

STATE REGULATION OF RAILROAD
AND ELECTRIC RATES IN ARIZONA
TO 1925

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A Study of the Origin and Activities of the
Arizona Corporation Commission.

by

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INTRODUCTION.

The question of corporation control by the states first came into prominence in the United States after 1880. The growth of railroads and other corporate interests following the Civil War was tremendous. The people of the West, particularly the farmers, represented by their Granges, began to demand relief from the high rates charged by the railroads. The railroads were charged with "pooling," "rebating," and other illegal methods of conducting business. The rapidly growing "trusts" and corporations were accused of using unscrupulous methods to secure legislation which would be of benefit to them.

Three methods of control were tried previous to 1900 in an effort to curb the activities of the corporations. At first it was believed that the presence of competition would tend to make the corporations lower their rates and thus benefit the public. It was soon discovered that this theory was impractical. The competing corporations were accused of making agreements among themselves, or of redoubling their unethical efforts to secure an advantage over their competitors.

Control thru legislation was then attempted. This method, while more satisfactory to the public than the first, also had many disadvantages. The legislative bodies were large and unwieldy, they met only at long

intervals, and the passage of regulations which would tend to regulate the corporations was slow.

Soon the method of control through Administrative Boards was attempted. This was more successful in regulating the corporations than any of the previous methods tried, and today every state in the Union has its Administrative Board. These Boards, or Commissions, vary widely in their powers in the respective states. Some are purely investigating committees with power to suggest regulatory action to the legislature, while others have power to regulate the corporations as they see fit, in accordance with state law.¹

Arizona, as a territory, had no effective method of controlling corporations. Foreign, or outside, corporations had no trouble in securing corporation papers in the territory with the result that Arizona was overrun with companies of every description. "Wildcat" concerns incorporated in Arizona, and, with no pretense of producing anything of tangible value, sold their bogus stock in all parts of the world.² Arizona corporation laws, in-so-far as they existed, were a joke. T. G. Frost, in commenting on the situation says, "So far as the statutes are concerned, one would scarcely know that the corporations organized under the General Act were supposed to have a board of directors." Capital stock

1. Kerr, W.D., Public Utility Economics, pp. 140-42.

2. McBride, J.F., Sec'y of Corporation Comm. Interview, Nov., 1930.

was without limit as to amount, and the par value of the stock was dependent entirely upon the corporation's will.³

The people of Arizona, dissatisfied with the existing conditions, and seeing the success other states were having in regulating the corporations, were determined to correct the situation. In 1910, in drawing up the Constitution, the delegates created a powerful Corporation Commission in the hope that such action would stop the multi-fold abuses that the corporations had been practicing upon the people of the territory.⁴

It is the purpose of this thesis to show the conditions in the territory which led to such a strenuous demand by the people for relief from the abuses of the large corporations of the territory that the Arizona Corporation Commission was made one of the most powerful of the State Commissions. It is also the purpose to show what work this Commission has done since its creation in regard to the railroad rates and power rates of companies operating in this state.

It was freely charged, during territorial days, that the territory was virtually controlled by the Southern Pacific, the Santa Fe, and the Large mining interests

3. Frost, T.G., Incorp. and Organization of Corp., 1913, p.226.

4. Pattee, S.L., Interview, Dec., 1930.

of the territory. These corporations were accused of dodging their fair share of the taxes, and of controlling the legislature to such an extent that it was impossible for the people to do anything to relieve the situation.

In taking up the situation in regard to corporation taxes, it must be pointed out that the Corporation Commission has had nothing to do with setting tax rates or tax valuations of corporations. That function is left to the Tax Commission. The tax situation is taken up wholly to show that the people of the territory were justified in their accusations of the corporations. The chapter on Taxation is based on the reports of the Territorial Board of Equalization from 1905 to 1913.

The chapter on Legislative Control by the Corporations is based on a study of the Legislative Journals 1900 to 1910, and upon the stories of men who served in the Legislature during this period and were in a condition to observe the workings of the corporation "lobbies." Many of the reports heard of the activities of the "lobby" must be regarded as rumors, but there is evidence to show that there is some basis of fact in most of them.

The chapter on the Constitutional Convention shows the attitude of the people towards what was considered an effort on the part of the corporations to control the Convention. The chapter is based on the Minutes of the Consti-

tutional Convention and on interviews with delegates to the Convention.

The final chapters, on the Commission's work in regard to the railroad rates and power rates in the state, are based on the reports of the Commission from 1912 to 1924, and on interviews with the Commissioners in regard to work done since they stopped printing their reports in 1924. These chapters endeavor to throw some light on the charges, common for the past few years, that the Commission has failed in its work and is more a tool of the corporations than the Legislature ever was.

In concluding this introduction it is the desire of the author to thank the many people throughout the State who have so kindly helped him to secure information. In particular, thanks are due to Governor George W. P. Hunt for his great generosity in allowing the free use of his library and personal files, and to Mr. Mulford Winsor for his suggestions in regard to the form of the thesis.

CHAPTER I.

