

lier—that the legislature was simply not competent to exercise, or authorize, direct control over the internal improvement companies. Recognizing the importance of their power to appoint directors, however, the commissioners promised “to prevent, as far as possible, said appointments from bearing the impress of political nominations; they are clearly alive to the mischiefs which would result from throwing the public works of the State as prizes into the arena of politics.”³⁸

The only affirmative action asked of the General Assembly, which was most general in nature, was to “relieve the public works of the State from all burdens or charges, which are not directly connected with the loans made to the companies of the credit of the State.” It was a total laissez-faire policy the commissioners sought: “Every fetter, every hindrance ought to be taken from them; within the limits of their separate powers, they ought to be left free to develop every resource that the energy of their creditors can discover.”³⁹ In summary, not only did the report fail to address in any specific manner the question of tolls, but it stated explicitly that the state’s role or influence in that area was, and ought to remain, extremely limited.

There appeared to be some dissatisfaction in the legislature with the way in which the board was operating, and a number of bills were considered in the 1860 session dealing with toll rates or the board itself, but none of them passed.⁴⁰ One curious measure did pass, however, that added modestly to the duties of the board.

It will be recalled that in 1835 the General Assembly had attempted to effect a political settlement of the dispute between the B & O and the C & O by throwing money at both of them. This involved subscriptions to a number of other companies as well, one of which was the Eastern Shore Railroad Company, to which the state subscribed \$1 million. That subscription was, however, conditioned on the company’s raising sufficient additional private capital to commence the railroad, failing which the state money was to be “applied to the exclusive purpose of Internal Improvements on the Eastern Shore,” subject to “disposition by any future Legislature.” To that end “the faith of the State [was thereby] pledged.”⁴¹

By 1856 it became clear that the conditions set for the subscription to the Eastern Shore Railroad Company would not be met. Of the \$1 million pledged, \$152,764.14 had been expended, but the balance of \$847,235.86 remained untouched. The delegates from the Eastern Shore, holding the state to its promise to expend the money on other internal improvements should the railroad plan fail, requested that the unexpended sum be equitably distributed to the Eastern Shore counties to be used for internal improvements. The legislature, armed with an opinion of John Johnson, a former chancellor of Maryland, that the 1835 contingent grant represented a form of moral obligation immune from the flat constitutional prohibition against appropriating funds for internal improvements,⁴² agreed, and thus enacted chapter 303 of the Acts of 1860. That act distributed the remaining funds among the eight Eastern Shore counties, specifying how the funds were to be used in each. In seven of the counties the legislature parceled the funds to specific railroads and a bridge company. Ten companies were so designated, and the act provided for the board to select a certain number of

38. *Ibid.*, pp. 3, 4.

39. *Ibid.*, p. 4.

40. The House of Delegates requested its Committee on Internal Improvements to submit the rates of various out-of-state railroads. That committee also received permission to introduce a bill defining the commissioners’ duties, but it does not appear that such a bill was ever introduced. The committee did, however, report favorably a bill to regulate meetings of the board, to punish the board for failure to meet, and to authorize counsel in certain instances, but once again it appears that no further action was taken on the bill. See *H. Jour.* (1860), pp. 267, 57, 277.

41. See chapter 2; Acts of 1835, ch. 395.

42. John Johnson, “Report of the Select Committee Appointed by the House of Delegates, on a Bill Entitled, A Supplement to the Act Entitled, An Act for the Promotion of Internal Improvements,” *Maryland House Documents, 1856* (n.p., n.d.), doc. J, pp. 1-8.