The Hornets' Nest at Harrisburg: A Study of the Pennsylvania Legislature in the Late 1870s

Show your State Legislatures; show your Rings
And challenge Europe to produce such things
As high officials sitting half in sight
To share the plunder and to fix things right. *

The Gilded Age, which Henry Adams dismissed as a period “poor in purpose and barren in results,” was long considered a wasteland in American political history. 1 Only in the striking incidence of political corruption did it seem to rise above the ordinary. Indeed, the very name “Gilded Age” was derived from the title of the novel by Mark Twain and Charles Dudley Warner which satirized, among other things, the political morality of the Grant era in the shape of that egregious knave Colonel Beriah Sellers, self-styled king of the lobby. Political corruption has been a leading theme of many historical treatments of the period, most notably Parrington’s vivid depiction of the “Great Barbecue.” 2 No area of public life had so unsavoury a reputation as the state legislative bodies. In the popular imagination the halls of the New York legislature resounded to the hooves of the “Black Horse Cavalry” riding out in search of plunder, while sinister figures like Boss Tweed

* “Centennial Ode,” by James Russell Lowell.
and Jay Gould passed to and fro with bulging carpetbags. "Such a crew of buccaneers has seldom been got together since Captain Kidd," lamented one proper New Yorker in 1873, and twelve years later Theodore Roosevelt estimated that a third of the members were "open to corrupt influences in some form or another." The lawmakers of other states enjoyed little better esteem.\(^3\)

The Pennsylvania legislature in particular vied with that of New York for disrepute. "Bad as Albany was," wrote Allan Nevins, "men agreed that if she should be destroyed by fire from heaven, Harrisburg might well fear the same fate."\(^4\) One of the more benign characters in The Gilded Age suffered a highly expensive encounter with the Pennsylvania legislature. That, admittedly, was in the bad old days under the old Constitution. The reformed Constitution of 1873, by doubling the membership, prohibiting special legislation, and instituting severe penalties against bribery, did much to excise the "moral putrefaction" of the immediate postwar years.\(^5\) Nevertheless, the members of the General Assembly were still viewed by the Philadelphia Times in 1878 as "the banded foes of public and private security and justice," and were compared by James Bryce in The American Commonwealth to a nest of hornets.\(^6\) They were accused of more than cupidity. "It has long been the cry of the people all over this Commonwealth," declared a western Pennsylvania representative, "that the railroads of this State controlled it—controlled its politics, controlled its legislation."\(^7\) Mightiest of all was the Pennsylvania Railroad, the most powerful business corporation in America. "There is no power in one State to resist such a

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\(^4\) Allan Nevins, The Emergence of Modern America, 1865-1877 (New York, 1927), 180.


\(^6\) Times, May 25, 1878; Bryce, I, 550.

\(^7\) J. M. Dickey, Pennsylvania Legislative Record, 1878, p. 2269.
giant as the Pennsylvania road," claimed Wendell Phillips.\(^8\) It was generally acknowledged, reported a *New York Times* correspondent early in the 1878 session, that "the Pennsylvania Railroad Company controls the Legislature, and the member who votes contrary to the dictation of that corporation will be shelved at no distant day."\(^9\) In somewhat uneasy alliance with the railroad was the rising power of Standard Oil, which also exerted its influence at Harrisburg and which, claimed Henry Demarest Lloyd, had "done everything with the Pennsylvania legislature except to refine it."\(^10\)

The purpose of this article is to examine the working of the legislature during the late 1870s to see how far this reputation was deserved. This involves not only a discussion of political corruption but also the more critical question of the influence of big business interests, like the Pennsylvania Railroad and Standard Oil, at Harrisburg. Progressive historians like Beard tended to ascribe to big business an inordinate measure of political power, not least through the purchase of state legislatures.\(^11\) Pennsylvania provides a suitable area in which to test this assumption. There the impact of great corporations like the trunk railroads and Standard Oil was felt relatively early. One of the bitterest struggles at Harrisburg during the 1870s was between the independent oil producers of northwestern Pennsylvania and the Standard Oil Company, which was steadily extending its hold over the industry, largely through its ability to secure advantageous railroad rates. This the smaller producers resented. They fought for legislation against freight-rate discrimination and for a bill to facilitate the construction of independent pipe lines. Both bills were introduced in 1878, at the height of the producers' struggle against the "Anaconda," but the antidiscrimination bill failed to gather enough votes in the House and the pipe line measure was buried without trace in the Senate.\(^12\)

