions would tend to drive investors away.<sup>12</sup>

Members of the convention apparently did attempt to forestall difficulties which could arise from the invocation of the Dartmouth College doctrine by stating in a proposed Article 10, Section 6:

Articles of incorporation for municipal purposes, whether general or special, may at any time be altered, amended or repealed, and any acts granting corporate powers of any kind other than for municipal purposes, may at any time be altered, amended or repealed...<sup>13</sup>

The debate on Section 6 was quite heated. But, when the final draft of the 1848 constitution was completed, the section was deleted. A new section was inserted which related to the transportation system in general terms.<sup>14</sup> The question of the obligation of the state to honor its charters was to be raised not many years later.

Of more immediate pertinence were the sections which forbade the general assembly to lend the credit of the state to any person or corporation and prohibiting the contracting of debts over \$50,000 without voter consent.<sup>15</sup> The net result of this provision was to shift the burden of encouraging railroad construction to local governmental units. The result of this will be viewed later.

The rise of the private railroad corporation was almost concurrent with the collapse of the state system. The desire for railroads did not diminish as the state system faded, and private corporations had the advantage of rising to meet specific needs rather than developing on the grandiose scale proposed by the state.

As early as 1837, ex-Governor Reynolds was operating a rail



line from the Mississippi Bluffs six miles to St. Louis.<sup>16</sup> But, the first of the newly-chartered corporations was the Des Moines Railroad Company. Among the provisions of its charter was an amendment allowing the state to purchase the railroad at any time by paying the corporation its expenditures plus six percent interest.<sup>17</sup>

The St. Clair Railroad Company was chartered the same year. While its charter allowed it depot and ferry privileges free from interference by local authorities, an act passed eight years later limited the amount of coal lands which the company could acquire to one thousand acres. This same act set general toll rates for the line.<sup>18</sup>

The state in issuing charters tended to follow a policy in which only established towns in Illinois would be serviced. This "state policy" was to establish Alton as a rival to St. Louis by excluding any lines which would terminate at St. Louis.

In 1849, a general incorporation act was passed establishing a model railroad charter. While this act is interesting because it incorporates those features found then to be desirable in a charter, it was the object of much dispute. By providing that the legislature must approve routes and termini, the act came under immediate attack from those in the proximity of St. Louis who feared the law would be used to implement the "state policy."<sup>19</sup>

When one considers some of the provisions of the general incorporation act, it is not too surprising that it was never used by railroad companies. The legislature reserved the right to alter tolls, providing the rates were not so reduced as to lower the profit below fifteen percent on the capital stock. It also required railroad corporations to obtain special permission from the legislature to condemn land and contained a three-cent-per-mile clause limiting fares.<sup>20</sup>

The substantial beginning of development of the Illinois Central Railroad in 1850, to some degree overshadowed sectional rivalries. Planned to transverse the state from Chicago to Cairo, the line finally won the support of Stephen Douglas and northern interests. As early as 1836, efforts had been made to construct such a line, and it was one of the routes contemplated in the internal improvements plan of 1837.

During the period, 1840-1849, activities for development of the road was kept alive by Darius Holbrook of Cairo. Holbrook's interest seems to have been mainly speculative. In 1844, his firm, the Great Western Railroad Company, petitioned the United States Congress to help finance a railroad from Cairo to Galena through a grant of preemption rights. The railroad company was to have the right to preempt four sections of land for each mile of its four-hundred-fifty-mile line at \$1.25 an acre and ten

years in which to pay for the grant, which would have amounted to 1,152,000 acres. The railroad was to be financed by a bond issue secured by an indenture on the lands.<sup>21</sup>

It was not until Stephen Douglas extended the northern terminus of the line from Galena to Chicago and proposed its extension beyond the southern tip of Illinois to Alabama that federal and sectional support was won. The federal government made an outright land grant of over two-and-one-half million acres in Illinois for construction of the proposed line.<sup>22</sup>

Chicago interests saw the advantages of the railroad in tapping the hinterland and cutting into the economic ties of southern Illinois with St. Louis.<sup>23</sup> Indeed, Chicago was to rise to the position which had been reserved for Alton under the state system.

Southern Illinois was strongly committed to St. Louis. However, southern opposition was not aimed at the development of the Illinois Central. Instead, the southern interests called for supplementary lines leading to the river city. This point is well illustrated by a railroad convention which met at Salem in June, 1849, to protest the "state policy." Denouncing the policy excluding east-west rail lines, the convention claimed that roads leading to St. Louis would not seriously injure the commerce of the proposed Illinois Central Railroad. The members

pointed out the increase in business, outlets for farm produce and increase in land prices which were concomitant with railroad construction.<sup>24</sup>

Despite objections, the convention retained a section which recognized St. Louis as "the acknowledged emporium of the upper Mississippi." As one delegate expressed himself, he was "for letting the world know that the interests of Southern Illinois were identified with St. Louis."<sup>25</sup>

Southern protests against the state policy continued,<sup>26</sup> but the Illinois Central was heralded as creating a more dependable means of transportation northward from Cairo. Pointing out that the Mississippi River was not navigable from St. Louis to Cairo for "a considerable portion of the year," while the river south of Cairo was always open, the Illinois Weekly Journal predicted the central railroad would secure for Cairo "a brilliant destiny."<sup>27</sup>

It should be pointed out that there was little opposition to government aid for railroad companies, or even government ownership of these lines. Indeed, the profit which would accrue to farmers, merchants, manufacturers and mechanics alike was a goal which was to be obtained at any effort.<sup>28</sup>

The riches which would come with improved transportation provided an incentive for every man to do his duty. The 1848

Illinois constitution had limited the role the state government could play. The federal government had granted over two-and-one-half million acres for the Illinois Central, and each county maneuvered to bring the line to its leading town. Cairo, Bloomington, Clinton, Decatur, Shelbyville, Joliet and Chicago profited.<sup>29</sup> But what of those numerous towns which were not located on the central route?

Eastern capitalists had become more cautious about investing in western ventures. In 1847 the Galena and Chicago Union failed to obtain eastern backing, but in one day William B. Ogden, the company's president, was able to obtain \$20,000 on the streets of Chicago from wheat farmers. By 1850 the road was paying dividends and became one of the most profitable lines in Illinois.<sup>30</sup>

As the inhabitants of various counties and towns desired the construction of railroads to their area, they petitioned the legislature for laws allowing them to issue bonds for railroad stock. In 1849 alone at least fourteen bond laws were passed.<sup>31</sup> In the case of the Aurora Branch Railroad, the stock sold so fast that the legislature passed a law forbidding the directors to pay over twelve percent dividends.<sup>32</sup> In 1851 Alton and Shelby voted \$100,000 each for stock in the Terre Haute and Alton Railroad. Macoupin and Montgomery Counties pledged \$50,000 each.<sup>33</sup>

Southern newspapers even played up the great profit of

north-south railways. The Illinoisan called for a subscription to the Wabash River Railroad which would "secure the Chicago and Toledo markets on the North, and the Mobile and New Orleans markets on the South." Denouncing east-west lines across Illinois as open only to passenger business, it saw the produce and freight business as going to the Wabash River Railroad which would yield "not less than 25 per cent."<sup>34</sup>

Other papers saw the railroads bringing the state together and destroying petty local jealousies. In 1857 a convention meeting at Harrisburg, Saline County, favored construction of a railroad from Mound City, Pulaski County, to Vincennes. It was argued that this Illinois Southern Railroad would supply "a link in the great chain and network of railroads at the North and South."<sup>35</sup>

The state legislature had already abandoned the 1849 General Incorporating Act and was granting individual charters to each road. This had some unfortunate results. The charters lacked uniformity and almost all the corporations were granted the power of eminent domain. Carelessness in the fixing of routes allowed unscrupulous company officials to defraud towns by securing subscriptions along several fictitious routes.<sup>36</sup>

By no means were the railroads always a blessing. Between 1857 and 1871, Beardstown, Cass County, passed four bond issues

totaling one hundred fifty thousand dollars in subscriptions to the Rockford, Rock Island, and St. Louis Railroad. Yet, as a result of the railroad development, Beardstown lost its eminence as a river port and forfeited its importance in the rail system as terminals were extended.<sup>37</sup>

Aledo, Mercer County, experienced a more obvious loss in subscribing to the Western Air Line. In 1853 a one hundred thousand dollar subscription was voted by Mercer County to the Western Corporation. By 1858, three years after construction had begun, the line had not reached Aledo. Another one hundred thousand dollar subscription was called for. Aledo raised ten thousand dollars in private subscriptions. Despite the fact that another \$60,000 was obtained, the Western Air Line collapsed in 1859. The American Central Railroad was organized to complete work, but another \$156,000 would have to be raised. The Civil War stopped any activity along these lines.<sup>38</sup>

Despite these real setbacks, the inhabitants of railless towns were most zealous in trying to encourage railroad corporations to locate in their vicinity. In violation of an Illinois Supreme Court decision that county aid to railroad corporations was unconstitutional, Mercer County, in 1860, declared it would pay the bond issue of \$156,000 to the American Central Railroad. The American Central failed soon after.<sup>39</sup>

In 1868, in order to complete a railroad line from Galva to New Boston, it was estimated that \$225,000 was needed. Mercer County pledged \$175,000, and townships along the road were required to subscribe \$13,400 toward stock. Virtually everyone voted for the subscription. In Mercer Township the returns were 142 to 15, while in Millersby the vote was 184 to 3 in favor of the subscription. Finally, in 1869, as part of the Chicago, Burlington, and Quincy Company, the rail line reached Aledo.<sup>40</sup>

As railroad development accelerated, complaints dealing with railroad corporate structure increased. By 1854, The Illinoisan of Clark County was complaining that local subscriptions served only to help work along, rather than serve a permanent investments. As soon as stock in the railroads became desirable, it was said to be "invariably bought up and finds its way to the East." In the specific case of the Mississippi and Atlantic Railroad, it was claimed that only about one-tenth of the stock was held by residents along the line. Thus, county and municipal subscriptions would "fail entirely to secure that permanent local interest deemed essential."<sup>41</sup>

Complaints that railroad subscription bonds raised taxes without producing railroads were reinforced by observations that rail lines took up the best land, killed sheep and cattle and were of doubtful utility.<sup>42</sup>



Such complaints came only after a railroad was established. The Illinois Central, by 1855, the largest land owner in the state,<sup>43</sup> became the target of many attacks. It was referred to as a "stupendous monopoly" which was the recipient of "magnificent donations" and "unlimited privileges," with "more independent power than was ever known to any body or corporation." As everyone knows, "Corporations have no souls!"<sup>44</sup>

But the emotional appeals had a basis in hard fact. While some towns were made by a railroad, others were ruined as it by-passed them. The right of the railroad corporations to determine for themselves the path of their railroads meant they could play off one town against another.<sup>45</sup>

The citizens of Atlanta, Illinois, had even more specific grievances when they petitioned the General Assembly in 1859. They complained that the railroad corporations refused to pay debts they had incurred for wages and materials. They protested high freight rates and complained of unequal tolls between equidistant points. They demanded state control.<sup>46</sup>

All the attempts made in the General Assembly, during the Civil War, to regulate the railroads failed. In 1861 a bill to prevent and punish discrimination by railroads passed the house, but not the senate. In 1863 a bill to create a railroad commission was passed in the senate, but was tabled in the house. In

1865 a bill establishing a railroad commission and a three-cent-a-mile maximum passenger fare was passed by the house, but died in senate committees.<sup>47</sup>

When a constitutional convention met in 1862, the complaints against railroads were numerous. Farmers protested that with the Mississippi route cut off by the war, they were entirely dependent on railroads. Railroad rates were rising and only the lack of competition explained why.<sup>48</sup>

Resolutions were introduced at the convention asking that a uniform rate per mile be established and that a railroad commission be formed to supervise rates and timetables of railroads.<sup>49</sup>

Much hostility was directed toward the Illinois Central Railroad which was delaying payments to the state. In its charter this railroad was required to pay seven percent of its gross earnings to the state in return for its land grant and exclusion from local taxation. The railroad officials now argued that their revenues were reduced because the State of Illinois and the federal government were not paying the Illinois Central's claims against them. Fear that the Illinois Central's officials might be trying to break the seven percent clause in their charter led the convention members to write a section into the constitution stating that the railroad corporation would not be released from its obligation.<sup>50</sup>

The question of taxation led to the inclusion of a section which declared rolling stock to be personal property. Thus, the question of tax collection and private claims against railroads was to be settled.<sup>51</sup>

Local subscriptions to railroad corporations were forbidden by a section which denied the legislature the power to grant subordinate governing bodies the right to give financial aid to any individual or corporation.<sup>52</sup>

The convention did not establish any instrument for railroad regulation. However, this does not seem to be an indication of its temperament, which did reflect agrarian radicalism.<sup>53</sup>

The 1862 constitution was never accepted. The predominance of Democrats in the body during the Civil War caused much ill-will. The Democrats were accused of attempting to embarrass the Republican Governor, Richard Yates, and of being sympathetic with the Knights of the Golden Circle. Faced with strong corporate and Republican opposition, the constitution was defeated.<sup>54</sup>

The protests of a farmer in 1864 seemed doomed to fall on deaf ears, but the war was nearing its end. As one man put it:

The fact is the railroads are made for the people as well as the stockholders, and some day it may be found that they have some rights that at least the legislature may respect.<sup>55</sup>

## CHAPTER IV

### Competition vs. Profit: An American Dilemma, 1865-1869

The Illinois farmer had profited from the Civil War; so had the railroads.<sup>1</sup> Concurrent with the rise in food prices there was a rise in transportation tariffs. The railroads explained the need for higher rates by pointing to inflation, raising costs and operating expenses,<sup>2</sup> but the farmer saw another reason. The war had cut off the Mississippi route, thus destroying the major competitive alternative to rail transportation. Furthermore, the steamboat and railroad companies of the Upper Mississippi had formed a transportation monopoly.<sup>3</sup>

As early as 1864, a merchants' convention of Red Wing, Minnesota, had sent committees to Chicago and Milwaukee protesting high freight charges on wheat. Despite these protests and those of the Chicago Board of Trade, the railroad rates went up again.<sup>4</sup>

There is a definite correlation between the decline in the prices of farm produce and agitation against the railroad "monopolies." In the fall of 1864 the price of wheat had been about \$1.80 a bushel; a year later it was at \$1.13, having fallen

to eighty-seven cents during the summer months. During the war farmers had expanded production into marginal lands to meet the increased demands. As war demands subsided and the Illinois farmer was faced with the competition of more fertile areas west of the Mississippi, it was natural that prices would fall.<sup>5</sup>

However, with the drop in prices the railroad rates became proportionally too high for farmers to make a profit. It was argued that western railroads, although dependent upon the wheat crop for their revenue, could not lower rates without a loss. Thus, there was now a loss to be divided instead of a profit.<sup>6</sup>

This point of view apparently never occurred to the farmers, who began protesting their losses in earnest. The farmer saw the solution to his problems in the creation of competition for the railroads. At first this desire was expressed at least partially by the attempts of townships and counties to obtain railroad transportation. During the period 1849-1869, over one hundred counties and towns issued bonds totalling over three-and-one-fourth million dollars and said to eventually be aimed at obtaining over fifteen million dollars.<sup>7</sup>

The extension of rail lines to a town did not, however, create any real competition. Wagon transportation could not compete and, as we have seen the water routes of the upper Mississippi were already in combinations with the railroads.

Furthermore, railroad consolidations were forming by 1864.<sup>8</sup>

The price of corn fell as low as ten cents a bushel during 1865, and in the winter of 1865-1866, a series of farmers' conventions met to consider the crisis.<sup>9</sup> Around three hundred men, convening at Morris, Illinois, on November 22, 1865, protested the high rates of both the railroads and Erie Canal. They called for the construction of a new canal around the Niagara Falls by the federal government. The canal was to be capable of allowing vessels carrying one thousand ton cargoes through its locks. The tolls charged should be established only for the upkeep of the canal.<sup>10</sup>

Federal action was called for because "as it now stands we are entirely at the mercy of huge railroad monopolies." One delegate argued that the state legislature had the right to regulate railroad rates and if all else fails, to "tax them into decency." But the resolution drawn up spoke only of the waterway and the need for federal aid.<sup>11</sup>

Development of the Mississippi route was also called for. At a farmers' convention in Bloomington, it was argued that use of the rivers to the south would force down the rates of carriers to the east. Indeed, it was predicted that if Chicago merchants and shippers did not do something to reduce freights, St. Louis would have a "growth that will astonish the world."<sup>12</sup>

The Bloomington convention was definitely anti-monopoly in tone. While the resolutions again called for a Niagara Falls canal, it abandoned an ideal based purely on the theory of competition by calling for direct control of railroad companies. It protested the high rates and discriminations of the railroads and called for an anti-monopoly league of Illinois "whose object it shall be, by legislative action, or if necessary by constitutional provision, to restrict said road and warehouse charges within reasonable limits."<sup>13</sup>

As the depression extended into 1866, the farmers became more outspoken against specific rail lines. A meeting of the Stark County Society attacked the Chicago, Burlington and Quincy Railroad for delivering grain only to favored warehouses in Chicago. While the society talked of seeking "a market in another direction," it also advised that it would support only such men for the next legislature as were known "to be opposed to railroad, warehouse and other monopolizing combinations, and who are pledged to correct the evils of which we now complain."<sup>14</sup>

The Chicago and Northwestern Railroad Company was also attacked for levying some of the most oppressive charges. The Prairie Farmer attributed the high rates to the monopoly the company had in its area. The newspaper saw relief in the form of competition from a proposed line to run between Chicago and the

Wisconsin border. The new line would meet with the Western Union Railroad at Savannah, Illinois.<sup>15</sup>

Savannah was the focal point for one of the most active attempts of producers and merchants to control rates by creating competition. An anti-monopoly league had been active in Minnesota and Wisconsin. In early 1866 a convention met at St. Paul to consider a plan to lower tariff rates. One method to be used was the patronage of a competing steamboat line running between Savannah, Illinois, and St. Paul, Minnesota. The line would carry freight from Chicago, Milwaukee or Racine, via the Chicago and Milwaukee Railroad or the Northwestern Railroad to Savannah, and thence, by boat to St. Paul.<sup>16</sup>

The anti-monopoly league members also invested in the creation of a new steamboat line, but the company never obtained any vessels. It was argued that the mere existence of such a group could be used as a club over the heads of the railroad and steamboat companies. Indeed, the transportation companies did lower their rates in the face of this novel competition. Presented with this initial success the farmers and merchants seem to have become incautious. By late 1866, the transportation interests had control of the league's company and prices rose again.<sup>17</sup>

Part of the explanation for the failure of the league lay with the rise in wheat prices in mid-1866 and continuing upward



through 1867.<sup>18</sup> The farmers still lacked an organization which could hold them together in other than trying times. Thus, there was little anti-monopoly activity during the winter of 1867-1868.<sup>19</sup> Only the wool growers, who had overextended themselves during the war years, were active to obtain a protective tariff.<sup>20</sup> When in 1867, the Prairie Farmer called for the construction of the ship canal to the west, and an extension of the Illinois and Michigan Canal with state funds,<sup>21</sup> the demands seemed of greater concern to Chicago interests than to farmers.

