

thorized to subscribe for an additional 5,000 shares. At the following session the General Assembly again changed the mode of control over the state's investment in public improvements, enacting a law that directed the governor, with the consent of the Council, to appoint three persons to represent the state, as a stockholder, at annual stockholders' meetings.<sup>23</sup>

The legislature opened the state's coffers again in 1833. Recognizing the financial problems involved in building the Washington Branch, the General Assembly authorized the treasurer of the Western Shore, after being satisfied that \$1 million had been subscribed toward the venture, to subscribe for the state \$5 million for the line. The subscription was to be paid in cash or in twenty-five-year 4 1/2 percent stock of the state. The statute provided that the stock subscribed by the state should "be considered as a separate and distinct stock forever." It set a \$2.50 minimum charge for passengers, of which the state arrogated to itself one-fifth or in no event less than 25 cents per passenger per trip. Individual subscribers to the Washington Branch stock (including, presumably, the turnpike companies and probably the city as well) would continue to vote their stock as before. The state, however, was authorized to appoint two additional directors.<sup>24</sup>

At the 1835 session of the General Assembly three bills pertaining to the B & O were enacted, each dealing, in part, with the financial problems faced by the company in building the road to the Ohio River. One extended the time required for completing the road as set forth in the charter. The second authorized Baltimore City to subscribe to \$3 million in B & O stock and entitled it to elect one additional director for each 5,000 shares (\$500,000) subscribed, in addition to the two directors to which it was entitled by virtue of the stock already held.<sup>25</sup>

The third act attempted to resolve jurisdictional conflicts between the B & O and C & O. A dispute had arisen between the two companies almost immediately after construction of the Ohio line commenced, giving rise to the first in a series of litigations between them. The dispute concerned primarily the desire of each company to prevent the other from locating in certain areas of the state where it intended to operate but where, because of the topography of the land, they could not both operate. The Court of Appeals decided the question in favor of the canal company, holding that it had prior rights to the route.<sup>26</sup>

By chapter 395 of the Acts of 1835 the General Assembly attempted to settle the dispute by means of arbitration, offering a subscription of \$3 million to each company if they both assented to the terms of the act. The act also included inducements for the Eastern Shore Railroad Company, the Annapolis and Potomac Canal Company, and the Maryland Canal Company, to which, subject to certain contingencies, subscriptions of \$1 million, \$500,000, and \$500,000 respectively were pledged. Altogether an \$8 million loan was authorized by the act, and the governor was empowered to appoint three "discreet, competent and suitable persons" to proceed to Europe to negotiate the loan.

The bonds authorized by this act were to bear interest at 6 percent and were to be sold at no less than 20 percent above par, net to the state. Unfortunately the commissioners were unable to negotiate the loan on those terms, and \$6 million of the bonds were sold instead to the C & O and the B & O, with each taking \$3 million. When some question about the legality of the transaction arose, the next legislature

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23. Acts of 1831, ch. 330; 1832, ch. 318.

24. Acts of 1832, ch. 175. The \$2.50 minimum fare could be reduced with the consent of the General Assembly, but the state's minimum share was fixed. Even if the fare were reduced below \$1.25 it appears that the state would still have received its minimum share of 25 cents.

25. Acts of 1835, chs. 245, 127.

26. Acts of 1835, ch. 395; *Canal Company v. Rail Road Co.*, 4 G & J 1 (1832).