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**“THE PARENTS OF PROGRESSIVE IMPROVEMENT”: RAILROADS AND
PUBLIC POLICY IN KENTUCKY, 1829-1900.**

By

David Matthew Wilkins
B. A., Western Kentucky University, 2002

A Thesis
Submitted to the Faculty of the
Graduate School of the University of Louisville
In Partial Fulfillment of the Requirements
For the Degree of

Master of Arts

Department of History
University of Louisville
Louisville, Kentucky

May 2004

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A Thesis Approved on

April 9, 2004

by the following Thesis Committee:

Thesis Director

DEDICATION

This thesis is dedicated to my parents

Mr. Marshall D. Wilkins

and

Mrs. Phyliss C. Wilkins

who provided me with immense educational opportunities.

ACKNOWLEDGEMENTS

I would like to thank Dr. Thomas Mackey, my thesis advisor, for the advice and support he provided me over the past two years in the preparation of this thesis. The other committee members, Dr. Benjamin Harrison and Dr. Gary Gregg, also receive my special thanks for their suggestions for the preparation of the final draft of this thesis. In addition to serving on my committee, Dr. Gregg is his capacity as director of the McConnell Center for Political Leadership provided me with a graduate fellowship during the 2003-2004 academic year. The fellowship allowed me to earn an income, but also provided me with the time necessary to finish this thesis. Finally, I would like to thank Marshall and Phyliss Wilkins, my parents. They provided me with considerable support during the past two years.

ABSTRACT

“THE PARENTS OF PROGRESSIVE IMPROVEMENT”: RAILROADS AND PUBLIC POLICY IN KENTUCKY, 1829-1900.

David Matthew Wilkins

May 8, 2004

This thesis is a historical examination of the relationship between the railroad industry and state government in Kentucky during the nineteenth century. The thesis begins with an examination of the legal culture of the early nineteenth century and its relation to railroads. The thesis then shifts into an examination of the various political and social forces that led to regulation of railroads by 1900.

The thesis is divided into five chapters. Chapter One covers the historiographical issues surrounding American railroad history, and introduces the reader to the topic. Chapter Two discusses early interactions between railroads and public policy in Kentucky, from 1829 to 1859. Chapter Three covers Louisville’s fight against Cincinnati for southern trade supremacy in the years following the Civil War. Chapter Four explores the growing anti-railroad sentiment in Kentucky politics. Chapter Five concludes the thesis with a discussion of the interaction between railroads and public policy in the years following 1900.

TABLE OF CONTENTS

	PAGE
ACKNOWLEDGEMENTS.....	iv
ABSTRACT.....	v
PREFACE.....	1
CHAPTER	
I: “PERNICIOUS PARTICIPATION”.....	5
II: “THE ONWARD SPIRIT OF THE AGE”.....	26
III: TALES OF THE NEW DEPARTURE.....	51
IV: THE OCTUPUS AND THE KENTON KING.....	79
V: MILTON H. SMITH’S LAST STAND.....	107
REFERENCES.....	117
CURRICULUM VITAE.....	133

PREFACE

Writing in 1829, Chief Justice of the Kentucky Court of Appeals George Robertson touted railroads as, “The parents of progressive improvement.” Writing the majority opinion in the case of *Lexington and Ohio Rail Road v. Applegate and Others*, Robertson upheld the right of the railroad to operate trains down the middle of Main Street in Louisville, Kentucky. Railroads, more than any other form of nineteenth century transportation, changed the way Americans lived, traveled, and conducted business. Railroads also altered the way in which many people viewed the relationship between business and government.

In Kentucky the promotion of railroads at first enjoyed wide, popular support as well as resulted in great celebration. The Kentucky legislature chartered the new technology of railroads and granted the new companies special privileges and monopoly powers. Local governments used public monies to purchase stock and provide other financial and legislative support. Railroads for many people meant a new and promising future for Kentucky.

In the years following 1865, popular and political perceptions of railroads changed. The general public grew concerned about the role of government in relation to big business. After the Civil War, most Kentucky railroads fell into the control of out of state investors. The immense political power of the L & N and other railroads in Kentucky created a sense of concern among farmers, politicians, and businessmen. For

the growing political agrarians and the dominant wing of the Democratic Party in Kentucky, railroads were something to fear and regulate.

By the 1880s, railroad regulation replaced railroad promotion in public policy. On a state and federal level, railroad commissions, rate regulation, and labor issues became the political “hot button” issues of the day. Kentucky railroads countered attempts at regulation by flexing their political muscle. Continual political lobbying by railroads such as the L & N met with increased popular and political opposition to the industry. These groups called for greater regulation which in turn, resulted in greater lobbying by the railroads. The cycle continued until the 1900 governor’s race ended in tragedy. While railroads were the parents of a progressive improvement in Kentucky, progressive improvement after the 1880s focused on regulation instead of promotion.

The following thesis chronicles the transformation from promotion to regulation of railroads in Kentucky from 1829 to 1900. In order to tackle such a large subject a chronological approach with each chapter focusing on an important theme in the overall picture is presented. Chapter One covers the historiography of American railroad history and served as an introduction to the issue of railroads and public policy.

Chapter Two chronicles the early court and legislative promotion of railroad projects in Kentucky from 1829 to 1850. An examination of the corporate charters of the Lexington and Ohio Rail Road and the Louisville and Nashville Railroads demonstrates the initial interaction between railroads and public policy. In addition to examining the charters of both railroads, other legal issues such as the important nuisance case of *Lexington and Ohio Rail Road v. Applegate and Others* receive attention.

Chapter Three shifts the focus to Louisville in the years following the Civil War. The chapter illustrates the important relationship between the L & N and the city of Louisville during those formative years. In addition, the chapter deals with some of the important political developments in Kentucky from 1865 to 1872. The city-railroad relationship and statewide political developments collided over the issue of southern identity, trade supremacy, and conflicting visions of the future of the South.

Chapter Four examines the development of the L & N into an interstate railroad in the 1870s and 1880s. Crucial to the transformation is the transfer of ownership of the railroad from Louisville-based interests to foreign investors and financiers from New York City. The rise of political agrarianism occurred in this era. The protracted battle over state regulation of the industry continued until the 1899 election for governor.

Chapter Five serves as the conclusion to the thesis. Summarizing the main points, the chapter also highlighted the political behavior of the L & N in Alabama and Tennessee after 1900 in order to demonstrate that the L & N's actions in Kentucky were not an anomaly. The issue of L & N involvement in the political process sparked a United States Senate investigation and a Supreme Court case in 1917. Both marked the close of an era in the political history of the L & N.

The tendency for modern Americans to dislike big business and multi-state corporations traces its heritage to the formative years of the American railroad industry. No single party, the politicians, the railroad, or the public deserved singular blame for creating this popular image. Instead, as Kentucky's and America's first big business, railroads set a pattern for public policy in relation to business. It is from comprehending

these reactions that a better understanding of the history of the railroad-government relationship in the United States during the nineteenth century can be discovered.

CHAPTER ONE
“PERNICIOUS PARTICIPATION”: THE TRANSPORTATION REVOLUTION,
RAILROADS, AND PUBLIC POLICY IN KENTUCKY.

In 1939, Louisville historian Urey Woodson wrote of the political involvement of the Louisville and Nashville Railroad at its zenith, the 1899 gubernatorial election:

[Milton] Smith thought the Louisville and Nashville Railroad’s local attorneys would furnish money to candidates for seats in the General Assembly, sometimes impartially, but secretly, dividing this money between two men running from the same place. Thus he felt he couldn’t loose. He took part in the election of judges as well as governors and other state offices, but always secretly until Goebel, who had long resented the Louisville and Nashville Railroad’s pernicious participation in elections, became a candidate for Governor, and then Smith came out in the open to fight with all the ferocity of his nature the election of this man as the most dangerous enemy of his company, and backed by [August] Belmont and his board of directors in New York, he plunged into the campaign with such a lavish use of money as was never witnessed before or since in Kentucky.¹

The bitter fight of the 1899 election of Kentucky’s governor capped off nearly a half century of political involvement in Kentucky by the Louisville and Nashville Railroad. Throughout its existence, the Louisville and Nashville Railroad became a formidable political force in Kentucky and throughout the South. When the company fell into control of New York Stockholders in 1881, the L & N achieved a new level of political and financial clout. The election in 1899, however, brought an end to active and public political involvement of the railroad.² In the attempt to defeat Goebel, the L & N may have gone too far and played its hand out. Either way, the railroad never wielded the

¹ Urey Woodson, *The First New Dealer: William Goebel, His Origin, Ambitions, Achievements, His Assassination, Loss to the State and Nation, The Story of a Great Crime* (Louisville, KY.: Standard Printing Company, 1939), 179.

² Maury Klein, *The History of the Louisville and Nashville Railroad* (New York: Macmillan, 1972), 392.

same political power it had before the election. Much of the political fighting that occurred in Kentucky as a result of railroad regulation and growth was a direct outgrowth of the political environment that citizens of Kentucky found themselves in following the Civil War.

In 1861, Kentucky lay in between two warring sections of the country. The war brought Union occupation and attempted secession by some counties in the far western corner of the state. April 1865 may have brought the end of the war; however, the war's remnants lasted for many decades. Central to the political battles in Kentucky following the Civil War was a business institution that legislators, citizens, and others once greeted with enthusiasm, but later perceived as an oppressive business monopoly.³ By 1865 the railroad had existed in Kentucky for less than thirty years.⁴ The largest railroad in the state, the Louisville and Nashville Railroad received its charter from the Kentucky General Assembly on March 5, 1850 to construct a line between the two cities.⁵ After years of delay, the railroad operated its first regularly scheduled trains between Louisville and Nashville on October 31, 1859.⁶ From the start, the railroad became a prosperous commercial artery, connecting Louisville with the South. The L & N, unlike other southern railroads, prospered throughout the war and escaped serious damage.⁷ Emerging from the war unscathed, the L & N proceeded on a strategy of dominating both southern commerce and the regional transpiration industry. Part of the post-war business strategy centered on direct involvement in the political process. The involvement by

³ Ibid., 386.

⁴ Leonard P. Curry, *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872* (Lexington: University of Kentucky Press, 1969), 12-14.

⁵ Klein, 6-9.

⁶ Curry, 18.

⁷ John F. Stover, *The Railroads of the South, 1865-1900: A Study in Finance and Control* (Chapel Hill: University of North Carolina Press, 1955), 210-212.

railroads, such as the L & N, in Kentucky politics became a major issue during the period. By the early 1870s it became clear to company shareholders that the L & N was in a constant battle for the protection of its corporate interests. Kentucky railroads, specifically the L & N found itself in the unenviable position of being somewhat disliked by all sides of the political spectrum. The resulting political, legal, and business disputes of the era created a negative public image for the railroad, an image that never vanished from the public view. In addition, the L & N's involvement in politics allowed an anti-big business attitude to ferment in Kentucky, an attitude that permeated state politics for decades after the initial political battles.

Kentucky was not alone in its struggle to reconcile the often conflicting goals of business promotion and the protection of the public interest. Throughout the United States, the railroad brought change and progress at a rapid rate. The availability of fast, relatively inexpensive transportation changed the market for crops and livestock, and how businesses manufactured and sold goods. The railroad industry itself became the country's first big business. The immense physical complexities of constructing, maintaining, and operating even the most minor railroad route required advances in labor, technology, the law, politics, banking and finance.⁸ While generally accepted as a positive aspect of progress, railroads soon became perceived by the public as a problem. The eras of Reconstruction, the Gilded Age, and the Progressive Era often centered on the companies and personalities associated with the railroad industry. Jay Gould, Cornelius Vanderbilt, Edward Harriman, Austin Corbin, Leland Stanford, James J. Hill, William Marsh Rice, Collis P. Huntington, Henry Flagler, August Belmont were names

⁸ Stephen Salsbury, *The State, the Investor, and the Railroad: The Boston and Albany, 1825-1867* (Cambridge, MA.: Harvard University Press, 1967), 6.

the public soon associated with lavish expenditures and destruction of the public trust.⁹

While Milton H. Smith, president of the L & N, was not a “robber baron” in the traditional sense, he did attract much of the same criticism as other railroad presidents and owners of the era.¹⁰ National trends in railroad law and railroads’ political involvement remain an important aspect of late nineteenth and early twentieth century American history and continue to receive attention by scholars. On a smaller scale, the history of railroad’s political involvement on the state level needs to be revisited in order to gain a more complete picture of the industry.

The first major set of works dealt with the impact of railroads in national terms. In the field of transportation history, two works dating from the mid-1950s continue to influence the field of transportation and economic history. George Rogers Taylor, in his classic 1951 book, *The Transportation Revolution, 1815-1860*, charted the rapid growth in transportation systems that developed in the rapidly expanding republic.¹¹ Taylor fashioned his explanation for the rise of railroads into evolutionary terms.¹² Turnpikes, plank roads, canals, and inland river boats all played an evolutionary role in the development of the transportation wonder of the nineteenth century, the railroad. As

⁹ August Belmont, famous for Belmont Park, the Belmont Hotel, was also a noted railroad financier. He became the person who financially backed the L & N after the City of Louisville sold most of its stock in the 1880s. Belmont also attained importance for being the American representative of the Rothschild bank, and as the main backer of the Interborough Rapid Transportation Company, the first New York Subway in 1904. Belmont owned the world’s first and only private subway car, which according to legend could take Belmont directly from the basement of the Belmont hotel to a special platform at Belmont Park racecourse on the Long Island Railroad.

¹⁰ The long shadow of the legend of the robber barons still permeates railroad history literature. William Z. Ripley, *Railroads: Finance and Organization* (New York: Longmans, 1915). Ripley, the Ropes Professor of economics at Harvard remained the authority on railroad business practice until George Keenan, an amateur historian found Ropes’ work on the subject to be woefully inadequate. Matthew Josephson, *The Robber Barons: The Great American Capitalists, 1861-1901* (New York: Harcourt Brace, 1934), still influences the historiography of American railroads.

¹¹ George Rogers Taylor, *The Transportation Revolution, 1815-1860* (New York: Rinehart, 1951).

¹² With the exception of riverboats and turnpikes, Kentucky missed the evolutionary step of canals. The topography and immense capital investment required limited Kentucky to just one canal, the Louisville and Portland Canal designed to allow transshipment of freight and passengers over the falls of the Ohio River.

important as Taylor's book was, it contained some problems. The main criticism of *The Transportation Revolution* centered on Taylor's teleological approach to transportation history, portraying the process as a natural one, with little resistance from rival technologies. To correct this problem and refine his thesis, Taylor, along with Irene D. Neu, coauthored a book five years later, *The American Railroad Network, 1861-1890* (1956).¹³ In this book, Taylor and Neu admitted that early railroad maps of the United States left an inaccurate impression. Gauge differences prevented the creation of a true American railroad network, a problem that gave much difficulty to the Confederacy during the Civil War.¹⁴ Taylor demonstrated how market forces and cooperation helped the railroad industry to standardize railroad gauge and safety devices by the late 1880s so that a car of freight would not have to break bulk in a journey from Boston to San Francisco.¹⁵ Overall, Taylor presented a coherent picture of the technological problems American railroads faced in the period after the Civil War.

Another historian who tackled the many technological problems of the American railroad, John H. White, originally began his work in preparation for an exhibit at the Smithsonian. White, originally commissioned by the Smithsonian to work on a history of American railroad technology, spent nearly thirty years combing archives. What resulted were three important additions to the field of railroad history. White's first book, *American Locomotives: An Engineering History* (1968), moved beyond typical buff-

¹³ George Rogers Taylor, and Irene D. Neu, *The American Railroad Network, 1861-1890* (Cambridge, MA.: Harvard University Press, 1956).

¹⁴ For a general history of Civil War railroading see Robert Black, *The Railroads of the Confederacy* (Chapel Hill: University of North Carolina Press, 1952). A newer study of how railroads helped and hindered armies in battle, see Roger Pickenpaugh, *Rescue by Rail: Troop Transfer and the Civil War in the West, 1863* (Lincoln: University of Nebraska Press, 1998).

¹⁵ Breaking bulk often referred to the moving and unpacking of freight on its journey. Before the 1880s, many railroads did not interchange. For example, trains traveling through Pittsburgh had to be unloaded, transported across the city on wagons, and reloaded onto other freight cars. Places where gauge changed, such as Louisville also required the inefficient transfer of freight.

based books on the subject and into a more scholarly setting.¹⁶ Using a variety of historical methods, White uncovered important insights on manufacturing techniques and other information that shed light on the state of railroad technology throughout the nineteenth century.

His two follow-up books, titled *The American Railroad Passenger Car* (1978) and *The American Railroad Freight Car* (1981) further tackled the development of technology in nineteenth-century America.¹⁷ Railroading for both passengers and employees became a dangerous activity in the nineteenth century. White charted the development of safer all-steel passenger cars, and the invention of safety devices such as the automatic coupler and air brakes.

In addition to works on transportation and economic history, general American railroad history need be examined. Noted railroad historian Maury Klein once lamented at the lack of a good, scholarly, general history of American railroads. The best book in the field, John Stover's *American Railroads*, first was published in 1961.¹⁸ Perhaps because of the difficulty in condensing the topic of American railroad history into a manageable size, few authors have attempted to better the work of Stover. Albro Martin in his book, *Railroads Triumphant* (1992), demonstrated the difficulty in separating his genuine love for the railroad from his attempt at a scholarly account of the rise and fall of America's first powerful industry.¹⁹ Since the works of Stover and Martin, several specialized studies of the American railroad have been published. One of the most

¹⁶ John H. White, *American Locomotives: An Engineering History* (Baltimore, MD.: Johns Hopkins University Press, 1968).

¹⁷ John H. White, *The American Railroad Passenger Car* (Baltimore, MD.: Johns Hopkins University Press, 1978) and John H. White, *The American Railroad Freight Car: From the Wood Car Era to the Coming of Steel* (Baltimore, MD.: Johns Hopkins University Press, 1981).

¹⁸ John F. Stover, *American Railroads* (Chicago: University of Chicago Press, 1961).

¹⁹ Albro Martin, *Railroads Triumphant: The Growth, Rejection, and Rebirth of a Vital American Force* (New York: Oxford University Press, 1992).

important of these new works, Sarah Gordon's book, *Passage to Union: How the Railroads Transformed American Life, 1829-1929* (1996), examined the impact of the railroad in the United States. Gordon focused on the cultural, social, and legal issues that resulted from railroad expansion.²⁰ Gordon further exhibited the large impact railroad exerted on America.

Historian Walter Licht explained the role that railroad labor played in American life with his book titled, *Working for the Railroad: The Organization of Work in the Nineteenth Century* (1983).²¹ Licht chose to focus his study on the first two generations of American railroad workers in the period from 1830 to 1877. Until Licht's book, most scholars began any study of American railway labor with the Great Strike of 1877. Licht, however, decided to examine the development of work in the railroad industry. The development of such a large industry with many skilled jobs required some sort of organization. Licht analyzed the development of the railway crafts during this period in relation to other American fields.²²

American railroads also transformed the economic landscape of the country. The first author to examine the impact of the railroad industry on American economic life was Alfred DuPont Chandler. Chandler, a noted economic historian, first began to compile his thesis of the managerial revolution in his book, *Railroads: The Nation's First Big Business* (1969).²³ This book was a compilation of primary sources that provided the genesis of Chandler's thought into the development of middle management in American

²⁰ Sarah Gordon, *Passage to Union: How the Railroads Transformed American Life, 1829-1929* (Chicago: Ivan R. Dee, 1996).

²¹ Walter Licht, *Working for the Railroad: The Organization of Work in the Nineteenth Century* (Princeton, NJ.: Princeton University Press, 1983)

²² For a study of how the Louisville and Nashville Railroad developed its shop forces into an efficient organization, see John H. White, "Thatcher Perkins: Master of Machinery," *Railroad History* 13 (1992): 10-14.

²³ Alfred DuPont Chandler, *The Railroads: The Nation's First Big Business* (New York: Arno Press, 1969).

business. Chandler's most famous and important work was his book titled, *The Visible Hand: The Managerial Revolution in American Business* (1977).²⁴ While the book focused on other industries, Chandler credited the railroad industry with introducing the need for an organized business structure in America. Before the coming of railroads, business remained small with the owners conducting most of the management. The complexity brought on by the sheer size of railroads forced American businesses to rethink their strategies. Railroads needed organized, efficient operation, to avoid a breakdown in communication or organizational structure.

American business and economic development often resulted because of the help of state courts and state legislatures. An example of how the role of government transformed from being the promoter to the regulator of industry, two books by James Willard Hurst, stand as important works in business and legal history. Hurst's first book, *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915* (1964), chronicled how the lumber industry was originally the target of promotion by state courts and legislatures.²⁵ Wisconsin, as one of the birthplaces of progressivism, slowly engaged in a series of legislative measures which regulated the lumber industry. The main point of Hurst's work was that the relationship between business and government changed significantly throughout the nineteenth century. Hurst's other work on the subject, *Law and Markets in United States History: Different Modes of Bargaining Among Interests* (1982) expanded on his earlier thesis to include the

²⁴ Alfred DuPont Chandler, *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, MA.: Belknap Press, 1977). Chandler's work on the managerial revolution still attracts reaction by scholars. For a recent argument against the managerial revolution, see Naomi R. Lamoreaux, Daniel M. G. Raff, and Peter Temin, "Beyond Markets and Hierarchies: Toward a New Synthesis of American Business History," *American Historical Review* 108 (April 2003): 404-433.

²⁵ James Willard Hurst, *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915* (Cambridge, MA.: Belknap Press, 1964).

entire country.²⁶ While not specific to railroads, Hurst's work highlighted the intricacies of business-governmental relationships.

While none of the above works focused specifically on the Louisville and Nashville Railroad or railroad development in Kentucky, an understanding of the national trends is necessary in order to place the railroad-political conflict into perspective. Another area of important literature necessary to understanding railroad development centered on the legal development of railroads. The most significant recent work dealing with the impact of railroads on American legal history came from noted legal historian James Ely. His book, *Railroads and American Law* (2001), focused on the development of legal doctrine as a result of the introduction of the railroad into American life.²⁷ Ely focused the book on the nineteenth century, when a majority of legal development pertaining to railroads occurred. The main thesis of Ely's book centered on how legislative and legal doctrines often were inadequate to meet the demands of a changing economy. Railroads, Ely stated, suffered from the beginning because of an inadequate legal framework that kept in mind the demands of the industry. Compounded by a misunderstanding of the industry's intentions, the situation created an unfavorable political and legal climate for the industry by the end of the nineteenth century. Ely's work was important because it moved beyond the "Robber Baron" image of the American railroad industry in the late nineteenth century to a more complicated and less general concept of why the railroad industry ultimately failed to gain public, political, and legal support at a crucial time in its development.

²⁶ James Willard Hurst, *Law and Markets in United States History: Different Modes of Bargaining Among Interests* (Madison: University of Wisconsin Press, 1982).

²⁷ James Ely, *Railroads and American Law* (Lawrence: University of Kansas Press, 2001).

Of the three major recent works on railroad law, *Railroads and American Law* remains the most important to the fields of railroad and legal history. Ely's work served as a vehicle to rethink the field of railroad legal history. From an evaluation of the breadth and width of the field of railroad legal history, Ely pointed out problems of interpretation and coverage of issues. In parts of the work, Ely challenged traditional notions of railroad history from what Ely perceived as the myth of the robber barons.

A different and more regionalized approach to railroad legal history was the method that William G. Thomas used in his book, *Lawyering for the Railroad: Business, Law, and Power in the New South* (1999).²⁸ Thomas demonstrated the expansive influence of the railroad industry in the post Civil War South. The railroad legal structure trickled down to local attorneys in small towns who worked for railroad companies on retainer.²⁹ The growth in complexity of the railroad industry required the rethinking of the local strategy and the organization of professional, in-house legal departments. More than just a history of railroad law, Thomas used the growth of railroads to explain the growth of the legal industry in the South. The problem with Thomas' work was that it focused on too many side issues to present an effective thesis. Still important for the primary source research, *Lawyering for the Railroad*, remains important to the scholarship of railroad law in the nineteenth century.

Another book that examined the railroad in a legal perspective, Barbara Welke's *Recasting American Liberty: Race, Gender, Law, and the Railroad Revolution* (2001), focused on the societal and cultural issues that surrounded the introduction of rail travel

²⁸William G. Thomas, *Lawyering for the Railroad: Business, Law, and Power in the New South* (Baton Rouge: Louisiana State University Press, 1999).

²⁹ Ibid., 47-50.

in the United States.³⁰ Welke used railroads as a way to demonstrate her thesis of technology driving social and cultural change. While the author did not focus on legal issues such as contracts, property, and other areas normally associated with railroad law, Welke examined the broader social impact of improved transportation and what it meant for America in the long term. The railroad, in Welke's thesis, redefined liberty as an individual right for Americans, a right still in practice today.

Ely, Thomas, and Welke all pointed out that any study of railroad law meant more than charting change in legal doctrine or court cases. Equally important in the legal process for the railroads was participation in the political process. For railroads and other industries of the era, political process and the legal process were one and the same issue. In order to protect their business interests, railroads resorted to lobbying and campaigning on issues and for candidates that benefited the railroad industry as a whole. Much of the image of corruption and exhortation by railroads could be viewed in the light of an industry protecting its property and business interests through political means.

Railroad legal history aside, the final issue that must be consulted in terms of national trends in the American railroad industry was railroad capitalization and development.³¹ One of the first regional studies of the subject came from John F. Stover in his book titled, *Railroads of the South, 1865-1900: A Study in Finance and Control* (1955).³² While considered old by contemporary standards, Stover argued that the end of the Civil War brought an important financial change to Southern railroads. Before the

³⁰ Barbara Y. Welke, *Recasting American Liberty: Race, Gender, Law, and the Railroad Revolution* (New York: Oxford University Press, 2001).

³¹ For a study of European railroad capitalization see Sybil Jack and Adrian Jack, "Nineteenth-Century Lawyers and Railway Capitalism," *The Journal of Legal History* 24 (April 2003): 59-85.

³² John F. Stover, *Railroads of the South 1865-1900: A Study in Finance and Control* (Chapel Hill: University of North Carolina Press, 1955).

war, local interests funded Southern railroad construction. Unlike the North, the South tended to use direct state and local financial aid, even outright government ownership in order to finance railroad construction.³³ The virtual destruction of the railroad network in the South following the Civil War ended any hopes of continued local control in terms of railroad ownership. The major sources of capital investment were in the North and in Europe. Reliance on these outside sources of income caused some political friction in the South but was necessary in order to help rebuild the Southern economy. Stover finished his study by demonstrating that even outside and foreign ownership still allowed for local control in the form of management to preside over railroads of the South.³⁴ While not the same as the Antebellum years, the attraction of outside capital helped restore and expand the Southern railroad network.

Another important contemporary work that dealt with the issue of railway capitalization *European, Capital, British Iron, and American Dreams: The Story of the Atlantic and Great Western Railroad* (2002) by William Reynolds.³⁵ Originally written in the late nineteenth century but only recently rediscovered, Reynolds' work explained the sometimes difficult relationships between railroad investors and those who operated and built the lines. The book serves as an important document into the complexities of railroad finance and construction in the nineteenth century.

Moving into more specific literature, a good number of works exist that relate to the construction and operation of the Louisville and Nashville Railroad. The best of the

³³ The L & N remained an exception. Unlike other railroads in the South, no official, direct state aid was used to construct the line. Instead, the L & N relied on local aid in the form of stock and bond purchases. The city of Louisville controlled a large block of stock in the railroad until the 1880s.

³⁴ Even after purchase by the New York syndicate headed by August Belmont and Austin Corbin, Milton Smith and Basil Duke remained relatively free to operate the L & N as they saw fit.

³⁵ William Reynolds, *European Capital, British Iron, and American Dreams: The Story of the Atlantic and Great Western Railroad*, eds. Peter K. Gifford, and Robert D. Llisevich (Akron, OH.: University of Akron Press, 2002).

general histories of the railroad, *The History of the Louisville and Nashville Railroad* (1972) by Maury Klein, remains an important contribution to railroad historical scholarship. Klein, commissioned by Macmillan Publishing in the late 1960s, spent considerable time and effort researching the L & N's past relying official company records. Klein chose to focus the majority of the book on the nineteenth century, the period when the L & N experienced most of its initial and important development.³⁶ In addition, the nineteenth century was a time when the L & N was most active in Kentucky politics. Klein devoted an entire chapter to the L & N's role in state politics in Alabama and Kentucky. Not as well written or researched was Kincaid Herr's history of the L & N titled *The Louisville and Nashville Railroad, 1850-1963* (1963), focused on the positive aspects of the railroad's history.³⁷ Kerr, an employee of the L & N's public relations department and frequent contributor to the company magazine, authored his history of the L & N in the late 1930s and updated it to its 1963 final edition. While somewhat interesting, L & N sponsored the writing and publication of Herr's history and thus some of the negative aspects of the railroad's history received little or no attention by the author.

