

was the resignation of W. B. Tyler as a director of the railroad due to illness and the need to replace him. Schley offered a resolution calling attention to the need of the state-appointed directors to "act in concert and unity" with respect to management policy and noting that "the desired concert of action has not been maintained among the present directors on the part of the state; but their views as their votes and proceedings show have been in conflict and the vote of the state divided and its influence weakened if not destroyed." In light of this, Schley's resolution called for the replacement of all ten directors, which failed on a two-to-one vote. At this point the board attempted to appoint a successor to Tyler, but the commissioners deadlocked through six ballots. Again it was Schley against Lankford and Reynolds. Schley then moved to replace James H. Carter as a director due to illness, a motion that also failed.³⁴

The board met next on 24 March 1859, the occasion being the annual meeting of C & O stockholders. Only Lankford and Reynolds were present. Schley wrote a letter complaining that the meeting was illegal, since the notice of the meeting stated that it would be held on 18 March, and he objected to the postponement to the 24th. Due to the lack of a quorum the meeting was adjourned. Later that day, however, the board met again, with Schley present, and filled vacancies in the directorships of the B & O and the Annapolis and Elkridge railroads. The successor director of the B & O was Robert Fowler, who later was to become the state treasurer. In June the board met to reelect the ten incumbent directors of the B & O.³⁵

In November 1859 Nathaniel Duke and Lemuel Roberts were elected to succeed Lankford and Peter, whose terms had expired. The new board first met on 9 February 1860. The General Assembly was then in session, and once again the Senate had formally called for a report from the board. The preparation of such a report, dealing primarily with the toll rates (as the Senate order requested), was the principal item of business.³⁶

The report submitted by the commissioners in 1860 stressed the importance of maximizing the revenue from the various internal improvement companies. The people of the state contributed to the improvements, said the commissioners, and "they are entitled to have those works managed so as to yield *revenue*; for in that revenue alone can they look for relief from the heavy taxation, which these improvements have made necessary." Any other policy, they continued, "would create serious and reasonable discontents." To that end the commissioners stated that they would "favor such rates of tolls as will maintain the revenues of the several internal improvement companies, at a standard of profit corresponding with that enjoyed by similar works in other States; believing that the upholding of this standard will not be a burden upon those who use these improvements as a means of transportation."³⁷

Having said this, the commissioners added the caveat that their ability to control toll rates depended upon their power over the company. With the C & O Canal Company, of course, there was no obstacle, as the state was the majority stockholder; but where private interests had made the greater contribution of capital they deemed it unjust for them, or the legislature, "to attempt to subordinate the larger interest to the control of the smaller." Indeed, the commissioners did not "invoke any legislation as a proper means to remedy the defects, which they may believe exist in the present toll sheets of the works in which the State is interested," because the chartered rights of those companies "do not allow the Legislature to regulate tolls at its pleasure." In short, this report parroted the arguments Francis Thomas, Samuel Smith, George Schley, and Allen Davis had made at the Constitutional Convention nine years ear-

34. *Ibid.*, 10 November 1858, p. 83.

35. *Ibid.*, 24 March, 11 June 1859, pp. 88-91, 92.

36. *Ibid.*, 9 February 1860, p. 95; *S. Jour.* (1860), pp. 215-16. The sponsor of the order was Anthony Kimmel of Frederick County, who had also sponsored the demand for a report in 1858.

37. *S. Jour.* (1860), doc. O, p. 2.