Indeed, a State Agricultural Society convention, called to include the presidents of all the local societies, was concerned with such topics as the abolition of horse racing and side shows at fairs, and the coordination of dates and admission prices. Not only were the railroads not criticized, but also it was presumed "the officers of the roads of our State will cheerfully grant passes to the presidential delegates."<sup>22</sup>

But in 1869, depression again stalked the countryside.<sup>23</sup> Once again protests were raised in volume. One of the major complaints revolved around the great discrepancies in rates between stations which were served by competing roads and those served by only one line. As early as 1865, the farmers were complaining that the Chicago, Burlington and Quincy Railroad charged eighteen cents a bushel to ship wheat from Galva to Chicago, a distance

of one hundred twenty-five miles. From Champaign to Chicago the charge was fourteen cents a bushel. However, the rate from Chicago to Buffalo, New York, was only eleven cents.<sup>24</sup>

By 1869, Chicago interests which had profited from the competition of railroads going eastward found themselves to be the victims of a tenuous connection with the West.<sup>25</sup> The Chicago Board of Trade complained that the difference in rates between San Francisco and Chicago was only forty cents cheaper on first class goods than the rate between San Francisco and New York. Indeed, the rates on second class goods differed by only five cents, and on third class items there was no difference at all.<sup>26</sup>

It was no wonder that both farmers and merchants saw competition as the key to cheaper rates. However, it was competition which had created the discrepancies in tariffs. During the period following the Civil War, railroads were actually being built more rapidly than the business requirements of the country demanded.<sup>27</sup> The numerous bond issues of Illinois counties and towns certainly encouraged this overexpansion of services to areas which could not remain, in the long run, as financially sound investments.

The railroads, as most companies do, followed a policy of obtaining maximum profits. Where the roads met competition, they lowered their rates. Often these competitive tariffs covered only operating expenses. Sometimes, in an effort to drive

out competition, the rates were obviously below the level necessary to cover costs. In order to make up the deficits created by this ruinous competition, railroad management raised prices in areas which depended solely on one line for transportation.<sup>28</sup>

Representatives of the railways pointed out that the companies did not base their "classification on cost of service, but upon what the traffic will bear." They argued that this principle allowed the most efficient service to the community. Thus, freight charges were usually divided into four categories based on the value of the goods to be shipped. Such items as dry goods would be classified in the first category, lumber in the fourth.<sup>29</sup>

Furthermore, fixed overhead made it profitable at times to carry goods at almost any rate. This was especially true on return trips where it would be better to haul goods at a cheap rate rather than return empty cars.<sup>30</sup>

While these arguments explain varying rates along the same railroad bed, they do not account for the vast inequities in rates between competitive and non-competitive branch lines. The fact is that "charging what the traffic will bear" often meant levying higher rates on those customers who had no other method of reaching a market. The farmers and merchants that lived along these single lines had a legitimate complaint in that

they were bearing a share of their rivals' shipping expenses.

Yet where competition existed, the railroads did have to lower rates to obtain a share of the market. Under pressure to earn maximum profits, railroad managers were hard pressed to cut rates to a minimum on competitive routes, thus obtaining the largest market there. The slim gains made on such routes were compensated for on branch lines. The principle of competition had created a dilemma.

This dilemma was being partially resolved by the process of consolidation which accompanied railroad development. Indeed, northern Illinois was dominated by the Chicago and Northwestern railroad which had absorbed the Galena and Chicago Union in 1864.<sup>31</sup> In a circular issued to its stockholders, the Board of Directors pointed out that the consolidation with the Galena line would "aid to prevent construction of such roads as would only serve to create injurious competition."<sup>32</sup> By 1868 the Northwestern had combined with the Chicago and Milwaukee railroad to become the largest railway corporation in the United States.<sup>33</sup>

By 1868, the Chicago and Alton railway had, through a process of consolidation, virtually no competitors for the traffic between St. Louis and Chicago. The Chicago, Burlington and Quincy railroad was coming into control of the western part of the state, purchasing even ship lines and warehouses. Only

southern Illinois lacked a developing railroad consolidation. Indeed, the lack of railways in general in the south accounts for the great activity of construction in that area during the post-Civil War years.<sup>34</sup>

If shippers feared the abatement of competition coincident with consolidation, there was even more reason to arouse anti-monopoly feelings in the actions of eastern capitalists. In 1869, both Cornelius Vanderbilt of the New York Central system and the operators of the Pennsylvania railroad system were rumored to be considering consolidations with lines to the west.<sup>35</sup>

After consolidating the lines from Buffalo to Chicago into the Lake Shore and Michigan Southern railroad company in 1869, Vanderbilt established an alliance with the Chicago and Northwestern railroad which insured Chicago's position as the focal point for trade with the East.<sup>36</sup> One Chicago paper could boast of the Chicago-St. Louis rivalry for Illinois trade:

It is not simply Chicago they are fighting, but the largest combinations of railroad capital in the country, with just the smartest and most active business men in the country controlling this capital....the capital of all these roads is irrevocably pledged to bring the produce of the northwest to Chicago.<sup>37</sup>

Chicago had not suffered from a lack of competitive roads. Even the absorption of the Pittsburgh, Ft. Wayne and Chicago line by the Pennsylvania system left ample competition on routes east,

and Chicago never had committed a cent of her municipal revenues to the financing of a railroad.<sup>38</sup>

The consolidation of railroads points up another problem in railroad control. With most mergers the companies issued new stocks. Quite often the increased number of these new issues represented the ability to print paper, rather than create new services or capital goods. Thus, after consolidating with the Chicago lines, Vanderbilt announced that New York Central stock was to be watered to \$207.00 on each one hundred dollars of stock. All the "water" was to be paid out in script. Immediately, the price of both old and new stock fell, but within the week it began to rise.<sup>39</sup>

Shippers suspected that this overcapitalization led to higher rates in order to pay acceptable dividends on the watered stock. The new issues certainly clouded the true value of the road and negated those provisions in charters which limited dividends to a percentage of the capitalization of the road. The facts in this matter are still a question of controversy, but certainly men such as Jay Gould used these issues to manipulate the stock market and milk their companies.<sup>40</sup>

There is truth in the argument of one investor that early roads had been flimsy structures built at a low cost in order to carry the little freight available at a profit. As shipments in-

creased, the road had been upgraded by cutting into profits. Thus, after a number of years, new stocks could be issued without any watering effect. On the other hand, railroads were accused of issuing new stocks to pay for upkeep rather than cut immediate dividends.<sup>41</sup>

Suspicion of east coast manipulations led to complaints against the location of local railway offices in other states. It was even argued that Chicago offices which collected money were "stripped bare of their funds in order that certain fictitious offices in New York, which exist only for facilitating speculation, may be supplied."<sup>42</sup>

Actually, such companies as the Chicago, Burlington and Quincy, and the Chicago and Northwestern railway had their offices in Chicago. The Michigan Central, the Pittsburgh, Fort Wayne and Chicago, and the Panhandle railroad companies had offices elsewhere. The Illinois Central, mainly in the hands of foreign investors, had its office in New York. The Chicago, Rock Island and Pacific, The Chicago and St. Louis, and the Lake Shore and Michigan Southern railways had major offices in Chicago although capital was sent to New York offices.<sup>43</sup>

Of more importance was the argument that many railway companies did not report their earnings, thus allowing the management to speculate profitably on the market while stockholders

were denied information. There were so many that did not report, that the position is credible.<sup>44</sup>

If competition was seen as a check on railroad abuses, certainly legislative action had been called for also. The 1849 General Incorporation Act had a three-cent-per-mile and a fifteen-percent-profit clause. However, no railroad company had been chartered under the act, and railroad lawyers had developed an argument against restrictive legislation.

The Dartmouth College Case of 1819 was a key factor in the dispute. The Supreme Court had ruled that when a state granted a legislative charter to a private corporation, a contract relation was created. Under Article I, Section 10, of the federal constitution, states are forbidden to pass any law impairing the obligation of contracts. Thus it was held that restrictive legislation would infringe on the rights of the railroad corporations.<sup>45</sup> As early railroad charters were usually very liberal, this interpretation gave the corporations a very free rein. This was especially true regarding the right of the railroad to set its own freight charges.

The problem facing those calling for regulation was to establish a legal principle negating the Dartmouth interpretation. Thus, at the Bloomington convention of 1865 one of the resolutions argued that railroads are built for the public good and



when charges become exorbitant, "the end for which their charters were granted is subverted, their franchises forfeited, and subject to repeal or such amendment as will secure the rights of the people from further violation."<sup>46</sup>

At the convention Lorenzo Whiting insisted he could prove by old English law that the railroads were subject to revocation of their charters. According to British precedent a corporation ceased to exist: (1) by consent of all concerned; (2) by death of all members; (3) by forfeiture of franchise; (4) by abuse of rights; and (5) by act of Parliament. Obviously, the latter two provisions were the basis for Mr. Whiting's position.<sup>47</sup>

But an American legislature is not the British Parliament. In 1867 most lawyers felt railroads had full power over their general rates on their respective roads, although some questioned their rights to levy varying rates which discriminated between man and man.<sup>48</sup>

The courts obviously felt obliged to protect the rights of the corporations. In 1869 the mayor and sheriff of Jacksonville, Illinois, were subpoenaed to Springfield for moving the property of a railroad company which had placed its cars so as to obstruct the building of a crossing by another road, the Peoria, Pekin and Jacksonville.<sup>49</sup>

The Bloomington Daily Pantagraph complained that:

It seems sufficiently plain that the officials of Jacksonville have control of the streets and alleys within the city limits. But this does not appear to be the opinion of legal men--for it is held that the rights of municipal corporations are wholly subordinate to those of private corporations....the day is not far distant when the people have some rights which corporations will be made to respect.<sup>50</sup>

The Pantagraph certainly could not have been impressed with legislation passed thus far. While laws defining the status of railroad corporations dated back at least to 1853, there still was no effective regulation of rates or abuses.

As we have seen, bills for regulation had died in one of the houses of the Illinois legislature up to the conclusion of the Civil War. The 1867 session had been no more responsive to this issue than its predecessors. Part of the problem lay in the fact that the legislature met only biennially. During its sessions, the greatest share of time was consumed with a myriad of private laws. Furthermore, the location of a new penitentiary in southern Illinois, and the erection of the state university at Champaign set off the sectional feud between northern and southern interests. The 1867 legislature adjourned amidst charges of corruption. Passage of bills providing for the penitentiary and university had been balanced by legislation granting the north improvements in the Illinois and Michigan canal. Only an act regulating warehouses and a provision for submitting to the people the question of calling a constitutional convention were to have any affect

on railroad interests.<sup>51</sup>

However, the situation was changing. In 1868 John M. Palmer was elected governor. In his inaugural address Palmer expressed the belief that the state had the right to exercise legislative control over the franchises of common carriers. He specifically indicated that the people of Illinois could and should control the tolls of the railroad companies.<sup>52</sup>

Thirty farmers sat in the House of Representatives in 1869. They formed the largest group when classified by occupation. Six of the twenty-five senators were farmers.<sup>53</sup> There was renewed hope for the passage of laws regulating railroads.

In January, 1869, a bill to regulate passenger and freight rates was introduced in the Senate. Immediately, the right of the legislature to regulate tariffs was questioned, and the bill was turned over to the States Attorney for a legal opinion. Again, as in 1867, southern interests aligned themselves with the legal conservatives. Desiring more railroads in their area, and firmly supporting the concept that competition would drive down rates, the southern representatives argued that it was "unjust for members from northern constituencies, who had all the roads they needed, to come here and virtually deny to other portions of the state like privileges."<sup>54</sup>

Sponsored by General A. C. Fuller, a bill fixing a maximum

three cent passenger rate was passed by the Senate on January 13, 1869. The House enacted it into law on January 26. However, the law had been so amended as to be useless and was vetoed by Palmer on February 5. Palmer's major argument was that the fixed limit invaded the jurisdiction of the courts and, by allowing ten years to elapse before the law effected railroads under construction, the bill permitted an unfair advantage to new lines. Furthermore, roads of less than thirty miles length were exempted.<sup>55</sup>

On February 9, 1869, Fuller introduced a new bill. Mr. Munn, of the Chicago warehouse interest, amended the document so as to limit fares "to a just and reasonable rate." The law was to be applied to all railroads in the state. The revised bill became law on March 10, 1869.<sup>56</sup>

The railroads were soon protesting the assumed affects of the law. They would not be able to compete against out-of-state railroads, which could lower prices to destroy competition at will. The Illinois roads would not be able to lower rates to face such competition without lowering them uniformly along their lines.

To Chicago interests the argument went, "they (railroads) would reduce rates today (May 6, 1869), from 18 cents per bushel (sic) to 8 and 10 cents per bushel. But under the law they cannot make any concessions." With "diabolical ingenuity" the act

was written containing clauses forbidding kick-backs.<sup>57</sup>

The farmer too, it was argued, would suffer from the effects of the Fuller law. While "the railroads have heretofore made their tariffs to favor, somewhat, the farmer, reducing rates to the lowest possible point when prices of grain happened to be low," the uniform rate provision would create a problem whereby "the Railroads cannot afford to make such discriminations in Farmer Jones' favor."

The real effects of the Fuller law seem to have been nil. The railroads' rates for shipments East showed no great variance between 1868 and 1869.<sup>59</sup> There were still demands for competition "as the true source of reduction in railroad fares." United States Senator Trumbull was complaining of "prohibitive rates," and the Prairie Farmer attacked the legislature for passing an ineffectual law, suspecting "that the few friends of an efficient law were overpowered by opponents both interested and bribed."<sup>60</sup>

Certainly residents of areas in southern Illinois were interested in remaining on good terms with railroad firms in general. The period 1868-70, marked a high point in construction of rail lines in the south. We have seen how the towns and counties had pledged their credit to induce rail expansion and opposed restrictions which might discourage railroad development.

In April, 1869, Governor Palmer vetoed a bill which provided

for the funding and payment of railroad debts incurred by counties and towns. It was established that the act would triple the state debt.<sup>61</sup>

This "tax grabbing law" was most criticized by Chicago interests. The diversion of tax monies to retire municipal bonds incurred for railroad construction would in no way benefit Cook County, which had no such debts. But the votes of downstate interests carried the bill over the governor's veto: 49 in favor, 30 against, in the House; 14 to 11 in the Senate. At least nineteen railroad subscriptions were authorized or legalized in the same legislature. About eighty-three new railroad companies were incorporated, and new privileges were extended to around sixty-seven chartered companies.<sup>62</sup>

Many Chicago citizens were alarmed when the legislature granted the Illinois Central railroad submerged lands along the lake front. Governor Palmer also vetoed this act. He pointed out that the land granted to the Illinois Central, the Chicago, Burlington and Quincy, and the Michigan Central railroads was worth at least \$2,600,000, although they were only required to pay \$800,000 for the rights. The passage of this bill over the governor's veto helped to keep alive the sectional conflicts which were very apparent at the constitutional convention which was to convene the following winter.<sup>63</sup>

## CHAPTER V

### The Constitutional Convention And The Railroad Corporations

While the farmers had indicated their desire for control of the railroads "if necessary by constitutional provision," there was no apparent great demand for a new constitution in 1868.<sup>1</sup> The proposition calling for a convention was carried in the state by only seven hundred votes.<sup>2</sup>

Yet, there were many reasons for creating a new constitution. It was hoped that corruption in the legislature could be curbed by raising salaries, which had been fixed by the 1848 Constitution, increasing the number of legislators, and creating annual meetings. Provisions for the prevention of private, special, local, and personal legislation were needed. The questions of prohibition of the sale of alcohol and the extension of suffrage rights to Negroes and women were to be considered.<sup>3</sup>

Eighty-five delegates were to be chosen from sixty-one districts created from the state's counties.<sup>4</sup> There was "a general determination to send the very best men in the State to this important convention."<sup>5</sup> The Bloomington Daily Pantagraph

called for a November election, which the editor felt would bring the greatest number to the polls. He argued that a winter convention would allow "agriculturalists" and other men who were most busy in summer to attend the convention.<sup>6</sup> The election was held in November of 1869; the convention met in Springfield, December of 1869.

If the farmers were "the principle force back of (the) movements for railroad regulation,"<sup>7</sup> they were conspicuously absent from the convention. Of the eighty-five members elected, John Moses classified only fourteen as farmers, and George Smith stated that there were fewer than a half dozen.<sup>8</sup>

This absence could be explained; most farmers lacked the necessary background for the specialized work of the convention.<sup>9</sup> Despite the numerous producers' meetings and calls for unification, the farmers still needed an effective organization for nominating candidates and obtaining the votes to secure their election. However, the growing unrest of the farmer was a factor which alert politicians and merchants recognized.<sup>10</sup>

Sectional interests were in evidence at the convention. Politically, the Democrats tended to represent the downstate interests, while the Republicans came from northern Illinois.<sup>11</sup> The parties were almost equally represented. The delegation from Cook County had been elected as independents, but tended



to vote according to their party affiliations. The Republicans supported Joseph Medill for president, while the Democrats nominated Charles Hitchcock. Hitchcock's election with independent support was a victory for Chicago which held the balance of power at the convention.

This balance of power was obtained through a coalition of Cook County Republican "Independents" and Democrats. Numerous downstate Republican newspapers criticized the Chicago Tribune and Hitchcock for a willingness to cooperate with the "Copperhead" element. The major dispute revolved around Negro suffrage which the Democrats tended to oppose. The more radical Republicans felt the Chicago interests were willing to compromise this issue. The passing of the Fifteenth Amendment to the federal Constitution made the question meaningless before the conclusion of the state convention.<sup>13</sup>

The composition of the standing committees of the constitutional convention was a vital issue. It was pointed out, the Democrats and Republicans nominally controlled the chairmanship of the same number of committees. However, within a majority of the committees membership was arranged to give the Democrats control. For "wherever a strong and representative Republican is placed as Chairman, a majority of the other members are sure to be Democrats, so as to neutralize his in-

fluence."<sup>14</sup>

While no attempt has been made to analyze the structure of all the standing committees, the validity of this Republican argument is questionable in view of the structure of the four committees controlling the disposition of the railroad and warehouse propositions. In the Judiciary Committee, the Democrats nominally controlled eight of the fifteen seats. However, two of the Democrats, Orville H. Browning and Thomas J. Turner, were Republicans who had changed parties due to Reconstruction issues. Turner was closely identified with Chicago interests, as was Elliott Anthony, the "Independent" on the committee. In actuality Turner and Anthony, as "Independents," could control the committee's deciding votes because the rest of the group consisted of six Republicans and seven Democrats.<sup>15</sup>

Taken as a group, the Judiciary Committee generally voted against railroad restrictions. Mr. Turner opposed restrictions whenever he voted. However, Mr. Anthony and the delegation from Cook County, except Samuel Hayes, usually voted overwhelmingly for restrictions. If Chicago exerted any pressure, it favored railroad control by the state.<sup>16</sup>

The appointments to the Committee on Railroad Corporations were severely criticized. The Illinois State Journal asked, "Was Mr. Hitchcock aware when he was arranging the Constitutional

Convention Committees, that Mr. Buxton, to whom he gave the place of Chairman on the important Committee of 'Railroad Corporations' was attorney of a powerful railroad corporation - the Ohio and Mississippi - in this State?" The Journal pointed out that Mr. Buxton was given, "a reliable Democratic majority to back him." The accusations are more revealing of the sectional animosity toward Chicago and its "Independents," than any plot. Mr. Buxton was a Republican. The Railroad Committee had four Republicans and four Democrats. The ninth member was an Independent, Mr. Anthony, who voted in favor of railroad restrictions. Indeed, the Railroad Committee, as a group, voted in favor of almost all the restrictive sections.<sup>17</sup> Even the Journal was willing to admit later that the committee had shown its feelings "are with the people in their effort to curb and place restrictions around such giant monopolies."<sup>18</sup>

Assuming a plot could have existed, it is very unlikely to have succeeded. A resolution citing railroads as public corporations and subject to public regulation was sent to the Miscellaneous Corporations Committee. This was done despite complaints that the resolution was within the jurisdiction of the Railroad Committee.<sup>19</sup> The members of the convention as a whole were not willing to lose the fight for restriction in a committee meeting.