Of special interest to those interested in the history of the L & N, Edward Hines' 1905 book titled, *Corporate History of the Louisville and Nashville Railroad*, provided a different view of the early history of the railroad.³⁸ Literally a corporate history, the book covered the construction of the original railroad and the incorporation, merger or

³⁶ For a reissue of Klein's book on the L & N see Maury Klein, *History of the Louisville and Nashville Railroad* (Lexington: University Press of Kentucky, 2002).

³⁷ Kincaid A. Herr, *The Louisville and Nashville Railroad, 1850-1963* (Louisville, KY.: Louisville and Nashville Railroad Company, 1963).

³⁸ Edward Hines, *Corporate History of the Louisville and Nashville Railroad* (Louisville, KY.: Standard Printing Company, 1905).

acquisition of other subsidiary railroads throughout the company's first fifty years of operation.

One of the largest political battles the L & N entangled itself in was the fight against the chartering of the Cincinnati Southern Railroad. After the Civil War, Louisville held a monopoly on direct rail routes to the Deep South. The city of Cincinnati challenged this monopoly by trying to build a railroad to Chattanooga. Several good books focused on this important struggle for trade and business supremacy. The only book, however, that focused on the Louisville aspects of the Cincinnati Southern story was Leonard Curry's book, *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872* (1969). Curry used primary sources and presented the Louisville side of the fight. Louisville, through the L & N, protected its position as a leading trade center for the South by lobbying the Kentucky General Assembly.³⁹ The L & N's efforts paid off twice before Cincinnati won out. Curry did an excellent job of highlighting the political implications of Louisville's domination of the Southern market, especially how those implications led to an overall distrust and dislike of Louisville and the Louisville and Nashville Railroad.

The L & N's role in Kentucky politics took place in a time of great political transition in Kentucky. To understand the public policy reaction both for and against railroads in Kentucky, it is necessary to comprehend the political forces at work. James Klotter and Hambleton Tapp wrote of the era in their book, *Kentucky: Decades of*

³⁹ For the Cincinnati viewpoint of the battle for the Cincinnati Southern see Charles Gilbert Hall, *The Cincinnati Southern Railway: A History*, (Cincinnati, OH.: The McDonald Press, 1902); Edward A. Ferguson, *Founding of the Cincinnati Southern Railway: With an Autobiographical Sketch* (Cincinnati, OH.: The R. Clarke Co., 1905).

Discord, 1865-1900 (1977).⁴⁰ Klotter and Tapp relied on the standard historiographical version of Kentucky politics of the era. The Kentucky Democratic Party, coming out of the Civil War, split into two large factions. The first faction, the “New Democrats,” championed by newspaper editor Henry Watterson, wished to move the party beyond the shadow of the war, and into modern America. Furthermore, the “New Democrats” wanted to modernize Kentucky, to “out Yankee the Yankee.” On the other side, the traditional element of the Democratic Party, the “Bourbons,” or old Democrats wanted Kentucky to remain largely the same as it was before the Civil War. Whether a candidate served with the Confederacy remained a major issue with this faction of the party. As the latter half of the nineteenth century progressed, the fracture between the two competing factions increased.

A differing appraisal of Kentucky post-war politics appeared in an article authored by Thomas L. Connelly, “Neo-Confederates or Power Vacuum: Post War Kentucky Politics Appraised” that appeared in the *Register of the Kentucky Historical Society*.⁴¹ In the article, Connelly took to task the standard interpretation; arguing that until 1880, Neo-Confederates, who eventually surrendered to the “New Departure” or “New Democrats,” dominated Kentucky politics. Instead, Connelly argued that the political landscape of Kentucky after the Civil War resembled sectional power politics. A national party structure did not exist in Kentucky. Instead, financial and regional needs forged sectional political parties that controlled the state political structure.

⁴⁰ James C. Klotter and Hambleton Tapp, *Kentucky: Decades of Discord, 1865-1900* (Frankfort, KY.: Kentucky Historical Society, 1977).

⁴¹ Thomas L. Connelly, “Neo-Confederatism or Power Vacuum: Post War Kentucky Politics Reappraised,” *The Register of the Kentucky Historical Society* 64 (October 1966): 257-269.

William Goebel, the most prominent figure in post Civil War Kentucky politics, became entangled in railroad politics from his earliest days in the Kentucky General Assembly. Several authors have tackled the rise and sudden fall of William Goebel in the Kentucky political scene. Goebel, the most divisive politician in Kentucky in the nineteenth century represented the political split in the Democratic Party. Numerous works have been written about Goebel and his involvement in railroad politics, and his desire for state control of freight rates. Still, most of the historiography on Goebel portrayed the politician as something he was not. One of the most blatant efforts to posthumously elevate William Goebel was Urey Woodson's book, *The First New Dealer* (1939). Written in the 1930s, Woodson placed Goebel into the political sensibilities of the era. By calling him "The First New Dealer," Woodson ignored the specific political, cultural, and social environment that led William Goebel to declare his political war against the Louisville and Nashville Railroad. More of an endorsement of the Roosevelt Administration's programs of economic recovery, Woodson's book suffered from an inaccurate interpretation, designed more to lionize rather than depict Goebel. A better biography of Goebel, authored by noted Kentucky historian James Klotter, *William Goebel: The Politics of Wrath*, placed Goebel and his policies into a role where the Kentucky politician resembled Huey Long of Louisiana. While not a perfect interpretation, Klotter also stated that Goebel was a product of the tumultuous political troubles of the time. Goebel, a politician who united a divided, faltering Democratic Party, ended up causing further political strife in Kentucky because of his very actions.

The final major category of secondary literature transcends many of the categories above. Railroad freight regulation became a contested public policy issue of the latter

half of the nineteenth century. No other single issue garnered as much emotional feelings both for and against the railroad industry. Lee Dew authored a number of articles about localities fighting against what they perceived as discriminatory freight rates throughout the late nineteenth and early twentieth centuries.⁴² While enlightening in regard to the local politics of railroad freight regulation, his articles present one problem. Dew wrote them using the mode of the “robber baron” railroads stealing money from poor farmers. The method Dew used failed to examine the reasons behind high short haul freight costs for the railroad.

A review of the extensive secondary literature reveals that few historians viewed the railroad-political relationship in Kentucky as a singular subject for study. With the one exception of a single chapter in Klein’s history of the L & N, no other authors looked at railroad public policy in Kentucky in a larger context. The numerous works on the Cincinnati Southern battle and freight rates only highlighted single issues. In order to understand the full impact of railroads on business law and the political structure in Kentucky following the Civil War, a new approach is needed. William Thomas in *Lawyering for the Railroad*, demonstrated that such an approach worked because of the extensive primary sources available to a researcher.

In addition to the dearth of historical writing on the issue of Kentucky railroad politics of the era, the literature suffered another problem. Most Kentucky history, and by default Kentucky political, social, business, and economic history, followed the

⁴² Lee A. Dew, “The Tennessee Sugar Rate Cases,” *Tennessee Historical Quarterly* 41 (March 1982): 171-182; Lee A. Dew, “Owensboro’s Dream to Glory, A Railroad to Russellville,” *Filson Club History Quarterly* 52 (January 1978): 26-45; Lee A. Dew, “Henderson, Kentucky, and the Fight for Equitable Freight Rates,” *Register of the Kentucky Historical Society* 76 (January 1978): 34-44; Lee A. Dew, “The Owensboro Cattle Cases: A Study in Commerce Regulation,” *Filson Club History Quarterly* 49 (March 1975): 195-203.

tendency to ignore the national events of the period. In other words, many historians who wrote of events in Kentucky gave the perception that that the state lived in a political vacuum, impervious to national political, social, business, and economic trends. The result of the blinded approach has caused few historians to make the connections between Kentucky and contemporary national events. In an era that was marked by the Goebel assassination and the Hatfield-McCoy feud, Kentucky appeared as an anomaly in the national spotlight. This tendency to view Kentucky as somehow different from the rest of the country still permeated historical writing to the present era. In fact, the events surrounding a growing discomfort with the political and legal power of the Louisville and Nashville Railroad mirrored a rethinking of the industry nationwide. Throughout the last half of the nineteenth century, social crusaders, progressives, and others rallied against what they viewed as an unforgiving corporate monopoly whose goal was to enslave the farmers and merchants of America in exchange for a profit. Therefore, the current historiography of Kentucky railroad politics contains a gap.

The historiographical gap, of railroad political interaction in Kentucky, is significant. Historians tended to treat the issue as a side show of a much larger spectacle of political and social realignment after the Civil War. In order to examine the political involvement of the Louisville and Nashville Railroad, primary materials, written by those who participated in the events that shaped Kentucky's political, legal, and business environment must be consulted.

The first and most numerous examples of primary documents relevant to the topic are the multiple daily and weekly newspapers in Kentucky. Louisville, the Kentucky's largest city, served as the chief battleground for the issue of railroad political involvement

in Kentucky. Henry Watterson, the editor of *The Louisville Courier-Journal* made a considerable impact in Kentucky politics.⁴³ A champion of the Democratic Party, especially the “New Democrats” faction that tried to heal the political wounds of the Civil War, Watterson used his newspaper as a vehicle to support his political beliefs. For the historian, Watterson’s prose provided an excellent window into the period. However, one should note that Watterson’s *Courier-Journal* was highly partisan, and other sources are needed in order to bolster any factual conclusion that may yield from the newspaper.

Counterbalancing the views of *The Louisville Courier-Journal*, *The Louisville Commercial* newspaper, presented a pro-business viewpoint. Originally formed during the Civil War by Unionists, *The Louisville Commercial* attracted some attention. While not as prominent or as long-lasting as the Watterson newspaper, the paper provided insights into some of the pro-merchant, pro-business attitudes of the period. In addition to *The Louisville Commercial*, other minor newspapers throughout the state provide a good window into the political passions of the era.

William Thomas in his book titled, *Lawyering for the Railroad*, proved the value of railroad company records in historical research. The use of such records allowed Thomas to create an interesting history of the railroad legal profession in the South following the Civil War. One source of records that Thomas used were the Louisville and Nashville Railroad Company records. These records, housed at the University of Louisville, constitute one of the largest archival collections in the state. While Thomas was unable to find specific law department records, he used the plethora of executive correspondence and other material.

⁴³ For a biography of Henry Watterson, see Joseph Frazier Wall, *Henry Watterson: A Reconstructed Rebel* (Louisville, KY.: The Standard Printing Company, 1951); for Watterson’s autobiography see Henry Watterson, *Marse Henry: An Autobiography* (New York: Beekman, 1974)

In summary, scholarship of the railroad industry in the United States is experiencing a resurgence in scholarly interest. New approaches by historians such as Sarah Gordon and James Ely tied railroads to cultural, social, and legal history in order to illustrate how the industry effected broad impacts in American society. The continued interest in railroad will foster new, and better revisions to the classic theses of historians like Chandler, Taylor, and White. Still, one area that is largely ignored, even in this new era of railroad scholarship, centers on the relationship between railroads and public policy. Such a study, if ever conducted on a national scale, would provide important insight into the deep impact of the railroad on everyday political and social life in the United States. Until that work is written, historians must first concentrate on the railroad-political relationship on a smaller scale.

Because a historiographical gap exists in regard to Kentucky railroad public policy of the late nineteenth century, a new approach to railroad history is called for. The multitude of secondary material, including excellent monographs on the various aspects of railroad, economic, business, political, and Kentucky history, should not be ignored. In addition, the availability of good primary sources serves as a foundation for any interpretation of the topic. The underlying significance of any study of business politics in Kentucky following the Civil War is to gain a greater understanding of the political, legal, cultural, and social atmosphere of the time. Railroads provided the first opportunity for the wide scale opposition to big business in America. The railroad changed Kentucky. That change presented itself in ways other than better transportation. The introduction of a highly-organized, capital intensive business into the Commonwealth created many opportunities for change and advancement among those

who lived in the state. The railroad also brought conflict to the region. When the railroad conflicted with the priorities, values, and beliefs of Kentuckians, they took their disputes into the court rooms and to the General Assembly. The utilization of public policy to settle railroad conflicts in Kentucky eventually helped create an anti-business attitude among progressive reformers and traditional Democrats. The transformation of railroad public policy from promotion to regulation began with the appearance of the new form of transportation in Kentucky in 1829.

CHAPTER TWO

“THE ONWARD SPIRIT OF THE AGE”: EARLY RAILROADS AND PUBLIC POLICY IN KENTUCKY, 1829-1859.

On June 19, 1839, the Kentucky Court of Appeals settled an important legal question regarding railroads. The case, *Lexington and Ohio Rail Road Company v. Applegate and Others*, focused on whether railroads constituted a public nuisance. The case set a precedent for how courts and legislatures dealt with the new and evolving technology of railroads. Kentucky's and America's acceptance of the railroad as a new and efficient form of transportation technology evolved throughout the 1820s and 1830s. The *Applegate* case marked a transition in railroad law in both Kentucky and the United States. *Applegate* reflected the importance of judge-made law in the development of early big-business in America. Had the common law been upheld and viewed as inflexible by judges and legislatures, modern business and interstate commerce would not have developed in a fashion familiar to most Americans. In addition to *Applegate*, the charters of two early Kentucky railroads will be examined to demonstrate the significant changes that occurred in legal doctrine in relation to railroads. Railroads, as the first big business in the United States, forced an evolution of legal principles which effected the early promotion and financing of large scale transportation projects. On the eve of the Civil War, courts and legislatures took on a new role as the promoters of industry, rather than just the makers and interpreters of law.

In 182-1830 session, the Kentucky Legislature approved the charter for the Lexington and Ohio Rail Road Company, the L & O.¹ The legislature chartered the company with the task of constructing a railroad between Lexington and one or more points along the Ohio River.² Louisville, already a major river trading city by 1830, became the desired terminal for the new railroad. Originally conceived as a railroad to bypass Louisville and provide Lexington a direct access to New Orleans trade, it became apparent that constructing a line to Louisville made the most sense, as it allowed Lexington access to the already lucrative trade market.³ In a petition to the Kentucky legislature, the railroad's supporters stated:

We are. . . deeply impressed with this truth, the undersigned are anxious that Kentucky should commence a system of Rail Roads, the extension of which, when completed, will give the people of Kentucky all the advantages of such roads can afford.⁴

For Kentucky and most of the United States, the concept of a railroad running though the countryside at a speed faster than horses, carrying more passengers and freight than the average wagon, at first appeared threatening.⁵ Early railroad law and legal challenges to railroad construction and operation exhibited the widespread fear and misunderstanding of technology.⁶ Unlike canals or turnpikes where a single company owned the right of way and allowed individuals and small business partnerships to utilize

¹ There is no recent history of the Lexington and Ohio Rail Road, which was one of the first railroads in the United States. For the only academic writing concerning the history of the L & O see: Thomas D. Clark, "The Lexington and Ohio Railroad-A Pioneer Venture," *Register of the Kentucky Historical Society* 31 (January 1933): 9-28.

² Clark, "The Lexington and Ohio Railroad-A Pioneer Venture," 10.

³ *Ibid.*, 11.

⁴ "To the Honorable Senate and House of Representatives of the Commonwealth of Kentucky," January 15, 1830. James Guthrie Collection, Filson Historical Society.

⁵ James Ely, *Railroads and American Law* (Lawrence: University Press of Kansas, 2001), 200.

⁶ James Ely, "The Railroad Has Burst Through State Limits: Railroads and State Commerce, 1830-1920," *Arkansas Law Review and State Bar Journal* 55 (October 2003): 933-980.

the canal or road for transportation, railroads acted in a different fashion.⁷ Most railroads operated as private companies which not only owned the right of way but owned and ran the locomotives, which pulled cars of passengers and freight.⁸ Instead of constituting a private conveyance open to individual travelers to provide their own form of transportation, railroads controlled the right of way and the means of locomotion. Early litigation against railroads represented the public's fears of transportation monopolies that deprived the use of property, sought cheaper goods and labor from outside sources, and ran over women and children in the street.⁹ The building of canals and turnpikes brought to the forefront important legal rules and doctrines that courts and legislators applied to railroads.¹⁰

An examination of the legal world in which early Kentucky railroads existed must begin with a discussion of the chartering process. Most states in the early nineteenth century did not have general incorporation laws.¹¹ The supporters for a new turnpike, canal, or railroad lobbied the state legislature in order to gain a charter which granted the rights and responsibilities of the new company. In most cases, the charter also included specific language that dealt with the issue of funding or how the company was to raise capital to commence construction. A charter stipulated the general route the new railroad was to run. For example the Kentucky Legislature's 1829 charter for the Lexington and Ohio dictated that the railroad was built from Lexington to one or more points along the

⁷ Alfred DuPont Chandler, *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, MA.: Belknap Press, 1977) 284.

⁸ With few exceptions, notably in the South, railroads in America often received little to no direct government aid.

⁹ Ely, *Railroads and American Law*, 10-11.

¹⁰ *Ibid.*, 11.

¹¹ Kermit Hall, *The Magic Mirror: Law in American Society* (New York: Oxford University Press, 1989), 120.

Ohio River.¹² If the railroad desired to build any further, the legislature had to amend the original charter to reflect the change.¹³ When the L & O's directors desired to extend its line through Louisville to a point near or along the Falls of the Ohio, the railroad sought and received a charter amendment from the legislature.¹⁴

Common law did not allow general statutes concerning the incorporation of a company.¹⁵ Instead, any major company that issued stocks, bonds, or received local governmental support had to seek out a charter in the state legislature.¹⁶ The charter served as the act which incorporated the company and as an enabling document which guaranteed specific rights, privileges, and duties to the company. Before general incorporation laws came into effect in Kentucky, the state legislature spent a great deal of its time concerned with private legislation, such as issuing company charters and settling property disputes.¹⁷ Private legislation allowed landowners to construct dams on their property, incorporated railroad, canal, and turnpike companies, and dealt with property disputes.

Over one half of the 1829 charter of the L & O contained specific information on how the new company was to raise capital in the form of stock subscriptions. The charter allowed the railroad to issue ten thousand shares of stock at \$100 each, for a total capitalization of \$1,000,000.¹⁸ Furthermore, the charter prohibited the railroad from handing out stock as gifts to anyone. All stock had to be paid for at the time of

¹² An Act to incorporate the Lexington and Ohio Rail Road Company (January 27, 1830), *Laws of Kentucky*, Chapter 293, (1829).

¹³ Ibid.

¹⁴ *Lexington and Ohio Rail Road v. Applegate*, 39 KY. 289 (1839).

¹⁵ Hall, *The Magic Mirror*, 120-121.

¹⁶ Ely, *Railroads and American Law*, 19-21.

¹⁷ Hambleton Tapp and James C. Klotter, *Kentucky Decades of Discord, 1865-1900* (Frankfort: Kentucky Historical Society, 1977), 46.

¹⁸ An Act to incorporate the Lexington and Ohio Rail Road Company (January 27, 1830), *Laws of Kentucky*, Chapter 293.

subscription by the purchasing party. Cities, towns, the Commonwealth of Kentucky, and the federal government could purchase up to one fourth of the stock in the L & O if those parties wished.¹⁹

The charter further dictated how long the stock subscription booklets were to be left open, and the exact business hours the company allowed for stock purchases during the subscription. As soon as the L & O sold 3,000 shares of stock, the railroad began existence as a corporation subject to both the terms of its legislative charter, and the common laws of the Commonwealth of Kentucky. At the time of incorporation, the members of the board of directors assumed their duties. The first step, as stipulated by the charter was for the board to elect a president, hire civil engineers and other skilled laborers in order to begin construction. If the L & O needed to borrow money from a bank or individual, the state charter set forth more provisions in order to do so.²⁰

Even though the L&O received full corporate powers after the railroad sold three thousand shares of stock, the company could not operate until it completed fifteen miles of track. This provision most likely existed as a means to encourage the company's board of directors to continue construction of the railroad to its eventual destination along the Ohio River. Furthermore, the charter contained a clause that allowed any other railroad which received incorporation in the Commonwealth of Kentucky to connect with the Lexington and Ohio Rail Road as long as the new railroad did not pose "economic harm" to the L & O.²¹ Such a provision in the charter demonstrated an early nineteenth century view of business and competition. Reflecting the then state of legal doctrine on corporations, the directors and stockholders of the L & O, expected that charters provide

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid. The charter did not stipulate exactly what constituted "economic harm."

for a legally-sanctioned economic monopoly over trade and transportation in the area in which the companies ran. For example, Pennsylvania prohibited any railroad in the state from connecting to any other railroad which originated outside of the state.²² This provision in all of the early Pennsylvania railroad charters and statute prohibited interstate connection because of the general fear that a railroad from out of state would siphon off business and thereby ruin farmers, investors, and merchants. For example, prominent leaders in Erie, Pennsylvania feared that any railroad which ran through town and connected with another line which originated in Ohio could destroy any business, as goods and supplies could be easily transported from “foreign” locations.²³ The charter of the Lexington and Ohio did not contain such a strict prohibition. The provision which allowed connections of other railroads, however, served the same purpose. Any railroad which wished to connect with the L & O had to benefit both lines. The concept of competition being unfair and destructive emanated from the common law traditions that permeated the United States legal doctrine in the 1820s.²⁴ Once localism began to break down after the Civil War and commerce transformed into regional and national trade, the idea of competing, interconnected railroads that formed a nationwide network became the norm.²⁵ In the early years of the nineteenth century, though, companies like the Lexington and Ohio served just one purpose, to encourage trade between Ohio River steamboats and the inland city of Lexington. The issues of nuisance, trade protectionism, and the future of railroads in Kentucky all became entwined in major litigation.

²² Ely, “The Railroad Has Burst Through State Limits,” 935.

²³ Ibid., 935-936.

²⁴ Hall, *The Magic Mirror*, 40-41.

²⁵ George R. Taylor and Irene B. Neu, *The American Railroad Network, 1861-1890* (Cambridge, MA.: Harvard University Press, 1956), 29.

By 1839, although the L & O was not up to full operation, the company did a considerable business on the short section that ran from downtown Louisville to the eastern edge of the city. The grade which connected that segment with the rest of the railroad at Frankfort neared completion and awaited additional capital to purchase rails in order to complete the line. The original terminus of the railroad in Louisville, near the Fourth Street wharf, did not provide the optimal spot in which to load railroad cars from steam boats. A new terminal near the lower gauge of the Ohio River allowed trains to load goods for New Orleans and St. Louis.²⁶ Portland was the major area of departure and arrival for downriver steamboats, while smaller boats traversed the Louisville and Portland Canal around the Falls of the Ohio, and upriver.²⁷ Seeking to extend the railroad downriver from the falls, the L & O received a supplemental act of the Kentucky Legislature in 1833 which permitted the construction of a railroad line downriver from the falls.²⁸ The L & O completed the line through the city streets in April of 1838. The L & O then extended its tracks from a point near the corner of Jefferson and Sixth streets, down Sixth Street, and onto Main Street. Next the railroad laid tracks down the middle of Main Street until it reached Thirteenth Streets.²⁹ Main Street in 1838 was Louisville's busiest street, a hub of trade and commerce for not only the City of Louisville, but a large region around it.³⁰ The building of a railroad down the middle of the street soon caused

²⁶ The Louisville and Portland Canal existed as this time, but the small size of the project did not allow larger steamboats to pass through. For a history of the Louisville and Portland Canal see Paul B. Trescott, "The Louisville and Portland Canal Company, 1825-1874," *The Mississippi Valley Historical Review* 44 (March 1958): 686-708.

²⁷ The neighborhoods of Portland and Shippingport once existed outside the city limits of Louisville until urbanization swallowed both. Shippingport became an island with the construction of the locks which replaced the Louisville and Portland Canal, allowing a direct path over the Falls of the Ohio.

²⁸ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

²⁹ *Ibid.*

³⁰ Ellen Birkett Morris, "Main Street," in *The Encyclopedia of Louisville*, John Kleeber, ed. (Lexington: University Press of Kentucky, 2001), 584-585.

alarm among property owners in the area. Louisvillians came to believe that the railroad, with its noisy steam locomotives and horse-drawn cars, infringed on their property rights and created a nuisance.³¹ The potential of a busy rail line running down Main Street caused property owners, lead by Elisha Applegate, to seek a legal remedy in the Chancery Court of Louisville. Elisha Applegate and forty-three other property owners brought suit against the L & O alleging that the railroad damaged their property by its presence in the streets of Louisville.

On October 26, 1838, the Louisville Chancery Court issued a temporary injunction against the Lexington and Ohio Rail Road from utilizing its trackage on Main Street.³² The court cited the claims of nuisance by Applegate and others, caused by the presence of the L & O in the middle of Main Street.³³ Soon after the initial injunction, attorneys representing the railroad counter claims which disputed the claims of the plaintiffs. Next, the court took twenty six depositions in the case.³⁴ Ten of the depositions represented the property owners, while the remaining sixteen represented the Lexington and Ohio Railroad. Part of the original complaint by Applegate stated that the city of Louisville abused its incorporation rights by granting the railroad permission to construct a line through the City of Louisville on streets originally laid out and approved by the Virginia House of Burgesses in 1781.³⁵ The violation, the plaintiffs argued, arose from the use of public space for private enterprise.

³¹ Nineteenth century Americans who opposed railroad construction often used the imagery of trains carelessly running down pedestrians in the street.

³² *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

³³ English common law already had precedent dealing with a superior form of transportation competing with an older one. See, *The King v. Edward Pease and others*, 24 Eng. Com. Law Rep. 17 (1792).

³⁴ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

³⁵ *Ibid.*, 292-293.

After hearing the witnesses and evidence, the Chancery Court of Louisville issued a permanent injunction against the Lexington and Ohio Rail Road Company from operating trains of any sort through the streets of downtown Louisville.³⁶ The court cited two infractions which caused an irreparable nuisance to the property owners on Main Street. First, the court found that the city of Louisville abused its original charter granted when Louisville was still part of Virginia, by reserving a portion of that street for a private company to place railroad tracks. By allowing a nuisance to be constructed on the city streets, the city violated its charter as well as infringed on the property rights of the owners of businesses and property on Main Street.³⁷

The Court's second finding centered on whether the construction and operation of a railroad in the city streets of Louisville posed a hazard to both pedestrian and horse traffic. The practice of constructing railroad tracks down the middle of city streets was common throughout the United States during the period of early railroad development.³⁸ Railroads often took such measures because it allowed direct access to the business center of the city, whereas, had the L & O stopped construction when it reached the edge of the city, it stood to lose business and freight due to being in a less-desirable location. In accordance to fears of fast-moving trains going down the middle of packed public thoroughfares, most towns and cities enacted ordinances restricting the speed of trains when passing through city streets. In Louisville, trains moving down Main Street had to obey a maximum speed of six miles per hour.³⁹

³⁶ Ibid., 293.

³⁷ Ibid., 293

³⁸ Notable examples of railroads running down city streets in the nineteenth century could be found in Baltimore, New York City, Lafayette, Indiana, Chicago, and New Albany, Indiana.

³⁹ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

After the Louisville Chancery Court issued its opinion, the L & O appealed the case to the Kentucky Court of Appeals. The railroad had appealed a similar case several years before in *O'Hara v. The Lexington and Ohio Rail Road Company*.⁴⁰ The issue with that case was whether the Commonwealth of Kentucky or the railroad had the power of eminent domain, without the permission of the landowner or the payment to the landowner the financial equivalent of the property taken. The L & O attempted to take O'Hara's land, but did not want to give him adequate compensation. As a result, the L & O lost on appeal. Unlike the O'Hara case, the L & O experienced a different outcome the second time it appeared in front of the Court of Appeals. Chief Justice George Robertson, after hearing the appeal, overturned the ruling of the Louisville Chancery Court finding no evidence of nuisance against the property owners along Main Street.⁴¹

In writing his opinion, Robertson held that the Chancellor in Louisville had incorrectly applied the law. Public roads, Robertson wrote, were open to public transportation, including private stagecoach companies and other similar businesses.⁴² If the city government of Louisville authorized the construction of a railroad through the city streets and the railroad was for the public good, then the city could do so.⁴³ Second, the city streets of Louisville existed for the use by not only the property owners on Main Street, but for all who used them. Louisville, as owner of the streets, had the sole decision on whether to allow or not allow the use of the streets for the construction of a

⁴⁰ *O'Hara v. The Lexington and Ohio Rail Road Company*, 32 KY 232 (1833).

⁴¹ George Robertson (1790-1874), noted Kentucky politician, attorney, and jurist. During Robertson's years on the Court of Appeals he wrote important opinions in a number of cases. In addition to the *Applegate* case, Robertson authored several important and controversial opinions. In *Carico v. Commonwealth* Robertson argued that when a person was previously threatened by man of "violent passions" he could then kill the person on their next encounter, even by shooting the person in the back. For more on George Robertson, see George Robertson, *Outline of the Life of George Robertson, Written by Himself With and Introduction by His Son* (Lexington, KY.: n.p., 1875).