CORPORATION TAXATION IN THE TERRITORY

The taxation situation in the Territory of Arizona shows clearly the truth of the charges that the corporations in the Territory were practically able to set their own valuations upon their property and were thus enabled to pay only a small part of their just share of the taxes. Prior to 1913, and the creation of the State Tax Commission to set the valuations on corporation properties, the tax valuations were set by the Territorial Board of Equalization. This Board consisted of five men, appointed from different sections of the Territory by the governor. These men met yearly in Phoenix and investigated the valuation set upon corporation properties by the various county assessors. They had the right to revise these figures upward or downward as they saw fit.¹ This system of basing valuations upon the figures of the assessors gave the corporations extra opportunities to cut down their own tax rates, since the mining companies and railroads were as successful in controlling local and county politics as they were in "fixing" the Territorial Legislature.² This "control"

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1. Proceedings of the Territorial Board of Equalization, 1905, pp. 2-3.
 2. Howe, C.R., Member of Arizona Corp. Comm., Interview, Nov., 1930. Subsequently verified by all prominent political men of the 1900's who were interviewed.

of local politics was made even simpler for the corporations by the caucus system used throughout the Territory. The big corporations were always sure to have enough men present at the caucus to assure the election of a chairman who would be in sympathy with their motives. The chairman, in appointing the nominating committees, saw to it that the majority of places were filled by "Corporation men" and that the unorganized elements of the party were allowed to fill the rest of the places. This procedure effectively quieted any complaints of these elements that they were allowed no chance to voice their opinions.³

The result of this political manipulation was that the corporations paid a very small part of the taxes. Valuable mining lands were assessed at the same amount per acre as the farm land of the same county.⁴ The railroads paid taxes on figures submitted by themselves, as did the power companies of the Territory. These figures, as shown in the Proceedings of the Territorial Boards of Equalization, 1905 to 1913, are undoubtedly low, and, according to charges of anti-corporation men, represent less than fifty per cent of the actual taxable value of the companies.⁵

3. Griffith, Vic S., Prominent member of Democratic party in Territorial days, Interview, Nov., 1930.

4. Howe, C.R., Interview, Nov., 1930.

5. Ibid.

The power to readjust the tax rates of the corporations lay in the hands of the Territorial Legislature, but here again, the efforts of the small taxpayers to force the corporations to pay their just share of the taxes were futile. Legislation to increase the corporation taxes was tabled or thrown out year after year. It is to be said of the various governors who were in office from 1900 to 1910 that they made every effort to force taxation bills through the Assembly.

In 1901 Governor N. O. Murphy, in his message to the Twenty-First Legislative Assembly said, "Either the profits of mines or a proper value on dividend paying mines should also be assessed.....It is frequently stated that mines worth \$100,000,000 in Arizona, and which pay interest on that amount, do not pay taxes upon a valuation of all their property, real and personal, of \$2,000,000."⁶

In response to his urging for corporation tax increases, Representative Peterson of Maricopa introduced two bills in the Legislature. The first, "An Act Taxing the Net Proceeds of Mines," was brought out of committee with the recommendation that it do not pass. It was killed on the third reading.⁷ His second effort, "An Act taxing the Gross Proceeds of Mines," met the same fate.⁸ In addition to these two bills, "An act to Provide for the Payment of Taxes upon Sleeping Cars, Drawing-Room Cars, and Parlor Cars," was intro-

6. Kelly, G. H., Legislative History of Arizona, p.209.

7. Journals of the Twenty-First Legislative Assembly, pp. 340 and 423.

8. Ibid., pp. 461 and 502.

duced and was promptly killed in committee.⁹

In 1903 the Twenty-Second Legislative Assembly met and Governor Alexander O. Brodie requested legislation which would provide for more equitable taxation. He said, "Assessments have been made of, and taxes levied on, the surface ground and reduction works at these mines; this has been done, apparently, without taking into consideration the value of the individual property as a revenue producer."¹⁰

In this Legislative Assembly two bills were presented to increase the taxation of the mines. One was killed in committee and the other, "An Act Providing for the Taxation of the Net Proceeds of Mines," was killed on its third reading.¹¹

Governor Joseph H. Kibbey made a determined, and, to some extent, successful fight to raise the taxes of the corporations. In 1905, in his message to the Legislature, he pointed out that the mines had taken in \$38,700,000 and had only paid \$178,000 in taxes. He compared these figures with those showing the gross revenue and taxes of the farmers of the territory, and urged legislative action to relieve the unequal situation.¹² Two bills dealing with taxation of mining property were introduced in this Legislative Assembly. Both of them passed the House and were recommended for discussion in the Committee of the Whole. There is

9. Ibid., p. 158.

10. Kelly, G. H., Op. Cit., p. 222.

11. Journals of the Twenty-Second Legislative Assembly, pp. 272 and 471.

12. Kelly, G.H., Legislative History of Arizona, pp. 234 - 237.

no record of either of them being discussed.¹³

In 1907, Governor Kibbey again returned to attack the corporation valuations. He showed that most businesses of the Territory were being taxed on approximately fifty per cent of their real value and compared these figures with those showing that the mines of the Territory were paying on eight to ten per cent of their real value.¹⁴ This time the Assembly passed House Bill number 45, or, as it is more familiarly known, The Bullion Tax. This bill divided mines into two classes: productive (those producing \$3,750 annually) and non-productive. It originally called for a valuation of twenty-five per cent of the gross output of the mines.¹⁵ The bill was amended in the Council to provide for valuation on twenty per cent of the gross output and was signed by Governor Kibbey. In signing the bill Governor Kibbey commented that the situation had been improved but little by the bill. He said, though, that it was a step in the right direction.¹⁶