The farmers were not the only antagonists of the railroads. Commercial and industrial interests in Illinois favored restricting the power of the railroad corporations' power. Elliott Anthony of Chicago submitted a resolution asking that railroads be forbidden to consolidate parallel or competing lines. Haines of Chicago asked that railroads be considered common carriers which would be subject to regulations. Whiting of Bureau County, in the Military Tract, admitted he was a representative of "the industrial interests." He argued that the right of eminent domain granted to railroad corporations made them public corporations subject to the regulation and control of law making power.<sup>20</sup>

In a convention dominated by lawyers, the legal basis for restriction was of utmost importance. If a principle could be established favoring legal control, there would be few reasons left to oppose railroad supervision.

The legal issue was the basis of many disputes in the convention. Mr. Church of the Judiciary Committee introduced a resolution commanding the Judiciary Committee to report whether constitutional provisions were necessary in order to subject railroad companies already chartered in Illinois to legislative or judicial control in respect to their rates. An opponent of legal restrictions, Browning, of the Judiciary Committee,

objected to the referral. Underwood supported Browning's objection. Following the Dartmouth interpretation, he argued that railroads were private corporations. As such, their charters were contracts with the state and guaranteed by the United States constitution to be excluded from ex post facto laws and other violations by the State of Illinois, such as regulation of railroad fares. Furthermore, it was contended that the state legislature and the courts, not the constitutional convention, was the proper place for the people to seek redress for their grievances against these corporations.<sup>21</sup>

E. M. Haines of Lake County reflected the majority's desire for controls when he spoke out in favor of Church's resolution. Haines said he had no reason to distrust the Judiciary Committee "until they have been tried." However, if the committee did not report back favoring a restrictive principle, Mr. Haines would ask for "the interposition of the committee of this whole Convention."<sup>22</sup>

If some members of the Judiciary Committee could not imagine any basis for control of chartered corporations, other delegates to the convention were able to supply quite a few. One of the major propositions was based on the right of eminent domain. A resolution of instruction to the Judiciary Committee stated that the general assembly by its power of eminent domain

might resume and control the franchise of any railroad company in the state. Indeed, the state could "take, use, and control all property and interests which said company may have acquired by force of its charter, wherever the public good shall require." Furthermore, the general assembly was to be instructed to pass laws regulating railroads and to establish a system whereby citizens could have redress from the courts in complaints against exorbitant rates.<sup>23</sup>

During this debate Jesse Hildrup, a lawyer who was to remain active in the movement for railroad control, developed a strong case against the railroads. First, he claimed it was a denial of the sovereign power of the state to argue that it could not control one of the agents of its own creation. Second, the federal constitutional provision, forbidding states to pass laws impairing the obligation of contract, could not be construed to destroy the authority of the state.

The power of the state to control corporations, proving the interpretation of the federal restrictive section to be unsound, was the power of eminent domain. Hildrup maintained, there were serious inconsistencies in the "modern" doctrine of vested rights by which corporations claimed to be beyond the jurisdiction of the state.<sup>24</sup> Where railroads were granted the power of eminent domain, they took rights and properties of

the individuals for their own uses. If the railroads claimed exemption from the power of the state to regulate them by exercising its right of eminent domain, then these railroads would have more rights and greater protection by law than the citizens of the state.

Indeed, if the state should come into conflict with a corporation "in the attempt to exercise its power of eminent domain, then the federal government, under its Constitution, would be bound to protect and defend the corporation to the very extent of the destruction of the State." But, Hildrup pointed out, "the rights and property of the individual are as sacred as those of the corporation," and if the state can take the property of individuals for public use, it can exercise this same right against the corporations for the public good.<sup>25</sup>

Hildrup presented cases in which the courts had already held that a state could take the property and franchises of an incorporated company for public uses upon providing just compensation. He argued, while the state need not buy any railroad, it could exert control by threatening to transfer ownership of a railroad corporation to another association of capitalists upon providing compensation. In another application of the power of eminent domain, the state could modify railroad charters to prevent the levying of exorbitant charges.<sup>26</sup>

Mr. Underwood of the Judiciary Committee rose to refute Hildrup's position, but when the ten-minute time limit expired, he was not allowed to proceed. Popular support for railroad restriction was certainly not limited to the convention floor. Many newspapers were developing anti-monopoly editorial policies; most notable was the Prairie Farmer.<sup>27</sup>

The previously mentioned agrarian support for restrictions was made clear at a producers' convention which met in April, 1870. The producers' convention adopted resolutions--railroad legislation which was oppressive to the people should be declared null and void. They attacked the claim of vested interests set forth by corporations, arguing that the people cannot transfer part of their sovereignty to a corporation. The resolutions listed the various abuses of power, which railroad and warehouse corporations perpetrated, and called for restrictions of these powers. They demanded that if no legal remedies for these abuses existed under present laws, new laws should be enacted. These demands were made two weeks before Hildrup presented his arguments at the convention.<sup>28</sup>

The Bloomington Convention also drew the attention of politicians and merchants. At least four members of the constitutional convention attended the meeting.<sup>29</sup> Governor Palmer sent an address suggesting that the constitutional convention



declare railroad tracks to be public highways, thus opening them to all carriers of freight. Palmer also advocated competition as a means of checking the railroads.<sup>30</sup>

Chicago interests expoused competition too. The Chicago Tribune, in announcing the call for the Bloomington convention, contended that improved water transportation would help to drive down railroad rates. The Chicago Board of Trade sent a dispatch endorsing the farmers' movement, and S. H. McGree, of the Chicago Board, sent his regrets that he could not attend. The reason for this concern was obvious; a resolution was introduced at the producers' convention calling for canal and river improvements.<sup>31</sup>

By 1868, the Illinois and Michigan Canal, the only project completed as a result of the 1837 internal improvements craze, could no longer compete with the railroads. The canal was designed only for animal power, and would not continue to make a profit in competition with the faster and more direct rail lines. Southern interests had always considered the canal as a benefit only for Chicago. Therefore, in light of its obsolescence, they argued that the canal should be sold, and the proceeds deposited in the public treasury to be shared equally by the citizens of the state.<sup>32</sup>

The strong sentiments favoring competition were to supply Chicago's interests with the key to save the canal from being

sold. The Prairie Farmer, located in Chicago, pointed out that when railroads were in competition with water lines, rates were reduced by one-half. Indeed, "the first one-hundred miles west of Chicago usually cost more than a thousand miles eastward, parallel, with the water lines."<sup>33</sup> In 1870, during the season for navigation, the Rock Island line charged seven cents a bushel for shipping corn from Henry in Marshall County to Chicago, but after the close of navigation the charge rose to almost ten cents. On lines which did not compete with the Illinois and Michigan Canal the price was regularly from eleven to fourteen-and-one-half cents.<sup>34</sup>

Thus, the Chicago Tribune could appeal to the fears of both farmers and merchants that the abandonment of the Illinois and Michigan Canal "would see the business of transportation handed over to railroads."<sup>35</sup> Chicago merchants feared that high railroad rates were driving the produce of Iowa and Minnesota down the Mississippi to St. Louis.<sup>36</sup> It seemed time for Chicago merchants to align themselves with the agrarian interests against the railroads.

The ill-will which the farmers held toward Chicago's merchants was evident at the Bloomington convention. Of all the resolutions introduced at the meeting, only the proposal regarding the canal improvements met any objection. It was argued.

the improvements would aid only one section of the state. Furthermore, lower freight charges would do little good if taxes rose to develop the improvements. But the resolution passed.<sup>37</sup> The farmers were willing to align themselves with the commercial interests to win their larger objective--control of the railroad corporation.

At the constitutional convention the Bloomington resolutions were read into the record along with communications from the Chicago and Peoria Boards of Trade calling for canal improvements and extensions.<sup>38</sup> The constitutional convention delegates drew up a section to be submitted separately to the voters. It was maintained, the canal should never be leased or sold to prevent the railroads from eliminating competition by gaining control and drying it up.<sup>39</sup>

In section twelve of article eleven on corporations, the convention adopted the argument of Governor Palmer that railways should be declared public highways, free to all persons for the transportation of their property, under such regulations as may be prescribed by law.

As the railroads had confiscated property on the grounds that they were a "species of public highways," the classification was used in order to justify the rights of the general assembly to establish "reasonable maximum rates of charges for the

transportation of passengers and freight." Furthermore, classified as public highways, the railroads could not refuse to carry the goods of an individual whom they wished to drive out of business. The courts upheld all these points, with the observation that, obviously, the railroads were not public highways in the sense of public wagon roads upon which anyone may travel with his own conveyance.<sup>40</sup>

Hildrup's argument regarding the right of the state to control corporations by exercising the power of eminent domain was incorporated by the convention in section fourteen of article eleven on corporations. Despite the heated disputes regarding vested interests and the power of eminent domain, the section, as interpreted by the courts, was considered to be:

inserted out of abundance of caution, and simply declares such property (of incorporated companies) to be subject to the recognized power of eminent domain, and like other private property, protected by the limitation that private property shall not be taken without just compensation, to be ascertained by a jury, unless the same is to be made by the State. It is simply a declaration of the law as to the power of the State, as held and known before any such declaration was made.<sup>41</sup>

At the constitutional convention, Reuben Benjamin, a prominent Bloomington lawyer and educator, maintained the right of the state to control the corporations. Benjamin pointed out that it was not within the power of any legislature to sign

away the rights of the people to protect themselves against the encroachments of any party. Nor could any contract which created a corporation be construed to create a relationship which gave the corporations more rights than an individual. Benjamin quoted Chief Justice Taney in arguing all political power is inherent with the people, and no legislature may pass acts "which disarm their successors of any of the powers or rights of sovereignty, confided by the people to the legislative body." Justice Daniel was cited on his decision in the Ohio Life Insurance and Trust Company v. Debolt as saying:

I can never believe in that, to my mind, suicidal doctrine which confers upon one Legislature, the creatures and limited agents of the sovereign people, the power, by a breach of duty and transcending the commission by which they are clothed, to bind forever and irrevocably their creator, for whose benefit and by whose authority alone they were delegated to act, to consequences however mischievous or destructive.<sup>42</sup>

The constitutional right to impose regulations had been found, and the men of the constitutional convention proceeded in incorporating the restrictive sections into the Illinois constitution.

In submitting its report calling for restrictions, the Committee on Railroad Corporations came under attack when in section nine, they referred to all corporations. It was argued that "railroad" should be inserted before "corporations." Thus,

the courts could not misconstrue the intentions of the convention so that favorable decisions for other corporations might benefit the railroads. One delegate stated that he wanted "an open field for a free and fair fight" between the railroads and the public.<sup>43</sup>

The demands of the business interests of the state were complied with in section nine; the railroads were required to maintain offices in the state for the transfer of stock. Prior to this time, owners of railroad stock in Illinois, wishing to sell their interests, had to send their stocks to New York or Boston in order to have them transferred and new certificates issued. The resulting loss of time was an inconvenience and expense to the citizens involved.

The clause demanding that railroad corporations keep their books open to the public and issue annual reports was of more direct concern to the state. Without access to information on the capitalization of the railroads, it was a difficult task to assess them for purposes of taxation, and an almost impossible job to uphold the assessments in a court of law. Furthermore, frauds, such as Gould and Fisk had perpetrated in the Erie affair, would be reduced due to the open book clause.<sup>44</sup>

In section ten the rolling stock and other movable property of the railroads were declared to be personal property. Taken

in conjunction with section twelve, declaring railroads to be public highways, a new restriction was placed on the railroads. Companies engaged exclusively in the business of switching and hauling the freight cars of other railroads were to be held to the liabilities of a common carrier of those cars.<sup>45</sup>

The dilemma created by the theory of competition was also broached at the convention. The mere existence of parallel transportation lines was no guarantee of low prices everywhere. The railroads, faced with competitive prices, often financed their rate wars by charging excessive rates at intermediate points. Nor was there any effective means of stopping the railroads from entering into agreements or consolidations with their competitors after discovering the folly of rate wars.<sup>46</sup> The consolidation of the Chicago and Northwestern railroad with the Chicago and Galena Union in 1864 was but one example. Elliott Anthony, prominent at the convention, had fought against the absorption of the competing line by the Northwestern Company.<sup>47</sup>

It is a tribute to the faith of Americans in the theory of competition that the convention enrolled, with little debate, section eleven, forbidding railroad corporations to consolidate with parallel or competing lines.<sup>48</sup>

The delegates continued with more restrictions. The railroads were accused of issuing watered stock in order to obtain

capital "for gambling and speculative purposes." Cases after cases were presented to the convention in which railroads had doubled, tripled, quadrupled their capital in a period of a few years. "In 1868 Commodore Vanderbilt had increased the capital stock of the New York Central about eighty-four percent," despite the claims of his own board of directors that the company could not earn six percent on their original capital. How did the railroads pay dividends on this paper? By raising rates on their existing lines.<sup>49</sup>

Section thirteen was adopted by the convention to prevent over-capitalization. The railroad corporations were forbidden to issue stocks or bonds unless they actually received money, labor, or property. And, they were required to use the value received for the purposes for which the corporation was created.

In section fifteen, the convention attacked the practice of charging higher rates in localities served by only one railroad. The legislature was directed to "pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs," and to enforce these laws to the extent of demanding forfeiture of railroad property and franchise if necessary.

The railroad practice of granting free passes to legislators was not abolished. One delegate felt insulted to be



accused of taking a thirty dollar bribe. The proposition to prohibit free passes was generally dismissed as absurd in intent.<sup>50</sup>

The members of the convention and the press were by no means unanimous in their support of the restrictive clauses. While the Chicago Tribune agreed the state had the right to limit charges for freight and passenger service, it felt the power resided in the legislature which should create a commission to determine just rates--it was superfluous for the constitution to contain such restrictions.<sup>51</sup>

The movement for restriction was strongest in those areas which had rail transportation, but the railroads did not reach everywhere. In less developed areas of the state, the people still wooed railroad favor. As late as 1869, the legislature had passed a law providing a portion of the state taxes to towns and counties helping to defray the cost of railroad construction. DeKalb, Lee, and La Salle counties petitioned the convention for an extension of railways, and the city of Quincy went so far as to subscribe to the building of a railroad in Missouri.<sup>52</sup>

Obviously, the railroad interests had a large audience when they pointed out that railroad regulation would handicap their expansion and drive railroad capital from the state.<sup>53</sup>

Nonetheless, there were towns without railways whose

citizens had bitter feelings toward the corporations. The inhabitants of these towns had made local subscriptions to obtain railway facilities and found that their stock was worthless as the capital was lost by "bad or reckless management."<sup>54</sup>

In 1862, the constitutional convention had tried to correct this problem by adopting a provision denying the legislature the power to pass a bill permitting governmental bodies to give financial aid to individuals and corporations.<sup>55</sup>

Chicago's interests were definitely opposed to the "tax grabbing" law of 1869. At the 1870 constitutional convention the Cook County delegates introduced resolutions asking for an investigation of the county bond issues for railroad construction and questioning the legality of the aid to railroad corporations. Hanna of Wayne County attacked Anthony for "intermeddling that has done this convention no good." Later, in one of the hottest debates of the convention, Samuel Cummings of Fulton County said of Chicago, "her own delegates have shown that she is corrupt. They have shown that their board of trade was corrupt, that their warehousemen were corrupt, that Chicago was nothing in God's world but a mass of corruption."<sup>56</sup>

The Springfield Journal lashed out at the Chicago newspapers which had been quite active in opposing the "tax grabbing" law. It claimed Chicago had benefited from state aid to the

Illinois and Michigan Canal, therefore other areas should profit from the aid of the state.<sup>57</sup>

A separate section forbidding municipal subscriptions to railroads and private corporations was enrolled. However, a clause was inserted acknowledging the right of municipalities to continue to make subscriptions until the new constitution was accepted. Thus, on July 2, 1870, when the constitution was submitted to the people for approval, at least two areas also voted for subscriptions to build railroads.<sup>58</sup>

The Illinois Central Railroad had been favored since its inception and was recognized with a separate section in the constitution.

Through a series of complicated provisions in its charter, the Illinois Central was required to pay seven percent of its annual earnings to the State of Illinois. In return for this, the line was exempt from all other forms of taxation in the state.<sup>59</sup> Once again, sectional disputes arose at the Convention.

Counties, through which the railroad ran, claimed they were forced to bear an unequitable burden, as they were denied the right to tax the lands owned by the Illinois Central. The representatives of these counties argued that a portion of the state revenue from the railroad should be remitted to the areas in which the right of way lay.

The delegates of other counties pointed out that the railroad had been built on land granted by the federal government. The counties, through which the rail line ran, had not borne the cost of constructing the railroad, but profited from the new markets it opened, and the rise in real estate value of private land near the Illinois Central.<sup>60</sup>

There was general agreement that the railroad rates were too high. The railroad excused its high rates on the grounds that the tax it paid was larger than that of other railroads. While there was no simple way of testing the validity of the railroad's argument, it was estimated that the value of the railroad lands, if taxed at the normal state rate, would yield twice the amount the railroad was actually paying.<sup>61</sup>

The long debates bore witness to a prediction in the Chicago Tribune that the major interest in the Illinois Central was how to spend the revenue it supplied.<sup>62</sup> The new constitution provided that all revenue derived from the Illinois Central would be set aside for the ordinary expenses of the state only. The railroad company was not to be released from its obligation to pay the seven percent assessment. While this provision exempted the railroad from paying local taxes, it was accepted at the polls with the largest majority of votes cast for any of the sections. The counties in which the majority of voters

rejected the provision were: Champaign; DeWitt; Effingham; Fayette; Iroquois; Kankakee; and Marion. The railroad ran through all these counties. The votes of these counties were definitely offset by the overwhelming majorities which favored acceptance in other counties.<sup>63</sup>

The railroad corporations were not the only companies to come under the scrutiny of the convention. The warehouse interests had raised the ire of farmer and businessmen alike, and thus earned for themselves a special place in the 1870 Constitution of Illinois.