⁴² *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

⁴³ *Ibid.*, 296.

railroad.⁴⁴ Therefore, the city of Louisville was free to authorize a railroad to construct tracks and operate trains in the streets, as it owned the street and could do with it what it wished.⁴⁵

Robertson's ruling then turned to the issue of whether the operation of trains down the streets of Louisville constituted a safety hazard and a nuisance. On both counts, Robertson disagreed with the Chancellor in Louisville. Robertson stated that since all vehicles had the right to use public streets, then railroads also possessed a similar right. Second, if the operation of trains on Main Street constituted a nuisance because of their noise and potential to run over pedestrians, then any wagon, horse, or even a person traveling down Main Street also constituted a nuisance.⁴⁶ To further make the point, Robertson stated that the only claim for nuisance by Applegate and others could be that the presence of rails down the street, which Robertson argued did not constitute a nuisance or danger.⁴⁷

Further making his point, Robertson stated that steam powered trains on Main Street also did not constitute a nuisance. Robertson's reasoning lay in the concept that few factory or mill owners who used boilers and steam power came under nuisance law suits due to their use of steam power.⁴⁸ Steamboats, he added, also did not constitute a nuisance even though they were the dominant force on the rivers and streams throughout the area.⁴⁹

⁴⁴ Ibid., 295.

⁴⁵ For an explanation of how courts applied common carrier status on railroads, see Ely, *Railroads and American Law*.

⁴⁶ Ely, *Railroads and American Law*, 205-206.

⁴⁷ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 299 (1839).

⁴⁸ Ibid. The L & O had not yet adopted steam power for its trains on the section of track in Louisville, the trains that the railroad ran through Louisville were powered by horse, just like the first trains on the Baltimore and Ohio Railroad.

⁴⁹ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 302 (1839).

Robertson then listed the possible accidents, such as when a train might accidentally run over something or a train could block passage on the street for a short time, to demonstrate how none of the potential occurrences constituted a permanent nuisance.⁵⁰ Robertson's ruling also contained several phrases pointed to the commercial and technological advantages of railroads as a form of transportation and how these potential benefits outweighed any claim of nuisance by property owners in Louisville.

Robertson argued,

The onward spirit of the age must, to a reasonable extent, have its way. The law is made for the times, and will be made or modified by them. The expanded and still expanding genius of the common law should adapt it here, as elsewhere, to the improved and improving condition of our country and our countrymen. And therefore, rail roads and locomotive steam cars—the offspring, as they will also be the parents, of progressive improvement—should not, in themselves, be considered as nuisances, although, in ages that are gone, they might have been so held, because they would have been comparatively useless, and therefore more mischievous.⁵¹

In one paragraph, Robertson stated that technological improvement, when existing for the greater good of society, should not be considered a nuisance. Instead, common law should change and adapt, as it adapted over many centuries, to meet the demands of technological progress in a society which demanded the benefits of such progress. In his next paragraph, Robertson then made a telling remark that foreshadowed the future of railroad law.

We know that a zealous and inconsiderate spirit of innovation and improvement requires the vigilance and restraint of both reason and law. We are fully aware, also, of the fact that, when such a spirit is abroad, private rights are in peculiar danger, unless sternly guarded by the judiciary; and we are not sure that such guardianship is not most needed in a government where whatever is popular is apt to prevail, at first and often at last, only because it is the *vox populi*.⁵²

⁵⁰ For an explanation of the development of railroad nuisance lawsuits see Ely, *Railroads and American Law*.

⁵¹ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY 309 (1839).

⁵² *Ibid.*, 309.

Applegate set the stage for rail nuisance cases and demonstrated early legal attitudes toward railroads. Instead of blindly supporting railroads, the courts and the legislatures held them to normal legal principles. When old common law principles no longer applied, then judge-made principles should be fashioned to meet the demands of the age. Furthermore, the case predicted that popular technology can sometimes, with public support, run roughshod over traditional legal principles. The popularity of railroads could, in theory, be used to trump other standards of common law.

With *Applegate* decided, the L & O continued its quest to connect Louisville with Lexington. However, the 1840s were not a financially prosperous time for the railroad. As a result the company underwent reorganization several times throughout the next twenty years.⁵³ This lack of economic prosperity for the L & O, and other railroads in the United States was not a product of individual failure. Instead, railroads like any technology, went through a constant process of improvement. The L & O, for example received its charter just two years after the building of the first American railroad in 1827, the Baltimore and Ohio Railroad.⁵⁴ Other American railroads of the late 1820s and early 1830s were small-scale affairs, designed for the specific purpose of moving goods from one point to another.⁵⁵ The first railroad to adopt steam locomotive technology, the South Carolina Railroad, was built to move cotton from inland to the port of Charleston

⁵³ Paul H. Coontter, "The Role of Railroads in United States Economic Growth," *The Journal of Economic History* 23 (December 1963): 481-482.

⁵⁴ Investors in Baltimore, without the necessary capital to build a canal through the mountains of western Maryland, instead tried the relatively-new technology of railroads. For a history of the Baltimore and Ohio Railroad see: James D. Dilts, *The Great Road: The Building of the Baltimore and Ohio Railroad, the Nation's First Railroad* (Stanford, CA.: Stanford University Press, 1993).

⁵⁵ Early American railroads copied their British counterparts in being built to haul a specific commodity, such as coal or cotton.

in a more efficient manner.⁵⁶ These early applications of railway technology faced challenges that made almost all examples of early American railroads unprofitable.

The L & O encountered two important legal and legislative battles in the 1840s. The first battle centered on the railroad's treatment of others' private property. In early 1842, William Pope, a prominent Louisville attorney and landowner, filed a breach of covenant suit against the L & O in regard to property damage incurred by the railroad. The suit alleged that the railroad graded its railroad line through Pope's land in eastern Louisville. During the construction process, the L & O's contractors deforested a tract of land for timber, left piles of gravel and large rocks littering the right of way, and did not repair wagon damage to Pope's property.⁵⁷ In seeking remedy in the Louisville Chancery Court, Pope sought a judgment against the railroad and the settlement for the costs of repair and reimbursement to the damage done to his property. Pope won his suit, which pushed the railroad further into financial problems. Financial problems throughout the 1840s did not allow the L & O to finish the gap in its line between eastern Louisville and Frankfort.⁵⁸

The second battle, which the L & O faced in the late 1840s concerned help from the Kentucky legislature. Beginning in the mid 1840s, groups of Louisville and Frankfort businessmen and community leaders lobbied the legislature to re-charter the L & O. The new charter, if passed, allowed the L & O to issue more stock and bonds in order to complete the line between Louisville and Frankfort.⁵⁹ A strong coalition of merchants

⁵⁶ The South Carolina Railroad became the first railroad in the United States to operate a steam locomotive in regular service in 1829-1830

⁵⁷ *William Pope v. The Lexington and Ohio Rail Road Company*, William Pope Papers, Filson Historical Society.

⁵⁸ James Guthrie to John Wesley Hunt, May 28, 1839. James Guthrie Papers, Filson Historical Society.

⁵⁹ *Ibid.*

and community leaders in northern Kentucky helped defeat the proposal.⁶⁰ These merchants, who prospered from nearby Cincinnati, feared that the completion of the L & O could negatively impact their trade with central Kentucky. Defeated in the legislature, directors of the L & O including Louisville attorney James Guthrie, sought help from the city of Louisville in securing financing to complete the railroad.⁶¹ The mayor and general council of Louisville agreed to loan money to the L & O with the provision that the city become the principal majority shareholder in the L & O. The railroad refused the offer and continued its struggle throughout the 1840s and 1850s.

The failure to reach a favorable financing agreement with Louisville hampered the working relationship between the railroad and city. Previously, Louisville's general council set up a committee to assist the L & O by exploring possible expansion, including a proposed line southward from Louisville.⁶² After studying the various proposals for expansion, the city and railroad reached an agreement that expansion of the railroad southward was to not occur without the city's approval.

Despite early unpredictability, railroads in the United States captured the imaginations of investors and the general public. The result was a "railroad mania" that swept much of the country. Between 1831 and 1832 the Ohio legislature incorporated over twelve new railroads, of which one was completed by the end of the decade.⁶³ Despite the public excitement over the railroad, the canal still reigned supreme in American transportation throughout much of the East and Middle West. Canals, while

⁶⁰ "To the Honorable Senate and House of Representatives of the Commonwealth of Kentucky," n.d. James Guthrie Papers, Filson Historical Society.

⁶¹ Ibid.

⁶² "City of Louisville in Agreement with the Lexington and Ohio Rail Road Company," December 2, 1836, Filson Historical Society.

⁶³ Coonter, "The Role of Railroads in United States Economic Growth," 481.

able to traverse hilly and mountainous regions, often required more capital investment than railroads to operate and maintain. Even in the states which were early adopters of railroads, the technology had not advanced enough to provide direct prosperity to these companies, thus causing a depression in the industry throughout the early to mid 1840s.⁶⁴ Cheaper forms of competing transportation, overproduction of foodstuffs and thus lower crop prices, and bad weather all combined to create unfavorable economic conditions for the construction of new railroads. When the nation recovered from the economic downturn in the mid 1840s investors focused on neglected industries.⁶⁵ Railroads east of the Appalachian Mountains began improvement, not necessarily expansion, to meet the demands of the new industries that dotted the East. While railroad building slowed in the East, railroads modernized and took advantage of technological improvements in track construction, iron production, and locomotive design to improve the profitability of lines.⁶⁶ In the South and West, however, the construction of railroads quickened throughout the 1840s as towns and cities sought to improve connections with the river trade on the Ohio and Mississippi Rivers.⁶⁷ By 1847, due to the population expansion in the western states, serious bottlenecks developed for large shipments from the West to Eastern markets.⁶⁸ Most large shipments used the Erie Canal which could only operate seven months a year, and even with several expansions the canal could not handle the increased capacity.⁶⁹ It was during this period that investors turned to the railroads. The possibility of one or more railroads crossing the Appalachian Mountains and connecting

⁶⁴ Ibid., 483-484.

⁶⁵ Chandler, *The Visible Hand*, 331.

⁶⁶ Coonter, "The Role of Railroads in United States Economic Growth." 485-486.

⁶⁷ Timothy R. Mahoney, *River Towns of the Great West: The Structure of Provincial Urbanization in the American Midwest, 1820-1870* (New York: Cambridge University Press, 1990), 79.

⁶⁸ George R. Taylor, *The Transportation Revolution, 1815-1860*, (New York: Reinhart, 1951), 48.

⁶⁹ Ibid., 50-51.

with Ohio's canals, other railroads on the Ohio River became an important rallying cry for western and southern cities. In addition, investors and local officials viewed railroad transportation as a method to connect cities and regions. By the late 1840s, the canal boom subsided and investors came to realize the limited potential of turnpikes, macadam roads, and plank roads to provide large-scale heavy transportation.⁷⁰ While a few canals prospered, other projects like the ambitious Chesapeake and Ohio Canal never reached their final intended destinations. In the case of the C & O canal, the Baltimore and Ohio Railroad beat the canal to the Ohio River on a near-duplicate route and the investors, after suffering years of financial loss, decided to cut their losses and operate the canal only as far as Cumberland, Maryland.⁷¹ While river transportation on the western rivers expanded, railroads investors, farmers, and merchants viewed railroads as an important link in the chain of improved transportation throughout the country. It was during the resurgence of the railroad in the late 1840s that Kentucky's most ambitious railroad project was born -- the Louisville and Nashville Railroad, the L & N.

Just as prominent citizens and merchants in Lexington had previously promoted the L & O, the business community of Louisville created, lobbied, and owned the Louisville and Nashville Railroad for its first thirty years of existence. Even though the L & N connected two major southern cities, the primary purpose of the railroad was to serve the Louisville business community. As a bonus, the line provided improved transportation for farmers in central and north central Tennessee, as well as allowed the construction of several feeder lines to expand the railroad's service area.⁷² Still, few

⁷⁰ Taylor, *The Transportation Revolution*, 82.

⁷¹ The C & O canal, after years of losses became a property of the Baltimore and Ohio Railroad, which allowed use of the canal until the 1920s. The entire canal is now a National Historic Site.

⁷² Maury Klein, *History of the Louisville and Nashville Railroad* (New York: Macmillan, 1972), 12.

knew if the sparse agriculture area between the two cities could provide enough business to support a railroad.⁷³

Talk and promotion of a scheme to construct a railroad between Louisville and Nashville had begun as early as 1832.⁷⁴ However, the difficulties witnessed in constructing a railroad between Louisville and Lexington forced reality to set in for the time being. The hard economic times of the early 1840s also cooled the project. When prosperity returned, so did calls to construct a line between the two cities. By 1850, public clamor for such a project reached its peak. At a public meeting in late 1849, city officials in Louisville passed a resolution promising to subscribe to \$1,000,000 in city funds for stock.⁷⁵ Kentucky Governor John L. Helm also wanted such a project to commence and used his political muscle to force the Kentucky legislature to act.⁷⁶ Before the legislature was a bill authorizing the construction of a railroad from Louisville to Bowling Green, a town on the Barren River about 70 miles north of Nashville.⁷⁷ Helm lobbied to have an alternate bill, the one to charter the L & N brought before the legislature instead.

Later in the 1850 legislative session, the legislature passed the charter for the Louisville and Nashville Railroad, which allowed the construction of a rail line south from Louisville to the Tennessee state line. Earlier, on March 9, 1850, the Tennessee state legislature chartered the same company with the task of building a line from the

⁷³ Ibid., 13.

⁷⁴ Before the L & O reached a formal agreement with the City of Louisville not to expand southward, James Guthrie hoped to use a new charter for the L & O to complete the line between Lexington and Louisville and start work on a line to Nashville.

⁷⁵ Kincaid A. Herr, *The Louisville and Nashville Railroad, 1850-1963* (Louisville, KY.: L & N Public Relations Department, 1964), 18.

⁷⁶ Klein, *History of the Louisville and Nashville Railroad*, 12-13.

⁷⁷ Ibid., 13.

state line to Nashville.⁷⁸ The charter issued by the Kentucky legislature for the L & N reflected legal change from the charter granted twenty one years earlier to the Lexington and Ohio. Because the charter of the L & N specified that the railroad was to travel south from Louisville to the state line, the route was fixed as to which counties the railroad would pass through. The charter contained the names of ninety seven individuals who lived in the counties in which the L & N was to pass. Those backers included several notable Kentucky names. Prominent Louisvillians James S. and Joshua Speed represented Louisville and Jefferson County respectively.⁷⁹ John L. Helm, governor of Kentucky, represented his native Hardin County and lent tremendous political support to the project. Any three individuals listed in the charter who represented the same county could open the subscription books in that county given proper notice to the citizens and potential investors. Unlike the charter for the Lexington and Ohio, the charter allowed the L & N to keep its subscription books open for as long as necessary to sell the stock at hand. The charter stipulated that the L & N was to sell no more than \$3,000,000 in stock at shares of \$100 each.⁸⁰ If all of the original stock was not subscribed to within ten years of the charter's passage, then the charter, as well as the stock, became null and void.⁸¹

Whereas the original charter for the L & O contained a provision which allowed the federal government to purchase shares of stock in the railroad, the charter for the L & N contained no such provision. In the period before the federal government encouraged

⁷⁸ "An Act to charter the Camp Creek Turnpike Company in the county of Sumner, and for other purposes. (February 1, 1850) *Laws of Tennessee*, Chapter 118.

⁷⁹ "An Act to charter the Louisville and Nashville Railroad Company (March 5, 1850) *Laws of Kentucky*, Chapter 382.

⁸⁰ Ibid.

⁸¹ Ibid.

railroad construction in the West with land grants, state and local governments provided the only public investment for internal improvements.⁸² Some southern states, Georgia for instance, used state ownership as a method of railroad financing.⁸³ Kentucky's legislature did not want to get into the railroad business. Thus, the charter for the L & N did contain provisions allowing the city of Louisville to purchase stock, as well as the counties the railroad was to pass through.⁸⁴ In order for a local government to subscribe to L & N stock, a vote had to be taken among all eligible voters. As a way to encourage stock sales, the L & N announced that it would plan its route from Louisville to Nashville based on individual stock subscriptions of the counties. Nelson County, for example, failed to approve the stock subscription and the railroad's mainline bypassed the county in favor of Hardin County which subscribed to stock.⁸⁵

In addition to the general stipulations regarding the duties of the president and board of directors of the new railroad, the charter of the L & N granted it extraordinary power to condemn land.⁸⁶ The charter spelled out that the L & N had to condemn land for actual use by the railroad and not condemn land for speculative purposes. The right of way had to be no wider than thirty six feet, other than in locations where the railroad was to build depots, shop building, and other structures that the railroad deemed necessary in order to operate. The L & N also had to provide crossings, referred to as

⁸² Most federally-financed internal improvement projects did not pass Congress until after April 1861 when the Southern Congressional delegation left. For a legislative history of the era see; Leonard P. Curry, *Blueprint for Modern America: Non-Military Legislation of the First Civil War Congress* (Nashville, TN.: Vanderbilt University Press, 1968).

⁸³ Stover, *The Railroads of the South*, 47-53.

⁸⁴ Both of the potential routes for the L & N posed potential engineering problems. The route that the railroad's directors eventually settled on allowed for an easier connection with Memphis. Bardstown and Glasgow, two towns shunned by the L & N mainline constructed their own railroads to meet the L & N.

⁸⁵ Purcell, *Louisville and the Origins of the Louisville and Nashville Railroad*, 5-7.

⁸⁶ "An Act to charter the Louisville and Nashville Railroad Company (March 5, 1850) *Laws of Kentucky*, Chapter 382.

wagon ways in the charter, to farmers who needed to cross the tracks in order to gain ingress and egress to a main road or other parts of their property.⁸⁷

The Kentucky legislature granted the L & N tremendous power to initiate legal proceedings in order to condemn the land necessary to build the railroad. Under terms of the charter, the railroad notified the local Justice of the Peace if it wished to initiate condemnation proceedings against a landowner.⁸⁸ The Justice of the Peace then issued a bill for the proceeding, and assembled a jury pool of twenty individuals. The jury could not be composed of adjacent landowners nor those related to the landowner. The Justice of the Peace then whittled down the jury pool to twelve persons and conducted a hearing regarding the condemnation of the land.⁸⁹ The Justice of the Peace charged the jury with the job of viewing the land in question and assessing a fair price. The railroad then paid the property owner for the condemned land. The charter contained specific language stating that the jury was to take into consideration the terms of compensation for any benefit, perceived or real, which enhanced the value of the property the railroad wished to condemn.⁹⁰

The charter for the L & N also contained a provision which allowed the railroad power to condemn resources, such as a growth of trees, and the use of land during the construction phase of the line.⁹¹ The condemnation proceedings, if an agreement could not be worked out with the landowner, took on the same form as the proceedings for condemnation of land for use by the railroad's right of way. Unlike the previous railroad charters issued in Kentucky, the charter for the L & N gave the new railroad a significant

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

amount of freedom to deal with financing and construction of the line. In order to allow the L & N to get into operation as soon as possible, the charter contained a provision allowing the railroad to operate with just five miles of track completed, unlike the fifteen miles required of the L & O.

The charter granted the L & N in the Tennessee General Assembly took on a much different form than the one issued the company in Kentucky. Unlike the Kentucky charter, which the legislature passed as an independent act, the Tennessee General Assembly passed the bill as a “rider,” a provision attached to a bill incorporating a turnpike company. In most aspects, the Tennessee charter defaulted to the L & N’s Kentucky charter for specific provisions as to financing and construction. The charter only contained which counties the L & N was to place its line to Nashville.⁹²

Stock subscription of the L & N began on June 17, 1851 with the Louisville council subscribing to \$1,000,000.⁹³ On September 4, 1851, the officers of the L & N opened the subscription books to the general public and other local governments. The provision allowing local subscription resulted in fierce competition between counties to breaking out.⁹⁴ Leaders and merchants in Bowling Green feared that the L & N’s board of directors would construct the line through Glasgow instead. Therefore in an attempt to force the company’s hand, citizens of Bowling Green acted on an earlier 1850 act of the Kentucky legislature allowing a railroad to be built from Bowling Green to the Tennessee state line.⁹⁵ The new company opened subscription books and sent surveyors into the

⁹² “An Act to charter the Camp Creek Turnpike Company in the county of Sumner, and for other purposes. (February 1, 1850) *Laws of Tennessee*, Chapter 118.

⁹³ Purcell, “Louisville and the Origins of the L & N Railroad,” 6-8.

⁹⁴ *Ibid.*, 8.

⁹⁵ Thomas D. Clark, *The Beginning of the L & N: The Development of the Louisville and Nashville Railroad and its Memphis Branches from 1836 to 1860* (Louisville, KY.: Standard Printing Company, 1933), 35-38.

field. Viewing the new line as a waste of resources, the L & N's board of directors negotiated a consolidation of the two companies with the L & N absorbing Bowling Green's \$1,000,000 stock subscription. At the same time, the city of Louisville nearly doubled its holdings in the company with a total of over \$1,900,000 in stock holdings. Together, the city of Louisville and Louisville merchants and leaders held a majority of the L & N stock. Even though Nashville subscribed to a large portion of stock, Louisville interests dominated the L & N for much of its first thirty years of existence.

While the L & N signed several contracts for iron rail, timber, and masonry work, major financial problems ensued. The problems pitted the railroad's management against the company's majority stockholder, the City of Louisville. The L & N wished to sell bonds on the European bond market in order to pay for the initial construction costs of the line. James Guthrie, an early proponent of railroads in Kentucky, arranged for the sale of the bonds in London.⁹⁶ A printing and delivery delay placed the bonds on the European market just before the Crimean War broke out. That war, combined with an agricultural drought in Europe, forced the bonds to sell low and as a result they did not raise the amount of capital Guthrie and the L & N's board of directors wished.⁹⁷ The downturn in the bond market made the task of raising European and New York capital almost impossible. The lack of an incoming cash flow caused construction to suspend on the railroad in 1853. The work stoppage was to be one of several that haunted the railroad during the difficult years of construction.

In order to attain more investment capital and provide feeder routes to the railroad, the L & N attained supplements to its charter in 1853 and in 1854 to construct

⁹⁶ "James Guthrie Dead," *The Louisville Courier-Journal* 14 March 1869, sec 1.

⁹⁷ Klein, *History of the Louisville and Nashville Railroad*, 9.

two branches. In addition, the L & N purchased the Bardstown and Louisville Railroad, a branchline operation financed by merchants in Nelson County to connect Bardstown with the L & N mainline.⁹⁸ Lebanon, the county seat of Marion County, was the target of the first branchline authorized by the revised state charter. The town, thirty five miles from the L & N mainline lay in a rich agricultural landscape which also contained many distilleries.⁹⁹ The second branch line that the L & N began to build ran from a point just south of Bowling Green to Memphis, Tennessee. The L & N's board felt that such a line, when completed, could provide a competitive form of transportation for goods to and from New Orleans.

The resurgence in the European bond market, combined with more financial help from the Louisville government, gave the L & N enough capital to begin finishing the line between Louisville and Nashville. With two construction crews working from the Louisville and Nashville ends respectively, the construction pace, which lagged throughout the early 1850s, quickened. The first trains between Louisville and Nashville ran on October 31, 1859, with daily service commencing soon afterwards.¹⁰⁰ Even with the opening of the L & N, the railroad throughout the 1860s relied on occasional financial support from the city of Louisville, which remained a majority stockholder. In 1864, for example, James Guthrie brokered an agreement in which the city provided the L & N \$1,000,000 in cash, in exchange for stock.¹⁰¹ The L & N then used the money to extend the Lebanon branch into southeastern Kentucky. With Louisville financial support

⁹⁸ Clark, *The Beginning of the L & N*, 44.

⁹⁹ Stover, *The Railroads of the South*, 78.

¹⁰⁰ Klein, *History of the Louisville and Nashville Railroad*, 25.

¹⁰¹ "City of Louisville in Agreement with the L & N R.R. Co.," September 8, 1867, James Guthrie Collection, Filson Historical Society.

factored in, the L & N remained prosperous throughout the 1860s, including the period during the Civil War.¹⁰²

The completion of the L & N between Louisville and Nashville marked a major turning point for both Louisville and Kentucky. The availability of a direct rail route to the South placed the city into a dominant position to tap expanding trade markets. The construction of the L & N also signaled another phase in the transformation of railroad law and public policy in Kentucky and the United States. The public, after overcoming initial suspicions, clamored for railroads.

“The Onward Spirit of the Age,” as George Robertson proclaimed, marked a transformation in American legal principles. Kentucky’s law, no longer hindered the development of transportation, particularly railroads. Judges and legislatures became the promoters of commerce, especially for early railroads. The intense public appetite for railroads soon gave way to the Civil War in which transportation development halted throughout much of the United States. The end of the war in 1865 brought new challenges and the emergence of the L & N as a prosperous, still intact Southern railroad. Railroads in Kentucky were popular in 1859 because the people of Kentucky wanted them. Legislatures and courts often tended to the desires of the public and the popularity of railroads. In just over twenty five years, the unpopularity of railroads led the industry into uncharted political and legal waters. The change of public opinion impacted the industry for many years. But first, the economic boom following the Civil War forced railroads and cities to fight each other for trade supremacy.

¹⁰² James Guthrie remained an active supporter of the L & N throughout his stint as Secretary of the Treasury from 1853-1857. Throughout his tenure as president of the L & N from 1860-1868, he guided the railroad through the damaging Civil War years, allowing the company to emerge prosperous in 1865, an anomaly among Southern railroads.

CHAPTER THREE

TALES OF THE NEW DEPARTURE: LOUISVILLE, RAILROADS, AND KENTUCKY POLITICS, 1865-1872.

Writing in the 1960s, historian Robert Emmett McDowell characterized the position of Louisville during the Civil War in his book, *City of Conflict: Louisville in the Civil War*. McDowell wrote:

Louisville was guilty of being in the wrong place at the wrong time, of being ground between two antagonistic cultural and economic systems. Because she was neither northern or southern but partook a little of each, she was viewed with suspicion by both sides. In the Confederacy, she was considered northern, while the vast majority of people in the North regarded Louisville as a southern City.¹

Facing an identity crisis at the end of the Civil War, Louisville leaders recognized that for Louisville to succeed it must portray itself as a southern city. Crafting that image, however, after four years of support for the Union meant overcoming substantial obstacles. Following the conclusion of the Civil War, Louisville merchants and politicians faced the daunting task of reestablishing political and economic ties with the South. Except for a brief period of prosperity during the war, Louisville relied on connections to the South for economic survival. After several years of hard work, it became clear by 1872 that Louisville had reasserted itself as a southern city. While remaining pro-Union during the war, by the 1870s a casual visitor to the city might have

¹ Robert Emmett McDowell, *City of Conflict: Louisville in the Civil War* (Louisville, KY.: Louisville Civil War Roundtable, 1962), 202.

thought that Louisville seceded with the rest of the Confederacy. Why did Louisville change its political attitudes so soon after the end of the war? An examination of the economic and political realities of the era provided the answer. No southern trade meant the end to Louisville's preeminent position as a gateway city to the South. Following the war, merchants and politicians in Louisville began a transformation to make the city "southern." The transformation of Louisville into a Reconstruction-era economic center did not, however, occur overnight. Instead, the process began before the war with the city's emergence as a trading and manufacturing center for the upper South. In order to maintain its trade supremacy, political and business leaders in Louisville resorted to extraordinary means to protect their business and political interests. In addition, the conflict between the New Departure and the Bourbon factions of the Democratic Party during the late 1860s and 1870s allowed the creation of a new southern identity for Kentucky and Louisville. Extensive political lobbying, creative business deals and new ideas all formed the basis for Louisville's Reconstruction-Era business philosophy.

The L & N, as well as most other southern railroads, adopted the non-standard gauge of five feet between the rails. Where railroads of differing gauges met, freight and passengers had to be transferred to the other line, increasing the time of travel between two points.² Another problem, Taylor indicated, was that even railroads of the same gauge often did not interchange.³ Only during the Civil War was a temporary connection built between the different lines in order to expedite military shipments.⁴ The adoption of a broader gauge meant that cars from northern lines could not be interchanged. Rail

² Ibid., 24.

³ Maury Klein, *History of the Louisville and Nashville Railroad* (New York: Macmillan, 1972), 44.

⁴ McDowell, *City of Conflict*, 83.

gauge would later play an important role in Louisville's struggle for trade supremacy against Cincinnati.

Louisville's initial entry into commercial trade came only ten years after its founding as a city in 1789. In 1799, Congress designated Louisville as a port of entry into the United States, the only inland port of entry at the time.⁵ The city's geographic location at the Falls of the Ohio initially meant that cargo going downstream had to be offloaded and reloaded. In addition, Louisville's central location meant that it would become a key center for the importation and exportation of goods for the rest of Kentucky. The introduction of steam boats on the Ohio and Mississippi rivers in 1812 transformed the trade prospects for Louisville. The flatboat-dominated transportation system limited the amount of goods which could come up river from the deeper South and limited the commercial growth of river towns. The two-way commerce promoted by steam boat transportation allowed Louisville to secure a key role in southern trade. At the same time, Kentucky like the rest of the country, underwent the transportation revolution. Planners and merchants realized that effective inland transportation was the key to fully develop America's natural resources.⁶ Starting in the early nineteenth century, turnpikes, macadam roads, plank roads and canals sprung up all over America to meet the increasing demands for direct inland transportation.⁷ Usually supported by private companies, these forms of transportation were not as efficient as river transportation and often required large amounts of capital investment for initial construction and maintenance. Kentucky hosted a number of turnpike and macadam road

⁵ Benjamin Casseday, *The History of Louisville From its Early Settlement till the Year 1852* (Louisville, KY.: G. R. Clark, 1852), 38.