\(^8\) Quoted in Henry Demarest Lloyd, *Wealth against Commonwealth* (New York, 1894), 147.
\(^10\) Quoted in Josephson, 344.
Two other legislative contests aroused still greater controversy because of the manner in which they were pursued. A leading problem in studying a state legislature is the paucity of evidence beyond the official journals. Proceedings were on a considerably less than heroic scale, attracting little attention in the press or the memoirs of contemporaries, and few thought it worthwhile to preserve the private papers of past members. However, in 1876 and again in 1879 evidence of corrupt practices forced the House of Representatives to conduct comprehensive investigations of its own proceedings, which, besides exposing substantial corruption, lay bare a fascinating cross section of legislative behavior and thus provide an invaluable source of information. In 1876 the lumbermen of northern Pennsylvania, led by “one of the most scienched lobbyists known in Harrisburg legislative annals,” pleaded for a reduction in tolls on the boom controlling the flow of logs on the Susquehanna at Williamsport, a perennial issue which had long been “a fruitful source of corruption in the halls of the Legislature.”

The riot bill of 1879 offered to transfer liability for damages, in the region of $4,000,000, incurred in the Pittsburgh riots of 1877 from Allegheny County to the state. The principal claimant was the Pennsylvania Railroad. This bill, too, was ultimately compromised by the attentions of what one member described as “a certain class of gentlemen.”

It was tempting to some to attribute the faults of the General Assembly to the depravity or incompetence of its members. Men of “sturdy independence” and true “gentlemanliness,” it was argued, had been displaced by a “commercial element” of im-

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13 Senator Anderson of Allegheny, Leg. Record, 1876, p. 296; Times, Mar. 1, Apr. 7, 1876; “Testimony before the Committee to Investigate the Means to Secure or Defeat the Passage of the Boom Bill,” Pennsylvania Legislative Documents, 1876, IV, No. 1 (hereinafter cited as “Boom Testimony”).

pecunious timeservers who were glad to pocket their *per diem* allowance and whatever other perquisites the office might bring.\(^{15}\) The Philadelphia delegation in particular was, somewhat harshly, dismissed by the *Times* of that city as a set of "rum-shop bummers, political rounders and petty jobbers . . . a herd of legislative incompetents and corruptionists."\(^{16}\) But in 1877 a majority of both houses, 58 per cent in all, were businessmen, lawyers, and other professional men, while 18 per cent were farmers.\(^{17}\) The country members were typically men of at least local prominence, often remembered by local chroniclers with a kindness contrasting with the revulsion shown by respectable Philadelphians for their representatives at Harrisburg. The big city delegations, admittedly, included more representatives of the lower classes, products of urban machine politics and for that reason objectionable to their more genteel fellow citizens, but this did not necessarily mean that they were less competent or, it appears, more corrupt.

The chief deficiency of the members of the legislature was in experience. Owing to an unstable party balance in some districts, but more often to a strict application of the principle of rotation in office, an indication both of the abundance of candidates and the slight weight attached to special qualifications or experience in a representative, the turnover of members, especially in the House, was striking. Of those sitting in the House in 1877 only 27 per cent had sat there the previous year, only 5 per cent had more than one term's experience and only 22 per cent were to return in 1879.\(^{18}\) At any one time, therefore, a large majority of its members were likely to be complete novices. Only half of the members of the Senate were due for re-election every two years, allowing for a much greater degree of continuity.

The legislature had been relieved to some extent under the new Constitution of the burden of special legislation, but not altogether.


\(^{17}\) Based on information given by members themselves in *Smull's Legislative Handbook* (Harrisburg, 1878), 620-647.

In 1878 the *Times* noted that this, "the one evil that inspired the revolt of the people," had become almost as common as of old, "with necessary trickery and deceit added to defeat the restrictions which the State clearly intended should be imposed upon its legislative authority."\(^19\) Forty-one per cent of the Acts of the Assembly in 1877 were clearly local or specific in their application. Others were so narrowly defined in scope as to eliminate all but a few cases, such as "counties coextensive with cities of the first class."\(^20\) More general issues were often of primary concern to particular interests. Both the antidiscrimination and free pipe line bills of 1878 were introduced in the interest of the independent oil men and opposed in the interest of the Pennsylvania Railroad; their agents manned the competing lobbies, and their experience furnished the material for debate. Other general business was mainly of a routine nature, concerning such matters as public salaries, game laws, prison administration or the placing of statues in public buildings, and aroused little interest.

It is difficult to discern clear patterns in legislative voting. The main determinants were party and section. The party caucuses ruled their members with an iron hand, but it does not seem that they met very often to consider items of legislation, as against business more directly concerning the party organisation itself, such as the nomination of candidates for Speaker or United States Senator. On these latter questions members came under strong pressure from party leaders, both inside and outside the legislature, to vote right; regarding more purely legislative business there seems to have been no such organised pressure to follow the party line, nor even a party line to follow.\(^21\) Analysis of legislative voting reveals a distinctly skittish attitude to party regularity. Fifty House roll calls from the 1877 session were selected, using Riker's Index of Significance, and the cohesion of each party measured by means of

\(^19\)*Times*, June 21, 1878.