## CHAPTER VI

### The Warehouse Interests and the Convention

Warehouse interests in Chicago were corrupt. The warehousemen were accused of being in collusion with railroads, of charging excessive rates, mixing various grades of grain for their own advantage, cheating on weighing, issuing fraudulent receipts, and engaging in speculation in futures while using the privileged information at their disposal as warehousemen.

Chicago was becoming the largest primary grain depot in the world. By 1856, the city was receiving about three times as much grain as St. Louis. Chicago maintained this supremacy by utilizing its rail connections to the countryside and creating a complex of warehouses facilitating the storage of vast quantities of grain arriving every month. The warehouse-building boom had begun about 1854 in response to improved rail transportation, bumper crops, and increased demands for grain in the East and Europe.<sup>1</sup>

By 1861, Chicago could boast of fourteen warehouse firms capable of storing almost six million bushels of grain. By 1868 nine firms controlled the seventeen warehouses of Chicago, and

their grip on storage prices was reported to be augmented by combinations between themselves and the railroad firms. Indeed, the five major warehouse firms were openly identified with railroad interests.<sup>2</sup> The railroads incurred the wrath of the farmer by delivering shipments to "the elevator in the management and profits of which they (had) a pecuniary interest."<sup>3</sup> As a result of this combination, shippers were forced to deposit their grain in a warehouse of the railroad's choice. Furthermore, the producer was required to pay a service charge of two cents a bushel for every twenty days even if the grain was not stored in a warehouse.<sup>4</sup>

Once again competition was offered as a means of checking the abuse. The Union Dispatch Company solicited farmers to take fifty dollar shares in creating capital of a million dollars to build warehouses. It was argued that, as stockholders, farmers would have an advantage not offered under the existing warehouse system, and rates would be far more just.<sup>5</sup>

But this project encountered hostile forces. The railroads charged extra for delivery to a consignee not connected with their tracks and then refused to allow competing warehouses to build such connections.<sup>6</sup> In a lawsuit against the Galena and Chicago Union Railroad Company, the court had declared that a carrier was bound to receive grain from a warehouse. But, the

warehouse in question had been utilizing the railroad's facilities before the carrier's decision to cease transporting grain from the elevator firm.<sup>7</sup> Where there was no precedent of prior transactions, the railroads still had an open field.

The railroads could also discriminate between warehouse firms by charging higher rates to those they did not favor. In 1866 a Chicago Board of Trade committee sanctioned higher rates for delivering grain to some warehouses while retaining lower rates for others. It was argued that delivery to a warehouse other than that connected to a railroad's tracks was more expensive. Even when a warehouse had a connection, it was shown to be thirty per cent more efficient to deliver all grain to one elevator than to split trains, send cars to respective warehouses and reassemble the cars again.<sup>8</sup>

In 1864 the Wisconsin legislature was reported to have passed a bill which required railroad companies to deliver grain to any warehouse which the shipper might consign it.<sup>9</sup> The following year the Illinois legislature ordered railroads to follow the same procedure. In 1867 the railroads were required to transfer grain at points of intersection and run cars of connecting roads over their tracks at reasonable rates. Warehousemen were to accept grain consigned to them and forbidden to charge higher rates on grain received from railroads other than those they



cooperated with.<sup>10</sup>

The railroads simply ignored these regulations. In 1870 the Rock Island line issued an order that bulk grain was to be delivered only to the elevator connected with its track. Permission to unload directly from the cars had to be obtained from the elevator proprietors and a two cent per bushel charge was to be levied even if facilities were not used.<sup>11</sup>

When W. H. Lunt's Iowa Elevator offered cheaper rates and constructed a track to within four inches of the Northwestern tracks, it was unable to obtain switch connections. Officials of the Northwestern even refused to deliver grain where it could be shipped to the Iowa Elevator, stating that such delivery would be violating the Northwestern contract to deliver all grain to the Wheeler warehouse.<sup>12</sup>

While remedy could be found in lawsuits, the railroads obviously depended on the high cost of legal procedures to deter any general efforts to enforce regulation. Enforcement of the 1867 law was very lax. The Chicago Board of Trade was criticized for not pressing suits against the railroads. The Chicago Tribune accused the Board of renegeing on its duty when it did not defend the small merchant who could not afford to sue the railroads which ignored the law.<sup>13</sup>

Even enroute to the elevator there were problems which

arose. A complaint was commonly expressed that grain was weighed in at a quantity less than the farmer delivered to the railroad. This problem seemed to have many facets. Farmers, distrusting the Chicago merchants, were known to cheat when their grain was weighed in at a way-station. Some loading areas did not have scales, thus there was no way of definitely establishing the quantity of the bulk grain being accepted. Once the grain arrived at a warehouse, it was unlikely that the shipper would be there to check on the weighing. A suggestion from the Chicago Board of Trade that special dealers be appointed to regulate weighing did not inspire confidence among shippers. Indeed, in 1870 one delegate to the constitutional convention stated it was notorious that some "elevators in Chicago have been able to deliver, at the end of the year, from five to ten thousand bushels more grain than they received in their warehouse."<sup>14</sup>

The next problem encountered was the crucial question of grading the grain. Differences in grade could account for about a ten or fifteen cents disparity per bushel. Prior to 1856 there were no standard grades established for grain. In that year the Chicago Board of Trade established a system. However, as no statutory laws existed compelling warehousemen to comply with the Board's standards, enforcement was a difficult task. By 1858 there was still no uniform system of inspection and some

inspectors were considered "lax in their examinations, if not dishonest."<sup>15</sup>

The major difficulty lay in the refusal of warehousemen to cooperate in implementing the grading standards. Furthermore, they had an obvious influence in decisions made by the Board of Trade. In 1861 the Board's response to the many charges of inspection fraud was the appointment of an investigating committee. The final report of this group contained some innocuous suggestions, but the evidence gained in the investigation was not submitted. As Andreas stated, "There seemed to be a tacit understanding on all sides that it should be suppressed."<sup>16</sup>

In 1866 the Board again defended the warehousemen when it argued, "it is sometimes very difficult to determine where one grade should stop and another begin. We can see how a producer delivering a good No. 2 could obtain a poor No. 2 on calling for his grain and thus be perplexed."<sup>17</sup>

Producers could see how they obtained poor No. 2 also. The process was called "mixing". It was "an easy thing to corrupt the house inspector to induce him to stretch a point and run into the bins containing No. 2 grades of either wheat, corn, oats or barley an inferior grade of No. 3." The warehouse then delivered the adulterated lots on warehouse receipts calling for the higher grade. Indeed, the warehouse owners were known to hold

out the best grades for their own private use.<sup>18</sup>

The privileged information which warehousemen had at their disposal, and the active participation of elevator operators in grain speculation, led to serious abuses. As business had become more complex, warehouse receipts were accepted in lieu of actual delivery of grain. By refusing to allow inspection of the quality and quantity of grain they had in store, the warehousemen could issue false receipts. When issued in sufficient quantity, these "split receipts" made the market appear to be glutted with grain, and, in the resulting depression of the market, the warehousemen could buy back their paper at a profit. Indeed, some warehouses were found to contain false bottoms constructed so as to create the impression to casual observers that the warehouse contained more grain than it actually did. If the market was not depressed by issuing false receipts, the rumor could be set afloat that the grain in storage was heating, and the warehousemen made their money in the resulting bear market.<sup>19</sup>

The farmer was indeed at the mercy of Chicago speculators. By 1870 it was estimated the charge for grain storage over a year was equal from about one-third to three-fourths the selling price of the grain. The farmer was compelled to sell his produce as soon as it reached the city. As this was usually the harvest time, the speculators could obtain the grain when prices were

lowest and hold the grain until a greater profit could be realized.<sup>20</sup>

Such practices hurt not only the farmer but also the business interests in Chicago. The Prairie Farmer pointed out, Chicago would lose business if the warehouses were not held accountable for their actions. The New York Financial Chronicle saw trade moving to Green Bay, and the St. Louis Democrat volunteered that the river city was willing to replace its northern neighbor.<sup>21</sup> As a segment of the Chicago merchants were actually the owners of much of the grain in storage, there was real concern in the city for reforms.

Since its inception in 1848, the Chicago Board of Trade had been the natural instrument to regulate the grain trade of the city. By 1854, it was disputing with New York concerns over the method of measuring grain, and in 1856 it attempted to establish a grading system in Chicago.<sup>22</sup>

In 1859 the legislature granted the Board the quasi-judicial power to appoint inspectors, weighers, and measurers, and to arbitrate disputes arising between these officials and suspected offenders. The Board established a system of self-regulation asking that warehousemen not lend out grain stored by other parties, not engage in speculation, keep old and new crops in separate bins, and live up to the system of inspection.

Very little good resulted from this delegated power. The harshest punishment employed by the Board was to suspend a member for violation of the codes. Even this action was contested in the courts, although the Board was upheld in the few instances it resorted to this punishment.<sup>23</sup>

In 1863 the Chicago Common Council resolved to support suits against members of the Board of Trade for violations of municipal ordinances regarding inspection of grain. No other important action seems to have been taken by the city council on this matter.<sup>24</sup>

At the conclusion of the Civil War, protests against warehouse frauds were still unheeded. With the fall in wheat prices, there were renewed charges of corruption against the warehousemen. These charges came not only from farmers, but also Chicago merchants who were the victims of frauds. Excessive storage rates were hurting speculators as well as farmers. In 1865 storage rates were raised from two cents a bushel for twenty days to two cents for every ten days. In 1868, storage and freight rates had reached the point where Chicago merchants lost money on the sale of grain in New York.<sup>25</sup>

But it was a difficult task for Chicago merchants to offset the power of the warehouse interests in Board affairs. In January, 1867, Board members were instrumental in introducing two

bills in the state legislature. Charles Randolph, an ex-president of the Board, had been active in drawing up one bill.

Randolph was accused of being favorably disposed to the warehouse interests, and another bill was introduced by Eastman in the state senate. Supported by petitions from numerous northern counties, the Eastman bill was passed.

As enacted, the law required the delivery of grain by railroads to any warehouse the consignor chose. Elevators which accepted bulk grain (all Chicago warehouses) were declared to be public warehouses and thus brought under the mantle of laws designed for the protection of the public. Public warehouses were forbidden to mix grain before it was inspected and graded, and mixing of different grades was prohibited. Chicago warehouses were required to file a statement showing the amount and kind of grain in storage every week.<sup>26</sup>

However, the warehousemen were able to attach an amendment to the bill before it was enacted, by appealing to the laymen's distrust of the gambling aspects in future transactions prevalent in Chicago. Contracts for the sale of grain for future delivery were declared illegal, unless the seller actually owned the grain at the time the contract was made. This feature was obnoxious to all Chicago dealers and gave rise to an incident which was indicative of the problem faced in implementing the act.

On August 10, 1867, a Mr. Goodrich brought charges against nine Board members for dealing in futures in breach of the new law. Seven warrants were served on the floor of the Board chamber. After posting bond, the members returned to the chamber to be cheered by their colleagues. Later that day, three more members were arrested, but one demanded that Mr. Goodrich post a bond to compel his attendance in court as a witness. Goodrich was unable to post the three-thousand-dollar bond and the case never came to court.<sup>27</sup> It was obvious that until an organization existed with sufficient funds and talent, no real relief would be found under the law.

There were certainly not a sufficient number of Board members concerned with true regulation to overcome the opposition which the warehousemen were able to create against direct Board action. In May, 1868, the Chicago and Alton railroad announced a policy of charging five dollars per car extra for grain which was to be consigned to the National Elevator of Chicago, while rates for delivery to the railroad's Union Elevator remained the same. The Board of Trade protested this violation of the law but instigated no suit against the railroad.<sup>28</sup>

These open violations of the intent of the law could not continue indefinitely. A revolt was brewing against the warehouse interests as their corruption alienated a larger and larger



section of the business community. "The better class of traders, and, in fact, all those not financially interested in the elevator business, became more and more determined that changes must be made."<sup>29</sup>

In September, 1868 the Chicago commission merchants protested against abuses in the inspection of grain and demanded reforms. During the constitutional convention, Spruance, Preston and Company, owners of the Iowa Elevator, initiated three suits against the Northwestern railroad. They asked that the railroad be compelled to grant permission for the construction of a switch to connect the elevator with the tracks of the Northwestern, the railroad be restrained from delivering grain consigned to the Iowa Elevator to other warehouses, and damages be awarded them for past failures of the railroad to comply with the law.<sup>30</sup>

Chicago newspapers were furthering the attack with renewed vigor. The Tribune noted that the Board of Trade was the object of attacks on all sides by interposing itself between the railroads and the elevators on the one hand and the farmers and the shippers on the other. However, the newspaper criticized the Board for not defending the interests of the small merchants by supporting suits in their behalf. The Prairie Farmer, in which offices the Patrons of Husbandry had established a branch in 1868, continued its attack on the Board, stating "in fact the

warehousemen control a large majority of the members."<sup>31</sup>

When the Board president, J. M. Richards, retired in early 1870, his final address contained a summary of the problems the organization faced in regulating the warehouses. Warehousemen refused to cooperate with Board regulations and the legal power to enforce them was supposedly absent. Warehouse reports were incomplete and legal actions taken by the Board were delayed by warehouse attorneys. Richards ended with an attack on monopoly and claimed "the failure of most legislation is an attempt to determine by individual judgment what can only be determined by competition."<sup>32</sup> But the time for such platitudes was passing; the constitutional convention was in session and was replying to the demands of the various groups interested in control.

The warehouse restrictive article submitted to the constitutional convention in May, 1870, by the Committee on Miscellaneous Corporations had been drawn up by that segment of the Chicago Board of Trade which favored restriction.<sup>33</sup> Immediately, opposition arose to the adoption of the article. It was argued that warehouse restriction was a subject for legislative action and should not be included in the constitution, but the opposition's trump card lay in the farmer's distrust of the Chicago interests sponsoring the article.

~~Thomas Turner, who consistently opposed railroad restric-~~

tions, attacked the article as the sinister product of the "grain gamblers" - men who were "Leeches upon commerce and community, that suck the life blood out of the farmers and dealers in grain, without contributing anything towards the general wealth..."

These grain gamblers in Chicago had just lost about forty thousand dollars in a miscalculation of the market and, "smarting from their loss," had drawn up the restrictions, not to aid the farmers, but to protect their own interests.<sup>34</sup>

But the Chicago merchants had already made their peace with farming interests at the Bloomington Producer's Convention which had convened in March. Dozens of petitions for warehouse restrictions had poured into the constitutional convention from groups throughout the northern half of the state. While it was an admitted fact that Chicago merchants had initiated this move, the diversity of signatures and occupations testified to the general demand for reform and support of the Chicago article.<sup>35</sup>

It was evident that there was little hope for defeating the article. Drawing on their own sad experiences with the warehouse interests, delegates began to enumerate abuses, to point out the inadequacy of the legislature's actions, and to demand that reform measures be included in the new constitution.<sup>36</sup>

One by one the sections of the article were debated. All elevators and warehouses were declared to be public warehouses

preventing the owners from hiding behind the claim that they were operating private corporations which were not subject to public control. Indeed, even in the absence of legislation, warehousemen were forbidden to mix their grain with customers' grain and issue warehouse receipts to themselves.<sup>37</sup>

Despite the claim that it would only benefit the speculators in the grain market, section two required warehousemen, in cities of not less than one hundred thousand inhabitants, to make public the amount and grade of grain stored in their builds, and section three allowed the owners of products stored in a warehouse to examine the property stored.

While Mr. McCoy, of the Committee on Miscellaneous Corporations, admitted that the sections came from Chicago, he was "willing to receive anything good that came out of evil."<sup>38</sup> The sections as they were originally offered placed the administration of the provisions in the hands of any city control. This was too much to ask of the rural areas. Section two was amended so as to apply to cities of over one hundred thousand. The small warehouses, which stored farmers' grain only until a railroad hauled it to the major market, would have been unduly harassed by the unamended section. Section three was amended to place the power of administration in the state legislature by deleting the phrase granting it to the boards of trade.<sup>39</sup> The

poor record of the Chicago Board of Trade was still foremost in the delegates' minds.

The agrarian interests were willing to accept the amended sections, as it was argued that they would benefit the farmer by allowing him to know how much grain there was on the market and thus gauge when it would be most profitable to ship his goods.<sup>40</sup> Furthermore, it was held that public knowledge of the quantity and quality of grain in storage would put a stop to split receipts with which the warehouse interests were able to manipulate the market to their own advantage.<sup>41</sup>

The general animosity toward the railroad corporations was displayed in section four which required the railroad companies to weigh grain at the point where it was shipped and made them responsible for delivery of that amount to the consignor.

The argument that such a requirement would impose an additional expense on the railroads which would be passed on to the producer was disposed of quickly. It was pointed out by shippers at the convention that any additional expense involved would still be cheaper than the loss of grain incurred under the system then in operation. Indeed, the railroads, as a general rule, usually weighed the produce at the point of shipment, and there would be little expense involved in complying with the section at all stations. The railroads would no longer be able to explain

shortages as being caused by leakage, shrinkage, or discrepancy in elevator weights.<sup>42</sup>

Section five was designed to force the railroads to open their tracks to warehouses which desired to make a connection. The exaction of this requirement would deprive the railroads of the defense that they could not deliver goods to consignees who were not connected to the line. The supreme court had upheld the state law which required the railroads to deliver goods to a consignee, but had limited the validity of their decision to apply only to those cases where the warehouse was actually connected to the rail line.<sup>43</sup> Even in the face of this decision, the railroads had continued their policy of delivering only to a favored few companies. Apparently, the transportation corporations were depending on the high cost of lawsuits to discourage attempts to force them into compliance with the law. Thus the Chicago Tribune applauded when Spruance, Preston and Company sued the Northwestern Railroad Company for refusing to deliver goods to their firm.<sup>44</sup>

But the process of justice could easily be circumvented by use of the court decision that warehouses could demand delivery of goods consigned to them only if they were connected with the railway on which the goods were shipped. Section five would allow a warehouse to use the power of eminent domain to force a

connection with a railroad.<sup>45</sup>

Section six, granting the general assembly the power to enact laws such as were necessary to enforce the warehouse restrictive article, was expanded to include the power to prevent the issue of fraudulent warehouse receipts. Sections two, three, and four, when enforced, would make it difficult, if not impossible, to issue fraudulent receipts.<sup>46</sup> The inclusion of the clause on fraudulent receipts was superfluous, but indicative of the determination of the convention delegates to squelch the practice once and for all.