⁶ Klein, *History of the Louisville and Nashville Railroad*, 7.

⁷ George Rogers Taylor, *The Transportation Revolution 1815-1860* (New York: Rinehart, 1951), 15-23.

companies, but never witnessed the development of an extensive canal system like other states in the west like Indiana and Ohio.⁸ The only canal of significance built in Kentucky was the Louisville and Portland Canal, built to allow river trade to bypass the Falls of the Ohio for a continuous journey southward to New Orleans.

As successful as river transportation was, it encountered problems. Rivers, like canals and turnpikes, remained susceptible to weather.⁹ Low water delayed shipment of goods on the Ohio River for days, if not months.¹⁰ The capital investment required to construct and maintain steamboats proved prohibitive for many. The lack of set schedules and timetables for the riverboats meant that merchants often resulted to guesswork in figuring out when they could ship or receive goods.¹¹ The river system, no matter how developed, did not provide a direct route to the Deep South. A better system of inland transportation was needed in order for Louisville to prosper fully as a supplier to the plantation-based economy of the South. The trade and economic solution lay in twin ribbons of iron, an invention developed in England to transport coal. The railroad revolution made Louisville into a significant trade center. Louisville's first railroad, the Lexington and Ohio, sought to connect Louisville to Lexington.¹² Chartered in 1832, the line went bankrupt early on and the line was completed by a successor company, the Lexington and Frankfort Railroad. The L & O and later the L & F remained important for several reasons. First, the line gave Louisville a direct commercial conduit to the

⁸ In order to promote his scheme of government-subsidized internal improvements Kentuckian Henry Clay had a model canal constructed on his property. Meant to display the merits of canal transportation, it failed to catch on, probably due to the Commonwealth's rough terrain and the massive capital investment required for such a canal system.

⁹ Taylor, *The Transportation Revolution*, 49-58.

¹⁰ Leonard P. Curry, *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872* (Lexington: University of Kentucky Press, 1969), 9-13.

¹¹ Taylor, *The Transportation Revolution*, 63.

¹² Richard E. Prince, *Louisville and Nashville Steam Locomotives* (Green River, WY.: Richard E. Prince, 1968), 16.

central Bluegrass portion of the state. Second, the railroad was initially financed and later operated briefly by the Commonwealth of Kentucky.¹³ The bad experience of a state-invested and later a state-owned railroad forced later railroad ventures in the Commonwealth to find alternate forms of financing. While the railroad to Lexington failed to connect Louisville with any substantial southern market, it demonstrated the viability of railroads to a skeptical public. The combination of river and rail transportation in Louisville could become a powerful economic force for the city to further dominate trade with the South.

Discussions to construct a railroad between Louisville and Nashville began in the late 1830s. However, it was not until the late 1840s that the movement gained momentum. Finally, on March 5, 1851 the state legislature granted a charter to the newly-established Louisville and Nashville Railroad Company. The General Assembly authorized the L & N to issue \$3,000,000 worth of stocks and bonds in order to construct a railroad from Louisville southward to the Tennessee state line.¹⁴ Earlier in the year, the backers of the new railroad received a similar charter from the Tennessee state legislature to build a line northward from Nashville to meet the Kentucky portion at the state line.¹⁵

From an early point, it became clear that the federal government was not going to provide aid in the form of loans or bonds to the new railroad company.¹⁶ Likewise, other than the initial charters, the state governments of Kentucky and Tennessee did not provide any further financial help. The lack of any direct state aid in the construction of the L & N stood out from the routes taken by other southern states. Some southern states,

¹³ Ibid., 18.

¹⁴ Klein, *History of the Louisville and Nashville Railroad*, 14.

¹⁵ Ibid., 14-16

¹⁶ Ibid., 13.

like Georgia, provided substantial state aid to railroads, due to a lack of capital availability in those regions.¹⁷ Georgia even went a step further, organizing and constructing a state-owned railroad from Atlanta to Chattanooga.¹⁸ Georgia also granted another railroad banking privileges in order for that company to raise capital for a line between Atlanta and Savannah.¹⁹

For construction financing, the Louisville and Nashville took a different approach. The railroad relied on local aid in the form of stock subscriptions to raise the necessary capital. The L & N even went as far as to use stock subscriptions by towns and counties on one of the two proposed routes to Nashville to “vote with their wallets.”²⁰ The towns and cities raising the most stock received the L & N mainline through their towns, ensuring a vital commercial connection with the outside world.

The City of Louisville, which subscribed to \$1,000,000 of stock, became one of the largest investors in the L & N.²¹ The city’s purchase of a sizable portion of the L & N’s stock came at the urging of local and civic leaders who believed Louisville should have a substantial say in how the railroad was constructed and operated. Even at this early stage in railroad development, a fear of Eastern capital influencing businesses in Louisville and the South carried significant weight with the local community. Not only did Louisville get a railroad connection with the South, the city government would reap economic benefits from being an owner of the company.

¹⁷ John F. Stover, *Railroads of the South, 1865-1900: A Study of Finance and Control* (Chapel Hill: University of North Carolina Press, 1955), 94-108.

¹⁸ *Ibid*, 112.

¹⁹ James W. Ely, *Railroads and American Law* (Lawrence: University of Kansas Press, 2000), 206.

²⁰ Klein, *History of the Louisville and Nashville Railroad*, 2-7.

²¹ *Ibid*, 6.

Fraught with difficult terrain, construction delays, material shortages and a lack of skilled labor, construction of the L & N continued at a slow pace.²² To help alleviate fears of a failed project and provide the new company with some much needed revenue, the state legislature amended the original charter of the L & N, allowing two branch lines to be built from the main line to Bardstown and Lebanon respectively.²³ Both towns lay at the center of prosperous farming areas, and also were home to numerous distilleries, which provided the L & N significant income from the transportation of whiskey to Louisville for shipment down the Ohio River.

From an early date, Louisville exerted a significant degree of control over the L & N. The railroad's first president, L. L. Shreve resigned after the Louisville Board of Alderman expressed a lack of confidence. Capital shortages and a failure to attract limited investment from either New York or London forced a stoppage of work. Dissatisfied, the Louisville Board of Alderman wished to find a new leader for the company who could turn the financial fortunes of the company around. New stock issues and progress of building the line southward enhanced the fledgling company's fortunes. Under a new president, John Helm, the company completed the link between Louisville and Nashville in 1859.²⁴ With connections in Nashville, Louisville then had a trade outlet where a carload of goods could be shipped from Louisville directly to the Deep South. Newspapers of the era heralded the completion of the line.²⁵

²² Aaron D. Purcell, "Louisville and the Origins of the L & N Railroad," *Register of the Kentucky Historical Society* 95 (Winter 1997), 7.

²³ Kincaid A. Herr, *The Louisville and Nashville Railroad 1851-1963* (Louisville, KY.: L & N Public Relations Department, 1964), 39.

²⁴ John Helm, a resident of Elizabethtown in Central Kentucky, became a leading pro-secessionist leader in Kentucky. Helm later ascended to the Governorship of Kentucky.

²⁵ "Railroad Completed!," *Louisville Journal*, 28 October 1859, 1.

Even before completion of the L & N, Louisville merchants stressed the importance of trade with the South. The plantation-based economy of the South played into Louisville's strengths as a commercial city. The many merchants, who supplied everything from dry goods to hardware and farm implements, courted plantation owners. Owners made annual supply trips to Louisville. While in town, they usually stayed in the finest hotels and dined in the finest restaurants.²⁶ The supply needs of plantations and farms in the rural South gave a direct market for Louisville goods. Completion of the L & N into Nashville facilitated faster and more efficient delivery. While Cincinnati was larger and also was a center of manufacturing, the direct route from Louisville placed its merchants at a distinct advantage over their Ohio counterparts.²⁷

Louisville experienced its new trade route with the South only a short time before the outbreak of the Civil War in April 1861. The same reasons that made Louisville a strategic commercial center before the war made it a valuable location for both the Union and Confederate armies. The L & N especially proved to be a valuable asset to the Union Army to conduct supply operations during a possible invasion of the South.²⁸ With their natural trading routes to the South blocked by the war, Louisville merchants began to focus their energies on the immense supply demands of the Union Army. The supply role that Louisville played during the Civil War made up for the loss of business. It allowed Louisville business leaders to contemplate the future of trade with the South once the war ended.

²⁶ Curry, *Rail Routes South*, 58.

²⁷ Cincinnati outclassed Louisville in almost every economic category. The traditional supplier to southern Ohio and much of Indiana and parts of Illinois, Cincinnati could never make a significant break into the southern market due to the lack of adequate transportation.

²⁸ McDowell, *City of Conflict*, 78.

The announcement of the surrender of Robert E. Lee's forces in April 1865 brought celebration and jubilation in the streets of Louisville.²⁹ The four year conflict that divided the nation and Kentucky had come to an end. While the celebration commenced, the realities of Louisville's role in a new southern economy, combined with the political turmoil that Kentucky faced after the Civil War, placed Louisville in the crosshairs of several enemies. Upriver from Louisville, the larger city of Cincinnati eyed Louisville's trade position with the South. Previously viewed as a northern city, business and political leaders in Cincinnati began to take steps to remedy that impression in order to become a favorable trading partner with the New South. The areas of Kentucky outside the immediate reach of Louisville and the L & N began to envy the trade and prosperity the railroad brought.³⁰ Historian Robert Wiebe described the change Kentucky and the rest of the eastern United States underwent as the breakdown of the "island community."³¹ More appropriately applied for the period following Reconstruction, nonetheless the desire to bring the farmers and small-scale merchants in rural Kentucky closer together with the outside world can be cast in the same light.

Animosity toward Louisville from the rest of the state was not a new concept in 1865. Louisville, as a transportation and trading hub, did not look like most other Kentucky cities. Because of its commercial importance, Louisville became Kentucky's largest city as early as the 1820s. Lexington, by comparison, was an interior town which did not have access to improved transportation for many years.³² The continual quest for

²⁹ Curry, *Rail Routes South*, 11.

³⁰ *Ibid.*, 17.

³¹ Robert H. Wiebe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1967), 18.

³² One explanation for Henry Clay's adoption of his "American System" of internal improvements was his residence in Lexington. Seeing the virtual inaccessibility of the outside world from Lexington, historians argued gave Clay the idea to suggest that the federal government involve itself in a scheme of internal improvements to aid interior frontier towns such as Lexington. While the American System never was

better transportation to and from Lexington inspired Kentucky's first, failed attempt at railroad construction and operation mentioned earlier. Some historians characterized the anti-Louisville sentiment that arose after the Civil War as a continuation of a jealousy towards Louisville's wealth and progress. The exacerbation and continuation of the rivalry between Louisville and the Bluegrass Region colored the political environment in Kentucky for several decades after 1865.

Other cities in Kentucky, notably Owensboro and Paducah, mirrored Louisville as river towns which relied on trade. Although these cities might have become Louisville's allies, such was not the case. Owensboro and Paducah felt the economic dominance of the Falls City even in their western Kentucky marketplace.³³

During the same time period and into the 1880s, Louisville politicians wrestled with what the city's official role, if any, should be in regard to its ownership of a significant portion of L & N stock. The conflict became increasingly important as the L & N began its first steps at expansion in the late 1860s to become a system that no longer served just Louisville and Nashville, but a railroad network that linked most of the Upper South.³⁴ The on again, off again conflict between city government and the L & N continued throughout the 1870s. What was most important, however, was that both

implemented in Clay's lifetime, the quest for improved connections with the outside world remained an important component of Reconstruction-era Kentucky politics. For the best work on Clay's American system, see Maurice G. Baxter, *Henry Clay and the American System* (Lexington: University Press of Kentucky, 1995) and Robert V. Remini, *Henry Clay: Statesman for the Union* (New York: W.W. Norton, 1991).

³³ Lee A. Dew, "Owensboro's Dream of Glory: A Railroad to Russellville," *Filson Club History Quarterly* 52 (Winter 1978), 55.

³⁴ The conflict of whether the L & N should just serve Louisville, or become a larger railroad system fueled the almost constant bickering between the Louisville Board of Alderman and the L & N.

cooperated to a great extent when both the railroad and the city had similar goals in mind, mainly the promotion of Louisville commerce.³⁵

Before the Civil War, Louisville remained politically aligned with the traditional wing of the Democratic Party, which supported slavery. Kentucky, a state divided over slavery, was politically divided between the small-scale farmers of eastern Kentucky, who opposed slavery and the merchants, farmers, and planters of central and western Kentucky who largely supported it. Even with these delineations, it is important to remember that the issue of slavery divided Kentucky on a county-by-county basis. Even with the large Irish and German immigrant populations, Louisville's political reigns were tightly in control of the Democratic Party. Like the rest of the state, Louisville experienced a brief ascendancy of the Republican Party during the Civil War that quickly disappeared after 1865. The political history of Louisville's preference for ex-Confederates after the war is similar to that of Kentucky itself.

On a state level, Kentucky remained dominated by the Democratic Party. The collapse of the Whig party in 1850s exerted some effect on the state political structure. The former Whig elements combined with former Know-Nothings, and Opposition Party members formed the new sectional party.³⁶ By the time of the national crisis 1860, the dominance of the Democratic Party shifted into a deepening divide between two major factions. The first and most powerful faction of the Democrats became known as the Union Democrats. These politicians and leaders served an instrumental role in keeping

³⁵ Curry, *Rail Routes South*, 22.

³⁶ Thomas Louis Owen, "The Formative Years of Kentucky's Republican Party, 1864-1871" (Ph.D. diss., University of Kentucky, 1981), 24-31.

Kentucky in the Union throughout the war. The second and less dominant group, but nonetheless vocal, were known as the Southern Rights wing of the party.³⁷

The numerical inferiority of the Republican Party in Kentucky during the war did not cool the political passions of the era. Republicans combined with a strong vote block of Union Democrats held the governorship from 1862 to 1867, while they lost the state legislature in 1865.³⁸ The cooperation was short lived because in 1864, both the Union and Southern rights wing of the party sent separate delegations to the convention in Chicago.³⁹ While at the convention, both sides fused and helped select McClellan as the Democratic candidate for the presidency. The 1864 election signaled the end of Republican and Union Democrat cooperation and thus began the rise of a form of neo-Confederatism in Kentucky politics.

The national political system in the mid-1860s forced Kentucky politicians to rethink their electoral strategies. The transformation began in 1864 when the newly-fused elements of the Democratic Party came from behind and won a crucial appellate judgeship race. Later in November, anti-Union sentiment rose to such a peak that in statewide polling, McClellan beat Lincoln by nearly 40,000 votes.⁴⁰ The rise of the Democratic Party furthered itself in 1865 when the party took control of both houses of the General Assembly. The capstone to the reemergence of the Kentucky Democratic Party came in 1867 when the party captured the Governor's race. John L. Helm, the father of Confederate Brigadier General Ben Hardin Helm received the Democratic Party

³⁷ Hambleton Tapp and James C. Klotter, *Kentucky: Decades of Discord, 1865-1900* (Frankfort: Kentucky Historical Society, 1977), 10-13.

³⁸ Owen, 45.

³⁹ Tapp and Klotter, *Decades of Discord*, 14.

⁴⁰ Stefan Lorant, *The Glorious Burden: The American Presidency* (New York: Harper Collins, 1968), 915.

nomination for Governor with John W. Stevenson nominated for Lieutenant Governor.⁴¹

A small faction of Union Democrats, dismayed at the possibility of prominent ex-Confederates rising to power in state government, held their own convention and nominated their own slate.⁴² The Republicans, identified with the radical wing of the party that controlled Congress, received little electoral support for their nominee Sidney M. Barnes.⁴³ The statewide election in August revealed a complete victory for the Democratic Party. Helm received a majority 56, 286 votes over the two other candidates. A Union newspaper editor, upset over the Democratic victory, declared “Kentucky failed to secede in 1861. By a strange conjunction of circumstances what the rebels failed to do that year, they freely realized in the year 1867.”⁴⁴

The political change in Kentucky, however, was not a coincidence or even a delayed vote in support of secession. The Democratic Party domination in Kentucky came as a result of three main factors. First, even though 90,000 Kentuckians severed for the Union, three times the number of Kentuckians who served in the Confederacy, dissatisfaction for both the Lincoln administration and the continued occupation of Kentucky by Union forces grew.⁴⁵ Second, a growing rumor of Congressional Reconstruction for Kentucky, followed by comments by Charles Sumner of Massachusetts, received little praise from citizens of the Commonwealth. Sumner wrote a letter to Brigadier General James S. Brisbin, a Union commander in Lexington, “Nothing can be more certain than that Kentucky at this time is without a republican form

⁴¹ Tapp and Klotter, *Decades of Discord*, 19-22.

⁴² *Ibid.*, 22.

⁴³ Owen, 48.

⁴⁴ “How Kentucky Left the Union,” *Cincinnati Weekly Gazette*, 27 March 1868.

⁴⁵ McDowell, *City of Conflict*, 188.

of government.”⁴⁶ Third, even though Louisville and Kentucky declared neutrality during the early part of the Civil War, the post war political and economic future of Kentucky lay in the South. As a result, even former pro-Union Kentuckians decided against continuing an affiliation with both the Union Democrats and the Republicans, and switched their loyalty to prominent ex-Confederate leaders. The switch to ex-Confederates preceded a similar move by other southern states after the end of Reconstruction in 1877. With no significant occupying Union forces in Kentucky, the Republican Party could not hold on to, or even attain statewide or federal office after the war. As a result, the victors became ruled by the vanquished. Republicans and Union Democrats failed to turn battlefield victories into lasting political ones in Kentucky. The failure to do so shaped Kentucky politics for the remainder of the century.

Although the Democratic Party remained dominant in Kentucky following the end of the Civil War, a new factionalism developed. While factionalism seldom split the party vote, the leading voices in opposition of ex-Confederate rule eventually changed the way the Democratic Party functioned in Louisville and in Kentucky as a whole. Following the southern trend, the early 1870s brought a new faction to Kentucky politics. The new faction, called the New Departure, a wing of the Democratic Party, realized that a return to the Antebellum world for the South was impossible.⁴⁷ Instead, the future of the South lay in industry, improved transportation, and education. The leader of the New Departure wing of the party in Kentucky was an ex-Confederate himself, Henry Watterson, the editor of the state’s largest newspaper, *The Louisville Courier-Journal*. In the years following the war, Watterson used his experiences and extensive travels

⁴⁶ Tapp and Klotter, *Decades of Discord*, 17.

⁴⁷ Tapp and Klotter, *Decades of Discord*, 19.

throughout the United States to view the beginnings of industrialization and modernization in America.⁴⁸ He became concerned with the beginnings of rapid industrial and commercial progress that started to sweep the northern states.

Realizing the economic importance of Louisville to developing a new South, Watterson used his pen to promote the ideals of the New Departure. Knowing that slavery would never return and that Kentucky's as well as Louisville's future lay in progress, not in the past, Watterson helped make Louisville the center of New Departure thinking. Many citizens, business leaders, and especially the investors and officers of the L & N railroad welcomed New Departure thinking.⁴⁹ In particular, business leaders in Louisville welcomed the possibility of increased population, industrial growth, and construction of more railroad lines into the city. These leaders had close interaction with and viewed the economic prosperity of the states north of the Ohio River with some envy.

If Louisville became the center of New Departure thinking, the Bluegrass Region of Kentucky became the natural center for the traditional wing of the Democratic Party, known as the Bourbons. The Bourbons adopted one fundamental platform or principle. Service in the Confederate Army or Navy was the one and only test for candidacy.⁵⁰ The Bourbons felt that ex-Confederates should maintain control of the Democratic Party and opposed any intrusion of the national government into Kentucky affairs.⁵¹ Centered on prominent plantation owners, attorneys and newspaper editors, the Bourbons adopted the premise of the "Lost Cause," and a refusal to accept the reality of Lee's surrender at

⁴⁸ Henry Watterson, *Marse Henry, An Autobiography* (New York: Beekman Publishers, 1974), 48.

⁴⁹ Tapp and Klotter, *Decades of Discord*, 32.

⁵⁰ Watterson, *Marse Henry*, 67.

⁵¹ Some of the Bourbons violated this principle when during the fight for the Cincinnati Southern, they appealed to the Congress and President Grant for federal assistance in funding the project.

Appomattox.⁵² Fearful of industry and any large-scale commercial activity, the Bourbons eyed Louisville and the New Departure wing of the Democratic Party with suspicion.⁵³ Located in Kentucky's rich agricultural heartland, Bourbons felt that agriculture was the key to Kentucky's future. Expressing no interest in public education or in the expansion of improved transportation, the Bourbons became increasingly hostile to the idea of suffrage for recently freed slaves.⁵⁴ Appalled at the direction of national politics, the Bourbon wing of the Democratic Party lived in the past of an agricultural, plantation-based economy, an Antebellum economy that never would return to Kentucky. To the Bourbons, however, they took proactive steps in an attempt to put Kentucky where the state could never go, back into the past.

With the political battle lines drawn, Louisville business and political leaders began to reconnect with southern trade after the Civil War. The period from 1865 to 1872, however, was marked by some complacency from Louisville in regard to expansion of transportation, notably railroads into the deeper South. Most of the effort of the era concentrated on two major tasks. First, Louisville business and political leaders began to promote Louisville as a southern city, friendly to southern trade. Second, those same leaders began to fight against the threat of Cincinnati constructing a railroad into the interior of central Kentucky southward, forming another artery of commerce into the South. Louisville was in an envious position as a dominant location for southern trade.

⁵² Service to the Confederacy became such a powerful test for public office that some low-level city and county officials claimed Confederate service while actually serving with the Union.

⁵³ While the New Departure and the Bourbon wing never officially split during the 1860s and 1870s the tension between the two factions led to several major propaganda wars.

⁵⁴ In defeating ratification of the Thirteenth Amendment to the Constitution, prominent Bourbons stated that the Amendment violated Lincoln's 1861 promise to not affect slavery in the southern states, which conveniently forgot the Emancipation Proclamation, or much of Lincoln's policy from 1862 onward.

The pro-southern business propaganda from Louisville in the 1860s and 1870s expressed Louisville's new direction in commerce promotion. In particular the Louisville Board of Trade concentrated much effort on making Louisville an appealing location to purchase goods. The minutes of the board of trade often contained material quoted from various southern newspapers. On such newspaper, the *Memphis Bulletin* stated, "They [Louisvillians] have an elegant and refined society here, and as I learn thoroughly Southern in prejudice..."⁵⁵ The clipping went on to state, "I have seen a number of returned Confederates here. They are all doing well."⁵⁶ The writer could not have crafted a more letter perfect advertisement for those interested in promoting Louisville trade and business. The message of the *Memphis Bulletin* focused on the two key messages Louisville promoted to the South. First, the Louisville Board of Trade expended much effort in emphasizing that Louisville was a southern city, despite its loyalty to the Union during the Civil War.⁵⁷ Second, prosperous former Confederates could be found in Louisville, another indication of how successful Louisville was as a southern city.

Central to the promotion of Louisville as a center of southern trade was the Louisville and Nashville Railroad. While before completion of the L & N, Louisville relied on steamboats to provide trade with the South, between 1865 and 1868 river trade to the South accounted for less than 14 percent of the total river trade in Louisville.⁵⁸ A majority of goods shipped via the Ohio River were bound for ports north of Louisville or the western rivers. The importance of southern trade for the L & N resulted in an almost

⁵⁵ Minutes of the Louisville Board of Trade, 11 May 1865, Chamber of Commerce Collection, 1862-1920, University of Louisville Archives. Hereafter cited as Trade Minutes.

⁵⁶ Ibid.

⁵⁷ Curry, *Rail Routes South*, 44.

⁵⁸ Ibid., 30.

one-way transportation of freight south from Louisville by the railroads. In the fiscal year of 1869-1870, the L & N shipped over three times as many goods southward as it shipped north to Louisville.⁵⁹ As the decade came to a close, many in Louisville realized that the future lay in the L & N railroad. If the city was to retain its preeminent role as the supplier for the South, the business interests and the railroad would have to reach some sort of cooperation in order to effectively promote trade with Louisville. Even though the steamboat interests fought hard against the railroad, the iron horse won out with its speed and economy.

Beginning in 1865 and culminating in 1867, the Louisville Board of Trade lobbied the L & N to reach special rate agreements, giving long distance southern customers rate preferences in southbound shipments from Louisville.⁶⁰ Another innovation of the era, pooling, allowed railroads to combine resources in order to expedite shipment of goods. On January 1, 1868, the L & N along with the Western and Atlantic Railroad, the Nashville and Northwestern Railroad, and the Nashville and Chattanooga Railroad, reached a special pooling agreement. Named the "Green Line," the partnership between the four railroads entailed each line providing a specified number of dedicated freight cars for the service.⁶¹ At a fixed rate of one and one half cents per mile, freight loaded into the specially painted green freight cars in Louisville.⁶² The sealed cargo then traveled as far as Montgomery, Alabama and Augusta, Georgia before being unloaded. The special service, with its fixed rates, proved attractive to southern

⁵⁹ Henry V. Poor, ed., *Poor's Manual of Railroads 1869-1870* (New York: Poor Manual Company, 1870), 344.

⁶⁰ Stover, *Railroads of the South*, 150-151.

⁶¹ Curry, *Rail Routes South*, 32.

⁶² Klein, *History of the Louisville and Nashville Railroad*, 76-78.

merchants looking for faster transportation into the markets of the Deep South states.⁶³

One of the key figures in the push to organize the Green Line was Milton H. Smith, later president of the L & N.⁶⁴

Desiring to cover all fronts in an offensive strategy to promote Louisville Trade, the Louisville Board of Trade reached several agreements with steamboat lines. While the steamboat could not compete against the economy and speed of rail transportation, several steam boat packet lines served areas not yet connected to Louisville via rail, notably the settlements along the western rivers in Arkansas.⁶⁵ Signing agreements with Pink Varble and William J. May, the owners of two major western river packet lines, the Louisville Board of Trade contracted departures three days a week from Louisville into the Arkansas and Tennessee River systems.⁶⁶ The establishment of these contracted runs allowed Louisville trade to make inroads into areas previously dominated by New Orleans and St. Louis merchants.⁶⁷ While smaller than those two cities, Louisville merchants used the available transportation resources to advance the cause of Louisville trade.

While most think of the steamboat and railroad working against each other in competition in the late 1860s, the Louisville Board of Trade also decided to pursue a partnership between the two to provide increased trade opportunities for products shipped from Louisville. In July 1868, the board along with the L & N established joining packet,

⁶³ Ely, *Railroads and American Law*, 82-83.

⁶⁴ Milton H. Smith a native of New York who worked for the U.S. Military Railroads during the Civil War was the chief Freight Agent for the L & N and was responsible for the success of the Green Line, which lasted for just over fifteen years. Smith's later ascendancy to the presidency of the L & N marked the culmination of the road's dominance in Kentucky politics and southern trade. Smith's leadership of the L & N later proved instrumental in finding a number of prominent New York investors to take control over the line after the Louisville Board of Alderman decided to sell its stock in the L & N in 1880.

⁶⁵ Curry, *Rail Routes South*, 34.

⁶⁶ Trade Minutes, 26 July, 12 August, 1867.

⁶⁷ Trade Minutes, 22, April 1867.

railroad service between Louisville and Paducah, Kentucky, and Florence Alabama.⁶⁸

The agreement signaled a change in the way riverboats functioned. No longer utilizing the palatial steamers along the main rivers, river packet lines found a niche market serving as feeders to rail transportation in the South through the navigation of feeder river systems on the Tennessee, Cumberland, and Ohio rivers.⁶⁹

Also during the same period, Louisville commercial interests and the L & N pushed for better connections with the North. As Louisville remained a trade based not a manufacturing based city, business leaders recognized the importance of better connections with the North. No bridge connected Louisville with Indiana. Several railroads terminated at New Albany with no direct connection with the L & N.⁷⁰ In mid-1866 surveys took place for a new bridge to connect Louisville with Jeffersonville, Indiana.⁷¹ Business interests in rival city Cincinnati bitterly opposed the construction of the bridge. The opposition claimed that such a bridge, if constructed would be a navigational hazard to river traffic. At almost all stages of water, the railroad bridge in Louisville would be nine to ten feet higher above the water than Cincinnati's own suspension bridge.⁷² Five Ohio Falls river pilots signed an affidavit stating that the bridge, as planned, would not constitute an obstruction to river traffic on the Ohio River. The possible motivation behind Cincinnati's opposition to the construction of such a bridge was that the Ohio River no longer served as a barrier with Indiana and other northern markets.⁷³ In the period after 1865, Cincinnati dominated the trade in southern

⁶⁸ Trade Minutes, 10 July 1868.

