

## CHAPTER 4

# The Reign of the Commissioners: 1851-1864

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With the new state Constitution and the new Commissioners of Public Works, a certain amount of organization was, of course, necessary. After considerable parliamentary maneuvering, the legislature finally enacted a bill providing for an annual salary of \$200 for each commissioner, but, because it neglected to include funds for that purpose in the annual appropriation bill, the commissioners, in fact, remained unpaid until the following year.<sup>1</sup> Leave was given to the House Committee on Internal Improvements to report a bill providing the commissioners with an office and a clerk, but such a measure does not appear to have been introduced. It certainly was not passed. No office was in fact provided, and so the commissioners were required to meet in various hotels and private offices. The legislature did, however, provide a procedure for their taking the required oath of office.<sup>2</sup>

Despite its niggardly attitude in terms of an office and staff, the General Assembly had no hesitation in promptly adding new statutory duties for the commissioners. In 1852 the legislature amended the charter of the Cumberland Coal and Iron Company to permit it to construct or purchase railroads in Allegany County. In doing so the General Assembly provided that any dispute in regard to "locating, constructing or working its rail road or rail roads, or in respect to the charges for transportation thereon . . . shall be submitted to, and be decided by the Commissioners of Public Works." The act also reserved to the state and to the companies incorporated by it the power to connect into Cumberland's railroads "in such manner that, in the opinion of the Commissioners of Public Works of this state, no injury will be done by such connections."<sup>3</sup>

What makes this act particularly interesting is that the state was neither a stockholder nor a creditor of the company. In the preamble, the legislature simply recognized the value of its operations to the internal improvements of the state, and that alone seemed to form the basis of its broad delegation of arbitral authority to the commissioners. In that limited context, at least, this represented a rather more expansive view of their function than had been apparent in the Constitutional Convention.

The first commissioners were John S. Gittings (First District), Charles R. Stewart (Second District), William P. Ponder (Third District), and John R. Franklin (Fourth District). They first met on 8 December 1851 in Gittings's office, where they took the

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1. The salary was established by Acts of 1852, ch. 122. See also Acts of 1853, ch. 139, appropriating the salary for the current and the prior year.

2. *H. Jour.* (1852), p. 153; Acts of 1852, ch. 172, sec. 3.

3. Acts of 1852, ch. 93, secs. 8, 5.