This Bullion Tax Law was the only victory that the opponents of the corporations won in regard to taxes. In the Twenty-Third, Twenty-Fourth, and Twenty-Fifth Legislative Assemblies bills were introduced to raise the taxes on

13. Journals of the Twenty-Third Legislative Assembly, pp. 407 and 514.

14. Ibid. (12), p. 250.

15. Kelly, G. H., Legislative History of Arizona, p. 253.

16. Journals of the Twenty-Fourth Legislative Assembly, p. 241.

railroad and mining property. All of them died before getting to the Governor.¹⁷

While the various governors of the Territory were striving to get taxation legislation passed they were also trying to get the Territorial Board of Equalization to raise the taxes. They met with little success in their efforts. In 1905 Governor Kibbey requested the resignation of Mr. A. S. Donau of Pima County because Mr. Donau would not agree to raise the railroad valuations.¹⁸ He was successful in gaining a great increase in valuations of both mines and railroads over the previous years.¹⁹ The following table shows the valuations placed on the productive mines of the territory in the four leading mining counties from 1905 to 1913.²⁰

17. Journals of the Twenty-Third, Twenty-Fourth, and Twenty-Fifth Legislative Assemblies; Twenty-Third, pp. 407, 514; Twenty-Fourth, (House) pp. 51, 29, 212; Twenty-Fifth, (House) p. 30.
18. Proceedings of the Territorial Board of Equalization, 1905, p. 32.
19. Ibid., pp. 35 - 90.
20. Proceedings of the Territorial Board of Equalization, 1905, pp. 6, 7, 11; 1906, pp. 6, 7, 12; 1907, pp. 9, 11, 15; 1908, pp. 7, 8, 9, 12; 1909, pp. 9, 10, 11, 15; 1910, pp. 18, 20, 21, 28; 1911, pp. 19, 21, 22, 28; 1912, pp. 7, 8, 9, 14; 1913, pp. 29, 30, 31, 38.

Valuations on Producing Mines

in --

Cochise County

1905 . .	\$3,568,295.52
1906 . .	3,967,598.00
1907 . .	6,266,541.55
1908 . .	5,949,624.83
1909 . .	4,759,497.27
1910 . .	4,887,505.29
1911 . .	4,806,191.78
1912 . .	17,083,668.39
1913 . .	51,275,224.25

Graham County

1905 . .	\$2,697,665.00
1906 . .	2,372,580.00
1907 . .	2,745,923.12
1908 . .	3,104,413.49
1909 . .	2,538,497.52
1910 . .	2,352,410.56
1910 . .	No figures given
1912 . .	do.
1913 . .	do.

Gila County

1905 . .	\$1,226,500.00
1906 . .	1,376,250.00
1907 . .	1,419,774.21
1908 . .	1,816,186.17
1909 . .	1,112,252.14
1910 . .	1,168,324.06
1911 . .	1,101,991.31
1912 . .	4,255,576.78
1913 . .	14,734,072.74

Yavapai County

1905 . .	\$2,238,028.48
1906 . .	2,124,136.00
1907 . .	2,448,524.62
1908 . .	2,168,884.23
1909 . .	1,528,273.09
1910 . .	1,520,830.24
1911 . .	1,583,457.22
1912 . .	3,626,061.42
1913 . .	13,524,544.33

In 1911, Graham County was divided into Graham and Greenlee counties. Greenlee County retained all the producing mines in the district. The assessments on these mines jumped from \$2,352,684.45 in 1911 to \$21,192,722.52 in 1913.²¹

The mining companies were by no means the only offenders in this regard. The railroads of the Territory saw to it that no legislation affecting their tax valuations was passed and continually protested any increases that the Board of Equalization made.²² That their efforts to keep the tax valuations down were successful during Territorial days is clearly shown by the following table.²³ This table shows the assessed valuations of the three leading railroads of the Territory from 1905 to 1913.

	<u>Southern Pacific</u>	<u>Santa Fe</u>	<u>El Paso & Southwestern</u>
1905 . . .	\$4,317,500.00 . . .	\$1,480,404.00 . . .	\$655,880.00
1906 . . .	5,102,500.00 . . .	1,757,430.00 . . .	949,300.00
1907 . . .	5,292,862.00 . . .	1,757,430.00 . . .	985,635.00
1908 . . .	5,691,250.00 . . .	1,757,430.00 . . .	1,072,800.00
1909 . . .	5,887,500.00 . . .	5,801,400.00 . . .	1,077,280.00
1910 . . .	5,887,500.00 . . .	5,801,400.00 . . .	1,077,270.00
1911 . . .	6,868,750.00 . . .	6,768,300.00 . . .	1,682,069.00
1912 . . .	8,250,900.00 . . .	8,586,072.00 . . .	2,018,471.00
1913 . . .	23,966,900.00 . . .	23,589,310.00 . . .	7,515,110.00

21. Proceedings of the Territorial Board of Equalization, 1911, p.22; 1912, p. 9; 1913, p. 32.
 22. Ibid., 1906, pp. 4, 5; 1907, p.4; 1908, p. 4; 1909, p. 4; 1910, p. 4; 1911, p. 4; 1912, p. 11; 1913, p. 4.
 23. Ibid., 1905, pp. 12, 13; 1906, p. 14; 1907, p. 17; 1908, pp. 14, 15; 1909, pp. 18, 19; 1910, p. 31; 1911, pp. 31, 32; 1912, pp. 31, 32; 1913, pp. 17, 18.