A section granting the board of trade of any town the right to establish a grading system for grain, and to follow it up by establishing an inspection system, was dropped completely due to the ill-will felt toward the Chicago Board of Trade. A separate section was adopted (included in the warehouse article as section seven) granting the general assembly the power to establish a system of inspection.<sup>47</sup>

Viewing the warehouse article as a whole, the warehousemen would have to resort to truly ingenious methods to avoid violation of the constitution. Of course, they could hope for lax administration, but the overwhelming opposition that had arisen against them led eventually to the famous Munn v. Illinois decision. For the warehouse corporations the happy days of lax

governmental law enforcement were coming to an end.



## CHAPTER VII

### Conclusions

Probably no point is brought forth more vividly in perusing the debates of the 1870 Illinois constitutional convention than the hold the concept of laissez faire had on the minds of the late nineteenth century legislators. The right of the legislature or the framers of the constitution to call for regulation was the topic of long debates. While many convention delegates fought hard for restrictions on the railroad and warehouse corporations, their frame of reference demanded that they classify these corporations as public institutions. For it was only the "public institution" that the government had the right to control.

But it would be incorrect to characterize the period under study as one in which a single theory or system was the dominant factor. In 1837 the state had committed itself to the immense task of constructing a state-owned system of rail transportation. Whatever the cause for the collapse of the system, the replacement of this "socialist" plan by the private companies was to be attributed more to historical accident than any firm conviction

in laissez faire.

There was certainly no protest against the land grants made to aid the Illinois Central railroad corporation. The 1848 Constitution, by forbidding the state to grant aid to railroads, merely relegated the development of this aid to local governments. The "radical" farmers of Illinois were far more concerned with obtaining cheap and efficient transportation for their produce, than they were in abstract theories.

The railroad corporations began their development in an atmosphere of optimism and ignorance. In their desire for rapid expansion of the transportation facilities, the people demanded few restraints be included in the corporate charters. Indeed, there was little precedent to determine what restraints would be required. As rail transportation facilities grew and the populace became more dependent on the benefits of the rail lines, it was natural that the people would become very concerned with the abuses of power which developed.

The nineteenth-century mind saw competition as a method of controlling industry. It had reason to believe so. Wherever true competition existed, examples could be found to show that prices of goods and services declined. The problem lay in enforcing true competition. Monopoly and collusion were difficult to prevent. Only a strict inspection system would force business-

men to compete when they discovered the gains to be made through "cooperation." Farmers, merchants and legislators hoped for the day when each railroad would have a parallel line competing with it. This belief in the value of competition even led to granting the warehouse corporations the right of eminent domain so that they could connect with rail lines and thus force competition.

Faced with a forced and often ruinous competition, it was not surprising that the railroad companies charged higher rates where they controlled solitary lines in order to offset their lower prices elsewhere. The present-day concept of railroads as natural monopolies had not yet materialized. Thus, capital was wasted in overexpansion, destructive rate wars and expensive reorganizations. These things, of course, were detrimental to the goal of lowering rates.

The 1870 Illinois constitution was often criticized on the grounds that it was not the place for articles of a legislative character designed to force competition. But these articles were logical in view of the conditions which existed in 1870. It was a coalition of farmer and merchant which brought about the restrictions. They were not interested in the abstract legalities involved in railroad restriction. Their complaints were concrete, and they looked to the constitutional convention for relief from their problems when the legislature and courts were slow in

supplying them.

The farmers did not trust the merchants, but for a time, at least, their interests were the same. The farmers still lacked a capable organization to carry out their demanded reforms. A segment of the mercantile interests was willing to ally itself with the producers in order to obtain relief from joint difficulties. Combined, these groups were powerful enough to obtain their demands at the convention.

The railroad and warehouse interests had violated a cardinal principle of survival in alienating too many groups. The animosity created by the abuses of these corporations even transcended sectional lines for some men. Thus, at the Bloomington convention of 1870, a farmer from southern Illinois was willing to support the expansion of the Illinois and Michigan Canal on the grounds that it offered competition to the railroads. Men from Chicago were anxious to point out the advantage to everyone in restricting the warehouse interests. Joseph Medill, in an eloquent speech, referred to the warehouse article as the "magna carta" of the farmer's "inalienable rights."<sup>1</sup> The Chicago Board of Trade adopted a resolution urging all its members to work for the acceptance of the new constitution.<sup>2</sup>

The people of the state were in full accord with the actions of the men at the constitutional convention. The warehouse,

municipal subscription and canal articles, along with the railroad restrictive sections, obtained overwhelming majorities when submitted separately to the voters.

The sections on railroads were accepted by a vote of 144,750 to 23,535. The sections were defeated only in Hardin, Jackson and Union counties, although nine other southern counties delivered very close votes.<sup>3</sup> In view of the tie of this area to St. Louis and river transportation, and the absence of much rail transportation in the area, it was, if anything, surprising to discover so little opposition to the article which was going to drive railroad capital from the state.

The warehouse article was accepted by a vote of 143,533 to 22,702. Cook County delivered 21,108 votes favoring and 1,122 votes in opposition to the article. This was a greater majority than that cast for railroad restriction but less than the county delivered for the constitution as a whole. Again, the article was defeated in only the counties of Hardin, Massac, and Union, with about six other southern counties delivering a close vote. In all these cases, however, the vote on the constitution as a whole was relatively close also. Other factors may have influenced the southern voter's decision and created an obvious hard core who voted against all the articles.

The section on the Illinois Central Railroad was accepted

by the largest majority of any vote tallied. The six counties which delivered majorities against the section were all located along the Illinois Central line. Southern opposition was not as strong against this section. Obviously, the issue revolved around the question of allowing the counties in which the railroad line operated to tax the corporate property. If the article was accepted, there would be little hope for the concerned counties to obtain this right. As the seven percent tax on the railroad was to be set aside for the entire state, the vote reflected the concern the voters had for their own county's tax structure. Thus, Union County, which had voted against the constitution and every other article, delivered its only favorable return for the Illinois Central section. The Illinois Central did not run through Union.

The section relating to municipal subscriptions obtained the smallest majority of any vote tallied. The section was defeated in nine counties, and there were close elections in sixteen more counties. All but five of these twenty-five counties were in the south. Adams and Pike counties in the Military Tract were involved in the Quincy railroad subscription where Illinois funds would actually help build a Missouri railroad. The proximity of Scott County to Adams and Pike could explain its vote of 565 to 508, accepting the measure by only fifty-seven votes.

Only five of the counties were listed as having utilized the "tax-grabbing" law.<sup>4</sup> There must have been some concern among the inhabitants of the counties which voted against the section that state aid would no longer be offered when they were ready to begin railroad construction.

The section relating to the Illinois and Michigan Canal was accepted by a vote of 142,540 to 27,017. Cook County delivered a majority of 21,725 to 505 votes, accepting the section. Only Hardin, Jasper, Union and Will counties opposed the section. The opposition of the northern Will County could be explained by the fact that Chicago was intending to turn the river into a sewerage system. Will County lay along the route of the proposed sewer.

The men of the constitutional convention had indeed captured the sentiments of the people of Illinois in constructing the railroad and warehouse restrictive sections. These sections received a greater majority at the polls for their adoption than the constitution alone. Even the separate section relating to municipal subscriptions, while drawing a smaller number of votes than the constitution alone, received a greater ratio for adoption than the document as a whole.<sup>5</sup>

The movement for railroad control was not confined to Illinois; many states were engaged in attempts to suppress abuses. The Granger movement was developing, and strong organizational

efforts were soon made to control the monopolies. The decision in Munn v. Illinois supported the efforts for state control. However, in 1886, the Supreme Court in the Wabash Case declared the power to regulate railroads fell within federal jurisdiction.

In 1887 the federal government incorporated the state regulations in the Interstate Commerce Act. The railroad and warehouse interests were not yet defeated, but the growing public agitation had ended the hey-day of laissez faire. The field was open for a free and fair fight between the railroads and the public.



## FOOTNOTES FOR CHAPTER II

<sup>1</sup>William K. Ackerman, Early Illinois Railroads (Chicago, 1884), pp. 3-5. It must be pointed out that these "firsts" were not examples of entirely successful enterprises. See George R. Taylor, The Transportation Revolution: 1815-1860 (New York, 1951), pp. 74-77.

<sup>2</sup>Advertiser (Galena), September 14, 1829, cited in John H. Krenkel, Illinois Internal Improvements: 1818-1848 (Cedar Rapids, Iowa, 1958), p. 51.

<sup>3</sup>Theodore C. Pease, The Frontier State: 1818-1848 (Chicago, 1922), pp. 11-12.

<sup>4</sup>Ray A. Billington, "The Frontier in Illinois History," American History: Recent Interpretations, ed. Abraham S. Eisenstadt (New York, 1963), pp. 340-341. "Egypt" refers to southern Illinois.

<sup>5</sup>Illinois Intelligencer (Kaskaskia), March 25, 1825, cited in Pease, p. 197.

<sup>6</sup>Evarts B. Greene and Clarence Alvord, eds., Governors' Letter Books: 1818-1834 (Collections of the Illinois State Historical Library, IV) (Springfield, 1909), 74. It is interesting to note that the Chicago Democrat was strongly opposed to anything but a canal and denounced the development of a railroad as leading to a monopoly by private interests. See Chicago Democrat, December 24, 1834.

<sup>7</sup>Greene & Alvord, Governors' Letter Books, 194-197.

<sup>8</sup>Ibid., 100. The military tract lays, roughly, between the Mississippi and Illinois Rivers.

<sup>9</sup>Chicago Democrat, April 30, 1834.

<sup>10</sup>Ackerman, Early Illinois Railroads, pp. 9-14. The American Bottom refers to the narrow Mississippi River flood plain extending about 100 miles between Chester and Alton, Illinois.

<sup>11</sup>Democrat (Chicago), August 6, 1834.

<sup>12</sup>Democrat (Chicago), December 24, 1834.

<sup>13</sup>Illinois, House Journal, 1834-1835, I Session, pp. 3, 4, 470, 472; Chicago Democrat, May 20, 1835.

<sup>14</sup>Spectator (Alton), August 26, 1834; Sangamo Journal (Springfield), November 15, 1834. Cited in Krenkel, pp. 53-54.

<sup>15</sup>Sangamo Journal (Springfield), November 21, 1835 and December 19, 1835. Cited in Krenkel, pp. 53-54. Also see Pease, p. 206.

<sup>16</sup>Democrat (Chicago), June 10, 1835.

<sup>17</sup>Democrat (Chicago), November 4, 1835; John M. Lansden, A History of the City of Cairo, Illinois (Chicago, 1910), pp. 41-42.

<sup>18</sup>Laws of the State of Illinois passed by the Ninth General Assembly at their First Session: December 1, 1834-February 13, 1835 (Vandalia, 1835), pp. 88-94, 185-186, 197-204. Hereafter these volumes will be referred to as Laws of Illinois followed by their respective years.

<sup>19</sup>Laws of Illinois: 1835-36, Second Session, pp. 3-30, 36-43, 46-54, 54-70, 76-97.

<sup>20</sup>Krenkel, Internal Improvements, p. 60; Pease, Frontier State, p. 212.

<sup>21</sup>Belleville and Mississippi; Alton, Wabash and Erie; Mount Carmel and Alton; Illinois Central; Laws of Illinois: 1835-36, pp. 3, 20, 63, 134.

<sup>22</sup>Ibid., pp. 18, 23, 27, 49, 61, 89, 132.

<sup>23</sup>Ibid., pp. 42, 134.

<sup>24</sup>Krenkel, Internal Improvements, p. 64. For further evidence see below footnote 38. Also see Fred Earle Newton, "Railway Legislation in Illinois from 1828 to 1870," (unpublished Master's Thesis, Dept. of Economics, University of Illinois, Urbana, 1901), p. 15.

<sup>25</sup>Krenkel, Internal Improvements, p. 150.

<sup>26</sup>Democrat (Chicago), February 10, 1836.

<sup>27</sup>American (Chicago), July 30, 1836; Whig (Quincy), June 2, 1836; Illinois Democrat (Jacksonville), June 3, 1840. The Democrat, was recalling the names of numerous Whigs who had petitioned for the system of internal improvements.

<sup>28</sup>Illinois State Register (Vandalia), December 8, 1836, cited in Krenkel, Internal Improvements, p. 65. Also see Patriot (Jacksonville), December 8, 1836.

<sup>29</sup>Illinois, House Journal, 1836-37, I Session, pp. 16-17.

<sup>30</sup>Democrat (Jacksonville), June 3, 1840.

<sup>31</sup>Laws of Illinois, 1836-37, pp. 121-152.

<sup>32</sup>Illinois, House Journal, 1836-37, p. 443. One authority does not believe the act was a product of "scheming and adroit politicians." See Krenkel, Internal Improvements, pp. 62-79.

<sup>33</sup>Krenkel, Internal Improvements, pp. 69, 151.

<sup>34</sup>Illinois, Senate Journal, 1837, Special Session, p. 11.

<sup>35</sup>Illinois State Register (Vandalia), February 9, March 9, August 3, 1838; Democrat (Chicago), September 26, 1838. Cited in Krenkel, Internal Improvements, p. 152.

<sup>36</sup>Whig (Quincy), September 1, 1838, cited in Krenkel, Internal Improvements, p. 152.

<sup>37</sup>Illinois, Senate Journal, 1838-39, pp. 16-19.

<sup>38</sup>The rail lines contemplated were:

1. railroad from city of Cairo to termination of Illinois Michigan Canal -- (Central railroad) \$3,500,000;
2. railraad from Alton to Mt. Carmel and a railroad from Alton to Shawneetown -- \$1,600,000;
3. northern cross railroad from Quincy to Indiana state line -- \$1,850,000;
4. a branch of the central railroad to commence at or near said road, where a direct line from Hillsboro to Shelbyville would intersect the same to the Indiana state line -- \$650,000;
5. railroad from Peoria to Warsaw -- \$700,000;
6. railroad from Lower Alton to central railroad -- \$600,000;
7. railroad from Belleville to intersect railroad from Alton to Mt. Carmel -- \$150,000;
8. railroad from Bloomington to Mackinaw with branches to Pekin and Peoria -- \$350,000.

The above found in Laws of Illinois, 1836-37, pp. 134-135.

Notice that in almost all cases these lines were to be built on routes for which private companies had chartered just one year before. These companies had failed and now the people turned to the state for their construction. See page 9 above for private charters.

<sup>39</sup>Krenkel, Internal Improvements, pp. 146-148.

<sup>40</sup>By December, 1839, this figure was revised to \$11,470,444.50. See Pease, Frontier State, pp. 216-235, especially pp. 216, 221, 229.

<sup>41</sup>Paul W. Gates, The Illinois Central Railroad and Its Colonization Work (Cambridge, Mass., 1934), p. 23.

<sup>42</sup>Report of the Committee on Internal Improvements, Reports Made to the Senate and House of Representatives of the State of Illinois (Springfield, Ill., 1840), p. 248.

<sup>43</sup>Illinois State Register (Springfield), March 22, 29, April 19, June 14, 21, 28, November 30, 1839; Democrat (Chicago), April 24, 1839; Alton Telegraph, May 11, 18, 24, 1839; Whig (Quincy), July 6, September 7, 1839; Sangamo Journal (Springfield) August 16, 1839. Cited in Krenkel, Internal Improvements, pp. 156-157.

<sup>44</sup>Illinois State Register (Springfield), June 21, 1839,  
cited in Krenkel, Internal Improvements, p. 157.

### FOOTNOTES FOR CHAPTER III

<sup>1</sup>Internal Improvements Reports, 1838-1839, report of the committee on internal improvements to the house on the Albion and Grayville Railroad, January 2, 1839, I, cited in John H. Krenkel, Illinois Internal Improvements, 1818-1848 (Cedar Rapids, Iowa, 1958), pp. 154-155.

<sup>2</sup>Illinois State Register (Springfield), March 15, 1839, cited in Krenkel, Illinois Internal Improvements, p. 154.

<sup>3</sup>Krenkel, Illinois Internal Improvements, pp. 158-164.

<sup>4</sup>Which of these factors is most significant seems to depend on one's own political views. But all the following emphasize the fact that the plan was too ambitious: Paul W. Gates, The Illinois Central Railroad and Its Colonization Work (Cambridge, 1934) hereafter referred to as Gates, The IC Railroad; Theodore C. Pease, The Frontier State, 1818-1848 (Chicago, 1922); and Krenkel, Illinois Internal Improvements. Certainly there was no dearth of explanations from contemporaries. See Advocate (Belleville), July 11, 1844; Illinois Reveille (Bloomington), October 31, 1849; and addresses of Governors Carlin and Ford in E. B. Greene and C. M. Thompson, eds., Governors' Letter-Books, 1840-1853 (Springfield, 1911) pp. lv, lvii, 6-8.

<sup>5</sup>Illinois Democrat (Jacksonville), June 3, 1840; Pease, The Frontier State, p. 232.

<sup>6</sup>Reports: General Assembly, 1840-1841, House, pp. 389-397.

<sup>7</sup>St. Clair Banner (Belleville), December 12, 1843.

<sup>8</sup>Laws of Illinois: 1844-45, pp. 103, 212.

<sup>9</sup>This conclusion has been reached after a perusal of the table of contents and index found in A. C. Cole, ed., The Constitutional Debates of 1847 (Springfield, 1919), pp. v-xiii, 999-1018.

<sup>10</sup>Ibid., p. 1019.

<sup>11</sup>There is much evidence that a history of Illinois banking would parallel the history of the railroad system. The banking system was vital to both farmer and merchant. In serving their important function, the banks came under great scrutiny, criticism and control.

<sup>12</sup>This will be covered in detail in succeeding chapters of this study.

<sup>13</sup>Cole, Constitutional Debates, p. 641. Underlining provided by this author.

<sup>14</sup>Ibid., pp. 669-673. As the Constitution was finally written, Article X, Section 6, states "The General Assembly shall encourage internal improvements by passing liberal general laws of incorporation for that purpose."

<sup>15</sup>Article III, Section 38, and Article III, Section 37, of the 1848 Illinois Constitution.

<sup>16</sup>Ackerman, Early Illinois Railroads, pp. 14-15.

<sup>17</sup>Laws of Illinois: 1840-41, p. 197.

<sup>18</sup>Ibid., p. 199; Laws of Illinois: 1848-9, p. 82.

<sup>19</sup>Arthur C. Cole, The Era of the Civil War (Springfield, 1919), pp. 32-36.

<sup>20</sup>Laws of Illinois: 1849-1850, pp. 183-35.

<sup>21</sup>Gates, The IC Railroad, p. 27.

<sup>22</sup>Wyatt W. Belcher, The Economic Rivalry Between St. Louis and Chicago, 1850-1880 (New York, 1947), pp. 59-60. Officially the line was to terminate in the north at the western end of the Illinois and Michigan Canal. The land grant was made to the state which then passed it on to the private company.