⁶⁹ Klein, *History of the Louisville and Nashville Railroad*, 40.

⁷⁰ *Ibid.*, 44.

⁷¹ *Louisville Bridge Company Annual Report for the Year 1867* (Louisville, KY.: John P. Morton, 1868), 14-19.

⁷² Curry, *Rail Routes South*, 52.

⁷³ *Ibid.*, 52-53.

Indiana and into southern Illinois. Any move by Louisville to provide improved transportation to the area was seen as usurpation by Louisville interests into Cincinnati's trade territory. With no real opposition, the construction of the Louisville Bridge began on August 1, 1867.⁷⁴

In addition to connecting Louisville with Indiana, work began in early 1866 on a railroad to connect La Grange with Covington. The Louisville and Cincinnati Railroad, heavily supported by both Louisville area merchants and the L & N, was to serve an important role in the expansion of Louisville trade.⁷⁵ Like the bridge to Indiana, the Louisville and Cincinnati railroad provided a direct route for manufacturers to ship goods to Louisville. Just as before the Civil War, Louisville was not a major manufacturing city. Louisville was, however, a major location for merchants and commerce acting as middleman for manufactured goods.⁷⁶ Despite calls for more manufacturing in Louisville, the city remained a distribution center for goods headed to southern markets. As a result, members of the Board of Trade realized that manufacturing centers such as Indianapolis, Cincinnati, and Chicago needed better transportation to Louisville in order for the Falls City to remain competitive for southern trade.

In addition, by routing Cincinnati goods through Louisville along with the use of preferential freight rates and car pooling, it was hoped that the L & N could bottleneck freight from Cincinnati in Louisville by slowing the time it took to transfer the freight into L & N freight cars. The delay gave Louisville merchants a greater advantage.⁷⁷ In

⁷⁴ Ibid., 53. Some minor opposition to the bridge formed when plans were first announced, but support for the project quickly grew.

⁷⁵ Klein, *History of the Louisville and Nashville Railroad*, 95.

⁷⁶ The lack of manufacturing in Louisville concerned some in the business community. Seeing manufacturing as part of a solid future economy, local leaders began to lobby for more manufacturing in the city. The manufacturing boom hit Louisville during the mid to late 1870s.

⁷⁷ The L & N gave Louisville-based traffic rate preferences.

1866, the L & N did not directly connect with the Louisville and Frankfort. Any freight originating in Cincinnati and headed to southern markets had to be broken from bulk and transported through the streets of Louisville in order to reach the L & N.⁷⁸ The expensive and time consuming process placed Louisville originated goods at an advantage.⁷⁹ Any manufactured goods bound for Louisville merchants had to be offloaded anyway, so Louisville reaped an advantage by connecting by rail, albeit not directly, with Cincinnati.

The late 1860s found Louisville merchants at a great advantage for southern trade. In addition to the L & N's prominence as a direct trade route with the South, Louisville merchants through the Board of Trade, took steps to use river and rail transportation, special rates and railroad freight car pooling to enhance Louisville's role as a trading and commerce center. The expansion of Louisville's prominent role as a southern trade center marked a central role of New Departure Democratic Party politics. The "New South" that prominent New Departure leaders such as Henry Watterson envisioned used trade connections with the North, and improved transportation into the South as keys to southern prosperity.⁸⁰ As the rivalry with Cincinnati intensified, however, Queen City leaders were eager to use the Bourbon faction against the New Departure Democrats in a bid to break Louisville's trade monopoly. While most Louisvillians probably viewed the L & N as beneficial to the Commonwealth, those in rural areas sometimes felt discriminated against by the railroad. The ensuing battle over Cincinnati's response to Louisville trade domination pitted urban against rural, the New Departure against the

⁷⁸ Hines, *Corporate History of the L & N*, 47.

⁷⁹ The L & N used its stockholdings in the Louisville and Cincinnati to give Louisville commerce preference. When the two railroads did build an interchange, just south of the House of Redemption, the L & N forced the other railroad to change its gauge to 4'8 1/2". The L & N used a 5' gauge at the time, and by forcing the other railroad to adopt a dissimilar gauge, it forced all freight originating from Cincinnati to break bulk.

⁸⁰ Watterson, *Marse Henry*, 78-83.

Bourbon Democrats, in a significant economic and political battle for Louisville's future as the king of southern trade.

The commercial rivalry between Louisville and Cincinnati reached a flashpoint between 1869 and 1872. During that time, the backers of a new railroad project attempted three times to secure a charter from the Kentucky General Assembly to construct a railroad through Kentucky from Cincinnati to Chattanooga. The legislative and political battles consumed the commercial interests of both Louisville and Cincinnati and focused much attention on major political figures of the era. Despite failing twice, the backers of the railroad from Cincinnati succeeded in convincing the General Assembly, despite the powerful L & N lobby, that the rail road needed to be chartered.

Key to the political battle between Louisville and Cincinnati was the political alignment of Kentucky during the era. Louisville, as home of the New Departure faction of the Democratic Party, wished to expand transportation from Louisville in order to enhance the commercial prospects of the Falls City. The Bourbons became more focused on the needs of the small farming communities of central Kentucky and their lack of adequate access to commercial markets, such as Louisville and Cincinnati. In a psychological sense, Cincinnati had to win over the Bourbon faction of the Democratic Party and thus legislative support for any railroad project. In the late 1860s many viewed Cincinnati as a hotbed of the Radical Republican party.⁸¹ The image was only exacerbated when news of Robert E. Lee's death in 1870 caused Cincinnati newspapers to describe the general as a "traitor."⁸² Unlike Louisville, where businesses closed as a sign of respect, Cincinnati merchants remained open for business. The episode created

⁸¹ Curry, *Rail Routes South*, 37.

⁸² "Louisville Mourns General's Death," *The Louisville Courier-Journal*, 14 October 1870, sec 1.

much negative publicity for the Queen City and highlighted the difficulties Cincinnati faced in gaining Bourbon Democrat support for the Cincinnati Southern Railway.

The first obstacle that the merchants of Cincinnati overcame centered on the skirting of Ohio law which prohibited civic investment in railroads.⁸³ By creating what amounted to a dummy corporation to manage the investments into the railroad, the city government of Cincinnati effectively evaded Ohio law against such activity. The project, known as the Cincinnati Southern Railway, would connect Cincinnati with Chattanooga, thus providing the Queen city with a direct trade conduit into the south, a route that rivaled the L & N for trade dominance.

The battle for chartering the Cincinnati Southern took place over three consecutive sessions of the Kentucky General Assembly between 1869 and 1872.⁸⁴ The legislative and political battle demonstrated how far the merchant community of Louisville would go to maintain its commercial monopoly on southern trade. In order to keep the Louisville railroad and trade monopoly secure, both the L & N and the Louisville Board of Trade decided on a course of action which appealed to the Bourbon faction of the Democratic Party. The first and most important step in courting the General Assembly was the hiring of a lobbyist to promote the shared interests of the L & N and Louisville. The L & N already had Basil W. Duke on the company payroll. Duke, an ex-Confederate General brother in law to John Hunt Morgan and his successor in command, moved to Louisville after the war and became a member of the General

⁸³ William G. Thomas, *Lawyering for the Railroad: Business, Law, and Power in the New South* (Baton Rouge: Louisiana State University Press, 1999), 58.

⁸⁴ Leonard Curry did an excellent job of describing each of the three separate legislative battles over the Cincinnati Southern in *Rail Routes South*. For the purposes of this paper though, only important highlights covering the railroad-political aspects will be examined.

Assembly.⁸⁵ A prominent member of the community, Duke first aided the L & N and Louisville commercial interests as a community leader. What was most amazing about Duke's new job was that during the Civil War, Duke along with Morgan's raiders made a career of smashing up the L & N and burning railroad bridges throughout Kentucky.⁸⁶ Sitting as Chairman of the powerful House Committee on Railroads, Duke spearheaded opposition to the Cincinnati Southern bill during the first failed attempt to attain a charter for the railroad.

The choice of Duke to represent the Louisville interests was a master stroke of political genius on the part of the Louisville interests. Duke was not only well known, but possessed excellent oratorical skills and a mind fit for manipulating the legislative process. Duke's services to the L & N continued for many years, his powerful name as a member of Morgan's Raiders carried a high level of prestige with legislators in Frankfort.⁸⁷ Duke's power and prestige, however, would be countered successfully by the Cincinnati interests.

Realizing the propaganda power of Louisville with their choice of Basil W. Duke as the lobbyist for the L & N, leaders in Cincinnati realized they needed to counter with a bigger name. Also, the psychological image of Cincinnati as a northern city must have come into play as the backers of the Cincinnati Southern chose someone with impeccable Confederate credentials. In December 1869, General John C. Breckinridge, a prominent

⁸⁵ Klein, *History of the Louisville and Nashville Railroad*, 107.

⁸⁶ Basil W. Duke, *Reminiscences of General Basil W. Duke* (Garden City, NY.: Doubleday, Page, and Company, 1911), 125.

⁸⁷ Thomas, *Lawyering for the Railroad*, 56.

Kentuckian, United States Senator, and former Cabinet official, announced that he would promote the passage of the Cincinnati Southern legislation.⁸⁸

Between 1869 and 1872, Duke and Breckinridge engaged in a political struggle of titanic proportions. Both Duke and Breckinridge served for the Confederacy and after the war represented interests that supported the Union during the Civil War. In the end, Duke and the Louisville supporters held off the Breckinridge camp twice, requiring the expenditure of valuable political capital. The main tactic that Breckinridge and his supporters used was to move the focus of the debate away from Louisville and Cincinnati. The less the Cincinnati backers lobbied in Frankfort, the better. Instead, Breckinridge turned the debate into one about Louisville unfairly dominating the state, and the unfair political influence the L & N exerted in Frankfort.

The turning point in favor of Cincinnati not only came from direct lobbying but also through the electoral process. The election of 1871 furthered the grip of the Bourbon Democrats on the General Assembly.⁸⁹ Many supporters of the Cincinnati Southern won elections in their home districts, running on a platform to “keep Louisville in its place,” and came to Frankfort to secure passage of the bill authorizing construction of the line. The remaining legislators were sufficiently lobbied by the Cincinnati Southern interests as to the benefits of the proposed road. The L & N, they successfully argued, only served Louisville with a disregard to a majority of the Commonwealth. Cities such as Covington and Lexington, as well as the smaller towns and agricultural areas of the central portion of the state, would stand to benefit from a program of railroad construction in the Bluegrass Region. As a result of electoral and legislative

⁸⁸ Curry, *Rail Routes South*, 77.

⁸⁹ Tapp and Klotter, *Decades of Discord*, 39.

maneuvering, the bill authorizing the charter of the Cincinnati Southern received Governor Preston Leslie's signature on February 13, 1872.⁹⁰ After several years and countless dollars spent opposing a competing trade route south, Louisville and the L & N lost their monopoly that day. While it took nearly ten years to finish the Cincinnati Southern, Bourbon Democracy once again triumphed in Kentucky.

Despite the eventual loss to Cincinnati, Louisville remained an important artery of trade to the South. Of equal importance, the city once characterized as being neither northern nor southern, came to a distinct identity. The end of the Civil War and the resulting political and economic shifts resulted in Louisville establishing a southern identity. The use of prominent ex-Confederates such as Basil W. Duke to promote Louisville interests highlighted the change. For the business and political leaders of Louisville, the adoption of a southern identity proved to be an easy choice. Realizing the direction the Bourbon Democrats took Kentucky politics, the New Departure Democrats realized the importance of the adoption of a southern identity.

The battle for the Cincinnati Southern was not the zenith of railroad involvement in Kentucky politics, it just heralded the beginning of a new phase. Recognition of the importance of the General Assembly in shaping public policy towards railroads forced many in Louisville, including the stockholders of the L & N, to take proactive political steps to protect the economic interests of the railroad. The zeal in which the L & N lobbied against the Cincinnati Southern only signaled the beginning of overt involvement in politics by the L & N.⁹¹ As the 1870s progressed, significant changes occurred in Louisville in relation to business and the political process. The love-hate relationship

⁹⁰ Curry, *Rail Routes South*, 136.

⁹¹ Klein, *History of the Louisville and Nashville Railroad*, 368-369.

between the Board of Alderman and the L & N finally reached a boiling point in the late 1870s resulting in the sale of L & N stock by the board in 1880. New Yorkers took control of the line with the purchase of the Alderman's stock but the control and operation of the L & N remained in Louisville hands. Milton H. Smith, the freight agent who helped organize the Green Line in 1868, ascended to the presidency of the L & N in 1884 serving in the position to his death. Smith and New York investors helped fashion the L & N into more than just a railroad that served business interests in Louisville. The L & N became, through massive expansion throughout the 1870s and 1880s, one of the premier railroads in the South, if not the most important.

Louisville remained an important commercial center throughout the nineteenth century. The emergence of the Industrial Revolution in the 1870s brought more industry to Louisville to supplement the commercial interests. Henry Watterson, as editor of *The Courier-Journal*, remained a strong advocate of the New Departure, a philosophy that took hold later in the century. While Louisville lost out to Bourbon Democracy in 1872, the realization that the future of Louisville and Kentucky lay both in the New Departure and in the Bourbon past, continued to reverberate throughout the state. Louisville became a city of the South.

CHAPTER FOUR

THE OCTUPUS AND THE KENTON KING: REGIONAL GROWTH AND STATE REGULATION, 1872-1900.

The failure by the Louisville and Nashville Railroad and its supporters to halt the Kentucky legislature from chartering the Cincinnati Southern project in 1872 marked a period of transformation in Kentucky railroad history and Kentucky political history. The immense political pressure the L & N could muster worried many in Kentucky. The use of lobbying, combined with the shift of ownership of the L & N to forces outside Kentucky, added to the railroad's negative public image. By the end of the nineteenth century, state courts and state legislatures, as well as the federal Congress, no longer used their power to promote the growth of the railroad industry. Regulation replaced promotion in a culture that viewed railroads as dangerous monopolies, or to use the popular terminology of the day, an octopus that strangled average Americans, especially small farmers and businessmen.

Despite the setback of losing the battle against Cincinnati for a southern trade monopoly, the L & N employed a strategy of continual expansion throughout the rest of the nineteenth century.¹ The financial prosperity enjoyed by the L & N in the late 1860s and early 1870s provided much needed reserve capital to rebuild infrastructure worn thin by wartime use. Based on its solid financial condition, the L & N began the process of

¹ Leonard P. Curry, *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872* (Lexington: University of Kentucky Press, 1969), 138-139.

expansion through acquisition.² By 1881, the year in which control of the railroad came under the firm hands of New York-based interests, the L & N stretched from Louisville to New Orleans with subsidiary lines serving Chattanooga, Memphis, and Cincinnati.³

The 1870s, however, were not all good for the L & N, due in large measure to the economic problems of the period. One result of the panic of 1873 was that Kentucky farmers, many of whom the panic financially ruined, looked for a scapegoat.⁴ In searching for a target, one industry, the railroads, became the primary focus of the angered farmers.⁵ Railroads, with rate policies that favored long-haul traffic and the pooling of cars freight cars for long distance shipment, appeared to be the culprit that led to the financial ruin of many in the United States. The most prosperous railroad in Kentucky, the L & N, faced much of this anger throughout the rest of the nineteenth century. The period from 1872 to 1900 contained four phases in the political and legal history of railroads in Kentucky. First, the expansion of both the L & N and of other railroads into Kentucky continued throughout the decade. As railroad mileage in the United States grew throughout the 1870s and 1880s, railroads consolidated and local influence and ownership diminished.⁶ The second phase included early attempts by the Kentucky Legislature to reign in the railroads through the first Kentucky Railroad Commission. The attempt, following a nation-wide pattern, reflected a change in public policy in Kentucky and the United States. No longer did courts and legislatures use the law to foster and promote railroad development. Much of the legislation of the 1870s and

² John F. Stover, *The Railroads of the South, 1865-1900: A Study in Finance and Control* (Chapel Hill: University of North Carolina Press, 1955), 230-232.

³ Between 1872 and 1900 the L & N grew from a 616 mile system to a 3,007 mile system.

⁴ Hambleton Tapp, and James C. Klotter, *Kentucky: Decades of Discord, 1865-1900* (Frankfort: Kentucky Historical Society, 1977), 141-143.

⁵ Clarence B. Carson, *Throttling the Railroads* (Indianapolis, IN.: Liberty Fund, 1971), 43-50.

⁶ Stover, *Railroads of the South*, 270-275.

throughout the rest of the nineteenth century focused on reigning in the industry.⁷ The railroads themselves, at the height of their political influence and power, believed the infusion of more money and railroad pressure into the political system would attain a political victory for the industry. The result was quite the opposite. The more the L & N poured money into state elections, the more vilified the company became in political and popular culture.

The rise of agrarian-populist influence in Kentucky politics marked the third phase of railroad and political history of the era. Much like the rise of farmer's unions, such as the Grange in the Midwest, agrarians in Kentucky combined forces with Bourbon Democrats kept Kentucky out of the industrial age for many years.⁸ The end result of the agrarian uprising in the United States throughout the 1880s and 1890s resulted in a Democratic Party that fractured over the candidacy of William Jennings Bryan and his free silver platform.⁹ The fourth and final phase of the period concerned the rise of William Goebel in Kentucky politics and his attempts to unite the Democratic Party against a common enemy -- Milton H. Smith and the L & N railroad. His ascension, election, and assassination ended the overt political involvement by the L & N or any other railroad in Kentucky's politics.

Even though the L & N lost the battle to prevent the Kentucky legislature from chartering the Cincinnati Southern Railway in 1872, the company continued to prosper. Taking advantage of the fact that backers of the Cincinnati railroad had yet to construct

⁷ James Willard Hurst, *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915* (Cambridge, MA.: Belknap, 1964), 277.

⁸ Tapp and Klotter, *Decades of Discord*, 127-139.

⁹ McKinley won Kentucky's electoral votes in 1896. For a study on the election, see Robert C. McMath, *American Populism: A Social History, 1877-1898* (New York: Hill and Wang, 1993); Robert C. McMath, *Populist Vanguard: A History of the Southern Farmers Alliance* (Chapel Hill: University of North Carolina Press, 1975) ; Stanley L. Jones, *The Presidential Election of 1896* (Madison: University of Wisconsin Press, 1964); and Paul W. Glad, *McKinley, Bryan, and the People* (Philadelphia, PA.: Lippincott, 1964).

their line to Chattanooga, the L & N consolidated their operations, and extended company influence throughout the upper South.¹⁰ The most notable acquisition of the era was the 1873 buyout of the Nashville, Chattanooga and St. Louis Railroad Company, the N. C. & St. L.¹¹ The company, based in Nashville, operated a railroad from Memphis to Chattanooga with a route extending into far-western Kentucky. The acquisition of the N. C. & St. L. gave the L & N direct access to Chattanooga eight years before the completion of the Cincinnati Southern project.¹² In 1865, the L & N owned and operated some 300 miles of railroad. The main stem, the line from Louisville to Nashville, totaled 185 miles.¹³ In addition, the L & N operated three branchlines to Bardstown, Lebanon, and the Tennessee state line respectively. The acquisition of the N. C. & St. L. in 1873 combined with the purchase of several smaller railroads in northern Alabama allowed the L & N to become more than just a railroad which served Louisville, but a railroad that served the entire upper South. By 1872, the L & N owned more than 616 miles of track as the result of the aggressive expansion and purchasing policies of the railroad's new president, H. D. Newcomb.¹⁴

Newcomb outlined the company's strategy of purchasing smaller railroads, especially in northern Alabama, in the 1873 annual report. Newcomb stated:

¹⁰ Curry, *Rail Routes South*, 139. The construction of the Cincinnati Southern lasted until 1881.

¹¹ Maury Klein, *History of the Louisville and Nashville Railroad* (New York: Macmillan, 1972), 139.

¹² James D. B. DeBow, *Legal History of the Entire System of the Nashville, Chattanooga, and St. Louis Railway and Possessions: Including and Discussing the Charters, Amendments, Rights, Privileges, and Franchises of Main Stem and Branches; By-Laws, Mortgages, Abstract of Title to Every Branch Acquired, Showing Width of Right of Way, Distance Built, Deeds or Leases to, and Mortgages on Same; Laws and Decisions Relating to Right of Way, Internal Organization, Meetings, etc., as Well as General Powers in Alabama, Georgia, Kentucky, and Tennessee* (Nashville, TN.: Marshall and Bruce Co., 1900), 28.

¹³ Klein, *History of the Louisville and Nashville Railroad*, 530.

¹⁴ H. D. Newcomb, a wealthy Louisville attorney and investor was a personal friend of James Guthrie, the chief Louisville supporter of the Louisville and Nashville railroad.

The location of this line [in northern Alabama] is such that this Company can never be excluded from the business of the Southeast and Southwest, from which it might have been cut off at any time at the pleasure of rival interests, which have been and which are still being built up.¹⁵

Newcomb and the directors of the L & N realized that like the battle with Cincinnati, which hinged on the Queen City having access by rail to markets in the South, the L & N's future centered on the ability to own direct access to the South.¹⁶

The costs associated with purchasing other railroads and building new rail lines added up for the L & N. Throughout the 1870s, the L & N faced tough financial situations as a result of the aggressive expansion policy of Newcomb.¹⁷ The crisis, while it did not seriously damage the L & N in financial terms, created strained relations with the company's investors, including the City of Louisville. The L & N remained profitable throughout the early part of 1873 until mid June. Disease epidemics in the cities which the L & N served, combined with the then-rare occurrence of the Ohio and Mississippi Rivers being navigable all year, led to a severe business slowdown for the railroad. The siphoning off of business by the steam boats forced the L & N to cut rates which led to lower profits for the company. Difficulties continued into 1874 when floods in western Tennessee and crop failures in Alabama added more pressure on the L & N to remain solvent.¹⁸ The credit rating of the L & N remained strong before the national economic trouble began, which placed the company in a better footing than other businesses ruined by the 1873 panic.¹⁹ Still, as cash flow problems arose, Newcomb scrambled to keep the railroad solvent by cutting costs. In addition to attempting to save

¹⁵ *Annual Report of the President and Directors of the Louisville & Nashville Railroad Company* (Louisville, KY.: J. P. Morton, 1873), 10-11.

¹⁶ One reason the L & N extended into Alabama was to tap the region's large iron ore deposits.

¹⁷ Klein, *History of the Louisville and Nashville Railroad*, 148.

¹⁸ Edward W. Hines, *Corporate History of the Louisville and Nashville Railroad and Roads in Its System* (Louisville, KY.: J. P. Morton Company, 1905), 58.

¹⁹ *Ibid*, 60-62.

money, Newcomb investigated several plans to refinance the L & N's bond situation, giving the company more money in which to stay afloat with.²⁰ Natural disasters, disease outbreaks, a worsening debt situation, and the problem of stagnating business all led the L & N down the path to potential ruin. Only through the emergency sale of bonds to Baring Brothers in London did the company successfully weather the storm. Still, the financial situation forced the L & N to suspend dividends from 1874 to 1877.²¹

Due to his advanced age and the stress of keeping the L & N from financial ruin Newcomb fell ill in the midst of the financial crisis, and died on August 18, 1874. The L & N's vice president Thomas J. Martin took over, and Newcomb's son, Victor Newcomb took his father's seat on the board of directors. While the railroad stabilized its debt situation and remained solvent, Thomas Martin had to assure investors as to the financial health of the railroad. In one message to the investors, Martin wrote:

Railroad companies live forever. It would be a short-sighted policy to look only to the profits of the next day or year. The managers of these great enterprises must look into the far future, and stockholders must be prepared to make temporary sacrifices in order to secure the permanent value of their property. There is every reason to believe that had this company not acted upon these principles at the proper time, had it remained a silent spectator of the great race that was going on around it between competing roads, it would not be reduced to a mere local road, of little value to its stockholders, and without the prospect of gaining a position of the leading roads in the country.²²

The message conveyed the new management principle of the railroad. Like other railroads throughout the United States, the L & N's directors envisioned the transformation of the railroad from a local or Louisville emphasis to a regional railroad serving the entire South. While still owned by Louisville interests, the stockholders and

²⁰ Klein, *History of the Louisville and Nashville Railroad*, 132.

²¹ Newcomb's son, Victor managed to arrange a deal on favorable terms, more so than what the company's board of directors expected.

²² *Annual Report of the President and Directors of the Louisville and Nashville Railroad Company* (Louisville, KY.: J. P. Morton, 1875), 12.

directors of the L & N understood that the ultimate survival of the line depended upon the ability of the railroad to expand its reach new markets throughout the South.²³ Also, Martin's message conveyed the sense that railroads were more than just companies. The construction and operation of a railroad system as extensive as the L & N was required tremendous human capital. Railroads employed thousands upon thousands of workers who did everything from construct and operate locomotives, to sweep the floors up at night. Unlike real estate and other company property, the important role workers played in keeping the L & N functioning and prospering during th3 1870s must be remembered.²⁴

Expansion for the Louisville and Nashville railroad resumed once prosperity returned. The careful, guided leadership of E. D. Standiford, who served as president of the L & N from 1875 until 1880, allowed the L & N to recover along with the national economy.²⁵ Except for labor troubles in 1877-1878, the L & N once again began paying stock dividends, and the railroad continued a policy of slow expansion into Alabama, western Kentucky, and Tennessee.²⁶ The most rapid expansion occurred between 1880 and 1881, which made the L & N into the dominant regional railroad, and gave the company a rail line from Louisville to New Orleans. In March 1880 Victor Newcomb took over as president of the L & N. Newcomb worked for the L & N for several years

²³ Stover, *The Railroads of the South*, 115.

²⁴ For an examination of the nineteenth century railroad worker, see Walter Licht, *Working for the Railroad: The Organization of Work in the Nineteenth Century* (Princeton, N.J.: Princeton University Press, 1983).

²⁵ Kincaid A. Herr, *The Louisville and Nashville Railroad, 1850-1964* (Louisville, KY.: L & N Public Relations Department, 1964), 58.

²⁶ Hines, *Corporate History*, 77-89. The L & N, like other railroads experienced a nationwide strike in 1877. For a history of the strike, see Robert V. Bruce, *1877: Year of Violence* (Chicago: Quadrangle Books, 1970); David O. Stowell, *Streets, Railroads, and the Great Strike of 1877* (Chicago: University of Chicago Press, 1999); Philip S. Foner, *The Great Labor Uprising of 1877* (New York: Monad Press, 1977); and Samuel Yellen, *American Labor Struggles, 1877-1934* (New York: Monad Press, 1977).

prior to his ascension to the presidency.²⁷ A financial genius, Victor Newcomb led the effort to restructure the L & N's debt and attracted British investment which kept the company afloat throughout the tough economic times of the early 1870s.

The first major initiative Newcomb undertook when he became president of the L & N was to fully absorb the N. C. & St. L. into the L & N system.²⁸ At that time, the N. C. & St. L. management was in protracted negotiations with the state of Georgia over a possible lease of the Western and Atlantic Railroad, which connected Atlanta with Chattanooga.²⁹ The state-owned railroad, operated under a lease by several railroads, was a point of contention for the L & N and other southern railroads.³⁰ The Central of Georgia Railroad feared further L & N expansion into Georgia and possible absorption. Through bargaining, the Central of Georgia struck a deal whereas the L & N was to not absorb, but to retain ownership of the N.C. & St. L., in exchange for an uncontested bid for the lease of the Western and Atlantic.³¹

The period of 1880-1881 marked the final phase in the transition of the L & N from a small regional carrier to a major transportation force in the upper south. The leadership of Louisville-based interests and investors allowed the railroad to grow from a 300 mile line to a 2,500 mile system by 1881.³² The transformation of the L & N into a regional railroad also highlighted the changes the railroad industry underwent nationally throughout the same period. Consolidation, absorption and merger became the important

²⁷ Klein, *History of the Louisville and Nashville Railroad*, 153.

²⁸ *Annual Report of the President and Directors of the Louisville and Nashville Railroad Company* (Louisville, KY.: J.P. Morton, 1874), 13.

²⁹ Stover, *The Railroads of the South*, 19.

³⁰ Hines, *Corporate History*, 89-93.

³¹ The L & N operated the N. C. & St. L. as a separate company until 1957. At that time, the Central of Georgia had been absorbed into the Southern Railway System, making the original deal null and void. In the late 1960s, when the lease of the Western and Atlantic was up for renewal, Southern attempted to gain the lease.