\(^21\)See, for example, the account of the Republican caucuses held in January 1879 to discuss the organization of the House and the election of a United States Senator in *Times*, Jan. 5, 7, 8, 20, 21, 1879.
the familiar Rice Index. For the Republicans its value was fifty or over (75 per cent of the party voting together) on thirty-one occasions, eighty or over (90 per cent voting together) on nineteen and one hundred (unanimity) on seven occasions. For the Democrats the Rice Index of Cohesion was fifty or over twenty-two times, eighty or over fourteen times and one hundred four times. In other words, in nineteen out of the fifty divisions studied, a quarter or more of the House Republicans voted in opposition to the rest of the party; in twenty-eight divisions more than a quarter of the Democrats broke with the party majority. Only eight were "party votes" according to the rather demanding criterion employed by the *Congressional Quarterly*, that is with 90 per cent of one party opposing 90 per cent of the other. These included the election of the Speaker and three votes relating to contested elections. Apart from such clear party business, party coherence was greatest on questions concerning taxation, appropriations, and the conduct of the state government. On other issues such as local option, usury and stay laws, safety in mines and on railroads and the movement of the capital, party lines were not clearly drawn. It would seem, therefore, that, whereas over a wide range of questions the members of a party tended to vote together, they felt under no strong obligation or compulsion to do so, and frequently did not.

On many salient issues, such as transportation, voting followed sectional lines. In a House roll call on the antidiscrimination bill representatives from west and east of the Alleghenies voted respectively 44-1 and 6-51 in its favor, while those from central counties divided 13-12. On the free pipe line bill the same sectional groups divided 53-1, 17-46, and 27-8 respectively. Just as the party caucuses met to decide a course of action so did members from the same region, either regularly, like those from Philadelphia or the oil region, or on an *ad hoc* basis, like the members interested


23 For fuller analysis of legislative voting see Harrison, 418-427, 501-503, 510-511.

in an appropriation to reimburse southern counties for Confederate depredations in 1863. This tenderness toward local interests is understandable in view of the brevity of most legislative careers. A member's natural sympathy for his constituents' views would be reinforced by the consideration that they were also his past, present, and future creditors, customers and clients, upon whose patronage his livelihood depended. This localism was expressed in the familiar doctrine of representation. Many rural members explained that they opposed the riot bill simply because their constituents did. Regarding the boom bill one member declared that "my constituents . . . expect me to represent them here, and if in representing them here, I work an injury to them, that was their fault and not mine; I will vote as they direct me." No representative could disregard an expression of his constituents' will. But, unless local interests were involved, such an expression was not necessarily forthcoming. "I suppose you people don't care one way or the other," remarked a lobbyist to a Berks County member concerning the boom bill. Much the same, perhaps, could be said of many members on many issues.

All things considered, there remained a strong random element in legislative voting. In the absence of public pressure or a powerful interest group many bills fell by the wayside, victims less of opposition than of indifference. To quote the Times once more:

It is difficult to discover by what system, if any, the Legislature is governed in its votes upon appropriation bills . . . the members apparently vote or neglect to vote on these bills with the utmost carelessness, and unless somebody will arrange to take the trouble to arrange the matter in the lobby and hold on to every vote he can get, an appropriation that has no money in it for any of the members must take its chances, and very poor chances they are.

In other words, possessing the frailties of humanity in ample measure, the legislators did not automatically do what was desired

28 Times, May 15, 1878.
of them. Those seeking action had to bring to bear what influence they could.

One of the most effective ways of influencing the General Assembly was through its own internal power structure. As in other American legislative bodies, the standing committees held great influence over the fate of measures, determining whether they should be considered by the house and usually whether they should pass, since most bills that emerged from committee were acted on summarily in accordance with the committee's recommendations. It was in committee, therefore, that many of the crucial decisions were made.29

Don Cameron's Republican Party machine always took pains to secure the nomination of a sympathetic candidate for Speaker of the House. Both E. Reed Myer and Henry M. Long, elected Speaker in 1877 and 1879 respectively, were reported to be "in hearty accord with the power that rules the party."30 They were also, it seems, Pennsylvania Railroad men. Myer's votes and rulings from the chair consistently favored the railroad, notably his refusal to treat as privileged, and thus open to a vote, a motion to release the anti-discrimination bill from the grasp of the Committee on Railroads, where it seemed likely to perish.31 Coming from a city, Pittsburgh, which had suffered greatly from freight-rate discrimination, Long was conspicuously moderate on transportation questions during 1878, and he was known, not without foundation, as "brother-in-law to the Standard Oil Company."32 In 1879 the railroad combined with Cameron to secure his elevation to the speakership.33 On its behalf he introduced the riot bill himself, descending frequently from the chair to defend it, and his allocation of speaking time caused him to be denounced as a "dictator." He also refused to treat as privileged a motion to transfer the bill, this time from the