<sup>23</sup>Ibid., pp. 58-61.

<sup>24</sup>Fayette Yeoman (Vandalia), June 23, 1849.

<sup>25</sup>Ibid.

<sup>26</sup>Fayette Yeoman (Vandalia), December 1, 1849; December 22, 1849. Illinois Republican (Belleville), January 9, 1850.

<sup>27</sup>Illinois Weekly Journal (Springfield), February 12, 1851.

<sup>28</sup>Ibid.; Illinois Reveille (Bloomington), November 27, 1849. Even at the Salem Convention of 1849 the members, while regretting the "premature and extravagant" 1837 internal improvement plan, argued it should not now hold back action. See Fayette Yeoman (Vandalia), December 1, 1849. The rise in property values was again stressed in the Weekly Herald (Grayville), September 12, 1857.

<sup>29</sup>Gates, The IC Railroad, pp. 58-59. This route followed fairly closely the form established in 1837.

<sup>30</sup>Cole, Civil War Era, pp. 40-41; Belcher, Economic Rivalry, pp. 56-58.

<sup>31</sup>State of Illinois, Journal of the Constitutional Convention of the State of Illinois (Springfield, 1870), from "Statement of Bonds registered in Office of Auditor of Public Accounts," facing pp. 723, 725.

<sup>32</sup>Newton, "Railway Legislation in Illinois," p. 16.

<sup>33</sup>Weekly Gazette (Decatur), August 13, 1851.

<sup>34</sup>Illinoisian (Marshall), April 15, 1854. Marshall is in Clark County; Weekly Herald (Grayville), September 12, 1857. Grayville is in White County.

<sup>35</sup>Age of Steam (Vandalia), July 15, 1854; Weekly Herald (Grayville), September 12, 1857.

<sup>36</sup>Newton, "Railway Legislation in Illinois," p. 81. Also General Railroad Law: Illinois and Wisconsin Railroad Charter (Chicago, 1853), pp. 3, 10, 14. This liberal railroad policy was the result of great pressures from southern Illinois which wanted less unstinting railroad legislation in opposition to the "State policy." By 1853, the state policy was abandoned and the conflict was over. See Newton, "Railway Legislation," p. 40; Cole, Civil War Era, p. 45.



<sup>37</sup>Illinoisian-State (Beardstown), July 23, 1929, Centennial Edition, sec. 4, p. 1.

<sup>38</sup>Times Record (Aledo), June 22, 1955, Centennial Edition, sec. 11, pp. 3, 7. Mercer is located along the Mississippi River in northern Illinois.

<sup>39</sup>In 1866 the United States District Court reversed the Illinois court decision. Ibid., p.7.

<sup>40</sup>Ibid. The railroad apparently did not help Millersby. The town is not listed in the Illinois Blue Book. At least one newspaper contemporary to the period saw the great expense involved in extended periods of construction. See Standard (Geneseo), November 1, 1855.

<sup>41</sup>Illinoisian (Marshall), June 24, 1854.

<sup>42</sup>Standard (Geneseo), November 1, 1855; Weekly Herald (Grayville), September 12, 1857.

<sup>43</sup>Cole, Civil War Era, p. 87.

<sup>44</sup>Age of Steam (Vandalia), February 10, 1855.

<sup>45</sup>Ibid.; Daily Courier (Galena), October 29, 1858.

<sup>46</sup>Petition of citizens of Town of Atlanta, Logan County, to General Assembly, 1859, Archives, Illinois State Library, and Chicago Journal, February 11, 1859, cited in Stanley L. Jones, "Agrarian Radicalism in Illinois' Constitutional Convention of 1862," Journal of the Illinois State Historical Society, XLVIII (1955), pp. 273-274.

<sup>47</sup>Bessie L. Pierce, A History of Chicago (New York, 1940), II, p. 65; George W. Smith, History of Illinois and Her People (Chicago, 1927), III, p. 217.

<sup>48</sup>Jones, "Agrarian Radicalism," p. 277.

<sup>49</sup>State of Illinois, Journal of the Constitutional Convention of 1862 (Springfield, 1862), pp. 55, 148.

<sup>50</sup>Jones, "Agrarian Radicalism," p. 278. This same issue was to arise in 1869-1870.

<sup>51</sup>Journal of 1862 Convention, pp. 95, 148.

<sup>52</sup>Ibid., pp. 1081-1082. As has been pointed out above, this practice was declared unconstitutional by the Illinois Supreme Court, but was allowed by an 1866 U. S. District Court decision.

<sup>53</sup>Jones, "Agrarian Radicalism," pp. 279-281.

<sup>54</sup>Ibid., pp. 275-281; Elliott Anthony, The Constitutional History of Illinois (Chicago, 1891), pp. 110-112. Jones' breakdown was: 45 Democrats; 20 Republicans; and 10 Union Party. Cole lists those present as: 45 Democrats; 21 Republicans; 7 "fusionists;" and 2 doubtful. See Cole, Civil War Era, pp. 267-272.

<sup>55</sup>The Illinois Farmer (Springfield), November, 1864, p. 346.

## FOOTNOTES FOR CHAPTER IV

<sup>1</sup>John S. Wright, Chicago: Past, Present, Future (Chicago, 1870), p. 41. E.g., the gross earnings of the Chicago and Alton Railroad jumped from \$938,641 in 1860 to \$3,840,091 in 1865; the C,B&Q advanced from \$1,383,957 in 1860 to \$5,581,859 in 1865; the Illinois Central about tripled its earnings from \$2,721,590 to \$7,181,208 in the same period.

<sup>2</sup>Robert C. Toole, "Anti-Monopoly League of 1866 vs. La-Crosse Packet Company, et al., "Mid America, XDIII (October, 1961), p. 218.

<sup>3</sup>Bessie L. Pierce, A History of Chicago, II (New York, 1940), 66; Lee Benson, Merchants, Farmers and Railroads (Cambridge, 1955), p. 17; Frederick Merk, Economic History of Wisconsin During the Civil War Decade (Madison, 1916), pp. 308-328, especially pp. 309, 314.

<sup>4</sup>Toole, "Anti-Monopoly League," p. 213.

<sup>5</sup>In 1859 Chicago received nine million bushels of wheat. In 1861 this figure reached 17 3/4 million bushels. Corn production increased to an even greater extent. Chicago received 15½ million bushels in 1859 and over 28 million in 1862. Diversification of trade from St. Louis would not completely explain this increase. In 1860 the Board of Trade announced it was grateful "to know that Chicago is every year attracting larger assignments of the Wheat of the states north of Illinois." In 1861 Chicago merchants were anticipating that the extension of the Northwestern into Iowa and Nebraska would double the quantities arriving. See Chicago Board of Trade, Seventh Annual Report, pp. 24-27; Eighth Annual Statement, p. 34; Ninth Annual Statement, p. 40. The Northwestern reached 151 miles west of the Mississippi by 1862. See A. T. Andreas, History of Chicago, II (Chicago, 1885), p. 134.

By 1864 the Chicago Tribune stated, "a much greater breadth of land is under cultivation, in the fourth year of the war, than was ever before known in the history of the country." It was pointed out that 8 million acres were under cultivation in Iowa;

3 million in Minnesota; 3 million in Missouri and about 2 million west of the Missouri River. The Tribune saw even more grain coming to Chicago as rail lines reached west. See Chicago Tribune, Annual Report of the Trade, Business and Growth of Chicago and the Northwest (Chicago, 1865), pp. 9, 12, 25.

<sup>6</sup>Arthur T. Hadley, Railroad Transportation: Its History and Its Laws (New York, 1886), p. 137.

<sup>7</sup>State of Illinois, Journal of the Constitutional Convention of the State of Illinois (Springfield, 1870), pp. 721-725; Champaign County Gazette (Champaign), April 21, 1869; Railway Review (Chicago), May 6, 20, 1869; June 3, 24, 1869; July 1, 1869; February 17, 1870; Prairie Farmer (Chicago), January 11, 1868, p. 17.

<sup>8</sup>Chicago Tribune, February 18, 1867; Chicago Railway Review, July 1, 1869. This will be dealt with in more detail below.

<sup>9</sup>A. C. Cole, The Era of the Civil War (Springfield, 1919), p. 384.

<sup>10</sup>Prairie Farmer (Chicago), December 2, 1865, p. 398.

<sup>11</sup>Ibid.

<sup>12</sup>Prairie Farmer (Chicago), December 16, 1865, p. 429. Daily Pantagraph (Bloomington), December 16, 1865. A following chapter on the warehouses will deal in detail with the merchant's problems.

<sup>13</sup>Prairie Farmer (Chicago), December 23, 1865, pp. 445-447.

<sup>14</sup>Prairie Farmer (Chicago), February 10, 1866, p. 96; February 17, 1866, p. 99.

<sup>15</sup>Prairie Farmer (Chicago), March 24, 1866, p. 292. Indeed, the Chicago and Northwestern did control much of the northern trade as will be shown below.

<sup>16</sup>Toole, "Anti-Monopoly League," pp. 215-216. It is interesting to note that 85 miles of the Chicago & Milwaukee railroad was already controlled by the Chicago and Northwestern railroad. See Andreas, History of Chicago, II, 135.

<sup>17</sup>Toole, "Anti-Monopoly League," pp. 211-225.

<sup>18</sup>Ibid., p. 213; Chicago Board of Trade, Tenth Annual Statement of the Trade and Commerce of Chicago for the year ending March 31, 1868 (Chicago, 1868), pp. 43, 46. Hereafter referred to by number of statement only.

<sup>19</sup>Observation based on perusal of numerous newspapers for the years indicated.

<sup>20</sup>Prairie Farmer (Chicago), March 10, 1866, p. 146; March 31, 1866, pp. 206, 208, 212; April 28, 1866, p. 287; January 5, 1867, p. 8; January 19, 1867, p. 34. Illinois, House Journal, 1869, I, pp. 331, 378, 759.

<sup>21</sup>Prairie Farmer (Chicago), January 5, 1867, p. 8; December 14, 1867, p. 370. In January, 1867 an anti-monopoly group did meet at Springfield and demand legislative action against the railroads. However, as we shall see, the 1867 legislature was not responsive. See Cole, Era of Civil War, pp. 358, 406.

<sup>22</sup>Prairie Farmer (Chicago), January 15, 1868, p. 153. The granting of free railroad passes to important officials and all state legislators was a common practice. See Prairie Farmer, November 3, 1866, p. 287; January 5, 1867, p. 8.

<sup>23</sup>Tribune's Trade and Commerce of Chicago (Chicago, 1870), p. 15; Chicago Board of Trade, Eleventh Annual Statement (Chicago, 1869), pp. 35, 38. The price of wheat had fallen from a level around \$2.00 in March, 1868, to \$1.14 in March, 1869, for No. 1--Spring.

<sup>24</sup>Prairie Farmer (Chicago), November 11, 1865, p. 349; December 2, 1865, p. 398; Daily Pantagraph (Bloomington), November 22, 1865. Indeed, complaints dated back to 1858. See Newton, "Railway Legislation in Illinois," p. 72.

<sup>25</sup>At this time only the Northwestern railway company had connected with the Pacific railroad. See Cole, Era of Civil War, p. 361.

<sup>26</sup>Chicago Board of Trade, Twelfth Annual Statement (Chicago, 1869), p. 14.

<sup>27</sup>Charles Francis Adams, Railroads: Their Origin and Problems (New York, 1878), pp. 119, 123. The famous Mr. Adams was a member of the Massachusetts' Railroad Commission established to solve the problem of abuses in that state. See also James C. Bonbright, Railroad Capitalization (New York, 1920), p. 16; Hadley, Railroad Transportation, pp. 123-124.

<sup>28</sup>Between 1869 and 1870 rates on freight shipped from Chicago to New York varied from \$5.00 to \$37 per ton. The Erie dropped its rates as low as two dollars for a period. See Pierce, History of Chicago, II, p. 65; Edward W. Martin, History of the Grange Movement; or the Farmer's War Against Monopolies (Chicago, 1873), p. 91.

<sup>29</sup>Hadley, Railroad Transportation, pp. 112, 123.

<sup>30</sup>Ibid., p. 108.

<sup>31</sup>Wright, Chicago: Past, Present, Future, p. 351. The Galena road had absorbed the Dixon Air Line in 1855. Other branches which were absorbed are too numerous to mention. For a short summary see Andreas, History of Chicago, II, 133-135.

<sup>32</sup>Director of the Chicago and Northwestern Railroad, Circular to the Stockholders of the Chicago & Northwestern R'y Company, June 20, 1864 (Chicago, 1864), p. 4.

<sup>33</sup>Cole, Era of the Civil War, p. 359. See p. 39 above for complaints against the Northwestern's monopoly.

<sup>34</sup>Andreas, History of Chicago, II, 141-149; Cole, Era of Civil War, p. 360; Railway Review (Chicago), June 24, 1869, November 25, 1869.

<sup>35</sup>Railway Review (Chicago), June 10, 1869. This author finds no evidence of pooling such as was developed in the 1870's, although there is evidence that railroads made agreements not to compete in certain locales. See Andreas, History of Chicago, II, p. 133; Edward C. Kirkland, A History of American Economic Life (New York, 1951), p. 351; Ernest L. Bogart, Economic History of the United States (Chicago, 1938), p. 381.

<sup>36</sup>Martin, Grange Movement, pp. 65-68, 80; Pierce, History of Chicago, II, pp. 51-53; Railway Review (Chicago), November 11, 1869; December 23, 30, 1869; May 19, 1870; June 2, 1870.

<sup>37</sup>Railway Review (Chicago), June 10, 1869. The underlining is in the original.

<sup>38</sup>Ibid., Pierce, History of Chicago, II, 58-59, 75.

<sup>39</sup>Railway Review (Chicago), November 11, 18, 1869. This serves merely as an example; the overcapitalization of railroads was so common as to defy the practicality of listing.

<sup>40</sup>Bonbright, Railroad Capitalization, pp. 15, 18, 25, 37, 47, 53, 55, 59; Hadley, Railroad Transportation, pp. 61, 101, 123. Martin, Grange Movement, pp. 54, 64, 65, 67; Railway Review (Chicago), November 25, 1869, referring to famous case in which Gould, Drew and Fisk had been "printing" shares of the Erie railroad as fast as Vanderbilt could buy them up.

<sup>41</sup>Railway Review (Chicago), June 17, 1869; Hadley, Railroad Transportation, p. 61.

<sup>42</sup>Railway Review (Chicago), December 9, 1869, quoting the Chicago Tribune.

<sup>43</sup>Ibid.

<sup>44</sup>Railway Review (Chicago), January 20, 1870. A few of those not reporting were: The New York Central; the Erie; the Chicago, Burlington and Quincy; the Hannibal and St. Joseph; the Joliet and Chicago; the Chicago and Indiana; the Indiana and Vincennes. A glance at Poor's Manual indicates that in 1871 a multitude of U. S. railroads were still not reporting, including some Illinois companies which were then required to. See Henry V. Poor, Manual of the Railroads of the United States for 1871-1872 (New York, 1871).

<sup>45</sup>Simon Sterne, Railways in the United States (New York, 1912), p. 104.

<sup>46</sup>Prairie Farmer (Chicago), December 23, 1865, p. 447.

<sup>47</sup>Ibid., p. 448. Whiting was to be the delegate from Bureau County at the 1870 constitutional convention.

<sup>48</sup>Prairie Farmer (Chicago), February 2, 1867, p. 72.

This opinion was even shared by John Palmer when he later vetoed a rate regulatory law. His contention was that a state charter was a contract, and "such a contract, upon well settled principles of constitutional law cannot be impaired." However, he claimed while charters certainly gave railroads the right to collect fares, "any claim that the railroad corporations interested have the right to fix such rates at their own discretion, does not deserve a moment's attention." See Illinois, Senate Journal, I, 1869, pp. 472-473.

<sup>49</sup>Daily Pantagraph (Bloomington), September 13, 1869.

<sup>50</sup>Ibid. The Pantagraph was obviously editorializing. The constitutional convention was to meet that following December.

<sup>51</sup>Prairie Farmer (Chicago), January 5, 1867, p. 1; February 23, 1867, p. 120; Cole, Era of Civil War, pp. 406-408. The 1867 legislature passed 1,071 private laws and only 202 general laws. See State of Illinois, Constitutional Conventions in Illinois (Springfield, 1918), p. 23.

<sup>52</sup>John M. Palmer, Personal Recollections of John M. Palmer (Cincinnati, 1901), pp. 184-187.

<sup>53</sup>George W. Smith, History of Illinois and Her People, III (Chicago, 1927), pp. 204, 212. There were twenty-two lawyers in the House, twelve in the Senate. This number was to increase steadily in the 1870's. There were eighty-six seats in the House in 1869. State of Illinois, List of State Officers of the State of Illinois (Springfield, 1900), p. 241.

<sup>54</sup>Daily Pantagraph (Bloomington), January 6, 12, 13, 26, 1869.

<sup>55</sup>Daily Pantagraph (Bloomington), January 12, 26, 30, 1869; February 1, 6, 1869. Illinois, Senate Journal, I, 1869, pp. 45, 208-10, 332, 426, 471-474.



<sup>56</sup>Illinois, Senate Journal, I, 1869, 566, 856; II, 9, 12, 22, 97, 408, 446, 644. Mr. Mun's interests could not possibly have favored this bill. Perhaps the fact that the earlier bill had passed by a vote of 15 to 9 affected his decision. He soon called for a move to recommit the bill to the committee on railroads. It was defeated 16 nay to 6 yes. The bill passed the senate, 17 to 8. As enacted, the law called for a "just, reasonable and uniform rate." See Illinois Laws, 1869, p. 309.

<sup>57</sup>Railway Review (Chicago), May 6, 1869; April 22, 1870.

<sup>58</sup>Railway Review (Chicago), May 6, 1869. The farmers must have been very concerned.

<sup>59</sup>Chicago Board of Trade, Twelfth Annual Statement, December, 1869, p. 81, and Eleventh Annual Statement, March 1869, p. 81.

<sup>60</sup>Daily Pantagraph (Bloomington), June 6, 1869; Railway Review (Chicago), July 22, 1869; Prairie Farmer (Chicago), August 28, 1869, p. 273. Underlining original in Prairie Farmer.

<sup>61</sup>Senate Journal, I, 1869, pp. 883-884; Champaign County Gazette (Champaign), April 21, 1869.

<sup>62</sup>Public Laws of Illinois, 1869, pp. 316-322; Palmer, Recollections, p. 294; Newton, p. 55. The number of charters granted is not exact as the governor vetoed some. See Illinois, Senate Journal, II, 1869, xv-xvii, 876; Illinois, House Journal, III, 1869, 176, 200, 466, 624, 654-659. Over fifty bond issues were registered in 1869 alone. The total debt incurred by the counties between February, 1865, and April, 1870, was \$3,370,500. See State of Illinois, Journal of the Constitutional Convention (Springfield, 1870), inserts between pp. 722-3, 724-5.