³² Hines, *Corporate History*, 97-103.

industry objectives of the period. The result was the creation of large interstate railroad systems, which many rural Americans viewed as threatening, greedy, faceless corporations.³³

The development of the L & N into a regional giant by 1881 also marked the end of Louisville-based control of the railroad. To that point, much of the railroad's existence, the general council of Louisville held a significant share of stock in the company.³⁴ Starting in the late 1870s, rumors spread that the city was interested in ending its ownership of the L & N.³⁵ The initial and subsequent stock purchases by the Louisville general council originally served the purpose to promote the railroad industry and commercial connections with Louisville. With the return of economic prosperity in the late 1870s, other railroads, including Collis P. Huntington's Chesapeake and Ohio Southwestern, began to construct lines to Louisville.³⁶ Although it did not occur until 1881, the L & N announced plans to purchase control of the Louisville, Cincinnati, and Lexington, a company that was the successor of the old Lexington and Ohio.³⁷ The prospect of Louisville becoming a two or three railroad town appealed to the business community.³⁸ Of equal importance, the Louisville general council wished to retire the debt which the city incurred to purchase L & N stock. In the summer of 1879, the Louisville general council announced that the city's plans to divest itself of its stock in

³³ John F. Stover, *American Railroads* (Chicago: University of Chicago Press, 1961), 258.

³⁴ Between 1850 and 1864, the Louisville general council subscribed to over \$4,000,000 worth of L & N stock.

³⁵ Klein, *History of the Louisville and Nashville Railroad*, 132.

³⁶ Sarah R. Yates and Karen R. Gray, "Business Conflicts in the Mayoralty of Paul Booker Reid, 1885-1887," *Filson Club History Quarterly* 61 (July 1987): 296.

³⁷ The Lexington and Ohio fell upon hard financial times in the 1840s, and included a period of state ownership. The railroad, absorbed into the Louisville and Cincinnati, completed its line between Frankfort and Louisville in 1851.

³⁸ Yates and Gray, "Business Conflicts," 298.

the L & N.³⁹ That same year, the L & N, through the constant news of profitability and territorial expansion, attracted serious attention from New York investors. Victor Newcomb, a familiar figure in the New York financial community, found suitable New York-based buyers for L & N stock.⁴⁰

New York investors waited two years for the city of Louisville to gain final legislative approval from the Kentucky General Assembly to sell the city's stock in the railroad. In those two years, opposition to selling the L & N to outside interests intensified in parts of the Louisville business community, and throughout the state.⁴¹ Unable to outvote the New York interests, Louisville lost control of the board of directors by 1880, with Newcomb and one other member hailing from Louisville. The rest of the new board consisted of notable members of the New York financial community, including E. H. Green, T. W. Hayes, and W. M. Farrington.⁴²

In November 1880, Kentucky and Tennessee-based investors of the L & N filed suit against the railroad challenging the line's sale of stock to New York interests.⁴³ While the suit was dismissed, Newcomb stepped down and the board replaced him with E. H. Green as the road's new president. For the first time in its thirty years of existence, the president of the Louisville and Nashville Railroad was neither from Louisville nor Kentucky. Green's ascension into the presidency marked the final transformation of the L & N from a local business into an interstate corporation.

Green passed the presidency of the L & N on to Christopher Columbus Baldwin in 1881. Charges of corruption, mismanagement, and the railroad becoming a

³⁹ Hines, *Corporate History*, 105.

⁴⁰ Klein, *History of the Louisville and Nashville Railroad*, 158.

⁴¹ *Ibid.*, 164.

⁴² *Ibid.*, 154, E. H. Green was the husband of Hetty Green, the "Witch of Wall Street."

⁴³ *Ibid.*, 168.

speculative venture permeated shareholder meetings for much of Baldwin's tenure as president. Baldwin further expanded of the L & N into Georgia, despite previous agreements with the Central of Georgia Railroad to not do so.⁴⁴ Baldwin used company expenditures in a scheme for the company to buy back stock and securities, inflate the stock price and dispose of the stock on the market. Investors in Kentucky and Tennessee became concerned in 1883 when the New York-based majority elected Jay Gould to the L & N board of directors.⁴⁵ Gould, the infamous New York financier gained an unsavory reputation in the business and financial community as a person who wrecked companies and looted the treasury.⁴⁶ By 1884, the L & N was nearly bankrupt. Baldwin represented the absentee management which allowed the railroad to suffer. Milton H. Smith, former general freight agent for the L & N and then a vice president, became concerned about the solvency of the railroad.⁴⁷ In May of 1884, Baldwin resigned and a temporary president, James Rogers, took over for less than a month. In June, Milton H. Smith ascended to the presidency of the Louisville and Nashville Railroad. Smith, except for a five year hiatus in the 1890s, remained the president of the L & N until his death in 1922.

Smith led the company through the difficult reorganization process, which included attempts to recover the securities and money that Baldwin took from the company treasury and placed in his own bank accounts.⁴⁸ Soon after Smith's takeover, Jay Gould sold his interest in the L & N. August Belmont and Austin Corbin, two

⁴⁴ The Central of Georgia Railroad was unique in American railroad and economic history because the state of Georgia gave the company banking privileges as a way to finance railroad construction.

⁴⁵ Hines, *Corporate History*, 248.

⁴⁶ For a biography of Jay Gould, see Maury Klein, *The Life and Legend of Jay Gould* (Baltimore, MD.: Johns Hopkins University Press, 1986).

⁴⁷ Mary K. Tachau, "The Making of a Railroad President: Milton Hannibal Smith and the L & N," *Filson Club History Quarterly* 53 (April 1969), 129.

⁴⁸ In order to avoid a law suit, Baldwin sold his Newport, Rhode Island Estate and his art collection as partial reimbursement for the money he stole from the L & N treasury as president.

prominent New York investment bankers, gained control of the L & N's stock in 1886.⁴⁹ Belmont and Corbin, along with a cadre of investors from both New York and London, held the majority of L & N stock for the rest of the company's corporate existence.

While financial stability returned to the L& N as the company's ownership shifted from Kentucky to New York, important developments in the Kentucky political scene took place. As a result of the financial panic of 1873, and with the rise of agrarian politics in Kentucky, a period of public dissatisfaction with railroads began. The shift to agrarian policies, compounded by the dominance of the Bourbon wing of the Democratic Party, created a political and regulatory environment unfriendly to the L & N and other railroads in the state.⁵⁰ In power throughout the late nineteenth century, Bourbon Democrats ran Kentucky as if it were the 1850s, with little spending on public works and education. Service to the Confederacy, proved to be the litmus test for anyone aspiring to hold office in the era of Bourbon Democrats. Fearful of modernization, the Bourbons found allies in the small-scale farmers of central and western Kentucky where the roots of political agrarianism held sway throughout the 1870s and 1880s.⁵¹

Countering the Bourbon Democrats was another wing of the Democratic Party. Called the New Departure Democrats, this wing of the party based its support in and around the city of Louisville. While early leaders of the New Departure were also former Confederates, they felt that service to the South during the Civil War was not a requirement in order to hold public office in Kentucky.⁵² But the New Departure wing understood that the future of Kentucky lay in industrialization and the expansion of

⁴⁹ Herr, *The Louisville and Nashville Railroad*, 61.

⁵⁰ Tapp and Klotter, *Decades of Discord*, 102.

⁵¹ *Ibid.*, 38; 59.

⁵² Curry, *Rail Routes South*, 128.

improved transportation throughout the Commonwealth. Henry Watterson, the Louisville newspaper editor who coined the phrase “out Yankee the Yankee,” summed up the goals of the New Departure Democrats.⁵³ The Bourbons, not usually supportive of railroads, supported the Cincinnati Southern project as a means to diminish the economic and political influence of Louisville and the New Departure Democrats in Kentucky politics.

The first strike against the railroad interests in the Kentucky legislature came in 1878 with the passage of a bill which provided for the fair assessment of railroad property at a tax rate similar to that of other property.⁵⁴ Since 1829, many railroad projects chartered by the Kentucky legislature contained provisions allowing for generous tax relief on the property owned by railroads. By the 1870s as Louisville and small towns spent money on railroad stock funded through the issue of bonds, the floating debt situation became serious.⁵⁵ Allowing cities and towns to own railroad stock helped to promote the development of the railroad industry. By the 1870s, however, most railroads in Kentucky, especially the L & N, were profitable and no longer needed local and state government aid. As the owners and investors in railroads prospered and weathered the financial crisis of 1873, public opinion, especially in rural areas of Kentucky, turned against railroads. The passage of the 1878 taxation law only partially affected the railroads. Most railroad property was indeed grossly undervalued, which led lower taxes than had the property been assessed at the current market value.⁵⁶ This 1878 bill began to change the pro-railroad environment in Kentucky. Kentucky’s railroads started to feel

⁵³ Henry Watterson, *Marse Henry: An Autobiography* (New York: Beekman, 1974), 48.

⁵⁴ Tapp and Klotter, *Decades of Discord*, 233-237.

⁵⁵ *Ibid.*, 235.

⁵⁶ Hines, *Corporate History*, 89.

the legislative pressure coming from Frankfort. What followed was a continual back and forth of lobbying and campaigning by the railroads against further regulation, followed by the enactment of stricter and stricter regulation. The more heavy-handed the railroad lobby became in attempts to get their message of protectionism across, the more the railroads alienated the public. For every small legislative victory enjoyed by the L & N, another legislative defeat lurked around the corner.⁵⁷

The first major regulatory blow to the railroad interests in Kentucky came with the passage of the Railroad Commission Act in 1880.⁵⁸ This act created a four person commission with one representative each from the agrarian sector, the mercantile community, heavy industry and the railroad companies. The commissioners, appointed by the governor, were to prosecute violators of the state's railway and railway taxation laws, subpoena witnesses, and compile annual reports to the Governor and the legislature.⁵⁹ The creation of the Kentucky Railroad Commission marked the first step in tightening state regulation of the railroad industry.⁶⁰

In 1882, the Kentucky legislature amended the Railroad Commission Act which empowered the commission limited rate-making power for intrastate freight and passenger rates.⁶¹ The long-hated practice of railroads charging more for short haul freight versus long haul and interstate freight created an uproar within the agricultural

⁵⁷ The same pattern appeared to follow the L & N wherever the company tried to involve itself in politics. While not as dramatic, the L & N was involved in political lobbying in Alabama and Tennessee throughout the 1880s and 1890s.

⁵⁸ Tapp and Klotter, *Decades of Discord*, 258.

⁵⁹ James C. Klotter, *William Goebel: The Politics of Wrath* (Lexington: University Press of Kentucky, 1977), 18.

⁶⁰ With no rate making power, the first Kentucky Railroad Commission was a "weak" commission. "Strong" commissions, like in Texas and Louisiana, had the power to set rates. For information on the development of railroad commissions, see Robert F. Himmelburg, ed. *Antitrust and Regulation During World War I and the Republican Era, 1917-1932* (New York: Garland, 1994); David F. Prindle, *Petroleum Politics and the Texas Railroad Commission* (Austin: University of Texas Press, 1981); and John D. Hinkle, *The Kentucky Railroad Commission* (Frankfort, KY.: Legislative Research Commission, 1972).

⁶¹ *Ibid.*, 19.

and mercantile communities in Kentucky. Regardless of how much evidence the railroads produced to substantiate the necessity of charging more for hauling freight short distances, the critics of the industry never silenced their objections.⁶² In 1884, the L & N's new president, Milton H. Smith, deployed his political influence in order to counter the alliance of Bourbons and agrarians in Frankfort.⁶³

Smith, who acted as the L & N's chief freight agent during the company's fight against the chartering of the Cincinnati Southern in the late 1860s, learned the value of political lobbying.⁶⁴ While Louisville and the L & N failed to halt the project, the delay gave the railroad enough time to solidify its position throughout Tennessee and the middle South. Smith turned to the L & N's chief lobbyist, Basil W. Duke, to lobby the legislators in Frankfort for the L & N's cause. Using "liquor, food, and flattery," Duke managed to rally many to the L & N's cause.⁶⁵ However, with growing discontent with the railroads, especially the L & N, Duke found himself fighting a losing battle for influence in Frankfort. Throughout the 1890s, each time Duke and Smith applied more political pressure, an equally reactionary piece of anti-railroad legislation gained popularity. No longer viewed as a positive promoter of Kentucky commerce, and railroads, in particular the L & N, became a serious public enemy to the agrarian and Bourbon interests in Kentucky.

With the dawning of the 1890s, the Kentucky Democratic Party pinned their hopes on a rising but unlikely politician, William Goebel. Goebel, the son of a German

⁶² James Ely, *Railroads and American Law* (Lawrence: University of Kansas Press, 2001), 227.

⁶³ Tachau, "The Making of a Railroad President," 133.

⁶⁴ Mary K. Tachau, "Milton Hannibal Smith and the Louisville and Nashville Railroad" (M.A. thesis, University of Louisville, 1958), 39.

⁶⁵ Klein, *History of the Louisville and Nashville Railroad*, 376.

immigrant, hailed from Kenton County in Northern Kentucky.⁶⁶ After attending law school in Cincinnati, Goebel set up practice in Kenton County and began to build a system of political patronage.⁶⁷ Goebel acquired the nickname “the Kenton King” due to his growing influence in Kentucky politics.⁶⁸ Not a powerful public speaker and somewhat aloof, Goebel galvanized public opposition against the L & N throughout the 1890s. Vocalizing the frustration small farmers and merchants felt toward railroads, which they viewed as discriminatory and monopolistic, Goebel was able to turn public disgust for the L & N into a powerful electoral force. His anti-L & N platform propelled him to the office of governor, albeit briefly.

William Goebel’s rise into Kentucky political prominence began with his tenure in the Kentucky legislature. Goebel used his reputation as a successful, intelligent attorney to gain a seat in the state senate in 1887.⁶⁹ Goebel crafted his anti-railroad platform to solidify a base with both the Bourbons and the rising agrarians of central and western Kentucky.⁷⁰

William Goebel’s rise in Kentucky politics came with a legislative fight to make the railroad commission more powerful. The L & N lobby, headed by Basil W. Duke, almost succeeded in gaining enough votes to overturn several proposals which empowered the commission to issue judgments against railroads, and set intrastate freight and passenger rates.⁷¹ Using the extravagant lobbying by the L & N as a weapon against

⁶⁶ Klotter, *William Goebel*, 10-17.

⁶⁷ Klein, *History of the Louisville and Nashville Railroad*, 349.

⁶⁸ Klotter, *William Goebel*, 23.

⁶⁹ Thomas H. Edison, ed., “Milton H. Smith Talks about the Goebel Affair,” *Register of the Kentucky Historical Society* 78 (September 1980): 330.

⁷⁰ *Ibid.*, 332.

⁷¹ Urey Woodson, *The First New Dealer, William Goebel; His Origin, Ambitions, Achievements, His Assassination, Loss to the State and Nation; the Story of a Great Crime* (Louisville, KY.: The Standard Press, 1939), 23.

itself, Goebel persuaded enough senators to change their votes, defeating the measure.⁷²

Even with Goebel's victory, the young politician sensed the power of Basil W. Duke and the railroad lobby.⁷³ Several times throughout the 1890s, Goebel called for commissions

to investigate Duke and the L & N, as well as other railroads, in regard to their lobbying practices. Most legislators knew that several times during a legislative session, the L &

N and other railroads held lavish receptions at the Capitol Hotel in downtown Frankfort.⁷⁴

Until the passage of the Hepburn Act in 1906, which made the practice illegal, Duke and the other L & N lobbyists handed out passes for free transportation on L & N passenger

trains.⁷⁵ In addition to passes, Duke handed out free bourbon and other alcohol, money, lavish gifts, free trips, and other amenities to legislators and government officials.⁷⁶

Since the L & N's first major legislative battle against the Cincinnati Southern project, the railroad grew bolder in its attempts to win legislative support. Duke's universal

appeal to all factions of Kentucky Democrats, however, could not eventually halt the tide of transition in Kentucky politics.⁷⁷ The railroad industry in Kentucky faced much

opposition as the 1890s dawned. Proposals for a new constitution contained provisions to regulate the railroad industry in Kentucky, a position which grew popular with the public.

Beginning in the 1870s, calls for a new state Constitution spread throughout Kentucky. The then current 1850 constitution was outdated and many provisions needed to be revised or thrown out. Even the hard line-Bourbons and agrarians felt that a new

⁷² Klotter, *Decades of Discord*, 341.

⁷³ In the end, the Interstate Commerce Commission was the agency which investigated the lobbying practices of the L & N.

⁷⁴ Woodson, *The First New Dealer*, 58.

⁷⁵ Ely, *Railroads and American Law*, 186; Railroads also used free passes as payment to keep local attorneys on retainer. For a discussion of the development of the legal profession in relation to railroads see; William G. Thomas, *Lawyering for the Railroad, Business, Law, and Power in the New South* (Baton Rouge: Louisiana State University Press, 1999).

⁷⁶ Woodson, 90.

⁷⁷ Tapp and Klotter, *Decades of Discord*, 414.

constitution needed to be authored, to suit their goal of limiting the incursion of industry into Kentucky.⁷⁸ Meeting between 1890 and 1891, the convention drafted the new constitution, and presented Kentuckians a document that was almost impossible to amend or replace.⁷⁹ As a powerful voice in the state Senate, Goebel used his political influence to insert key provisions in the new document which restricted the power of corporations in Kentucky.

Noted Kentucky historian Thomas D. Clark wrote of the 1891 Constitution:

One gets the impression that many of the delegates were, in fact, little Red Riding Hoods trudging alone and frightened through the perplexing forest of constitutional law, hoping that the big bad wolves of industrial and progressive changes were mere fragments of their badly agitated imagination, and that a rigid constitution with static provisions would serve to dispel these threatening wraths.⁸⁰

The divide in the constitutional convention was the same divide which voted to limit the monopoly privilege of the L & N in 1872 by charting the Cincinnati-backed railroad.

The resulting economic crisis of the early 1870s followed the financial problems of the L & N after ownership passed out of Kentucky hands and led to the creation of a strong anti-railroad lobby. Not only was the lobby anti-railroad but anti industry, anti-business, and as some would argue, anti- modern.⁸¹ From their beliefs, the delegates crafted a lifeless document, which was difficult to amend, near impossible to replace, and served the agrarian interests in Kentucky.

⁷⁸ Ibid., 390.

⁷⁹ Until the 1970s, it was only possible to amend the Kentucky Constitution by passing an amendment in two separate sessions of the General Assembly, which met every two years. Then, only two amendments could be on the ballots at a time. The allowance of four amendments at a time, combined with annual legislative sessions has allowed the process to proceed faster. On the other hand, Article 256 of the Constitution makes the replacement of the constitution almost impossible with requirements such as multiple approvals of a convention by both the General Assembly and the voters.

⁸⁰ Quoted in William Green, "Constitutions," in *The Kentucky Encyclopedia* (Lexington: University Press of Kentucky, 1992), 224.

⁸¹ Green, "Constitutions."

The key provisions that affected railroads in the 1891 Kentucky Constitution fell into three areas. Overall, for the first time in a Kentucky constitution, the state regulated corporations outside of the original charters granted by the legislature. The constitution spelled out forty provisions which limited corporate activity within the Commonwealth. First, railroads could no longer rely on the state government for special, individual charters.⁸² The new constitution expressly forbade the issuance of special legislation designed specifically to help one company or one town.⁸³ The constitutional ban on special legislation marked a shift in Kentucky toward general incorporation laws.⁸⁴

The second financial provision of the new Kentucky constitution limited public debt. The state, already limited by the previous 1850 constitution, could not borrow a significant amount of money if the debt could not be retired in a short period of time. Relative to the limitations on state indebtedness, the new constitution limited the ability of local government to issue bonds or other securities in order to create or help a new corporation.⁸⁵ The clause marked the first time a Kentucky constitution closely regulated local government. Part of the reasoning behind the provisions prohibiting local buying dealt with the city government of Louisville's purchase of L & N stock. Louisville government accumulated nearly \$4,000,000 in city debt over the years purchasing L & N stock.⁸⁶ While the city paid nearly all of it off with its initial stock sale in 1880-1881, the prospect of local governments being bankrupted by speculative business ventures frightened many, not just agrarians.

⁸² Special or private legislation carried over as a common law tradition. The sheer size of corporate and industrial development in the nineteenth century made the enactment of general incorporation laws a necessity for most states.

⁸³ Kentucky Constitution (1891), sec 59.

⁸⁴ Following the 1892 ratification of the new constitution, the Kentucky legislature met for over a year to modify and rewrite Kentucky law in order to agree with the new governing document.

⁸⁵ Kentucky Constitution (1891), sec 141.

⁸⁶ Tapp and Klotter, *Decades of Discord*, 320-321.

The third major railroad-related provision of the new Kentucky constitution dealt with the issue of the railroad commission.⁸⁷ The original Kentucky railroad commission could have been dissolved by a simple majority vote of the legislature. Politicians like Goebel, who distrusted the lobbying and political power of the L & N and Basil W. Duke, decided to make the discontinuation of the railroad commission a moot point.⁸⁸ The new constitutional convention included a specific section creating a permanent railroad commission to hear evidence, try cases, issue opinions and reports and set intrastate freight rates.⁸⁹ The creation of a permanent Kentucky railroad commission created the exact regulatory nightmare railroads like the L & N wanted to avoid. The railroads argued that their “discriminatory” freight rates were actually based on the way in which railroads operated.⁹⁰ To move a loaded freight car a longer distance actually cost the railroad less in terms of labor and savings of fuel.⁹¹ The L & N had a greater demand for traffic heading south, rather than north. As a result, the L & N typically charged more to ship southbound freight, while freight heading north on the L & N commanded a lower rate due to less demand.

State regulation, however, was not the only regulatory hurdle railroads such as the L & N faced. Starting in the 1880s, a series of reforms swept through the federal Congress starting with the Interstate Commerce Commission, ICC.⁹² The commission, later rechartered by Congress to specifically set freight rates, was an early attempt by the

⁸⁷ Kentucky Constitution (1891), sec 209.

⁸⁸ Rhea A. Taylor, “Bases of Conflict in the Kentucky Constitutional Convention of 1890-1891,” *Filson Club History Quarterly* 46 (winter 1972): 27.

⁸⁹ Kentucky Constitution (1891), sec 217.

⁹⁰ Ely, *Railroads and American Law*, 81-83.

⁹¹ Carson, *Throttling the Railroads*, 68.

⁹² Ely, *Railroads and American Law*, 191.

federal government to regulate the growing railroad industry.⁹³ Congress designed laws like the Hepburn Act of 1908 to limit the political influence of the railroads by limiting the issuance of free passes, gifts, free freight transportation and rebates to large shippers. As the agencies like the ICC began to reign in the railroad industry, intrastate transportation remained an unregulated area, left to the individual states. In Kentucky, a coalition of agrarian farmers and Bourbon Democrats used their political power to curb the state's largest individual company, the Louisville and Nashville Railroad Company. The anti-corporate and anti-railroad provisions of the 1891 constitution reflected the growing resentment toward railroads and corporations in general. In fifty three years, the Kentucky legislature transformed its public policies from ones encouraging business and railroad enterprise to policies strictly regulating railroad entrepreneurship.

Fearful of almost all forms of governmental regulation, Milton H. Smith, and Basil W. Duke, both arrived at the conclusion that the best way in which to halt further regulation was to be more aggressive in lobbying for the company and against politicians like William Goebel. Backed by the company's New York and European investors, the most notable example of the new heavy-handed approach to lobbying occurred during the still-controversial 1899 gubernatorial election.⁹⁴ The 1899 election marked a transition in the history of Kentucky politics. The Bourbon and New Departure wings of the party morphed into two new factions. The agrarians rose to prominence, with remnants of the New Departure and those opposed to the coining of free silver forming

⁹³ The creation of the ICC sparked a series of important Supreme Court Cases regarding the constitutionality of the agency. Crucial court decisions that dealt with the ICC were *Interstate Commerce Commission v. Cincinnati, New Orleans and Texas Pacific Railway Company*, 167 U.S. 479 (1897), 94; *Interstate Commerce Commission v. Alabama Midland Railway Company*, 168 U.S. 144 (1897); *Interstate Commerce Commission v. Illinois Central Railroad Company*, 225 U.S. 452 (1910) and *Interstate Commerce Commission v. Louisville & Nashville Railroad Company*, 73 F. 409 (Circuit Court, Middle District of Tennessee, 1896).

⁹⁴ Woodson, *The First New Dealer*, 179.

the opposition. Backing William Jennings Bryan in his failed bid for the presidency in 1896, the agrarians made the governor's mansion their next goal.⁹⁵

The Democrats met in Louisville on June 21, 1899 at the Music Hall to decide the party's nomination for governor.⁹⁶ Goebel and his supporters took control of the convention and after multiple ballots and much inter-party struggle the convention selected William Goebel as the party's nomination for governor.⁹⁷ At least once during the convention, outside agitators succeeded in disrupting the business of the convention which Goebel and his supporters blamed on agents and supporters of the L & N.⁹⁸ During the convention, Goebel picked up the powerful support of the state's largest newspaper, the *Louisville Courier-Journal*. Edited by Henry Watterson, a leader of the New Departure wing of the party, the newspaper expressed an anti-L & N sentiment in the years following the loss of local ownership of the railroad. Watterson's support created a coalition of agrarians, New Departure Democrats and Bourbons to defeat the Republican candidate.⁹⁹

Despite Goebel's new support, a dissident faction of the Democratic Party upset over Goebel's populist leanings, met separately after the Music Hall Convention and nominated former governor John Y. Brown.¹⁰⁰ With two Democratic Party candidates in the election, the possibility of a split vote seemed possible. However, after the Republican victor in gaining Kentucky's electoral votes in the 1896 presidential election, Goebel and his supporters pushed through the Kentucky legislature a law which gave the

⁹⁵ Nicholas C. Burkel, "William Goebel and the Campaign for Railroad Regulation in Kentucky, 1888-1890," *Filson Club History Quarterly* 48 (January 1974): 56-57.

⁹⁶ Klotter, *William Goebel*, 217.

⁹⁷ Klein, *History of the Louisville and Nashville Railroad*, 382.

⁹⁸ *Ibid.*, 382-383.

⁹⁹ *Ibid.*, 382. Watterson sent a letter to the L & N's board urging the company to stay out of the election.

¹⁰⁰ Tapp and Klotter, *Decades of Discord*, 423-425.

General Assembly the final say on any state wide election. The law, titled “The Goebel Election Law,” limited the influence of Republicans in state elections. The utilization of the Democratic party-dominated legislature to decide election disputes acted as an insurance policy against any split vote.¹⁰¹

Fueling the opposition to William Goebel was Milton H. Smith. Smith, as president of the L & N, helped restore financial health to the company after the brief but destructive period of ownership by Jay Gould and his partners. Smith, a native of New York, rose through the ranks of the L & N after working for the United States Military Railroads during the Civil War.¹⁰² Smith’s outlook on the industry and railroad-governmental relations echoed his past.

Unlike previous presidents of the L & N who had not been involved heavily in the railroad industry, Milton Smith came to the job with a deep understanding of the railroad industry. Smith began his career on the L & N working as a freight clerk. Thus, Smith, through his promotion and ascension to the company’s presidency developed a leadership style that reflected his own experiences and beliefs. Smith’s stubbornness and fear of governmental regulation fueled the L & N lobby and its efforts to stop the growing influence of William Goebel. Not a “robber baron” in the tradition sense, Smith foreshadowed the eventual regulator landscape in regard to railroads.¹⁰³ In 1898, Smith wrote:

¹⁰¹ Woodson, *The First New Dealer*, 217.

¹⁰² Tachau, “Making of a Railroad President,” 24.

¹⁰³ Milton H. Smith and his family lived in a modest house on Fourth Street in Louisville. As president of the L & N he received \$25,000 a year in salary, which never changed during his tenure. Smith felt that the amount was more than adequate compensation for a railroad president. Although the L & N constructed a private car for Smith, he rarely used it, preferring to travel in standard Pullman accommodations on regularly-scheduled L & N passenger trains, which he paid for out of his own pocket. The traditional popular image of the nineteenth century “robber baron” owes much to other major figures such as the Vanderbilt family and Jay Gould. Their lavish lifestyles and sometimes scandalous business practices

I think the people of this country, under the laws and decisions of the courts can do anything. They are going to confiscate the railroads; have the power and are going to do it; it is a matter of time.¹⁰⁴

Smith served as president of the L & N until his death in 1922, and during his tenure he witnessed the growing regulatory landscape the railroad industry faced. He viewed the growing power of state and federal commissions, political bodies in their own right, as destructive to the property rights of private companies. Of state and federal regulation, Smith wrote:

People having a democratic government, with majority rule, create commissions and other forms of government with the power to confiscate-to, in one sense, destroy the value of the property of the other.¹⁰⁵

Smith felt that the use of state and federal regulation perverted democracy, and was misuse of government in order to destroy the private property and investments of large interstate corporations.¹⁰⁶ It is from this regulatory outlook that William Goebel, after achieving the Democratic Party nomination for governor in 1899, appeared so threatening to Smith and the L & N's board of directors sitting in New York City. The young politician made a name for himself as a progressive reformer who was distrustful of railroad monopolies.¹⁰⁷ As a state senator, Goebel was a minor nuisance, whose influence could be overcome by simple lobbying of other senators. As governor, with a strong Democratic Party-dominated legislature behind him, Goebel posed a significant threat to the Kentucky interests of the L & N. As a result, when news of Goebel's nomination reached the L & N's president and officers, they sprang into action. To

helped create the popular public perception that railroad executives were dishonest, always scheming, and not trustworthy.