29 Cf. Woodrow Wilson, Congressional Government (Meridian edn., New York, 1956), chs. 2 and 3, on the committee system in Congress.
30 Times, Dec. 29, 1876, Jan. 5, 1879.
31 Leg. Record, 1878, pp. 1571–1576. He alone among representatives from the northern tier voted against both the pipe line and antidiscrimination bills.
32 Long voted for the antidiscrimination bill but against its recommittal and offered an amendment to cripple the pipe line bill by taxation. Ibid., 1572, 1716–1717, 1794–1810. He was, in fact, the brother-in-law of William Frew of Warden, Frew and Co., a Standard subsidiary. Johnson, 80.
33 Times, Jan. 5, 7, 1879.
Judging from his regular attendance at Thomas A. Scott’s office the Democratic Speaker Samuel F. Patterson in 1875–1876 was no less friendly. On one occasion, “when he was in my office after discussing some questions with me,” he asked Scott “whether there was any other question before the Legislature I would like to talk about,” and the railroad president took the opportunity to recommend a compromise settlement of the boom bill. Patterson was also believed to be in league with the lumbermen. He allegedly held back the final vote on the boom bill while their agents assembled the necessary majority, and then permitted votes to be altered after the roll had been called.

More valuable still was the Speaker’s influence in the selection of the House committee. It was because the Committee on Railroads was thought to have been packed in Scott’s interest that supporters of the antidiscrimination bill sought to have it discharged from further consideration of the measure. The committee was distinctly more hostile to railroad regulation than the chamber as a whole; whereas the House was evenly divided, two-thirds of the committee voted against it. The riot bill, although essentially an appropriation measure, went to the Ways and Means Committee under the chairmanship of Elisha Davis of Philadelphia, in whose appointment William H. Kemble, the manager of the riot bill lobby, claimed a hand. Of the twenty-four members of Davis’ committee eighteen voted for the bill but only half of the whole House.

The Pennsylvania Railroad had many friends at Harrisburg and a continuing interest in legislation. During the debate on the riot bill an oil region representative fulminated against “that great corporation that seems able to carry elections in its own interests in this State and prevent legislation for which the people have been

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36 *Leg. Record*, 1876, pp. 1538–1540; *Times*, Apr. 24, 1876.
Although evidence is scarce, contemporaries were convinced that Tom Scott and the Pennsylvania Railroad helped their friends to secure nomination and election to the legislature. Large sums of money, it was rumoured, classified as "contingencies," were disbursed for electoral expenses. The railroad disposed of free passes, legal fees, advertising contracts and patronage of various kinds, determined the rates for local freight, and by such means made its impact felt in communities all over the state. Political leaders of both parties, including United States Senators John Scott and William Wallace, a Republican and a Democrat respectively, were in its pay. No other corporation could extend its influence so far. More occasional applicants for legislative favor had to make their own arrangements, and this introduced the gentlemen of the lobby.

The lobby, or "Third House," at Harrisburg was a sizeable fraternity embracing a large part of the city's population. It comprised a permanent and a temporary element. The former consisted of professional politicians, former members, and government employees who hawked their personal influence and experience of the milieu to those interested in legislation. For example, the lumbermen in 1876 made use of a House clerk, George W. Skinner, in negotiations with some Philadelphia members, and in 1879 Kemble employed Charles B. Salter and Henry Huhn, two House clerks who had sat in the previous legislature, and Jesse Crawford, assistant superintendent of the Capitol grounds, to approach members. Kemble, who was familiar of old with the ways of the legislature (one awe-struck country member described him as "the king of the lobby"), managed the riot bill lobby on behalf of the Pennsylvania Railroad "as an attorney . . . to look after their interests in


41 John Scott was general solicitor of the Pennsylvania Railroad, Wallace vice-president of Tom Scott's Texas Pacific.

I979  THE HORNETS’ NEST AT HARRISBURG  345

this bill.”43 He was assisted by the equally notorious Sam Josephs, who took up position in the Speaker’s room.44 Josephs was also hired by the boom lobby. “I have always done the legislation for the boom company ever since I have been about Harrisburg,” he explained; “I have always considered that part of my district....”45 So systematically, it seems, was the business of the lobby conducted.