<sup>63</sup>Illinois, Senate Journal, II, 1869, 14, 643, 895, 922. Illinois, House Journal, III, 1869, 176, 189, 224, 517-28, 705; Palmer, Recollections, pp. 294-305. Not all Chicagoans were opposed to the lake front grant. Munn voted in its favor.

## FOOTNOTES FOR CHAPTER V

<sup>1</sup>Prairie Farmer (Chicago), December 23, 1865, p. 447. Quoting a resolution from the Bloomington Farmers' Convention.

<sup>2</sup>In Clark County, on the Ohio River, the proposition was defeated by a vote of 1,096 for to 2,173 against. See Clark County Herald (Marshall), November 13; December 4, 1868.

<sup>3</sup>Daily Pantagraph (Bloomington), February 26, 1869.

<sup>4</sup>In each of three districts there were four counties. Four districts contained three counties. Twenty-six districts consisted of two counties. Forty-nine districts consisted of one county. Cook County consisted of three districts sending seven members. See State of Illinois, List of State Officers of the State of Illinois (Springfield, 1900), p. 183. Hereafter referred to as Bluebook, 1899.

<sup>5</sup>Daily Pantagraph (Bloomington), January 8, 13, 1869. This is affirmed in E. L. Bogart and C. M. Thompson, The Industrial State, 1870-1893 (Springfield, 1920), p. 7; E. Anthony, The Constitutional History of Illinois (Chicago, 1891), p. 119.

<sup>6</sup>Daily Pantagraph (Bloomington), January 13, 1869.

<sup>7</sup>Solon J. Buck, The Granger Movement (Cambridge, 1913), p. 124.

<sup>8</sup>John Moses, Illinois: Historical and Statistical, II (Chicago, 1892), 788; George W. Smith, History of Illinois and Her People, III (Chicago, 1927), 204. Moses classifies the delegates this way: 53 lawyers; 14 farmers; 13 merchants, bankers and traders; 4 physicians; one editor. C. M. Thompson, in The Industrial State, pp. 3-4, lists no farmers among the seventy-five members he identified. The differences would be explained by the fact that there were some "gentlemen farmers" at the convention whose calling would be placed in some other occupation than farming.

<sup>9</sup>Smith, History of Illinois, III, pp. 204, 212.

<sup>10</sup>John Palmer, Personal Recollections of John M. Palmer (Cincinnati, 1901), p. 283; Elliot Anthony, The Constitutional History of Illinois (Chicago, 1891), p. 119. Anthony was a delegate from Chicago to the convention. He had been a solicitor for the Galena and Chicago Union Railroad, but opposing its consolidation with the Chicago and Northwestern, Anthony's railroad affiliations were broken by 1869. See A. T. Andreas, History of Chicago, II (Chicago, 1885), p. 471.

<sup>11</sup>This alignment reflected the Civil War to an extent. The downstate population, originally immigrated to Illinois from the southern states, while northern Illinois had been populated by a western movement from northern states. The Democratic Party with its emphases on conciliation of Civil War issues held its power in "Egypt." The Republican Party was strong in the northern section of the state. See Ray A. Billington, "The Frontier in Illinois History," American History: Recent Interpretations, ed. Abraham S. Eisenstadt (New York, 1963), pp. 337-349; Charles A. Cole, The Era of the Civil War: 1848-1870 (Chicago, 1922), p. 418.

<sup>12</sup>Bogart and Thompson, The Industrial State, pp. 4-7; Anthony, Constitutional History, p. 116; Cole, Era of Civil War, p. 418. Both Medill and Hitchcock were Republicans although they ran as independents from Cook County.

<sup>13</sup>Illinois State Journal (Springfield), January 8, 10, 14, 15, 21; February 2, 1870.

<sup>14</sup>Alton Telegraph quoted in Illinois State Journal (Springfield), January 4, 1870. The Democrats and Republicans shared the chairmanships of thirty-two committees equally. The Independents controlled two chairmanships. It was argued that the Democrats controlled a majority in fifteen committees, but with Independent support the Democrats would control eight more. This left the Republicans with eleven sure majorities. See State of Illinois, Debates and Proceedings of the Constitutional Convention of the State of Illinois (Springfield, 1870), p. 75. Hereafter referred to as DFCC. Illinois State Journal (Springfield), December 22, 1869.

<sup>15</sup>See Appendix I: Voting Record of Judiciary Committee.

<sup>16</sup>See Appendix I: Voting Records for Chicago Delegation and Judiciary Committee. The chairman of the Judiciary, Mr. Skinner, was president of the Carthage and Quincy railroad. Three other members were attorneys for railroads.

<sup>17</sup>Illinois State Journal (Springfield), December 31, 1869. Buxton is listed as a Republican in The United States Biographical Dictionary: Illinois Volume (Chicago, 1876), p. 428. Hereafter referred to as USBD: Ill. His vote was split regarding railroad restrictions. See Appendix I: Voting Record of Railroad Committee.

<sup>18</sup>Illinois State Journal (Springfield), February 6, 1870.

<sup>19</sup>DPCC, I, 146-148. Again Mr. McCoy asked a resolution be sent to both the Railroad Committee and the Miscellaneous Corporations Committee "in case the Committee on Railroads fail to consider it." See DPCC, I, 210. The members of the Miscellaneous Corporations Committee, despite much absenteeism, delivered pluralities in favor of restrictions. Three members of this committee were railroad lawyers. Of the four committees analyzed, only the committee on Internal Improvements, which studied the Illinois Central Railroad and canal questions, apparently had no railroad lawyers in its body. See Appendix I.

<sup>20</sup>DPCC, I, 148-150. Numerous petitions from "businessmen" and merchants" calling for restrictions were introduced at the convention. See DPCC, I, 289, 344, 510, 560, 589, 590, 627, 654, 679, 702, 757.

<sup>21</sup>Ibid., I, 148-149.

<sup>22</sup>Ibid., I, 150.

<sup>23</sup>Ibid., I, 262. A definite split in the Judiciary Committee regarding this issue was evident. However, Church was able to obtain a majority in favor of the principle. Browning remained adamantly opposed to what he later referred to as "absurd and very objectionable provisions in regard to Rail Roads (sic), Ware houses (sic), corporations and eminent domain." See Orville H. Browning, The Diary of Orville Hickman Browning, ed. James G. Randall, Collections of the Illinois State Historical Library, XXII (Springfield, 1933), 272; DPCC, I, 487, 703, 704.

<sup>24</sup>In explanation: the "modern" doctrine of vested rights was based on the contention that a corporation charter was a contract which the state could not alter because of the provision in Article I, Section 10, of the federal constitution, forbidding states to pass laws impairing the obligation of contracts. As most railroad charters had been very liberal, this interpretation allowed them a great buffer against legal restraint. See DPCC, II, 1651.

<sup>25</sup>DPCC, II, 1650-1652; USBD: Ill., p. 625. Mr. Hildrup's speech, which ran well over the ten minute time limit, was continued after calls from the floor to "Go on," "Go on."

<sup>26</sup>DPCC, II, 1653-1654. The cases cited were: West River Bridge Co. v. Dix et al., 6 Howard (US), 507 (1847); Mills et al. v. The County of St. Clair et al., 2 Gilman (Ill.), 227 (1845).

<sup>27</sup>Ibid., II, 1654-1655.

<sup>28</sup>Daily Pantagraph (Bloomington), April 21, 1870.

<sup>29</sup>Merriam, Whiting, Bayne, and Ross, all members of the constitutional convention, were present at the Bloomington convention of 1870. See Daily Pantagraph (Bloomington), April 21, 1870. Bayne and Merriam were farmers. See USED: Ill., p. 56; Illinois State Journal (Springfield), January 17, 1870. Ross and Whiting were active politicians. See Moses, Illinois, Historical and Statistical, II, 656, 1183, 1187, 1201.

<sup>30</sup>Daily Pantagraph (Bloomington), April 21, 1870; Gazette (Galena), April 21, 1870; Prairie Farmer (Chicago), April 30, 1870, p. 129; Chicago Tribune, April 22, 1870. An explanation of the purpose of Palmer's proposal will be found below.

<sup>31</sup>Chicago Tribune, April 8, 1870; Gazette (Galena), April 21, 1870; Daily Pantagraph (Bloomington), April 21, 1870; Prairie Farmer (Chicago), April 30, 1870, p. 130. The Tribune was not entirely opposed to the railroads' interests. It suggested that the farmers should ask for the abolition of high taxes on corporations thus leaving the railroads with no excuse for high rates.

<sup>32</sup>Edward F. Dunne, Illinois: The Heart of the Nation, I (Chicago, 1933), 368-369; DPCC, I, 366-374, 487; II, 1477. By the end of 1870, the Chicago Tribune was willing to concede that "there would be little use for that ditch, except as a sewer, by the time the deepening is completed." See Chicago Tribune: Annual Report for 1870 (Chicago, 1871), p. 11.

<sup>33</sup>Prairie Farmer (Chicago), December 11, 1869, p. 401.

<sup>34</sup>Bessie L. Pierce, A History of Chicago, II (Chicago, 1940), p. 67.

<sup>35</sup>Chicago Tribune, January 28, 1870.

<sup>36</sup>Pierce, A History of Chicago, II, pp. 65-66.

<sup>37</sup>Prairie Farmer (Chicago), April 30, 1870, p. 130.

<sup>38</sup>DPCC, II, 1476-1477. The Bloomington and Chicago resolutions called for the construction of a canal from Hennepin to the Mississippi River.

<sup>39</sup>See Appendix II, for the entire section. Also see Legislative Reference Bureau, Constitution of the State of Illinois: Annotated (Springfield, 1919), pp. 290-291. Hereafter referred to as Illinois Constitution: Annotated.

<sup>40</sup>DPCC, II, 1320, 1644; Illinois Constitution: Annotated, p. 272. See Appendix II, for entire section.

<sup>41</sup>Illinois Constitution: Annotated, p. 174. Citing Mitchell v. Illinois and St. Louis Railroad and Coal Co., 68 Ill. R. 286 (1873); Lake Shore and Michigan Southern Railway Co. et al. v. Chicago and Western Indiana Railroad Co., 97 Ill. R. 506 (1881); Alton and Southern Railroad v. Vandalia Railroad Co., 268 Ill. R. 68 (1915). Also see DPCC, II, 1709-1715.

<sup>42</sup>DPCC, II, 1641-1643. Benjamin cited the following cases: Ohio Life Insurance and Trust Co. v. Debolt, 16 Howard (U.S.), 431 (1853); East Hartford v. Hartford Bridge Co., 10 Howard (U.S.) 534 (1850); Providence Bank v. Billings, 4 Peters (U.S.), 567 (1850); West River Bridge Co. v. Dix, 6 Howard (U.S.), 533 (1847).

<sup>43</sup>DPCC, II, 1637-1639.

<sup>44</sup>Ibid., I, 344, 510; II, 1639-1640. There was also an element of antagonism toward eastern control. See above, pp. 24, 32, 34.

<sup>45</sup>Illinois Constitution: Annotated, pp. 270, 272.

<sup>46</sup>George W. Smith, History of Illinois and Her People, III (Cincinnati, 1901), 209-10.

<sup>47</sup>Andreas, History of Chicago, II, 471; Circular to the Stockholders of the Chicago and North-Western R'y Company, June 20, 1864 (Chicago, 1864), p. 4. After the consolidation rates on freights, in many instances, rose thirty percent. See DPCC, II, 1648.

<sup>48</sup>DPCC, II, 1641.

<sup>49</sup>Ibid., II, 1647-1648. The consolidation of the Chicago and Northwestern with the Galena Union was said to have increased the capital stock six or seven million dollars. The Fort Wayne Railroad on leasing another road increased its capital stock from \$11,500,000 to \$19,550,000.

<sup>50</sup>DPCC, I, 944-945. Journal (LaFayette); Review (Peoria), cited in Illinois State Journal (Springfield), March 5, 8, 1870.

<sup>51</sup>Chicago Tribune, February 7, 1870. Massachusetts already had such a commission. Charles F. Adams served on it with distinction.

<sup>52</sup>DPCC, I, 451; II, 1761-1763, 1866-1868. The Railroad construction which was spurred on by the "tax grabbing" law is too voluminous to list. See Chicago Railway Review, May 6, 20; June 3, 24; July 8, 15; August 19, 1869. A list of all bond issues may be found in State of Illinois, Journal of the Constitutional Convention (Springfield, 1870), inserts between pp. 722-3, 724-5.

<sup>53</sup>DPCC, II, 1654; Daily Pantagraph (Bloomington), April 22, 1870. This same argument was used by the Wisconsin railroads some years before. See August Derleth, The Milwaukee Road (New York, 1948), p. 102.

<sup>54</sup>Palmer, Recollections, pp. 183-184.

<sup>55</sup>Stanley L. Jones, "Agrarian Radicalism in Illinois' Constitutional Convention of 1862," Journal of the Illinois State Historical Society, XLVIII (1955), p. 279.

<sup>56</sup>DPCC, I, 912-915; II, 1659. Cumming's sentiments were not without support; his speech ended with cries of "Go on." "Go on." from the convention floor.

<sup>57</sup>Illinois State Journal (Springfield), March 15, 28; April 16, 1870.

<sup>58</sup>Illinois Constitution: Annotated, pp. 288-289; DPCC II, 1730. The subscriptions were for Tazewell County and Louisville, Clay County.

<sup>59</sup>Smith, History of Illinois, III, 140-142.

<sup>60</sup>DPCC, II, 1196-1202.

<sup>61</sup>Ibid., 1243-1256.

<sup>62</sup>Chicago Tribune, January 15, 1870. Indeed, there was a little to spend. By 1870, the railroad had paid over three million dollars in taxes; making it the main single source of revenue in the state. See DPCC, II, 1197, 1199.

<sup>63</sup>DPCC, II, 1202, 1894-1895.



## FOOTNOTES FOR CHAPTER VI

<sup>1</sup>Charles H. Taylor, History of the Board of Trade of the City of Chicago, I (Chicago, 1917), 187, 190-192, 223; Wyatt W. Belcher, The Economic Rivalry Between St. Louis and Chicago, 1850-1880 (New York, 1947), p. 103.

<sup>2</sup>Bessie L. Pierce, A History of Chicago, II (New York, 1940), 80-81; Taylor, Board of Trade, I, 286, 296, 317. E. Colbert, Chicago, Historical and Statistical Sketch of the Garden City (Chicago, 1868), p. 58. Chicago Tribune, January 22, March 2, 1870. The firms and railroad connections were: Munn and Scott with Chicago and Alton Railroad and Chicago and Northwestern Railroad; Armour, Dole and Co. with Chicago, Burlington and Quincy Railroad; Flint, Thompson & Co. with Rock Island Railroad; Munger, Wheeler & Co. with Galena Division of Chicago and Northwestern Railroad; J. & E. Buckingham with Illinois Central Railroad.

<sup>3</sup>DFCC, II, 1626; Chicago Tribune, March 30, 1870; Illinois State Journal (Springfield), March 18, 1870.

<sup>4</sup>Illinois Farmer (Springfield), May, 1864, p. 144; Prairie Farmer (Chicago), February 17, 1866, p. 99; Belcher, Economic Rivalry, p. 186.

<sup>5</sup>Prairie Farmer (Chicago), February 17, 1866, p. 104.

<sup>6</sup>Chicago Tribune, March 29, 1870.

<sup>7</sup>Galena and Chicago Union Railroad Co. v. Rae et al., 18 Ill. R. 490 (1857). Cited in Charles C. Bonney, Rules of Law for the Carriage and Delivery of Persons and Property by Railway (Chicago, 1864), p. 67.

<sup>8</sup>J. H. Bowen, et. al., Produce and Transportation: The Railway and Warehouse Monopolies. Report of a Joint Committee of the Board of Trade and Mercantile Association: The Railway Companies Advised to Reduce their Rates and a Belief Expressed That They Will. A Review of the Warehouse and Grain Inspection Trouble (Chicago, 1866), p. 9. Hereafter referred to as P & T Report, 1866.

<sup>9</sup>Illinois Farmer (Springfield), May, 1864, p. 144.

<sup>10</sup>Pierce, History of Chicago, II, 82.

<sup>11</sup>Taylor, Board of Trade, I, 402.

<sup>12</sup>Ibid., p. 400.

<sup>13</sup>Chicago Tribune, March 18, 1870; Illinois State Journal (Springfield), March 18, 1870. Indeed, the Board ignored sections of the law which related to futures. See below, page 68.

<sup>14</sup>DPCC, II, 1627; Chicago Tribune, January 22, 1870; Daily Pantagraph (Bloomington), February 13, 1869; P & T Report, 1866, p. 68. Almost all grain shipped to Chicago was in bulk which facilitated rapid handling by the elevators.

<sup>15</sup>DPCC, II, 1622; Julian Kune, "The Chicago Board of Trade; Its Uses and Abuses," American Elevator and Grain Trade, December 15, 1910. (Compiled as a pamphlet by Chicago Historical Society) p. 4; Taylor, Board of Trade, I, 220, 227, 241.

<sup>16</sup>Ibid., 292. A. T. Andreas, History of Chicago, II (Chicago, 1885), 342-343; Chicago Tribune, April 7, 1862.

<sup>17</sup>P & T Report, 1866, p. 6.

<sup>18</sup>Taylor, Board of Trade, I, 292, 407, 409; Kune, "Board of Trade," p. 8. Kune was reminiscing on his days as a member of the Board.

<sup>19</sup>Ibid., p. 7; Taylor, Board of Trade, I, 382, 397; Prairie Farmer (Chicago), December 3, 1870, p. 377; Chicago Tribune, January 22, 1870. Heating -- damp grain in storage may begin to heat, thus destroying a good deal of the grain.

<sup>20</sup>Belcher, Economic Rivalry, pp. 188-189.

<sup>21</sup>Prairie Farmer (Chicago), October 14, 1865, p. 292; November 11, 1866, p. 320; Chicago Tribune, January 22; February 19; March 17; April 4, 1870.

<sup>22</sup>Taylor, Board of Trade, I, 189-190; Andreas, History of Chicago, II, 325.

<sup>23</sup>Taylor, Board of Trade, I, 256-7, 260; Andreas, History of Chicago, II, 326, 361.

<sup>24</sup>Taylor, Board of Trade, I, 305. A thorough investigation of this aspect of city regulation has not been undertaken by the author.

<sup>25</sup>Ibid., 342, 373; P & T Report, 1866, pp. 7-8.

<sup>26</sup>Illinois, Senate Journal, 1867, pp. 54, 118, 136, 280, 321, 327, 398, 483; Taylor, Board of Trade, I, 349-51.

<sup>27</sup>Andreas, History of Chicago, II, 360-1.

<sup>28</sup>Taylor, Board of Trade, I, 364.

<sup>29</sup>Ibid., 397-8.

<sup>30</sup>Ibid., 369, 403; Chicago Tribune, March 27, 30, 1870.

<sup>31</sup>Chicago Tribune, February 19, March 17, 18, 19, 1870; Prairie Farmer (Chicago), December 3, 1870, p. 377.