The sudden increase in the valuation of the Sante Fe in 1909 was due to the fact that Congress, in giving the railroad a land grant, had specified that the valuation should not exceed \$175.00 per mile.²⁴ This rule expired in 1908 and the valuation was made more equitable with that of the Southern Pacific Company. This ruling also had the effect of keeping down the valuations on the other railroads of the Territory, since they protested that they should not be forced to pay much more than the Sante Fe.

The framing of the Constitution in 1910 and the creation of the Tax Commission in 1912 were the two great steps the small taxpayers of the Territory had to take in order to equalize the tax burden. The figures of the total valuations of real property as compared to the valuations of the corporations show the effect of the creation of the Tax Commission.²⁵

Total Valuation in Territory

Year	Real Property	Mines	Railroads
1907 . .	\$19,034,639.95	\$20,904,201.11	\$11,012,004.57
1908 . .	19,591,213.51	21,485,125.25	11,299,457.57
1909 . .	23,111,022.18	19,209,673.76	12,634,290.44
1910 . .	24,957,628.36	19,714,592.16	13,224,292.04
1911 . .	26,476,175.66	19,242,331.26	19,052,313.94
1912 . .	25,871,075.55	45,145,084.49	28,512,434.20
1913 . .	57,579,873.85	140,488,648.30	84,130,910.50

24. Howe, C. R., Interview, Nov., 1930.

25. Proceedings of the Territorial Board of Equalization, 1907, p. 18; 1908, p. 15; 1909, p. 19; 1910, p. 33; 1911, p. 33; 1912, p. 19; 1913, p. 41.

Further evidence of the loss of power by the mining companies is shown by the failure of the mine owners to have their assessments reduced in 1912. On December 2, 1912, the mine owners of the State held a convention to protest the valuations imposed on their properties. Mr. Norman Carmichael, of the Arizona Copper Company, was elected President. This convention filed a formal protest and also drew up a measure reducing mining taxes to be presented to the next legislature.²⁶

The influence of this conference can be judged by comparing the 1912 valuation of \$45,145,084.49 to that of 1913, \$140,488,648.30.²⁷

Summary

The inequality of taxation from 1904 to 1910 may be classed as one of the main reasons why the people of the Territory were anxious to elect delegates to the Constitutional Convention of 1910 who had pledged themselves to assure regulation of the corporations. The corporations had been able to set their own tax rates and to prevent any legislation which would increase their taxes. Arizona, from 1900 to 1910, was rapidly filling up with merchants, farmers, and small taxpayers and it was finally the influence of these people which helped to equalize the tax rate.

26. Arizona Republican, December 3, 1912, p. 7.

27. Proceedings of the Territorial Board of Equalization, 1912, p. 19; 1913, p. 41.

CHAPTER II.

CORPORATION INFLUENCE IN THE TERRITORIAL LEGISLATURE

Control of corporations in Arizona prior to the creation of the Corporation Commission lay entirely in the hands of the Legislative Assemblies. This method of control was very unsatisfactory since it was freely charged that the corporations of the Territory were in absolute control of the Legislature, and the evidence shows that such charges had a large element of truth in them.

There is no doubt that the corporation laws of the Territory were very weak. T. G. Frost, in his book, The Incorporation and Organization of Corporations, makes this statement concerning Arizona laws:

"There is no limit to the amount of capital stock which may be issued. The par value can be any amount. So far as the statutes are concerned one would scarcely know that the corporations organized under the General Act are supposed to have a board of directors."¹

The result of this laxity in controlling corporations was that Arizona was looked upon as "the home of wildcat corporations."² In 1912 when the Corporation Commission took office it was found that the Territory had granted incorporation papers to thirty thousand corporations. These corporations, in most cases, were purely "wild cat" concerns, and once having obtained their incorporation papers they sold stock in all parts of the world.³

1. Frost, T.G., The Incorporation and Organization of Corporations, p. 226, 1913.
2. McBride, J. F., Interview, Nov., 1930.
3. Ibid.

Most of these corporations, however, having existence only on paper, had little to do with seeing that bills in the Legislature which would restrict corporations were not passed. This work of killing potentially injurious legislation, and passing helpful legislation, remained in the hands of the large corporations of the Territory; namely, the large railroads and the large mining companies.

These interests used every means possible to secure control of each Legislative Assembly. The method of having "corporation men" elected to the Legislature by "fixing" the caucuses has been described in a previous chapter.⁴

In addition to the fact that the corporations were always represented in the Legislative Assembly by some of the legislators, they made the defeat of anti-corporation bills and the passage of beneficial laws even more certain by the activities of powerful lobbies. In 1910, a pamphlet advocating the adoption of the Initiative and Referendum in the Constitution commented on this question as follows:

"But some say: Why not depend entirely upon the Legislature to make our laws? We say, in reply: The trusts and monopolies and those seeking special privileges, maintain lobbyists at the Capitol, and these lobbyists, with the patience of the spider and the industry of the ant, strangle all measures calculated for the good of the people."⁵

A prominent politician of Territorial days

4. Chapter I, p. 7.

5. Pamphlet for I. & R., Aug. 4, 1910, signed by Henry F. Ashurst, N. A. Vyne, J. E. Russell, P. W. O'Sullivan, H. R. Wood, J. Lawler, and J. J. Sanders.

commented:

"During meetings of the Territorial Legislature the population of Phoenix was almost doubled, the excess being lobbyists and representatives of the Arizona Corporations."⁶

The exact manner in which these lobbyists worked to secure votes is, of course, difficult to describe adequately. Rumors of the buying of votes are plentiful and many stories are told of the activities of some of the more prominent lobbyists. For many years prior to 1910 the distinction of being the outstanding "legislature fixer" was held jointly by H. J. Allen, manager of the United Verde Copper Company, of Jerome, and Ned Creighton, of Phoenix. Mr Creighton, at that time, and at present, is affectionately known to his friends as "The Corruption Bureau of Phoenix."⁷ Mr. Allen was regularly a prominent visitor in Phoenix during the meetings of the legislature. He invariably gave out a statement to the Prescott papers before leaving Phoenix to the effect that he was going to Phoenix to buy mules for use at the mines. On his arrival in Phoenix he set up headquarters at the Adams Hotel, laid in a good supply of liquor, and started his work. He was not content with knowing only how to "approach" the legislators but extended his activities to the pages and attachés of the Capitol building. He was a frequent visitor

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6. Osborne, Sidney P., Delegate to the Constitutional Convention and prominent Maricopa County Politician, Interview, Nov., 1930.
 7. Winsor, Mulford: Member of Territorial Legislature and Delegate to Constitutional Convention, Interview, Dec., 1930. Verified by Mr. Creighton in a subsequent interview.

to the printing office and always found some excuse to make "friends" with the employees by giving small "gifts" from the ever-present "sack." He was at no time secretive in his operations. He complained bitterly at times that the cost of "mules" was running over an average of \$25 per head.⁸

Mr. Allen's attitude toward his activities may be best shown by the following story. At one time a bill was presented to the Legislature to divide Yavapai County into two counties. Mr. Allen, anxious to have Clarkdale and Jerome comprise a county by themselves, was active in trying to get the bill accepted. Five Senators, under the leadership of a prominent Senator from Southern Arizona, pledged themselves to support the bill. Later, the night before the bill was brought to a vote in the Senate, Mr. Allen was seen pacing the sidewalk in front of the Adams Hotel pouring out invectives upon all Senators in general and these five in particular. A friend stopped and inquired the reason for Allen's being so upset. "Oh," said Mr. Allen, "the _____'s aren't honest. I gave them \$1,000 apiece for their votes and now, with the bill coming up tomorrow, they've raised their price on me!"⁹ He later invaded the office of Eugene S. Ives, President of the House, and, in the presence of witnesses, offered him \$20,000 if he would

8. Winsor, Mulford; Interview, Dec., 1930.

9. Ibid.

get the bill through that branch of the Legislature. Ives laughed at him and saw to it that the bill was never brought to the vote in the House.¹⁰

Just before Mr. Allen's death, by his own hand, in 1918, he was reported to have written two copies of a letter divulging the methods used by the United Verde Copper Company in securing favorable legislation. One copy was sent to Senator W. A. Clark, owner of the United Verde Company. The other copy was sent to John Dunbar, editor of "Dunbar's Weekly", a Phoenix publication. The letter was never published. Rumor has it that Mr. Dunbar sold it to Senator Clark for "several thousand dollars."¹¹

There seems to have been very little stigma attached to buying and selling of votes. Mr. Allen, Mr. Creighton, Frank Cox, attorney for the Southern Pacific, and other prominent lobbyists regarded their activities as purely business transactions.¹² Mr. Creighton says:

"We had a certain job to do and we went about it the only way possible. The legislators could not be expected to live on the salary the Territory was paying them."¹³

In 1906 Colonel Collis P. Huntington, head of the Southern Pacific Company, is reported to have wired Frank Cox in regard to some railroad legislation. He said, "Last year the Arizona Legislature cost us \$4,800.00. Its too damned

10. Winsor, Mulford: Interview, Dec., 1930.

11. Osborn, Sidney; Creighton, Ned; and Winsor, Mulford: Interviews Dec., 1930 and Feb., 1931. All told substantially the same story in regard to these letters.

12. Creighton, Ned: Interview, Feb., 1931.

13. Ibid.

much."¹⁴

In 1910, during the Arizona Constitutional Convention, when the proposed Corporation Commission was under discussion, a prominent Tucson politician is reported to have said:

"In the past few years I've spent \$15,000 in Phoenix trying to get legislation passed. Surely I can buy three men for less than I have to pay for the whole Legislature."¹⁵

These stories, regardless of their veracity, show plainly that there was an active corporation lobby in Phoenix during meetings of the Legislature. There is no doubt that every legislator could have a free pass on the Southern Pacific or Santa Fe, a privilege that had great influence whenever legislation affecting the railroads was introduced. The attitude of the people of Arizona towards this particular brand of favoritism is shown in a letter from Frank Baxter, a Yuma attorney, to Geo. W. P. Hunt, asking for the introduction of a bill making the issuing of "free passes" a felony. He said,

"You and I well know that the Free Pass evil, though not so glaring as in former years, is still bad enough to in many cases defeat the ends of justice, and to allow some of our big corporations to avoid the payment of their just taxes, like the common herd have to."¹⁶

14. Winsor, Mulford: Interview, Dec., 1930. J.H. McClintock, in Arizona - The Youngest State, vol. I, p.290, says: "It may be worthy of note that in later years, C. P. Huntington ... set the "value" of our Arizona Legislature at the ridiculously low figure of \$4,8000."