Besides their role as lobbyists, the Capitol clerks exerted their own peculiarly baneful influence over legislation; like evil spirits they had to be placated. Apparently, under the old Constitution no bill could pass without their consent, while the slapdash conduct of business permitted them to add measures of their own to the file of bills passed.46 Such days were gone, a Senate clerk told the boom bill investigation committee, and he had indignantly refused to alter a word in the bill after passage. But, he added blandly, “Bills are mislaid sometimes.”47 Absent members were sometimes voted, reluctant as they were to admit to their truancy. Alleged irregularities occurred on the House vote on the boom bill, where one member at least was recorded among the “Ayes” who later claimed to have been absent.48 Alternatively, if the clerks were not propitiated, bills were liable to suffer unaccountable changes in wording or even, like an appropriation for a Pittsburgh asylum, disappear from view altogether.49

The relationship between the lobby and the party organizations needs clarification. Most of the regular lobbyists were party politicians whose contacts and influence had been built up through conventional political activity. The party organization as such was rarely involved. But individual members were, such as Matt Quay, who received a “loan” of $5,000 from the Standard Oil Company

44 Daniel Ermentrout to Samuel J. Randall, Apr. 3, 1879, Randall Papers, University of Pennsylvania.
45 “Boom Testimony,” 450.
46 Hellerich, 167–168.
48 Testimony of Elias Shull, ibid., 203; *Times*, Apr. 8, 1876.
49 Ibid., June 15, 1879.
in return for his aid in blocking free pipe line legislation in 1878.\textsuperscript{50} Quay was also involved with Kemble in the riot bill lobby, though not, he claimed, to the extent of offering any "pecuniary considerations" for votes.\textsuperscript{51} Other members of that lobby, on the other hand, like Sam Josephs, were Democrats. The lobby was strictly non-partisan.

The regular members of the "Third House" were joined by groups interested in specific bills. While the boom bill was under consideration a delegation from the Lumbermen's Exchange, headed by George Embick, the "scienced lobbyist" alluded to earlier, took up residence in a suite at the State Capitol Hotel, where they regaled members with light refreshments and persuasive discussions of boomage rates. Peter Herdic of the Boom Company pursued similar tactics on the other side.\textsuperscript{52} When the pipe line bill was before the Senate large delegations of oil producers and Philadelphia businessmen appeared on the scene to urge respectively its passage and its defeat.\textsuperscript{53} A variety of interested parties arrived the following year to extol the virtues of the riot bill. In the words of Charles Wolfe, a leading opponent of the bill, "They have this and that member penned in a corner . . . pegging away at him, trying to convince him by the most patent logic that their view of the Constitution is the correct one."\textsuperscript{54}

Lobbyists, of course, relied upon more than their personal persuasiveness and the quality of their Bourbon. They went, like Herdic, to men like the Republican leader Robert A. Mackey, whose knowledge of state politics was unrivalled, to ask "who knew this man and that man and a variety of questions of that kind—who could reason or talk to such a person if he had any influence."\textsuperscript{55} They wrote, like Daniel Ermentrout, to powerful congressional leaders such as Samuel J. Randall in an attempt to enlist their influence against the riot bill. Randall was sent a record of an early

\textsuperscript{50} Nevins, \textit{A Study in Power}, I, 312.
\textsuperscript{51} "Riot Testimony," 314–316. Kemble told one member not to mention "money matters" to Quay. \textit{Ibid.}, 46.
\textsuperscript{52} "Boom Testimony," 145–167.
\textsuperscript{53} \textit{Times}, Jan. 16, 30, 1878.
\textsuperscript{54} \textit{Leg. Record}, 1879, p. 796.
\textsuperscript{55} Testimony of Mackey, "Boom Testimony," 320–321.
division designating which Democrats needed "looking after" and asked whether he could "detach" any of the Philadelphians who were voting for the bill. Much energy was devoted to creating the appearance of strong local feeling. Philadelphia merchants petitioned their representatives to vote for the riot bill and were brought in trainloads to argue its merits. Christopher L. Magee, the future Pittsburgh boss, was employed to engineer a press campaign. Newspapers all over the state were paid generously to print articles favorable to the bill, intended presumably for the eyes of representatives scanning grass-roots opinion.

The solicitation of votes trespassed beyond the limits prescribed by the Constitution when purely verbal persuasion was supplemented by the offer of any tangible inducement or "thing of value." Both the acceptance and the offer of any such inducement in return for a vote were criminal offenses. That included the offer of a job or any business or professional favor. The Pennsylvania Railroad and other large companies might employ or assist members both during and after their service in the legislature, since it was not clear that their patronage was connected with any particular action or vote on the part of the recipient. The conception of what constituted a conflict of interest tended to be rather indefinite. But to offer any "kindness" in return for a specific vote was not only illegal but conspicuously so.