¹⁰⁴ Congress, Senate, Committee on Interstate Affairs, *Hearing on Railway Rates and Charges, etc.* 55th Cong., 2nd Sess., No. 259, 13-17.

¹⁰⁵ Congress, Senate, Committee on Interstate Affairs, *L & N Hearings*, 55th Cong., 2nd Sess., No. 259, 406.

¹⁰⁶ Tachau, "Making of a Railroad President," 26.

¹⁰⁷ Woodson, *The First New Dealer*, 78.

protect the investors, Smith and the L & N board passed a resolution stating that the company was going to stay out of politics, a resolution that Smith and Duke had no intention of following.¹⁰⁸ This resolution followed an earlier move by the company to purchase two newspapers to serve as an unofficial company organ to defeat Goebel.

The decision by the L & N and Milton Smith to actively, but unofficially oppose the election of William Goebel caused significant consequences for the company and the railroad industry. While a full recounting of the election is not needed, several key points need to be addressed. First, Goebel initially did not win the race. In fact, Republican William S. Taylor defeated Goebel by a count of 193,714 votes for Taylor and 191,331 for Goebel.¹⁰⁹ The splinter candidacy of John Y. Brown siphoned off 12,040 votes from the Democratic Party, handing Taylor the victory.¹¹⁰ The state board of elections, created by Goebel's election law, certified the election. However, Goebel's law gave the Kentucky legislature final authority to certify the governor's race, and Goebel began to apply significant political pressure on his Democratic allies.¹¹¹ Goebel lost heavily in several Eastern Kentucky counties and in Louisville. The Democratic majority in the state legislature sought a way in which to throw out enough votes to hand Goebel the governorship.¹¹² The intense campaigning of the L & N through its two newspapers only added fuel to the fire. During the election crisis in January 1900, the L & N began running special trains to Frankfort from several eastern Kentucky counties.¹¹³ Rumors spread that the L & N freely transported a mob of armed insurgents from the mountains

¹⁰⁸ Klein, *History of the Louisville and Nashville Railroad*, 384.

¹⁰⁹ Tapp and Klotter, *Decades of Discord*, 443.

¹¹⁰ *Ibid.*, 443.

¹¹¹ Goebel and his supporters argued that the counties in Eastern Kentucky allowed mass voter fraud to occur and that the use of the militia and police to patrol the streets and polling places in Louisville was tantamount to coercion.

¹¹² Klotter, *William Goebel*, 189.

¹¹³ Tapp and Klotter, *Decades of Discord*, 446.

to impose the railroad's will on the election.¹¹⁴ In response, Governor Taylor, who had been inaugurated the previous December, called out the state militia. It was in this state of heightened tensions that the unthinkable happened. On the morning of January 30, 1900, as Goebel walked to the Capitol building in Frankfort, he was shot by an unknown assassin.¹¹⁵ The shots mortally wounded Goebel, and he died three days later.

In response to the tragedy, Governor Taylor ordered the dismissal of the legislature but the Democrats did not leave.¹¹⁶ Instead, they threw out just enough votes to hand a dying William Goebel the governorship.¹¹⁷ Goebel's death forced both Democrats and Republicans to take pause, and rethink their strategy. Both sides, feeling that the prevention of a full scale civil uprising in Kentucky was too much to risk, reached a compromise that allowed Governor Taylor to step down, and for the Democrats to take control of the Governorship.¹¹⁸

Because the L & N and Milton Smith took such a prominent role in campaigning against William Goebel, public outrage toward Smith and the L & N reached a high point.¹¹⁹ Rumors circulated that Smith had ordered the assassination of Goebel to prevent the politician from becoming governor.¹²⁰ In response to the Goebel assassination, political sentiment against the L & N swelled. The state legislature passed a series of laws which further regulated the railroad industry through the railroad commission.¹²¹ These measures included provisions prohibiting discriminatory freight rates and further

¹¹⁴ Ibid., 448.

¹¹⁵ Although several individuals were indicted, and three tried for the assassination of Goebel, to this day, nobody knows for sure who fired the shots, or who may have ordered the assassination of Goebel.

¹¹⁶ Tapp and Klotter, *Decades of Discord*, 450.

¹¹⁷ Ibid., 451.

¹¹⁸ Ibid., 452.

¹¹⁹ Klein, *History of the Louisville and Nashville Railroad*, 394.

¹²⁰ Milton Smith, until the 1910s refused to answer questions regarding his role in the campaign against Goebel. Even then, he denied any role in the assassination of the governor.

¹²¹ Ibid., 390-391.

empowered the railroad commission to set freight and passenger rates until the bill's sunset provision came in 1920.¹²²

The years from 1872 to 1900 reflected a transition for the Louisville and Nashville Railroad and the Commonwealth of Kentucky. As the railroad grew and became a powerful interstate corporation, the original goals for the railroad to serve primarily Louisville commercial interests passed. Instead, the company became an interstate railroad with a regional economic focus. The city of Louisville's decision to sell its stock to New York City investors marked a shift in the reins of control for the company. By the end of the nineteenth century, New York City interests headed by August Belmont and Austin Corbin effectively controlled the company and steered it to financial prosperity.

Even with financial prosperity, the same period marked a transition in Kentucky politics. By the end of the century, agrarians and populists coalesced around an anti-railroad platform. The Kentucky legislature, the same venue that in 1850 used its power to encourage business development by chartering the L & N, used its power to reign in the same company. Regulations such as the creation of the state railroad commission reflected similar developments throughout the United States. By the time of the 1899 governor's race, the intense politicization of railroad affairs reached a breaking point. The ultimate use of L & N political power to defeat a candidate for governor failed. Instead of keeping state regulation away, the L & N found itself regulated by the Commonwealth of Kentucky more than ever before. The political influence of the L & N diminished in Kentucky somewhat after this period. No longer would the company take

¹²² The 1891 Kentucky Constitution stated that railroads could not charge discriminatory rates, however, legislation was required to empower the state to enforce this provision.

such an overt stance for a political candidate or toward an issue. Instead, the L & N's board of directors learned an important lesson. They learned that intense political lobbying was counterproductive in changing political opinion. Instead, the overt political lobbying by the L & N only highlighted the company's power and their power became a political liability. As the twentieth century progressed, the L & N and other railroads in the United States found themselves more and more regulated by the states and federal government. The 1900 Goebel affair in Kentucky was only the beginning.

CHAPTER FIVE
MILTON H. SMITH'S LAST STAND: THE CHANGING FACE OF RAILROAD
REGULATION IN KENTUCKY AND THE UNITED STATES, 1900 AND BEYOND.

The assassination of William Goebel and the ensuing rush of public sympathy for the slain governor damaged the public image of the Louisville and Nashville Railroad. The extensive involvement by the L & N in the 1899 election highlighted to many the dangers of unbridled corporate involvement in the electoral process. Understanding politics as a means to an end, the L & N's president Milton H. Smith viewed increased regulation by state courts and state legislatures as an encroachment on traditional property rights. Railroads, Smith asserted, would be driven out of business by the state and federal government due to the growing regulatory landscape for the industry.¹

"The onward spirit of the age," as Justice George Robertson of the Kentucky Court of Appeals wrote in his landmark decision in *Lexington and Ohio Rail Road Company v. Applegate and Others*, gave way to an entirely different era.² The Lexington and Ohio Railroad, L & O, marked the coming of the railroad to Kentucky and the excitement the progress of expanded railroad development could bring to the Commonwealth. Originally supported enthusiastically, the L & O soon fell upon hard times, like most early American railroads. As railroad technology grew more reliable in

¹ Maury Klein, *History of the Louisville and Nashville Railroad* (New York: Macmillan, 1972), 372-373.

² *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY. 289 (1839).

the 1840s, the industry became profitable and the clamor for better transportation in Louisville led to the state's largest construction project.³

The Louisville and Nashville Railroad grew out of the desire to create better commercial connections between Louisville and the South. In supporting the project, the Kentucky state legislature granted the L & N greater powers to condemn land, acquire raw materials, and secure financing for construction from a variety of sources, including local governments like the City of Louisville.⁴ Early backers of the L & N envisioned the new railroad as a line subservient to Louisville interests. Fraught with construction delays and a chronic lack of funds, the L & N did not reach Nashville until 1859. As a strategic asset, the L & N became the target of Confederate raiders during the Civil War in attempts to disrupt the crucial Union supply route from Louisville. Unlike its southern counterparts, the L & N did not fall victim to destruction like other major southern railroads during the war.⁵

Surviving the Civil War intact, the L & N and its Louisville-based backers recognized the importance that continued and expanded trade with the South held for the city's commercial future. As a result, the L & N became only part of an extensive promotional campaign by the Louisville merchant community to project a pro-southern image.⁶ Part of the pro-southern image was to outmaneuver rival city Cincinnati in the quest to wholly dominate Louisville trade. The New Departure Democrats, a component

³ Paul H. Coonter, "The Role of Railroads in United States Economic Growth," *The Journal of Economic History* 23 (December 1963): 481-482.

⁴ "An Act to charter the Louisville and Nashville Railroad Company (March 5, 1850) *Laws of Kentucky*, Chapter 382.

⁵ John F. Stover, *The Railroads of the South, 1865-1900: A Study in Finance and Control* (Chapel Hill: University of North Carolina Press, 1955), 178.

⁶ Leonard P. Curry, *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872* (Lexington: University of Kentucky Press, 1969), 10-17.

⁷ Henry Watterson, *Marse Henry: An Autobiography* (New York: Beekman, 1974), 78-82.

of Louisville's southern rebirth, envisioned an industrial and commercial future for Louisville. The optimism created by railroads like the L & N created a way, in Watterson's words, to "out Yankee the Yankee."⁷ Countering the New Departure wing, the Bourbons who represented the traditional power structure in the Commonwealth viewed helping Cincinnati as a way in which to stifle the New Departure and Louisville's power structure. The L & N and its chief lobbyist, Basil W. Duke, began a process of using the power of lobbying in order to attempt to coax the Kentucky legislature over to the railroad's camp. The continuation of lobbying and the application of increased political pressure continued. Like the economic law of diminishing returns, each new assault on the anti-railroad lobby by Duke and the L & N brought an equal vocal reaction in the Kentucky legislature, and a drop in favorable public opinion of the company.

The rise in anti-railroad sentiment in Kentucky throughout the 1880s gave a rising Democratic politician, William Goebel, a platform to merge the two factions in the Kentucky Democratic Party.⁸ Even Henry Watterson, a former proponent of increased trade and commerce for Louisville, began to view the political activities of the L & N with increased disdain. With his appeals to Duke and Smith ignored, Watterson backed William Goebel for governor in 1899. Goebel ran on the pledge that he would further regulate Kentucky's railroad industry.⁹ Riding the tide of the surge of political agrarianism in Kentucky, Goebel became a popular candidate with farmers and small businessmen throughout rural Kentucky.¹⁰

⁸ James C. Klotter, *William Goebel: The Politics of Wrath* (Lexington: University Press of Kentucky, 1977), 97.

⁹ *Ibid.*, 123.

¹⁰ Hambelton Tapp and James C. Klotter, *Kentucky: Decades of Discord, 1865-1900* (Frankfort: Kentucky Historical Society, 1977), 389-394.

The heavy-handed approach by the L & N in the opposition of Goebel fueled the popular rumor that the L & N was responsible for Goebel's assassination on the steps of the Capitol in Frankfort. As a result, the L & N never again enjoyed the same level of political influence in Kentucky politics. Attempts to use lobbying and political pressure spread to Tennessee and Alabama where the railroad ended up with the same result, more state regulation.

The period from 1829 to 1900 contained many changes in the way state and federal governments dealt with railroads. Prior to the 1880s individual states regulated railroads. As railroads evolved from local companies to large, interstate corporations, the public clamor for federal intervention and regulation of the industry peaked. As a result of the increased calls for federal regulation, Congress created the Interstate Commerce Commission in 1886 to deal with the growing concerns about railroads. The ICC could only regulate interstate commerce, which still allowed states a crucial role in industry regulation. In Kentucky, the original railroad commission of the 1880s was a "weak" commission, whereas the backlash of the continued political involvement of the L & N created a "strong" railroad commission.¹¹ In many ways the conduct of the railroads in Kentucky, notably the L & N, contributed to the political environment where the regulation of the industry became popular in the legal and political culture of the United States. Railroads, no longer granted special charters with extraordinary rights, served as a harbinger for the regulation of business by the state and federal governments.

The L & N, through its expansion into Alabama during the 1870s, opened the state to economic development. The development, however, did not significantly solve the endemic problem of poverty in the state. Even more so than in Kentucky, the L & N

¹¹ Ibid., 258.

had a strong political presence in the Alabama state capital of Montgomery.¹² During the 1880s, the L & N witnessed a series of legislative maneuvers that created an all-out legal battle over freight and passenger rates. In 1881 Alabama created a “weak” railroad commission with little power to regulate railroads.¹³ The commission rarely took any action, let alone push for lower rates from the L & N or any other railroad in the state. During the same period, Braxton Bragg Comer, an Anniston merchant, began to voice his opposition to the L & N’s high freight and passenger rates. Comer believed that the L & N used high, discriminatory rates in Alabama to finance speculative business ventures elsewhere.¹⁴ Comer’s calls for a stronger Railroad Commission eventually gained momentum in the 1890s with the state legislature doing just that. The L & N, however, did not want to give up. They initiated a series of law suits against the state which sought to enjoin Alabama from enforcing any of the new laws.¹⁵ The L & N felt that the laws which further empowered the commission represented an unconstitutional transfer of power from the legislative branch to a state agency. The L & N, through its attorneys, managed to keep the measures enjoined well into the twentieth century.¹⁶

In addition, in 1908 and 1909 the L & N loaned the state of Alabama nearly \$249,000 to help cover state budget shortfalls.¹⁷ While Milton Smith testified in 1916 that he authorized the loans out of his sense of patriotism, few could deny that the loans put the state in an awkward position in relation to regulating railroads like the L & N. Meanwhile, Comer became a member of the Alabama Railroad Commission and used his

¹² James F. Doster, *Railroads in Alabama Politics, 1875-1914* (Tuscaloosa: University of Alabama Press, 1957), 186.

¹³ Klein, *History of the Louisville and Nashville Railroad*, 378.

¹⁴ *Ibid.*, 388-390.

¹⁵ *Ibid.*, 390.

¹⁶ Doster, *Railroads in Alabama Politics*, 192—195.

¹⁷ Klein, *History of the Louisville and Nashville Railroad*, 393.

post to gain electoral support against the L & N. In addition, Comer led the state's attempts in overturning the injunctions against creating a stronger railroad commission. When Comer and Alabama succeeded in 1910, Smith acquiesced, lowering freight and passenger rates in Alabama.¹⁸ Comer ran for governor, and the L & N's board of directors may have wished to avoid the embarrassment that occurred as a result of Goebel's assassination in Kentucky. While the outcome in Alabama was more favorable than in Kentucky, the L & N's actions, viewed as heavy-handed, helped create suspicion against the railroad as a result of its political and legal actions. Similar to Kentucky, the more the L & N became involved, the more it became regulated.

The final and grandest example of the L & N's involvement in politics occurred from 1913 to 1917. The L & N attracted attention from the federal Congress in Washington during the Comer Affair.¹⁹ The L & N expended large sums of money providing the state of Alabama with loans, and lobbying the legislature to support pro-railroad measures. Questions about the L & N's role in politics finally reached a head in 1913 when the Senate Commerce Committee started a brief investigation. The committee then requested that the Interstate Commerce Commission conduct an investigation the political expenditures of the L & N. Of particular interest, the ICC and the Senate was interested in how much the L & N spent on state political campaigns in Kentucky, Alabama, and Tennessee.²⁰ After 1910, the L & N like other railroads became subject to closer scrutiny by the ICC.²¹ ICC examiners periodically examined every facet of a railroad's operations, from locomotive inspection practices, to how the railroad kept

¹⁸ Ibid., 395.

¹⁹ Ibid., 382-385.

²⁰ Ibid., 394.

²¹ James Ely, *Railroads and American Law* (Lawrence: University of Kansas Press, 2001), 172.

its books. Early ICC examinations into the L & N's accounting practices revealed no "smoking gun" insofar as a total of how much money Smith used to influence state political campaigns.²² As later discovered, Smith and the New York City-based board of directors secretly ordered that any political expenditure be hidden within the company books under such innocuous titles as "construction," and "advertising."²³ As a result of this creative accounting, the ICC was never able to fully grasp how much the L & N spent on political campaigns. The attempted cover-up escalated with the Senate investigation. It was not until 1916 that the ICC gathered enough evidence to hold a hearing on the matter. Present at the hearing were Milton Smith, Basil W. Duke, August Belmont, and other officers and directors of the L & N. During the hearings, Smith spoke candidly about his feelings of government regulation. Believing that commissions such as the ICC were a perversion of democracy, Smith held a considerable amount of contempt toward the ICC and "strong" state railroad commissions, a reason behind his extensive involvement in politics.²⁴

The ICC asked Smith and other L & N executives a series of questions relating to political expenses by the railroad. One such question, "Is it the policy of the Louisville & Nashville Railroad Company to make political campaign contributions, if you know?" cut to the heart of the matter.²⁵ When asked, however, about how much money the L & N hid in its treasury to spend on state political campaigns, Smith and other L & N executives refused to answer the questions.²⁶ What ensued was a legal battle that reached

²² *Smith v. Interstate Commerce Commission*, 345 U.S. 38 (1917).

²³ Klein, *History of the Louisville and Nashville Railroad*, 386.

²⁴ *Ibid.*, 371.

²⁵ *Smith v. Interstate Commerce Commission*, 345 US 38 (1917).

²⁶ "L & N Won't Open Books," *New York Times*, 14 December 1914, Sec 6A.

all the way to the United States Supreme Court. The case, *Smith v. Interstate Commerce Commission*, while not important in terms of United States legal history, was important in the history of the L & N's political involvement. Arguing that the ICC had no right inquire how a railroad such as the L & N spent its money, Smith sought to prevent the ICC from knowing how much the company held in its political slush fund.²⁷ However, Smith's arguments did not hold. Ruling against Smith and the L & N in a 9-0 decision, the court made quick work of the case. Justice Joseph McKenna in his majority opinion cited that Congress granted the ICC extensive investigative powers in 1910 and the court did not wish to attempt to circumscribe.²⁸ Also, McKenna argued that any carrier engaged in interstate commerce had no such right to privacy and could not engage in secret activities, such as attempting to hide political expenditures.²⁹

Soon after the Supreme Court handed down its decision, Smith admitted that the L & N held over \$250,000 in a secret account to use on political campaigns in Kentucky, Tennessee, and Alabama.³⁰ Also, the ICC investigation uncovered that the L & N issued free passes to a majority of the Tennessee state legislature, a violation of the Hepburn Act.³¹ Overall, the L & N was just as involved in state politics as it had been before 1900, albeit in a low-key manner. *Smith v. Interstate Commerce Commission* came at an important transition point in American railroad history. In 1917 the federal government seized all major United States railroads because of delays and gridlock in transporting

²⁷ Ibid.

²⁸ "Railroad Must Explain Political Expenses," *New York Times*, 6 November 1917, sec 1A.

²⁹ Justice Joseph McKenna (1843-1926) served on the United States Supreme Court from 1898 to 1925. Appointed by President William McKinley, McKenna previously served as Attorney General, as a Federal District Judge, and as a Member of Congress. McKenna is best-known for his majority opinion in *United States v. U.S. Steel Corporation* 251 US 417 (1920) in which he developed the "rule of reason" principle concerning the regulation of industry with anti-trust litigation. For a biography of McKenna, see Matthew B. McDevitt, *Joseph McKenna: Associate Justice of the United States* (New York: DeCarpo Press, 1974).

³⁰ "L & N Won't Open Books," *New York Times*, 14 December 1914, Sec 6A.

³¹ Klein, *History of the Louisville and Nashville Railroad*, 379.

supplies for the war effort. Operated under the United States Railroad Administration, the federal government did not relinquish control of the industry until 1921.³² While government ownership brought about important technical advances such as new, powerful standardized locomotive designs, the overall effect of government control produced long-lasting problems for the industry.³³ Unionization of railroad workers continued since the 1870s to be a major issue in national labor relations. During the period of USRA operation, the federal government instituted an eight-hour workday and helped implement staffing policies that later hampered the industry by saddling railroads with high labor costs. The problem became a major one as railroads faced increased competition from automobile and bus traffic in the 1920s and 1930s.

After the conclusion of the ICC investigation into the L & N, Milton Smith took a smaller role in the leadership of the L & N. Smith's age, compounded by the problems that leadership produced, created an opportune time for Smith to slip into partial retirement. Smith died in late 1921 at the age 84 after spending 30 years as head of the L & N.³⁴ While controversial, Smith received much credit during and after his life for helping maintain the L & N's role as an industry leader, a role that the company slowly slipped from in the years following Smith's death. As for the L & N, the years of New York City-based ownership meant that more and more control passed to the board of directors after 1921.³⁵ By then, the L & N became a subsidiary of the Seaboard Airline Railroad, another important southern railroad created by the acquisition and merger of

³² Ely, *Railroads and American Law*, 243-244.

³³ For a study of the advanced locomotive designs developed under USRA control, see Eugene L. Huddleston, *Uncle Sams' Locomotives: The USRA and the Nation's Railroads* (Bloomington: Indiana University Press, 2002).

³⁴ Milton H. Smith, Railroad Head, Dies," *New York Times*, 23 February 1931, Sec 13A.

³⁵ Klein, *History of the Louisville and Nashville Railroad*, 409.

several smaller companies in the 1890s. While still maintaining some autonomy, the L & N, after 1921, was a far cry from the railroad that received much support in Louisville in 1850.

For Kentucky, the twentieth century brought the same issues of industrialization and modernization that dominated the late nineteenth century. The two old factions of the Democratic Party, the Bourbons and the New Departure melded into a single, dominant group. Supported by the political agrarians, the new Democratic Party adhered to the 1891 constitution which kept Kentucky more or less in the nineteenth century in terms of public projects, investments in education, and modernization.

Justice George Robertson described railroads at “The parents of progressive improvement,” meaning that the construction of railroads in Kentucky brought forth a series of new public policy issues.³⁶ As America’s first big business, railroads helped transform the United States into an integrated, industrial economy. Each region and state approached railroad public policy in different ways. Kentucky, like other states, initially supported the industry by providing individual charters with transportation monopolies. That approach, however, was short-lived. Regulation replaced promotion and popular and political culture viewed railroads as a menace more than a benefit. That perception colors the popular images of the railroads to this day

³⁶ *Lexington and Ohio Rail Road v. Applegate et al.*, 39 KY 309 (1839).

REFERENCES

Monographs

- Ackerman, Kenneth D. *The Gold Ring: Jim Fisk, Jay Gould, and Black Friday, 1869*. New York: Harper Business, 1988.
- Aldrich, Mark. *Safety First: Technology, Labor, and Business in the Building of American Work Safety, 1870-1939*. Baltimore, MD.: Johns Hopkins University Press, 1997.
- Arnsen, Eric. *Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality*. Cambridge, MA.: Harvard University Press, 2001.
- Bain, David H. *Empire Express: Building the First Transcontinental Railroad*. New York: Viking, 1999.
- Bateman, Carroll. *The Baltimore & Ohio: The Story of the Railroad that Grew Up With the United States*. Baltimore, MD.: B & O Railroad, 1951.
- Baxter, Maurice G. *Henry Clay and the American System*. Lexington: University Press of Kentucky, 1995.
- Benson, Lee. *Merchants, Farmers And Railroads: Railroad Regulation and New York Politics, 1850-1887*. Cambridge, MA.: Harvard University Press, 1955.
- Berger, Peter. *The Social Construction of Reality: A Treatise in the Society of Knowledge*. Garden City New York: Anchor Books, 1967.
- Berk, Gerald. *Alternative Tracks: The Constitution of American Industrial Order, 1865-1917*. Baltimore, MD.: Johns Hopkins University Press, 1994.
- Bernstein, David E. *One Place of Redress: African Americans, Labor Relations, and the Courts from Reconstruction to the New Deal*. Durham, NC.: Duke University Press, 2001.
- Black, Robert C. *The Railroads of the Confederacy*. Chapel Hill: University of North Carolina Press, 1952.

Blackford, Mansel. *Business Enterprise in American History*. Boston, MA.: Houghton Mifflin, 1986.

_____. *History of Small Business in America*. Chapel Hill: University of North Carolina Press, 2003.

Brandeis, Louis D. *The Curse of Bigness: The Misceleneous Papers of Louis D. Brandeis*. Port Washington, NY.: Kennikat Press, 1965.

Bruce, Robert V. *1877: Year of Violence*. Chicago: Quadrangle Books, 1970.
Carson, Clarence B. *Throttling the Railroads*. Indianapolis, IN.: Liberty Fund, 1971.

Casseday, Benjamin. *The History of Louisville From its Early Settlement till the Year 1852*. Louisville, KY.: G.R. Clark, 1852.

Chandler, Alfred DuPont, Ed. *Precursors of Modern Management*. New York: Arno Press, 1979.

_____. *The Railroads, the Nation's First Big Business; Sources and Readings*. New York: Harcourt, Brace & World, 1965.

_____. *The Railroads, Pioneers in Modern Management*. New York: Arno Press, 1979.

_____. *The Visible Hand: The Managerial Revolution in American Business*. Cambridge, MA.: Belknap Press, 1977.

Clark, Thomas D. *The Beginning of the L & N; The Development of the Louisville and Nashville Railroad and its Memphis Branches from 1836 to 1860*. Louisville, KY.: The Standard Printing Company, 1933.

Cornog, Evan. *The Birth of Empire: DeWitt Clinton and the American Experience, 1769-1828*. New York: Oxford University Press, 1998.

Curry, Leonard. *Blueprint for Modern America: Non-Military Legislation of the First Civil War Congress*. (Nashville, TN.: Vanderbilt University Press, 1968.

_____. *Rail Routes South: Louisville's Fight for the Southern Market, 1865-1872*. Lexington: University of Kentucky Press, 1969.

- DeBow, James D. B. *Legal History of the Entire System of the Nashville, Chattanooga, and St. Louis Railway and Possessions: Including and Discussing the Charters, Amendments, Rights, Privileges, and Franchises of Main Stem and Branches; By-Laws, Mortgages, Abstract of Title to Every Branch Acquired, Showing Width of Right of Way, Distance Built, Deeds or Leases to, and Mortgages on Same; Laws and Decisions Relating to Right of Way, Internal Organization, Meetings, etc., as Well as General Powers in Alabama, Georgia, Kentucky, and Tennessee.* Nashville, TN.: Marshall and Bruce Co., 1900.
- Dilts, James D. *The Great Road: The Building of the Baltimore and Ohio Railroad, The Nation's First Railroad.* Stanford, CA.: Stanford University Press, 1993.
- Dixon, Thomas W. *Appalachian Coal Mines And Railroads.* Lynchburg, VA.: TLC Publishing, 1994.
- Doster, James. *Railroads in Alabama Politics, 1875-1914.* Tuscaloosa: University of Alabama Press, 1957.
- Duke, Basil W. *The Great Indiana-Ohio Raid by Brigadier General John Hunt Morgan and His Men.* Louisville, KY.: Book Nook Press, 1955.
- _____. *A History of Morgan's Calvary.* Milwood, NY.: Kraus Reprint, 1981.
- _____. *Reminiscences of General Basil W. Duke.* Garden City, NY.: Doubleday, 1911.
- Elliott, Ron. *Assassination at the Sate House.* Kuttawa, KY.: McClanahan, 1995
- Ely, James W. *Ambivalent Legacy: A Legal History of the South.* Jackson: University Press of Mississippi, 1984.
- _____. *Guardian of Every Other Right: A Constitutional History of Property Rights.* New York: Oxford University Press, 1987.
- _____. *Railroads and American Law.* Lawrence: University Press of Kansas, 2001.
- Ferguson, Edward A. *Founding of the Cincinnati Southern Railway: With an Autobiographical Sketch.* Cincinnati, OH.: The R. Clarke Co., 1905.
- Foner, Philip S. *The Great Labor Uprising of 1877.* New York: Monard Press, 1977.
- Friedman, Lawrence M. *American Law.* New York: Norton, 1984.
- _____. *American Law in the Twentieth Century.* New Haven, CT.: Yale University Press, 2002.