15. Griffith, Vic. S., Prominent politician of Pima County, Interview, Oct., 1930.

16. Letter, Frank Baxter to G.W.P. Hunt, Feb. 1, 1907.

This feeling of resentment towards "free passes" was intensified by stories circulated throughout the Territory that the members of the Territorial Board of Equalization, after adjusting the railroad valuations each year, were given a two weeks vacation in Southern California at the expense of the Southern Pacific.¹⁷

The fate of bills introduced in the Legislature from 1899 to 1909 in an effort to stop the practice of giving "free passes" is typical of the treatment accorded other proposed legislation which would hurt the mining and railroad interests of the territory.

In the Twentieth Legislative Assembly, 1899, a bill was introduced to regulate railroad fares in the Territory and to do away with the "free passes." This bill failed to pass the Council on the third reading.¹⁸

In the Twenty-First and Twenty-Second Legislative Assemblies of 1901 and 1903 two more bills of the same type were introduced. Both of them failed to get out of Committee.¹⁹

The Twenty-Third Legislative Assembly, 1905 saw the failure of two more bills.²⁰ Three attempts in the Twenty-Fourth Assembly also met the same fate.²¹ Only one of

17. Howe, C. R.: Interview, Nov., 1930.

18. Journals of the 20th Legislative Assembly, 1899, p. 265.

19. Journals of the 21th Legislative Assembly, 1901, p. 218.

20. Journals of the 23rd Legislative Assembly, 1904, pp. 556, 572.

21. Journals of the 24th Legislative Assembly, 1907, pp., (House) 203, 261, 316.

these bills was passed out of Committee, and it was "indefinitely postponed" on the second reading.²²

It was not until 1909, that the "free pass" privilege of the legislators was ended through the passage of a law creating an Arizona Railroad Commission.

The corporations, in many instances, were able to defeat proposed legislation which would harm them, by the process of "trading votes." The defeat of certain proposed measures in 1899 moved Frank C. Reid, prominent attorney and politician of Flagstaff, to write to Mr. Hunt, at that time a member of the Territorial Council:

"Thus far, the corporations have succeeded very well in playing off the interests of the Territory against each other; e.g., the north against the south, the cattlemen against the sheep-men, etc. So far as I am able to tell from long range, the defeat of both bullion tax and railroad legislation were due to trades made in the interests of pet measures, or against legislation which would effect local interests, and not to real opposition to the bills in question, particularly in railroad matters."²⁴

This combination of corporation control of local caucuses, as explained in Chapter I, the ever-present corporation lobby in Phoenix, and the practices of "corporation men" in the Legislative Assembly, resulted in the defeat of practically every proposed law, from 1899 to 1909, which would tend to harm the railroad or mining interests of the Territory. A review of "The Journals of the Territorial Legislative Assemblies" for these years shows the influence of the corporations on proposed legislation.

22. Journals of the 24th Legislative Assembly, p. (House), 316
23. Journals of the 25th Legislative Assembly, 1909, p. (House) 260.
24. Letter, Frank C. Reid to G.W.P. Hunt, Mar. 25, 1899.

Three bills were introduced in the Twentieth Legislative Assembly, 1899, which would have vitally affected the mines and railroads of the Territory. Mr. Hunt, of Gila County, introduced a bullion tax bill, and Mr. Goldberg, of Maricopa County, introduced two "Acts to Regulate Railroads and Establish Maximum Rates to be Charged,"²⁵ That the people of the Territory took an interest in the passage of these bills, and others of like nature, is shown by a petition sent to the Legislature by the citizens of Pinal County:

"We, the undersigned, residents of Pinal County, Arizona, respectfully petition your honorable body that no laws be enacted exempting railroads or other enterprises from taxation, and that a law be passed levying a just tax upon the output of large mining companies. Or, if our petition be denied in either respect, then we pray that the existing road and poll taxes be repealed; to the end that the working men and ranchers of the Territory, the true developers of its resources, be not unjustly discriminated against, but may enjoy relief from the burdens of taxation proportionate to that accorded speculative investment."²⁶ The Globe Chapter Number 60 of the Western Miners' Federation went on record as endorsing Mr. Goldberg's bills.²⁷ The railroads, on the other hand, took an active interest in defeating the proposed legislation. The Gila Valley, Globe, and Northern Railroad Company wrote to Mr. Hunt urging him to defeat Goldberg's bills. They pointed out that the railroads were absolutely essential to the prosperity of the Territory and that anything which would retard them would naturally be detrimental to the Territory as

25. Journals of the 20th Legislative Assembly, 1899, pp. 40, 58, 92.

26. Petition of Pinal County Residents to the 20th Legislature, Jan. 20, 1899. Copy found in personal files of Gov. G. W. P. Hunt.