For these and other reasons the lobby preferred to deal in hard cash. Transactions where money changed hands were almost impossible to prove unless one party confessed. The boom bill investigation uncovered only one clear instance. M. F. Lynott of Luzerne produced a bundle of banknotes given him by a lumberman, John Beck, denying that he had known what it was at the time, for which naivete he was expelled from the House. At the instigation of Charles Wolfe, the driving force behind the riot bill investigation,

56 Ermentrout to Randall, Apr. 3, 1879, Randall Papers.
57 Times, Mar. 12, 1879.
59 Sections 29 and 30 of Article III define "Corrupt solicitation."
60 See the discussion in David J. Rothman, Politics and Power: The United States Senate, 1869-1907 (Cambridge, Mass., 1966), 208-219.
61 "Boom Testimony," 408-425.
Myron H. Silverthorn of Erie contracted with Kemble to sell his vote for $750, but no money changed hands. Many others on both occasions claimed to have refused corrupt offers for their votes. In 1876 sixteen members of the House testified that they had received corrupt solicitations from Embick, Beck, Herdic and four others, and in 1879 twenty members made similar charges against Kemble, Salter, Albert Crawford and two Philadelphia representatives, George F. Smith and Emil Petroff. Petroff was also implicated in the most spectacular allegation of all. He and Embick’s agent Skinner admitted to an arrangement by which fifteen Philadelphia members would sell their votes on the boom bill as a job lot for $7,500. Later both parties dismissed the agreement as a ruse by which they hoped to mislead each other as to their respective strength. This one would be prepared to believe were not such transactions very much in the tradition of the Philadelphia delegation at Harrisburg.

Understandably, only those claiming to have spurned corrupt offers would admit to having received them. In such cases the lobbyist would dismiss the whole affair as a misunderstanding or a jest. “We spoke about those things very frivolously at the time,” remarked one. A peculiar kind of double talk had evolved over the years to camouflage a lobbyist’s intentions until he could gauge the mettle of his subject. A corrupt offer usually emerged from a general conversation about the bill. One party would casually mention the rumor that “there was money in it,” and should the other show interest in this possibility he would be referred to the appropriate quarters. A set of code words were in use. Some were self-explanatory: “Have you been approached yet?”; “Do you know the propositions?” Petroff explained “that he was authorized to make it interesting for members of the House to support the riot

62 “Riot Testimony,” 49-54. This Kemble denied. Ibid., 24-26.
64 Senator Boyer of Clearfield, “Boom Testimony,” 74-80.
65 For example, testimony of Conrad and Wanner of Berks and Park of Venango, “Boom Testimony,” 59-61, 63-65, 127-130.
bill." 66 Often more colorful circumlocutions were employed: "Do you want to be a rooster?"; "Do you tread the square?"; "Are you a square man?"; "Are you a Mason?" 67 Allusions to Freemasonry were common—Salter observed that "there were a great many Masons in the House this year"—and not altogether figurative, since it is possible that the fraternal ties of the order may have concealed a number of corrupt dealings. Petroff appealed to one of his accusers "as one Mason to another." 68 All this made bribery in the legislature exceedingly hard to prosecute. Lobbyists did not commit themselves until they were sure of their ground, and hence usually to men as culpable as themselves.

A second obstacle faced by the investigators was the inveterate hostility of most of their colleagues, who were inclined to see the "roosters" as "good fellows" and Wolfe, their inquisitor, as a meddlesome "busybody." Members attending the hearings applauded each show of defiance on the part of witnesses with as much partiality as the audience at a Victorian melodrama applauding the discomfiture of the villain. As the Philadelphia Times observed, "the members are greatly under obligation to each other for favors in a legitimate way, and these obligations are not easily thrown aside." 69 Thirdly, this hostility was reflected in the composition of the investigating committees. Neither was chosen "with a view to doing any particular damage." All the members of the boom bill investigating committee, like the Speaker who appointed them, were supporters of the bill, and their cross-questioning of witnesses was sometimes far from penetrating. 70 The riot bill investigation was entrusted to a five-man committee of whom two refused to co-operate with the interrogation on the grounds that it was "a reflection on the honor of a member" and two co-operated with no great show of enthusiasm. Even though it was Wolfe who had demanded and by his insistence compelled the investigation,

67 Ibid., 70, 178; Times, May 4, 1879.
69 New York Times, May 3, 1879; Times, May 11, June 1, 1879.
70 Ibid., Apr. 7, 1876, Apr. 17, 1879. See, for example, the interrogation of Luther J. Andrews, "Boom Testimony," 439–444.
the Speaker recognized another member’s motion to appoint a committee, with the result that Wolfe was denied the chairmanship. Nonetheless, he contrived to impose his personality on proceedings and prevent their degenerating into a charade.