- _____. *Contract Law in America: A Social and Economic Case Study*.
Madison: University of Wisconsin Press, 1965.
- Glad, Paul W. *McKinley, Bryan, and the People*. Philadelphia, PA.: Lippincott, 1964.
- Gordon, Sarah. *Passage to Union: How the Railroads Transformed American Life, 1829-1929*. Chicago: Ivan R. Dee, 1996.
- Grant, H. Roger, ed. *Brownie the Boomer: The Life of Charles P. Brown, an American Railroader*. DeKalb: Northern Illinois University Press, 1991.
- _____. *The Corn Belt Route: A History of the Chicago Great Western Railroad Company*. DeKalb: Northern Illinois University Press, 1984.
- _____. *Erie Lackawanna: Death of an American Railroad, 1938-1992*.
Stanford, CA.: Stanford University Press, 1994.
- _____. *Insurance Reform: Consumer Action in the Progressive Era*. Ames:
Iowa State University Press, 1979.
- _____. *The North Western: A History of the Chicago & North Western Railway System*. DeKalb: Northern Illinois University Press, 1996.
- _____. *Ohio on the Move: Transportation in the Buckeye State*. Athens: Ohio
University Press, 2000.
- _____, ed. *We Took the Train*. DeKalb: Northern Illinois University Press, 1990.
- Grodinsky, Julius. *Jay Gould, His Business Career, 1867-1892*. Philadelphia: University
of Pennsylvania Press, 1957.
- Hall, Kermit. *A Comprehensive Bibliography of American Constitutional and Legal History, 1896-1979*. Millwood, NY.: Kraus International Publications, 1984.
- _____. *The Law of Business and Commerce: Major Historical Interpretations*. New
York: Garland, 1987.
- _____. *Law, Economy, and the Power of Contract: Major Historical Interpretations*.
New York: Garland, 1987.
- _____. *The Magic Mirror: Law in American Society* (New York: Oxford University
Press, 1989.
- _____. *An Uncertain Tradition: Constitutionalism and the History of the South*.
Athens: University of Georgia Press, 1989.

- Herr, Kincaid A. *The Louisville and Nashville Railroad 1850-1963*. Louisville, KY.: L & N Public Relations Department, 1964.
- Himmelburg, ed. *Antitrust and Regulation During World War I and the Republican Era, 1917-1932*. New York: Garland, 1994.
- Hines, Edward W. *Corporate History of the Louisville and Nashville Railroad Company, and Roads in its System*. Louisville, KY.: J.P. Morton and Company, 1905.
- Hinkle, John D. *The Kentucky Railroad Commission*. Frankfort, KY.: Legislative Research Commission, 1972.
- Hulbert, Archer Butler. *The Great American Canals*. Cleveland, OH.: The A. H. Clark Company, 1904.
- Hungerford, Edward. *Daniel Willard Rides the Line; The Story of a Great Railroad Man*. New York: G. P. Putnam's Sons, 1938.
- _____. *The Story of the Baltimore & Ohio Railroad, 1827-1927*. New York: G. P. Putnam's Sons, 1928.
- Hurst, James Willard. *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915*. Cambridge, MA.: Belknap Press, 1964.
- _____. *Law and Markets in United States History: Different Modes of Bargaining Among Interests*. Madison: University of Wisconsin Press, 1982.
- Jacobs, Timothy. *The History of the Baltimore and Ohio: America's First Railroad*. New York: Crescent Books, 1989.
- Jeffrey, Jonathan. *Bittersweet: The Louisville and Nashville Railroad in Warren County, Kentucky*. Bowling Green, KY.: Landmark Association, 2001.
- Jones, Stanley L. *The Presidential Election of 1896*. Madison: University of Wisconsin Press, 1964.
- Josephson, Matthew. *Robber Barons: The Great American Capitalists, 1861-1901*. New York: Harcourt Brace, 1934.
- Katz, Irving. *August Belmont: A Political Biography*. New York: Columbia University Press, 1968.
- Klein, Maury. *Edward Porter Alexander*. Athens: University of Georgia Press, 1971.
- _____. *The Flowering of the Third America: The Making of an Organizational Society, 1850-1920*. Chicago: Ivan R. Dee, 1993.

- _____. *The Great Richmond Terminal: A Study in Businessmen and Business Strategy*. Charlottesville: University Press of Virginia, 1970.
- _____. *History of the Louisville and Nashville Railroad*. New York: Macmillan, 1972.
- _____. *The Life and Legend of E.H. Harriman*. Chapel Hill: University of North Carolina Press, 2000.
- _____. *The Life and Legend of Jay Gould*. Baltimore, MD.: Johns Hopkins University Press, 1986.
- _____. *Prisoners of Progress: American Industrial Cities, 1850-1920*. New York: Macmillan, 1976.
- _____. *Union Pacific*. New York: Doubleday, 1987.
- _____. *Unfinished Business, The Railroad in American Life*. Hanover, NH: University Press of New England, 1994.
- Klotter, James C. *William Goebel: The Politics of Wrath*. Lexington: University Press of Kentucky, 1977.
- Licht, Walther. *Industrializing America: The Nineteenth Century*. Baltimore, MD.: Johns Hopkins University Press, 1995.
- _____. *Working for the Railroad: the Organization of Work in the Nineteenth Century*. Baltimore, MD.: Johns Hopkins University Press, 1983.
- Lloyd C. Foltz, ed. *B & O In the Civil War: From the Papers of Wm. Prescott Smith*. Denver, CO.: Sage Books, 1966.
- Lofgren, Charles. *The Plessy Case: A Legal-Historical Interpretation*. New York: Oxford University Press, 1997.
- Lorant, Stefan. *The Glorious Burden: The American Presidency*. New York: Harper Collins, 1968.
- Mahoney, Timothy R. *Provincial Lives: Middle-class Experience in the Antebellum Middle West*. New York: Cambridge University Press, 1999.
- _____. *River Towns of the Great West: The Structure of Provincial Urbanization in the American Midwest, 1820-1870*. New York: Cambridge University Press, 1990.

- Martin, Albro. *Enterprise Denied: Origins of the Decline of American Railroads, 1897-1917*. New York: Columbia University Press, 1971.
- _____. *James J. Hill and the Opening of the Northwest*. New York: Oxford University Press, 1976.
- _____. *Railroads Triumphant: The Growth, Rejection, and Rebirth of a Vital American Force*. New York: Oxford University Press, 1992.
- McDevitt, Matthew. *Joseph McKenna: Associate Justice of the United States*. New York: DeCarpo Press, 1974.
- McDowell, Robert E. *City of Conflict: Louisville in the Civil War*. Louisville, KY.: Louisville Civil War Roundtable, 1962.
- McMath, Robert C. *American Populism: A Social History, 1877-1898*. New York: Hill and Wang, 1993.
- _____. *Populist Vanguard: A History of the Southern Farmers Alliance*. Chapel Hill: University of North Carolina Press, 1974.
- Mercer, Lloyd J. *E. H. Harriman, Master Railroader*. Boston, MA.: Twayne Publishers, 1985.
- Mencken, August. *The Railroad Passenger Car: An Illustrated History of the First Hundred Years, with Accounts by Contemporary Passengers*. Baltimore, MD.: Johns Hopkins University Press, 2000.
- Meyer, David R. *The Roots of American Industrialization*. Baltimore, MD.: Johns Hopkins University Press, 2003.
- Orr, John W. *Set Up Running: The Life of a Pennsylvania Railroad Engineman, 1904-1949*. University Park: Pennsylvania State University Press, 2001.
- Pickenpaugh, Roger. *Rescue by Rail: Troop Transfer and the Civil War in the West, 1863*. Lincoln: University of Nebraska Press, 1998.
- Prince, Richard E. *Louisville and Nashville Steam Locomotives*. Bloomington: Indiana University Press, 2000.
- Prindle, David F. *Petroleum Politics and the Texas Railroad Commission*. Austin: University of Texas Press, 1981.
- Reimini, Robert V. *Henry Clay: Statesman for the Union*. New York: W.W. Norton, 1991.

- Reynolds, William. *European Capital, British Iron, and an American Dream: the Story of the Atlantic and Great Western Railroad*. Akron, OH.: University of Akron Press, 2002.
- Ripley, William C. *Finance and Organization*. New York: Longman's, 1915.
- Robertson, George. *Outline of the Life of George Robertson, Written by Himself With an Introduction by His Son*. Lexington, KY.: n.p., 1875.
- Rubin, Julius. *Canal or Railroad? Imitation and Innovation in Response to the Erie Canal in Philadelphia, Baltimore, and Boston*. Philadelphia, PA.: American Philosophical Society, 1961.
- Salsbury, Stephen. *The State, the Investor, and the Railroad: The Boston and Albany, 1825-1867*. Cambridge, MA.: Harvard University Press, 1967.
- Sanders, Richard. *Main Lines: The Rebirth of the North American Railroads, 1970-2002*. DeKalb: Northern Illinois University Press, 2003.
- Shaw, Ronald E. *Erie Water West: A History of the Erie Canal, 1792-1854*. Lexington: University of Kentucky Press, 1966.
- Stover, John F. *History of the Baltimore and Ohio Railroad*. West Lafayette, IN.: Purdue University Press, 1987.
- _____. *History of the Illinois Central Railroad*. New York: Macmillan, 1975.
- _____. *Iron Road West: American Railroads of the 1850s*. New York: Columbia University Press, 1978.
- _____. *The Life and Decline of the American Railroad*. New York: Oxford University Press, 1970.
- _____. *The Routledge Atlas of the American Railroads: Routledge Atlases of American History*. New York: Routledge, 1999.
- _____. *The Railroads of the South, 1865-1900: A Study in Finance and Control*. Chapel Hill: University of North Carolina Press, 1955.
- Stowell, David O. *Streets, Railroads, and the Great Strike of 1877*. Chicago: University of Chicago Press, 1999.
- Tapp, Hambelton, and James C. Klotter. *Kentucky: Decades of Discord, 1865-1900*. Frankfort: Kentucky Historical Society, 1977.

Taylor, George R. *American Economic History Before 1860*. New York: Appleton, 1969.

_____, and Irene B. Neu. *The American Railroad Network, 1861-1890*. Cambridge, MA.: Harvard University Press, 1956.

_____. *The Great Tariff Debate, 1820-1830*. Boston, MA.: Heath, 1953.

_____. *Jackson Versus Biddle: The Struggle Over the Second Bank of the United States*. Boston, MA.: Heath, 1949.

_____. *The Transportation Revolution, 1815-1860*. New York: Reinhart, 1951.

Thomas, William G. *Lawyering for the Railroad: Business, Law, and Power in the New South*. Baton Rouge: Louisiana State University Press, 1999.

Wall, Joseph Frazier. *Henry Watterson: A Reconstructed Rebel*. Louisville, KY.: The Standard Printing Company, 1951.

Watterson, Henry. *Marse Henry: An Autobiography*. New York: Beekman, 1974.

Welke, Barbara. *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1864-1920*. New York: Cambridge University Press, 2001.

White, John H. *American Locomotives: an Engineering History*. Baltimore, MD.: Johns Hopkins University Press, 1968.

_____. *American Railroad Freight Car: From the Wood-Car Era to the Coming of Steel*. Baltimore, MD.: Johns Hopkins University Press, 1993.

_____. *The American Railroad Passenger Car*. Baltimore, MD.: Johns Hopkins University Press, 1981.

Wiebe, Robert H. *The Search for Order, 1877-1920*. New York: Hill and Wang, 1967.

Woodson, Urey. *The First New Dealer, William Goebel; His Origin, Ambitions, Achievements, His Assassination, Loss to the State and Nation; the Story of a Great Crime*. Louisville, KY.: The Standard Press, 1939.

Yellen, Samuel. *American Labor Struggles, 1877-1934*. New York: Monard Press, 1977.

Reference Works

Kleber, John, ed. *The Encyclopedia of Louisville*. Lexington: University Press of Kentucky, 2001.

_____. *The Kentucky Encyclopedia*. Lexington: University Press of Kentucky, 1992.

Journal Articles

Alexander, Thomas B. "Persistent Whiggery in the Confederate South, 1860-1877." *The Journal of Southern History* 27 (August 1961): 305-329.

Arnesen, Eric. "Like Banquo's Ghost, It Will Not Down: The Race Question and the American Railroad Brotherhoods, 1880-1920." *The American Historical Review* 99 (December 1994): 1601-1633.

Benedict, Michael Les. "Southern Democrats in the Crisis of 1876-1877: A Reconsideration of Reunion and Reaction." *The Journal of Southern History* 46 (November 1980): 489-524.

Boyd, Carl B. "Local Aid to Railroads in Central Kentucky, 1850-1891." *Register of the Kentucky Historical Society* 62 (Winter 1964): 112-123.

Burckel, Nicholas C. "William Goebel and the Campaign for Railroad Regulation in Kentucky, 1888-1900." *Filson Club History Quarterly* 48 (January 1974): 43-60.

Campbell, E. G. "Railroads in National Defense, 1829-1848." *The Mississippi Valley Historical Review* 27 (December 1940): 361-378.

Caroso, Vincent P. "A Financial Elite: New York's German-Jewish Investment Bankers." *American Jewish Historical Quarterly* 66 (Winter 1976): 67-88.

Clark, Thomas C. "The Lexington and Ohio Railroad-A Pioneer Venture." *Register of the Kentucky Historical Society* 31 (January 1933): 9-28.

Connelly, Thomas L. "Neo-Confederatism or Power Vacuum: Post War Kentucky Politics Reappraised." *Register of the Kentucky Historical Society* 64 (October 1966): 257-269.

Coonter, Paul H. "The Role of the Railroads in United States Economic Growth." *The Journal of Economic History* 23 (December 1963): 477-521.

Cotterill, R. S. "The Louisville and Nashville Railroad, 1861-1865." *American Historical Review* 29 (July 1924): 700-715.

- Dew, Lee A. "Henderson, Kentucky, and the Fight for Equitable Freight Rates." *Register of the Kentucky Historical Society* 76 (January 1978): 34-44.
- _____. "The Owensboro Cattle Cases: A Study in Commerce Regulation." *Filson Club History Quarterly* 49 (March 1975): 195-203.
- _____. "Owensboro's Dream of Glory: A Railroad to Russellville." *Filson Club Historical Quarterly* 52 (Winter 1978): 26-45.
- _____. "The Tennessee Sugar Rate Cases." *Tennessee Historical Quarterly* 41 (April 1982): 171-182.
- Doster, James F. "The Conflict Over Railroad Regulation in Alabama." *Business History Review* 28 (September 1954): 329-342.
- Dwyer, Christopher S. "Raiding Strategy: As Applied by the Western Confederate Cavalry in the American Civil War." *The Journal of Military History* 63 (April 1999): 263-281.
- Edison, Thomas H., ed. "Milton H. Smith Talks about the Goebel Affair." *Register of the Kentucky Historical Society* 78 (September 1980): 328-332.
- Ely, James W. "The Railroad System Has Burst Through State Limits: Railroads and Interstate Commerce, 1830-1920." *Arkansas State Law Review and Bar Association Journal*
- Farnham, Wallace D. "The Weakened Spring of Government: A Study in Nineteenth-Century American History." *The American Historical Review* 68 (April 1963): 662-680.
- Goldfield, David R. "The Urban South: A Regional Framework." *The American Historical Review* 86 (December 1981): 1009-1034.
- Hackney, Sheldon. "Origins of the New South in Retrospect." *The Journal of American History* 38 (May 1972): 191-216.
- Haites, Erick F., and James Mak. "Steamboating on the Mississippi, 1810-1860: A Purely Competitive Industry." *Business History Review* 45 (January 1971): 52-78.
- Heckman, Charles A. "Establishing the basis for local financing of American railroad construction in the nineteenth century: from *City of Bridgeport v. The Housatonic Railroad Company* to *Gelpcke v. City of Dubuque* (68 U.S. (1 Wall.) 175)." *The American Journal of Legal History* 32 (July 1988): 236-264.

- Heier, Jan Richard. "The Foundations of Modern Cost Management: The Life and Work of Albert Fink." *Accounting, Business, and Financial History* 10 (March 2000): 213-243.
- Huston, James L. "A Political Response to Industrialism: The Republican Embrace of Protectionist Labor Doctrines." *The Journal of American History* 70 (June 1983): 35-57.
- Johnson, R. W. "Land Use in the Bluegrass Basins." *Economic Geography* 16 (July 1940): 315-335.
- Kantor, Shawn Everett, and J. Morgan Kousser. "Common Sense of Commonwealth? The Fence Law and Institutional Change in the Postbellum South." *The Journal of Southern History* 59 (May 1993): 201-242.
- Khan, B. Zorina. "Property Rights and Patent Litigation in Early Nineteenth-Century America." *The Journal of American History* 55 (March 1995): 58-97.
- Klein, Maury. "The Strategy of Southern Railroads." *The American Historical Review* 72 (April 1968): 1052-1068.
- Klotter, James C. "The Black South and White Appalachia." *The Journal of American History* 66 (March 1980): 832-849.
- Kornweibel, Theodore. "Railroads and Slavery." *Railroad History* 189 (fall-winter 2003): 34-59.
- Mahoney, Timothy R. "Urban History in a Regional Context: River Towns on the Upper Mississippi, 1840-1860." *The Journal of American History* 72 (September 1985): 318-339.
- Majewski, John. "Who Financed the Transportation Revolution? Regional Divergence and Internal Improvements in Antebellum Pennsylvania and Virginia." *The Journal of Economic History* 56 (December 1996): 763-788.
- Martin, Albro. "Railroads and Equity Receivership: An Essay on Institutional Change." *The Journal of Economic History* 34 (September 1974): 685-709.
- _____. "The Troubled Subject of Railroad Regulation in the Gilded Age—A Reappraisal." *The Journal of American History* 61 (September, 1974): 339-371.
- McCurdy, Charles W. "American Law and the Marketing Structure of the Large Corporation, 1875-1890." *The Journal of Economic History* 38 (September 1978): 631-649.

- Moore, James Tice. "Redeemers Reconsidered: Change and Continuity in the Democratic South, 1870-1900." *The Journal of Southern History* 44 (August 1978): 357-378.
- Pearce, George F. "Laying the Sins of the L&N at Mr. Blount's Feet": William Alexander Blount's U.S. Senatorial Campaign, 1910-1911." *Florida Historical Quarterly* 63 (January 1984): 1-23.
- Purcell, Aaron D. "Louisville and the Origins of the L&N Railroad." *Register of the Kentucky Historical Society*, 95 (Winter 1997): 1-28.
- Purcell, Edward A. "Ideas and Interests: Businessmen and the Interstate Commerce Act." *The Journal of American History* 54 (December 1967): 561-578.
- Seung-Wook, Kim and Price V. Fishback. "Institutional Change, Compensating Differentials, and Accident Risk in American Railroading, 1892-1945." *The Journal of Economic History* 53 (December, 1993): 796-823.
- Simon, Matthew. "The Morgan-Belmont Syndicate of 1895 and Intervention in the Foreign Exchange Market." *Business History Review* 42 (October 1968): 385-417.
- Tachau, Mary K. "The Making of a Railroad President: Milton Hannibal Smith and the L & N." *Filson Club History Quarterly* 53 (April 1969): 126-134.
- Taylor, Rhea A. "Bases for Conflicts in the Kentucky Constitutional Convention of 1890-1891" *Filson Club History Quarterly* 46 (Winter 1972): 1 24-36.
- Thomas, Edison H., ed. "Milton H. Smith Talks About the Goebel Affair." *Register of the Kentucky Historical Society* 78 (September 1980): 322-342.
- Trescott, Paul B. "The Louisville and Portland Canal Company, 1825-1874." *The Mississippi Valley Historical Review* 44 (March 1958): 686-708.
- Ulen, Thomas S. "Cartels and Regulation: Late Nineteenth-Century Railroad Collusion and the Creation of the Interstate Commerce Commission." *The Journal of Economic History* 40 (March 1980): 179-181.
- Urofsky, Melvin I. "State Courts and Protective Legislation during the Progressive Era: A Reevaluation." *The Journal of American History* 72 (June 1985): 63-91.
- Vietor, Richard H. K. "Businessmen and the Political Economy: the Railroad Rate Controversy of 1905." *The Journal of American History* 64 (June 1977): 47-66.

Waldrep, Christopher. "Planters and the Planters' Protective Association in Kentucky and Tennessee." *The Journal of Southern History* 52 (November 1986): 565-588.

White John H. "Thatcher Perkins, Master of Machinery." *Railroad History* 169 (Winter 1989) 54-68.

Yates, Sarah R. and Gray, Karen R. "Business Conflicts in the Mayoralty of Paul Booker Reed, 1885-1887." *Filson Club History Quarterly* 61 (July 1987): 295-314.

Theses and Dissertation

Burns, Allen L. "Management Audit Approach in Writing Business History: A Comparison With Kennedy's Technique on Railroad History." Ph.D. diss., University of Nebraska, Lincoln, 1980.

DePaola, Pier Luigi G. "Management and Organized Labor Relations of the Louisville and Nashville Railroad During the Depression Year of 1893." M.A. Thesis, University of Louisville 1971.

Katz, Irving. "Investment Bankers in American Government and Politics: The Political Activities of William W. Corcoran, August Belmont Sr., Levi P. Morton, and Henry Lee Higginson." Ph.D. diss., New York University, 1964.

Kramer, Carl E. "The City-Building Process: Urbanization in Central and Southern Louisville, 1772-1932." Ph.D. diss., University of Toledo, 1980.

Krawczyk, Raymond D. "The City of Louisville and the Louisville and Nashville Railroad Company, 1850-1855." M.A. Thesis, University of Louisville, 1978.

Owen, Thomas Louis. "The Formative Years of Kentucky's Republican Party, 1864-1871." Ph.D. diss., University of Kentucky, 1981.

Tachau, Mary K. "Milton Hannibal Smith and the Louisville and Nashville Railroad." M.A. Thesis, University of Louisville, 1958.

Wiggington, Russell T. "Both Sides of the Tracks: Louisville and Nashville Railroad's African-American Workers in Louisville, Kentucky, 1915-1945." Ph.D. diss., University of Illinois at Urbana-Champaign, 2001.

Wurtele, Lolla. "The Origins of the Louisville and Nashville Railroad." M.A. Thesis, University of Louisville, 1939.

Court Cases

Interstate Commerce Commission v. Alabama Midland Railway Company, 168 US 144 (1897).

Interstate Commerce Commission v. Illinois Central Railroad Company, 225 US 452 (1910).

Interstate Commerce Commission v. Louisville & Nashville Railroad Company, 73F 409 Circuit Court, Middle District of Tennessee, 1896).

Interstate Commerce Commission v. Cincinnati, New Orleans, and Texas Pacific Railway Company, 167 US 479 (1897).

The King v. Edward Pease and Others, 24 Eng. Com. Law Rep. 17 (1792).

Lexington and Ohio Rail Road Company v. Applegate and Others, 38 KY 289 (1839).

O'Hara v. The Lexington and Ohio Rail Road Company, 32 KY 232 (1833).

Smith v. Interstate Commerce Commission, 245 US 47 (1917).

Smith v. Interstate Commerce Commission, 345 US 38 (1917).

Annual Reports

Annual Report of the President and Directors of the Louisville & Nashville Railroad Company. Louisville, KY.: J.P. Morton, 1873.

Annual Report of the President and Directors of the Louisville and Nashville Railroad Company. Louisville, KY.: J.P. Morton, 1874.

Annual Report of the President and Directors of the Louisville and Nashville Railroad Company. Louisville, KY.: J.P. Morton, 1875.

Louisville Bridge Company Annual Report for the Year 1867. (Louisville, KY.: J. P. Morton, 1868).

Federal Government Documents

Congress, Senate, Committee on Interstate Affairs. *Hearing on Railway Rates and Charges, etc.* 55th Congress, 2nd Session, No. 259.

Congress, Senate, Committee on Interstate Affairs. *L & N Hearings*. 55th Congress, 2nd Session, No. 259.

State Government Documents

“An Act to charter the Camp Creek Turnpike Company in the county of Sumner, and for other purposes,” (February 1, 1850), *Laws of Tennessee*, Chapter 118.

“An Act to carter the Louisville and Nashville Railroad Company,” (March 5, 1850),
Laws of Kentucky, Chapter 382.

“An Act to incorporate the Lexington and Ohio Rail Road Company,” (January 27,
1830), *Laws of Kentucky*, Chapter 293.

Kentucky Constitution. (1891).

Manuscript Sources

James Guthrie Papers. “James Guthrie Papers, 1826-1867.” Box C.G., Filson Historical
Society.

Louisville Board of Trade. Minutes of the Louisville Board of Trade. “Louisville
Chamber of Commerce Collection 1862-1920.” Box RG 139, University of

William Pope Papers. “William Pope: Papers, 1783-1864.” Box A. P826, Filson
Historical Society.

CURRICULUM VITAE

David Matthew Wilkins
1926 Goldsmith Ln. #107
Louisville, KY 40218
(502) 238-4358

Department of History
University of Louisville
david.wilkins@louisville.edu

EDUCATION:

M.A. May 2004. History. University of Louisville, Louisville, Kentucky.

-3.85 GPA

-Advisor: Dr. Thomas C. Mackey.

-Thesis title: "The Parents of Progressive Improvement': Railroads and Public Policy in Kentucky, 1829-1900.

B.A. 2002. Major-History, Minor-English. Western Kentucky University, Bowling Green, Kentucky.

-Magna Cum Laude, 3.71 GPA.

-University and Departmental Honors Program graduate.

-Advisor: Dr. Jack W. Thacker.

-Honors/Departmental Thesis topic: "The L&N's Battalion, the 728th Railway Operating Battalion in World War II."

ACADEMIC PRESENTATIONS:

April 3, 2004-"Tales of the New Departure: Louisville's Creation of a pro-Southern business policy, 1865-1872," Phi Alpha Theta Kentucky Regional Conference, University of Louisville, Louisville, KY.

October 25, 2003-"Toot Sweet,' The 728th Railway Operating Battalion in World War II," Ohio Valley History Conference, Eastern Kentucky University, Richmond, KY.

September, 19 2003-"The Heart of Midlothian and the Culture of Retribution: A Reexamination of the Porteous Riot in Scotland 1736-1737," Mid America History Conference, University of Memphis, Memphis, TN.

April, 17 2003-"The L & N's Battalion, Military Logistics During World War II," Phi Alpha Theta Kentucky Regional Conference, Morehead State University, Morehead, KY.

April, 23 2002-"When the L&N Went to War," Phi Alpha Theta Spring Departmental Conference, Western Kentucky University. March, 14 2001-"Railway Preservation, A Future?" Phi Alpha Theta monthly meeting, Western Kentucky University.

RESEARCH EXPERIENCE:

2003-Present, Graduate Fellowship, McConnell Center for Political Leadership, Dr. Gary Gregg, Director, University of Louisville.

2003-Present, Collections Evaluation and Research, Bardstown Historical Museum.

1999-Present, Assistant Research Manager for Kentucky Railway Museum, New Haven, Kentucky. Most projects involve research to prepare grant proposals for funds to restore historic railroad equipment.

LANGUAGES

Spanish (Reading).

PROFESSIONAL MEMBERSHIPS:

American Historical Association.

The Filson Historical Society.

Kentucky Historical Society.

Phi Alpha Theta.

Railway and Locomotive Historical Society.

Louisville and Nashville Railroad Historical Society.

Southern Historical Association.

ACADEMIC HONORS:

April 3, 2004: Best Graduate Paper, Phi Alpha Theta Kentucky Regional Conference, University of Louisville, Louisville, Kentucky.

May, 2002: University Honors Program Graduate: Western Kentucky University, Bowling Green, Kentucky.

May, 2002: University Honors Graduate, Magna Cum Laude, Western Kentucky University, Bowling Green, Kentucky.

NON-ACADEMIC AWARDS AND HONORS

Summer 2003-Legislative Research Intern, Senator Mitch McConnell, Washington, D.C.
2002-National Extemporaneous Speaking Champion, Honorary National Tournament, St. Louis, Missouri.

2001-National Lincoln Douglas Debate Champion, Delta Sigma Rho-Tau Kappa Alpha National Tournament, Colorado Springs, Colorado.

2001-3rd Place Parliamentary Debate, International Forensics Association, Prague, Czech Republic.

UNIVERSITY SERVICE ACTIVITIES:

2003-Present, Graduate Senator, Student Government Association, University of Louisville.

2003-Present, Treasurer, Phi Alpha History Honor Society, University of Louisville.

2003-Present, Departmental Representative, Graduate Student Council, University of Louisville.

1998-2002, Member, Western Kentucky University Student Government.

1999-2001, Student Representative, University Academic Complaint Committee, Western Kentucky University.

COMMUNITY SERVICE ACTIVITIES:

2003-Present Member, Board of Directors, Kentucky Railway Museum.

1999-2003 Volunteer Forensics Coach, Bethlehem High School, Bardstown, Kentucky.

1994-Present Volunteer, Kentucky Railway Museum.

NON-ACADEMIC WORK EXPERIENCE:

2002-2003 National Processing Company, Louisville, Kentucky
Technical Support Representative.

1999-2002 Western Kentucky University, Bowling Green Kentucky
Office of Student Technology, Senior Student Technical Representative.