27. Letter, Globe Chapter No. 60, W. M. F. to G. W. P. Hunt, Feb. 10, 1899.

a whole.^{28.}

All three of these bills were defeated in the Council by the same vote, 7 to 5. It is noticeable that the same councilmen voted the same way on all three bills.²⁹

The Twenty-First Legislative Assembly of 1901 was signalized by the introduction of three bills providing for the raising of taxes on mines and railroads and of eight bills which would provide for greater Territorial regulation of these same interests in regard to labor conditions, railroad rates, and general organization of these corporations.³⁰ Of these eleven bills, four were never reported out of Committee, three were reported out with the recommendation that they do not pass, three with no recommendation, and only one with recommendation that it do pass. This last bill, killed on the third reading, was the only one to survive to a final vote.³¹

In 1903, the Twenty-Second Legislative Assembly considered eight bills dealing with the regulation of corporations and the raising of the mine and railroad taxes.³² Of these eight only one, "An Act to Protect the Traveling Public and Railroad Employees" was passed by both

28. Letter, G.V., G. & N.R.R. to G.W.P. Hunt, Feb. 6, 1899.

29. Journals of the 20th Legislative Assembly, 1899, pp.223, 265, 305.

30. Journals of the 21st Legislative Assembly, 1901, pp.18, 23,

31. Ibid., 1901, pp.45, 83, 98, 158, 218, 403, 422, 423, 444, 500, 502.

32. Journals of the 22nd Legislative Assembly, 1903, pp.28, 31, 45, 54, 70, 241, 254, 272.

Houses of the Legislature.³³ There is no evidence to show that Governor Brodie ever considered the bill, and since a similar bill was introduced in the next Legislature it is presumed that the bill died through a pocket veto.³⁴

The meetings of the Twenty-Third and Twenty-Fourth Legislative Assemblies were replicas of those mentioned. Fourteen bills in 1905, which would have proved harmful to the corporate interests of the Territory, and seventeen in 1907, met the same fate as their predecessors on the same subjects.³⁵ Of these thirty-one bills only two - another "Act for the Protection of the Traveling Public," and the "Bullion Tax" law - passed both Houses and were signed by Governor Kibbey.³⁶

The railroad lobby in Phoenix made its activities evident during both of these Assemblies. Mr. Hunt, in response to a telegram from J. H. Henderson of Bisbee, asking him (Hunt) to use his influence in amending Council Bill 47 which proposed to create a Railroad Commission, said,

"In reply thereto beg to enclose the following vote which will show how it and all other railroad legislation met its fate in this body. There was no disposition to amend at any stage of the game, it was the wish and desire of the railroad lobby, as always, to have it and all other legislation in regard to the railroads of the Territory, to be killed as quickly as possible."³⁷

33. Journals of the 22nd Legislative Assembly, 1903, p. 454.

34. Journals of the 23rd Legislative Assembly, 1905, pp. 208, 614.

35. Ibid., pp. 49, 150, 221, 253, 277, 539, 558, 572, 577, 586, 592, 614, 641. Also, Journals of the 24th Legislative Assembly, 1907, pp. (House) 155, 186, 187, 212, 221, 274, 295, 309; (Council), 158, 202, 203, 222, 241, 261, 310, 316.

36. 23rd Assembly, op. cit., p. 614; 24th Assembly, p. (Council) 241.

37. Letter, G.W.P. Hunt to J.R. Henderson, Mar. 9, 1907.

The year 1909 was marked by a partial defeat of the railroad interests in the Twenty-Fifth Legislative Assembly. Six bills were introduced dealing with the regulation of railroads.³⁸ Outstanding among them were Council Bill number 21 and House Bill number 59. Council Bill 21, introduced by Mr. Hunt, called for the establishment of a three-cent passenger fare on the railroads.³⁹ House Bill 59, introduced by Frank De Souza, of Maricopa County, called for the creation of a Railroad Commission.⁴⁰

On February 6, Mr. Hunt, as President of the Council, forced the Committee on Corporations to report on the railroad bills. A request for more time was refused. Mr. Hunt pointed out that he was really thinking of the best interests of the railroads in forcing a report. He pointed out that the hotel bills of the numerous railroad lobbyists were mounting day by day and a quick settlement of the bills would allow them to go home and save money for their employers.⁴¹

The bills came to a vote on February 24. Shortly before this time a meeting was held in the rooms of Ben Goodrich, a member of the Legislature, between Frank Cox and other railroad representatives and eight Democratic mem-

38. Journals of the 25th Legislative Assembly, 1909, pp. (Council) 36, 38, 62, 178; (House) 30, 31, 62.

39. Ibid., p. (Council) 36.

40. Ibid., 1909, p. (House) 62.

41. Arizona Democrat, Phoenix: Feb. 6, 1909.

bers of the Council. The impending railroad legislation was discussed and certain agreements were reached.⁴² In the voting in the Legislature, Mr. Hunt's three-cent fare bill was defeated and Mr. DeSouza's Railroad Commission bill passed.⁴³

The Commission of three men, appointed under the authority of this law, was never successful. It had advisory powers only, and it is said that, due to the influence of Frank Cox, two of the three members were "under railroad domination."⁴⁴

The year 1910 found the people of Arizona preparing to elect delegates to the Arizona Constitutional Convention; and the attitude of these delegates towards the coprorations was carefully ascertained before they were elected.

Summary

During the Territorial period, the railroads and mines of Arizona through lobbies, local control of politics, and legislative "manipulating," were successful in stopping practically every bit of proposed legislation which would prove harmful to them. During these years fifty-

42. Globe Silver Belt, Feb. 14, 1909. Verified by G. W. P. Hunt in interview, Dec., 1930.

43. Journals of the 25th Legislative Assembly, 1909, pp. (Council) 186, 191.

44. Hunt, G. W. P., Interview, Dec., 1930.

nine bills, detrimental to the corporate interests, were introduced into the Territorial Legislature. Only three of these bills ever became laws. During the same period fifteen bills to aid the corporate interests were introduced. Eleven of these bills became laws while only four were defeated.

