

hanna Railroad Company. It appointed a majority of the directors "and thus could appoint all the officers and have the control of everything else."²³ As to those companies where the state did not have such *direct* authority, Howard opined that under its general police power the state "had the right to see that no chartered company holding under their laws, inflicted injury instead of benefit upon the community." Those companies were therefore *not* beyond all state control. The moment a corporation became a nuisance instead of a benefit, he said, "the State had a right to pass necessary laws to bring back that company into a faithful performance of that duty." Those laws could be enforced if necessary, he added, by proceedings to forfeit the charter.²⁴

The debate dragged on the rest of that day, 15 April 1851, and much of the next, largely among delegates Davis, Schley, Howard, and Thomas Beale Dorsey of Anne Arundel County. Most of the time was taken up by a monologue delivered by Dorsey, then chief judge of the Court of Appeals, whose speeches constitute more than thirteen pages (of very small print) in the convention debates. Judge Dorsey, a strong advocate of the Thomas proposal, pointed out that it involved more than a mere transfer of the duties presently committed to the state agents. In addition to attending stockholders' meetings, the board would be charged with exercising a diligent supervision over all public works in which the state had an interest as a creditor and with performing "such other duties as may be required by law." He envisioned personal inspections and inquiries by the commissioners and the urging, to the extent of their power, of "such changes in the operations of the companies, the construction of such new works, or completion or discontinuance of old ones, the appointment of other and better engineers and officers, if occasion required it, the reduction or increase in the number of officers or agents in the service of the companies, or of their salaries or compensation." Indeed, he said, their duties were to do everything "to the extent of their influence and authority, to carry out the designs of the legislature in the creation of those companies."²⁵

Dorsey then turned to the political issue, which he assumed to be the important one. A majority of the convention delegates (55 of 103) were Whigs. Moreover, the five current state agents were all apparently Whigs, and Dorsey discerned an underlying suspicion among the Whig members of the convention that if a new body were to be popularly elected its members might be Democrats. He regretted, he said, that the Thomas proposal "was regarded by the whigs of this body as a political device, resorted to by the opposite party, for partizan purposes."²⁶ Such a suspicion, he said, was wholly unwarranted. Indeed the likelihood was, as Harbine had earlier suggested, that the election would produce two Whigs and two Democrats with the treasurer casting a tie-breaking vote. As for the treasurer, an official to be elected by the General Assembly, Dorsey argued that:

from the nature of his office and his incessant occupation in the discharge of its duties, [he] would be so far withdrawn from the politics of the day, that should any question of party politics ever arise between the commissioners, which he could not expect from the nature of their duties, it cannot but be apprehended that his umpirage will impartially and justly adjust the controversy between them.²⁷

23. *Ibid.*, p. 414. This was true with respect to the C & O Canal Company, but not the B & O Railroad Company. The state was entitled to appoint but ten of the thirty directors in that company, with Baltimore City appointing eight and the private stockholders electing twelve.

24. *Ibid.*

25. *Ibid.*, p. 428.

26. *Ibid.* Dorsey was apparently a Whig himself, for after discoursing a bit on the proper limits of partisanship, he "expressed regrets that whispers of his political friends around him, too audible not to have reached his ears, had informed him that he was not, by them, any longer regarded as a whig, but as one who had gone over to the enemy." He utterly rejected such a suggestion and asserted that he was merely "faithfully discharging a positive duty." *Ibid.*, p. 429.

27. *Ibid.*, p. 428.