When the testimony is viewed in this light it is surprising how much incriminating evidence emerged. In both cases some twenty members testified to solicitations from the same men couched in much the same terms. In 1876 two members, Lynott and Petroff, were expelled. In 1879 Wolfe’s committee recommended the expulsion of three members for offering bribes and the prosecution of seven nonmembers, notably Kemble and Petroff. The motions to expel were defeated in each case by the supporters of the riot bill, who saw the entire investigation as a tactical device to thwart their bill, while after many delays Kemble and four others were sentenced to a year’s imprisonment the following April, only to be pardoned in May. Nobody was indicted for taking bribes because nobody owned up. Yet it would be tantamount to serving a retrospective writ of insanity on Kemble and his associates to accept that they only approached men of unimpeachable virtue. It is impossible to estimate how many did take money, although Embick was overheard to say that there were only eighty-three “honest” men in the House (whether he meant that they could not be bought or, in accordance with Collis Huntington’s definition, that when bought they stayed bought we cannot tell). With regard to the riot bill most members had their scruples reinforced by constituents’ instructions and by the exceptional publicity that attended the progress of this extraordinary measure. Most bills attracted less notice, but there was also less money involved. Whatever occurred in other cases, the evidence cited above does suggest that, despite the penalties and restrictions imposed by the new Constitution, many members took, and many more connived at, bribes. The habits of generations die hard.

Yet, having said this, the investigations themselves were not

without effect. Despite the failure to punish the wrongdoers, the riot bill disclosures forced the members of the legislature to walk warily, if only for a while. It was said that they behaved better afterwards.\textsuperscript{74} Wolfe’s muckraking activities and his appeals to public opinion, like those of later and more famous muckrakers, awakened a sometimes complacent electorate to its representatives’ shortcomings. This, in turn, put further pressure on members. The sense of outrage evoked by the riot bill investigations and even more by the remission of the culprits’ sentences fuelled the growing revulsion against “bossism,” and the Cameron machine in particular, which gave rise to the Independent Republican movement of the 1880s, of which, incidentally, Wolfe was a prominent member.\textsuperscript{75}

One last method of advancing the prospects of legislation, and in many ways the most effective, was the practice of logrolling, what Kemble, testifying before the riot bill committee, described as “the common aid that one man gives to another in legislation.” He went on to explain:\textsuperscript{76}

It is what I regard as higher than all Constitutions, that one good turn deserves another. That is all there is of it in passing bills, which if a man don’t do, he may as well stay away from Harrisburg; and yet the strict interpretation of the Constitution prohibits it. . . .

In some cases it was the oil men that did not want a tax put upon oil, and I tried to make an arrangement with the oil men that I would trade in a tax upon oil in consideration for their votes upon this bill. I tried to bargain with the border-raid men, that I would help them in consideration for their helping us.

Several witnesses told of a meeting where representatives from southern counties interested in a pending bill to meet claims arising from southern raids during the Gettysburg campaign and from Allegheny County declared their common support for this and the riot bill. Speaker Long asserted that both embodied the same principle, “that it was the protection of the citizen’s property that

\textsuperscript{74} Philadelphia American, II, 138 (June 11, 1881).
\textsuperscript{75} Ibid., III, 18–19 (Oct. 22, 1881); McClure, II, 500–541.
\textsuperscript{76} “Riot Testimony,” 18–19, 22.
was due from the State.” None would admit to a “positive promise” to trade votes. A York member claimed that the purpose of the meeting was simply “to ascertain the sentiment,” but another testified that he had canvassed border members to vote for the riot claim in order to secure its adherents’ support for their own.

One group that had always to be appeased was the members from the oil region, who played much the same role as the Irish members in the contemporary Commons. “I count all these men in that region oil men,” said Kemble; “I count everything in that region oil.” In a sensational piece of testimony, Lewis Emery, archenemy of Standard Oil, related how he and George E. Mapes of Venango had been summoned by B. B. Campbell, president of the Petroleum Producers’ Union, to meet J. K. Moorhead of the Pittsburgh Chamber of Commerce and George Shiras, Jr., counsel for the riot claims. Shiras promised “that if we would support the riot bill that certain laws would be passed by the Pennsylvania Legislature,” namely the pipe line and antidiscrimination bills, and that oil should not be taxed. He would not say precisely who would accomplish this, “but before I left I was given to understand that it was the Pennsylvania railroad.” Emery agreed to consult the “oil delegation.” The arrangements were later confirmed by Quay on behalf of the railroad. Although Moorhead denied that any such offer had been made, a Pittsburgh refiner who had also been present talked of such an accommodation as “a natural, legitimate result of the action of conciliation.” In the event, the oil caucus rejected the proposal, and most of its members remained implacably opposed to the riot bill. Neither the free pipe line nor the antidiscrimination bill passed during the 1879 session.

Although the investigating committee described such dealings as “improper combinations” and they were strictly speaking illegal,

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77 Ibid., 127–128.
80 Ibid., 80–90; testimony of Mapes, ibid., 140–146. On Emery’s struggle with Standard Oil see Johnson, 72–73.
81 Testimony of Moorhead and R. S. Waring, “Riot Testimony,” 247–249, 253–255, 273–274. Quay confirmed that such an offer had been made but claimed that it referred to another proposed bill reviving the riot claims and was therefore outside the scope of the investigation. Ibid., 314–316.
the evidence was too vague to permit prosecution. The distinction between a common interest and a corrupt bargain was all too easily obfuscated. Such understandings were probably common. The boom bill, for example, was involved with the fate of a measure designed to create a new county around Scranton. As Kemble observed, some bargains had to be made to get legislation through at all. Yet, however necessary it might be considered, the practice of logrolling presented one more way in which political influence and manipulative skill entered the lawmaking process.