<sup>32</sup>Taylor, Board of Trade, I, 401.

<sup>33</sup>DPCC, II, 1631.

<sup>34</sup>Ibid., pp. 1622-4. Indeed, between March, 1868, and March, 1869, there were three corners on wheat, two on corn, one each on oats, rye and pork. See Kune, "Board of Trade," p. 11.

<sup>35</sup>DPCC, I, 560, 589, 590, 627, 654, 702, 757; II, 1625, 1629, 1696.

<sup>36</sup>Ibid., II, 1625-37.

<sup>37</sup>Ibid., 1622-3, 1626-30, 1693-6; Illinois Constitution: Annotated, p. 279. See appendix II for copy of articles in full.

<sup>38</sup>DPCC, II, 1631. See appendix I, part 4, for data on McCoy.

<sup>39</sup>Ibid., pp. 1623, 1697.

<sup>40</sup>Ibid., p. 1624.

<sup>41</sup>Chicago Tribune, January 22, March 22, 1870.

<sup>42</sup>DPCC, II, 1633; Illinois Constitution: Annotated, p. 280.

<sup>43</sup>DPCC, II, 1626-7.

<sup>44</sup>Chicago Tribune, April 16, 1870. This remained as a major problem in enforcing the law. Despite a later statutory provision granting a \$1,000 penalty to the aggrieved party, there was a hesitancy to sue the railroads. Parties argued "that they did not want to give offense to the companies who had it in their power to deny them accommodations when most wanted, and could injure their business much more than the recovery of many penalties would benefit them." See First Annual Report of the Warehouse Commission of the State of Illinois (Springfield, 1872), p. 6.

<sup>45</sup>DPCC, II, 1626-7.

<sup>46</sup>Ibid., pp. 1635-6.

<sup>47</sup>Ibid.

FOOTNOTES FOR CHAPTER VII

<sup>1</sup>DPCC, II, 1629.

<sup>2</sup>Taylor, Board of Trade, I, 405.

<sup>3</sup>DPCC, II, 1894-5. This is an abstract of the votes by county cast on all the issues submitted.

<sup>4</sup>Journal of the Constitutional Convention (Springfield, 1870), inserts facing pp. 723, 725.

<sup>5</sup>An abstract of the total votes cast will be found in appendix III.

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## APPENDIX I

### Voting Records of Committees of 1870 Constitutional Convention

#### PART I

##### Explanation of Symbols Used and Bibliographical References

###### A. Key to numerals in reference to voting records.

1: railroads to be considered public highways.

Voting record found in D P CC, II, 1715.

2: right of legislature to set maximum rates.

Voting record found in DP C C, II, 1716.

3: right of legislature to exercise eminent domain.

Voting record found in D P C C, II, 1717.

4: forbid consolidation of parallel lines.

Voting record found in D P C C, II, 1720.

5: railroad directors to be residents of Illinois.

Voting record found in D P C C, II, 1838.

6: right to set maximum rates.

Voting record found in D P C C, II, 1839.

7: forbidding discrimination in rates.

Voting record found in D P C C, II, 1839.

B. Key to symbols used.

- The actual vote could have been cast yea or nay according to the wording of the issue.
- Y: indicates a vote favorable to restriction.
- N: indicates a vote opposed to restriction.
- A: indicates delegate was probably absent.
- S: indicates delegate had voted on other issues or spoken at the convention that day and was probably abstaining.
- \*: the explanation for the dual party is that these men were breaking with their party on Reconstruction issues.
- #: in these cases the party affiliation has been determined by analyzing the vote of the delegate regarding the election of the convention's president. A vote for Medill showed an alinement with the Republicans; a vote for Hitchcock indicated willingness to cooperate with the Democrats. Wherever a party affiliation was already known through reference to other sources, the delegate cast his vote exactly along these lines.

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**PART II -- Voting Record -- Judiciary Committee**

	<b>Party</b>	<b>Section</b>	<b>Pertinent Data</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
Skinner, O. C.	Dem.	Adams Military Tract	chairman; president of Carthage & Quincy RR	A	A	A	A	N	N	N
Allen, J. C.	Dem.	Alexander South		A	A	A	A	Y	Y	Y
Anthony, E.	Rep/ Ind	Cook North	split with railroads on consolidation of Chicago & Galena with NWRR	S	S	Y	Y	Y	Y	Y
Billings, H. W.	Dem.#		died during convention	-	-	-	-	-	-	-
Browning, O. H.	Rep/ Dem*	Adams Military Tract	lawyer for C.B.&Q. RR	N	N	N	N	N	N	N
Church, L. S.	Rep.	McHenry North	a farmer during youth	Y	Y	Y	Y	Y	Y	Y
Eldridge, G. S.	Rep.	LaSalle North	lawyer for Chicago & Rock Island RR	N	N	Y	Y	Y	N	N
Emmerson, C.	Rep.#		died during convention	-	-	-	-	-	-	-
Hay, M.	Rep.	Sagamon Central-South	Palmer's law partner	N	N	Y	N	N	N	N
Hayes, S. S.	Dem.	Cook North		N	N	Y	Y	N	N	Y



**PART II, continued**

	Party	Section	Pertinent Data	1	2	3	4	5	6	7
McCoy, J.	Rep.	Whiteside North	lawyer and farmer	Y	Y	Y	N	Y	Y	Y
Rice, E. Y.	Dem.	Montgomery South	judge	Y	Y	Y	N	N	Y	Y
Scholfiedl, J.	Dem.	Clark South	lawyer for Vandalia railroad in 1870	A	A	A	A	A	A	A
Turner, T. J.	Rep/ Dem*	Stephenson North	member of Chicago Board of Trade	N	N	S	S	S	N	N
Underwood, W. H.	Rep.	St.Clair South		N	N	Y	S	Y	N	Y

**TOTALS:** 1 Independent  
6 Republicans  
8 Democrats

**TOTALS:** YEA 3 3 8 4 6 5 7  
NAY 6 6 1 4 5 7 5  
A 4 4 4 5 2 1 1

**PART III -- Voting Record -- Railroad Committee**

	<b>Party</b>	<b>Section</b>	<b>Pertinent Data</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
Buxton, C.	Rep.	Clinton South	chairman; lawyer for Ohio & Miss. RR before 1870	Y	Y	Y	N	N	S	S
Allen, J. C.	Dem.	Crawford South	had experience shipping grain	N	N	Y	Y	A	A	A
Allen W. J.	Dem.	Alexander South		A	A	A	A	Y	Y	Y
Anthony, E.	Rep/ Ind	Cook North	broke with railroads on consolidation of Chicago & Alton with NWRR	S	S	Y	Y	Y	Y	Y
Atkins, H. J.	Dem.#	Morgan Central		A	A	A	A	N	N	N
Craig, A. M.	Dem.	Knock Military Tract	manufacturer; farm interests as youth	Y	Y	Y	N	Y	Y	Y
Gross, R. J.	Rep.#	Winnebago North	at 1848 convention	Y	Y	Y	Y	Y	Y	Y
Sedgwick, W. W.	Rep.	DeKalb North	medical doctor	Y	Y	Y	Y	Y	Y	Y
Truesdale, C.	Rep.	Rock Island Military Tract	medical doctor	N	Y	N	N	N	N	N

**TOTALS:** 1 Independent  
4 Republicans  
4 Democrats

**TOTALS:** YEA 4 5 6 4 5 5 6  
NAY 2 1 1 3 3 2 1  
A 3 3 2 2 1 2 2

**PART IV -- Voting Record -- Miscellaneous Corporations Committee**

	<b>Party</b>	<b>Section</b>	<b>Pertinent Data</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	
Billings, H. W.	Dem.	Bond South	chairman; died during convention	-	-	-	-	-	-	-	
Archer, W. R.	Rep.	Pike Military Tract	lawyer	A	A	A	A	A	A	A	
Dement, J.	Dem.	Lee North	manufacturer; at 1848 & 1862 conventions	Y	Y	Y	Y	Y	Y	Y	
Eldredge, G. S.	Rep.#	LaSalle North	lawyer for Chicago & Rock Island RR in 1872.	N	N	Y	Y	Y	N	N	
Hayes, S. S.	Dem.	Cook North	lawyer; at 1848 convention	N	N	Y	Y	N	N	Y	
McCoy, J.	Rep.	Whiteside North	lawyer and farmer	Y	Y	Y	N	Y	Y	Y	
Schofield, J.	Dem.	Clark South	lawyer for Vandalia RR in 1870	A	A	A	A	A	A	A	
Wall, G. W.	Dem.	Perry South	lawyer for ICRR	A	A	A	A	N	N	N	
Wheaton, C.	Rep.#	Kane North	contractor; lawyer	Y	Y	Y	Y	Y	N	Y	
<b>TOTALS:</b>	4 Republicans		<b>TOTALS:</b>	<b>YEA</b>	3	3	5	4	4	2	4
	5 Democrats			<b>NAY</b>	2	2	0	1	2	4	2
				<b>A</b>	3	3	3	3	2	2	2

**PART V -- Voting Record -- Standing Committee on Internal Improvements**

	<b>Party</b>	<b>Section</b>	<b>Pertinent Data</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
Whiting, L. D.	Rep.#	Bureau Military Tract	chairman; politician; at 1865 Bloomington Convention	Y	Y	Y	Y	A	Y	Y
Bayne, J. G.	Rep.	Woodford Central	farmer; at 1870 Bloom- ington Convention	Y	Y	Y	Y	Y	Y	Y
Brown, G. W.	Dem.#	Massac South	opposed to entire con- vention purpose	A	A	A	A	A	A	A
Fox, J. C.	Dem.#	Schuyler Military Tract		S	S	Y	Y	A	N	Y
Goodell, A.	Rep.#	Iroquois Central		Y	Y	Y	Y	Y	Y	Y
Forman, F.	Dem.	Fayette Military Tract	lawyer; elected to replace B. W. Henry (resigned, March 3, 1870)	Y	Y	Y	Y	S	S	Y
Sherrell, H.	Rep.#	Kendall North		Y	Y	Y	Y	Y	Y	Y
Sutherland, R.B.	Rep.#	Douglas Central		Y	Y	Y	S	Y	Y	Y
Wright, O. H.	Dem.#	Mason Central	lawyer; merchant	Y	Y	S	N	A	Y	Y

TOTALS: 5 Republicans  
4 Democrats

TOTALS: YEA 6 6 6 5 4 6 7  
NAY 0 0 0 1 0 1 0  
A 2 2 2 2 4 1 1

**PART VI -- Voting Record -- Cook County Delegation**

	Party	Pertinent Data	1	2	3	4	5	6	7	
Anthony, E.	Rep/Ind	split with railroads on consolidation of Chicago & Galena with NWRR	S	S	Y	Y	Y	Y	Y	
Cameron, D.	Dem.	publisher of Chicago Times; dairy farm interests	N	Y	Y	Y	Y	Y	Y	
Coolbaugh, W. F.	Ind.	treasurer of Chicago, Rock Island & Pacific Western RR; director of Chicago Board of Trade	S	Y	Y	Y	Y	Y	S	
Haines, J. C.	Rep.	merchant; interest in Chicago Western Division RR	Y	Y	Y	Y	Y	Y	Y	
Hayes, S. S.	Dem.	lawyer	N	N	Y	Y	N	N	Y	
Medill, J.	Rep/Ind	connected with Chicago Tribune	Y	Y	A	Y	Y	Y	Y	
Hitchcock, C.	Rep/Ind	lawyer	NOT VOTING			-	-	-		
TOTALS:			YEA	2	4	5	6	5	5	5
			NAY	2	1	0	0	1	1	0
			A	2	1	1	0	0	0	1

The entire Cook County delegation voted with the Democrats for Mr. Hitchcock with the exception of Mr. Haines, who voted for Medill. Mr. Hitchcock's vote for Medill has been discounted.

PART VII -- Data Regarding Men Consistently Voting Against Railroad Restrictions

	Party	Section	Pertinent Data	1	2	3	4	5	6	7
Browning, O. H.	Rep/ Dem.*	Adams Mili- tary Tract	lawyer for C B & Q RR	N	N	N	N	N	N	N
Buxton, H. P.	Ind.	Clinton South	lawyer for Ohio & Mississippi RR	Y	Y	Y	N	N	S	S
Eldridge, G. S.	Rep.#	LaSalle North	lawyer for Chicago & Rock Island RR in 1872; involved in river improvements	N	N	Y	Y	Y	N	N
Hay, M.	Rep.	Sangamon Central-So.	Palmer's law partner; son-in-law of Sen. Logan	N	N	Y	N	N	N	N
Hayes, S. S.	Dem.	Cook North	at 1848 convention; lawyer; ran for U.S. Senate in 1871	N	N	Y	Y	N	N	Y
McDowell, C. E.	Dem.	White South	lawyer	N	N	Y	Y	S	Y	Y
Moore, C. H.	Dem.	DeWitt Central	financier, realtor, banker, lawyer; on Board of Directors of Gilman, Clinton & Springfield RR (under construction at time of convention)	N	N	N	N	N	N	N
Parks, S. C.	Rep.#	Logan Central	lawyer; judge	N	Y	Y	Y	N	Y	N

## PART VII, continued

	Party	Section	Pertinent Data	1	2	3	4	5	6	7
Sharp, J. M.	Dem.	White South	member of state legislature, 1862-64 7 1866-68	N	N	N	N	N	N	N
Skinner, O. C.	Dem.	Adams Military Tract	president of Carthage & Quincy RR	A	A	A	A	N	N	N
Truesdale, C.	Rep.	Rock Island Military Tract	Physican; mayor of Rock Island	N	Y	N	N	N	N	N
Turner, T. J.	Rep/ Dem*	Stephenson North	lawyer; member of Chicago Board of Trade	N	N	S	S	S	N	N
Underwood, W. H.	Rep.	St. Clair South	at 1862 convention; lawyer	N	N	Y	S	Y	N	Y
Wall, G. W.	Dem.	Perry South	at 1862 convention; lawyer for I C RR	A	A	A	A	N	N	N
Wells, H. W.	Rep.	Peoria Military Tract	lawyer	N	N	N	S	A	A	A
Vandeventer, W. L.	Dem.	Brown Military Tract	lawyer; friend of Browning	Y	N	S	N	Y	N	N

**PART VII, continued**

**Votes As Cast by Counties Represented by Men Above**

**On Railroad Restrictive Section Submitted Separately for Popular Approval**

Delegate	Counties	For	Against	Delegate	Counties	For	Against
Browning	Adams	2,140	1,852	Moore	DeWitt	1022	237
Skinner					McLean	4304	115
Buxton	Clinton	804	230	Trussdale	Rock Island	1218	70
	Washington	585	43	Turner	Stephenson	1919	108
Eldridge	LaSalle	4,250	141	Underwood	St. Clair	2282	76
Livingston	Livingston	2,034	53	Wall	Perry	655	113
Hay	Sangamon	3,012	193		Monroe	547	9
Parks	Logan	1,165	178		Randolph	1067	502
Hayes	Cook	21,100	1,047	Wells	Peoria	2085	522
McDowell	White	468	201		Stark	633	41
Sharp	Edwards	206	27	Vandeventer	Brown	621	240
					Cass	486	358

See: Illinois Bluebook, 1899; pp. 183-4. D P C C, II; pp. 1894-5.

The conclusion which must be reached is that these men voted according to personal interest or conviction as their counties did not oppose the restrictions. Indeed, only Union and Pike counties voted against the section. W. J. Allen represented Alexander, Pulaski and Union counties; he was absent or abstained on all the votes. Wm. R. Archer and John Abbott represented Pike and Scott counties. Archer was absent on all the votes. Abbott voted against only issues one and two, favoring all the rest.



## APPENDIX II

### Exerpt of Pertinent Sections in the 1870 Illinois Constitution

The following articles and sections of the Illinois Constitution of 1870 dealt with railroad and warehouse restrictions.

Article XI.--Railroads. 9. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount or stock paid in, and by whom; the transfer of said stock; the amount of its assets and liabilities; and the name and place of residence of its offers. The directors of every railroad corporation shall, annually, make a report, under oath, to the auditor of public accounts, or to some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

10. The rolling-stock, and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

11. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place, except upon public notice given, of at least 60 days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated

by the laws of this State, shall be citizens and residents of this State.

12. Railways heretofore or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons, for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

13. No railroad corporation shall issue any stock or bonds, except for money, labor or property, actually received, and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving 60 days public notice, in such manner as may be provided by law.

14. The exercise of the power, and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

15. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws, by adequate penalties, to the extent, if necessary, for that purpose, of forfeiture of their property and franchises.

(Article XI dealt with corporation. Sections nine through fifteen referred to railroad corporations.)

Article XIII.--Warehouses. 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding thereof; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots, shall not be mixed with inferior or superior grades, without the consent of the owner or consignee thereof.

3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouses in regard to such property.

4. All the railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount to the owner or consignee thereof, at the place of destination.

5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator of public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal bank or coal yard may be reached by the cars on said railroad.

6. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general

assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

#### SECTIONS SEPARATELY SUBMITTED

**ILLINOIS CENTRAL RAILROAD.** No contract, obligation or liability whatever, of the Illinois Central Railroad Company, to pay any money into the State treasury, nor any lien of the State upon, or right to tax property of said company, in accordance with the provisions of the charter of said company, approved February tenth, in the year of our Lord one thousand eight hundred and fifty-one, shall ever be released, suspended, modified altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

**MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS**  
No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of, such corporation: Provided, however, that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

**CANAL.** The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State, at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals: Provided, that any surplus earnings of any canal may be appropriated for its enlargement or extension.

### APPENDIX III

**Abstract of the Vote Cast For and Against the Adoption  
of the New Constitution, and For and Against  
the Articles Submitted Therewith**

		Total
1. For the new Constitution. . . . .	134,227	169,670
Against the new Constitution. . . . .	35,443	
2. For the sections relating to Railroads in the article entitled "Corporations." . . .	144,750	168,275
Against the sections relating to Railroads in the article entitled "Corporations." .	23,525	
3. For the article entitled "Warehouses." . . .	143,533	166,235
Against the article entitled "Warehouses." .	22,702	
4. For the sections relating to the Illinois Central Railroad. . . . .	147,032	168,342
Against the section relating to the Illinois Central Railroad. . . . .	21,310	
5. For the section relating to Municipal Subscriptions to Railroads or Private Corporations. . . . .	134,144	168,205
Against the section relating to Municipal Subscriptions to Rail- roads or Private Corporations. . . . .	34,061	
6. For the section relating to the Canal. . .	142,540	169,557
Against the section relating to the Canal.	27,017	

A breakdown of the vote by counties may be found in Debates and Proceedings of the Constitutional Convention of the State of Illinois. (Springfield, 1870), pp. 1894-1895.

**APPROVAL SHEET**

The thesis submitted by Neil Ellsworth Lloyd has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

1/27/66

Date

Robert W. McClurg

Signature of Adviser