The Pennsylvania legislature, then, was subject to a variety of influences, some undeniably corrupt, others less so; it offered a favorable environment for the gentlemen of the lobby. The members were generally deficient in legislative experience. The business was mostly of a highly specialised nature and much of it, strictly speaking, not legislative business at all. On few questions, involving local interests or, like the riot bill, receiving exceptional publicity, was a member held to account by his constituents, while the party caucus did not always offer leadership. Often the individual member was responsible to nothing but his own sense of public duty, which was not always a reliable guide. Thus, on any one question a large number were either ignorant or indifferent, or both. Their votes were, so to speak, on the market, if not for sale then at least open to persuasion, so that the fate of a measure could depend on the persuasive power, the manipulative skill and, all too often, the money of the lobbyists. By the same token, the character of the legislature made the methods of the lobby seem essential to those who wanted action.

It was believed, especially by those whose legislative aims were thwarted, that the General Assembly was controlled by business interests. "If it has taught us anything," commented the legislative committee of the Petroleum Producers' Union on its failure to achieve any of its program in 1878, "it is that our present law-makers, as a body, are . . . under the control of the very monopolies against whose acts we have been seeking relief." This charge, if
not without foundation, oversimplified the truth. Business interests at Harrisburg had some influence on proceedings through the medium of the lobby. But often these business interests were confronted by other business interests who employed lobbyists in much the same way, as in the case of the boom bill and even the transportation measures of 1878, where the petroleum producers, themselves constituting a lobby, faced the power of the railroad and Standard Oil. The independent oil producers were capitalists as voracious as any, a fact obscured by their tendency to indulge in a kind of Jacksonian rhetoric and identify themselves as “the people.” Reduced to their essentials, many of the political struggles of the period were waged between opposing interest groups. Lobbying was thus often futile and, as Colonel Sellers discovered, expensive. When it was as flagrantly corrupt as on behalf of the riot bill, it might well be counterproductive.

Nevertheless, in the lobby as on the battlefield, fortune favored the side that commanded the greater resources and was first on the ground. The Pennsylvania Railroad participated in state politics at every level. It influenced the nomination of members, contributed to their expenses, wooed them with patronage and other favors, played a part in the organization of both houses and was on hand whenever any railroad business came up. It was consulted as a matter of course, almost as if it were a co-ordinate branch of the state government. Yet it would be wrong to assume that the railroad depended on clandestine influence alone. Although roundly hated in western Pennsylvania because of its rating policy, it had many friends in the east and especially in Philadelphia, whose capital had mainly built the line and whose trade benefited from the same low through rates from the west that Pittsburgh objected to. Whenever it was threatened its friends rose to proclaim its service to the Commonwealth. Several members spoke against the pipe line and antidiscrimination bills on the grounds that they would jeopardize

85 See, for example, the statement by Marcus Lockwood, himself an oil producer, in Leg. Record, 1878, p. 1715. On the character of the producers see Nevins, A Study in Power, I, 168–173.

86 With regard to railroad regulation see George H. Miller, Railroads and the Granger Laws (Madison, Wis., 1971), and Lee Benson, Merchants, Farmers and Railroads (Cambridge, Mass., 1955).
the competitive position of the state's principal railroad. Charles R. Earley of Elk County lauded the Pennsylvania Railroad as "A corporation [that] has built up this great empire of Pennsylvania." "To these railroad interests," he said on a later occasion, "our entire industrial pursuits, manufacturing, agriculture and mining, owe their existence and success. . . . Knock that prop that upholds all these interests and industries away, and all must fall and go to destruction and bankruptcy." In an expanding economy such arguments still held weight.

Writing at the turn of the century Alexander McClure observed that "New conditions have arisen by which partizan power largely commands legislation. . . ." He referred to a process by which the dominant Republican organization under Quay and later Boies Penrose stepped in to fill the vacuum of power and establish order out of the chaos of legislative proceedings. The power of the party machine was used to pass legislation on behalf of corporate clients, who, while growing in economic power, felt threatened by a rising demand for their regulation. In so far as they were successful, the party bosses established a system very different from the untidy procedures of the 1870s.

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87 Leg. Record, 1878, pp. 1722–1723, 2275–2276. See also remarks by Quirk and Salter of Philadelphia and Senator Herr of Franklin, ibid., 404–405, 2057, 2273–2274.