Such conditions made it imperative that the people of Arizona write articles into their new Constitution which would relieve the Legislature from the necessity of regulating corporation affairs.

CHAPTER III.

THE CREATION OF THE CORPORATION COMMISSION

The Arizona Corporation Commission is one of the most powerful bodies of its kind in the United States.¹ It is absolutely independent of the legislative and executive branches of government,² and in the event of appeal to the judiciary on any of the Commission's rulings, the ruling under dispute stays in effect until the decision of the court is handed down.³

This great power, which makes the Commission a governing body in itself, comes from the fact that "Arizona is one of the few States having a Constitutional provision providing for a Corporation Commission."⁴ In most States the Corporation, or Railroad, Commission is dependent to a certain extent upon the legislative and executive branches of government, due to the fact that their powers come from these branches instead of being written directly into the constitution.

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1. Murdock, J. R., Constitutional Development of Arizona, p. 26.
 2. McBride, J. F., Interview: Nov., 1930.
 3. Arizona Constitution, Article 15, Sec. 17.
 4. Murdock, J. R. op. cit., p. 26.

In previous chapters it has been shown how the corporations of the Territory of Arizona controlled the Territorial Legislature and secured legislation to their own advantage. This chapter will show why the makers of the Arizona Constitution gave the Corporation Commission the great power it has and why it is completely independent of the other branches of government.

On June 20, 1910, the United States Congress passed a Statehood Bill for New Mexico and Arizona. Each Territory was to call a Constitutional Convention and present its Constitution to President Taft for ratification before Statehood would be granted.⁵ In the campaign for the election of delegates to the Constitutional Convention in Arizona the question of the attitude of each candidate toward the corporations was carefully looked into. In the elections for the Territorial Legislature it had been difficult to secure honest and able men to run for office. The pay was small and the chances of really doing anything to benefit the Territory were few; so, with few exceptions, the candidates for election to the Legislature were men hand-picked by the corporations and by the saloon and gambling interests of the Territory.⁶

5. Arizona Daily Star, June 21, 1910.

6. Manning, L. H., Prominent Territorial Politician, Interview, Dec., 1930.

The call for delegates to the Constitutional Convention brought out men in both parties who were able and willing really to help the Territory by drawing up the Constitution.⁷

The Democratic Central Committee met at Prescott on July 16, 1910, and decided upon the issues upon which the Democratic Party would conduct the coming campaign.⁸ There had been some talk previous to this meeting favoring the plan of New Mexico for a non-partisan convention. The Arizona Daily Star showed the attitude of the Democrats toward this proposition in an editorial:

"The Republicans are shouting for a non-partisan convention. But the Republicans may save their arguments and breath for there will be no Mugwumps elected to the Constitutional Convention . . . It is well enough for New Mexico to talk of a non-partisan ticket, but decidedly it will not go in Arizona."⁹

The leaders of the Democratic Party were strongly against such a move and it received little support from the people as a whole. On July 21, 1910, the people of Jerome in a mass meeting declared for a non-partisan convention,¹⁰ but this belated effort was laughed at by the Democratic press which claimed the United Verde Copper Company was backing this demonstration.¹¹

7. Winsor, Mulford: Interview, Dec., 1930.

8. Arizona Daily Star, July 17, 1910.

9. Ibid.

10. Journal-Miner, Prescott, July 21, 1910.

11. Arizona Democrat, Phoenix, July 22, 1910.

It should be understood that there had been no organized opposition to the corporations in the Territory previous to the Democratic meeting in Prescott. At this meeting the Democrats declared themselves in favor of strict regulation of corporations, knowing that such a move would be of great help in securing the election of their candidates. Each county had the privilege of drawing up its own platform and conducting its own campaign, but in each county the campaigns were very similar. There were a few papers which were strongly anti-corporation and discussed this subject to a great extent. Most of the papers, however, touched on the subject as little as possible and confined themselves to arguments on the issue of the initiative and referendum. This seeming indifference to the corporation question may be explained by a letter from Governor Hunt to the Globe Miners' Union, in which he said: "...in fact, the corporations own or directly control every newspaper of any importance in the Territory." The Arizona Democrat, of Phoenix, was probably the most bitter against the corporations. Even before the meeting of the Democratic Central Committee it had written editorials accusing the Copper Queen and United Verde mines, and the Southern Pacific and the Santa Fe railroads of trying to control the election

12. Winsor, Mulford; interview, Dec., 1930.

13. Ibid.

14. Hunt, G.W. P. , interview, Dec., 1930.

15. Arizona Daily Star, Oc. 7, 1910. Ed; Bisbee Daily Review, Sep. 1, 1910, Ed.

16. Letter, G.W.P. Hunt to Globe Miners' Union, Western Federation of Mines, No. 60, Feb. 29, 1909.

of the delegates to the convention and warning Democrats of Arizona to beware of these corporations.¹⁷

During July and August, 1910, both Republicans and Democrats throughout the Territory held party caucuses, nominated their delegates, and started their campaigns.¹⁸ The Maricopa County candidates had probably the clearest corporation plank in their platform of any: -

"We entertain no unreasonable hostility to capital, individuals or organized, and we recognize its right to equal protection under the Constitution as any other interest in order to secure its influx into the new State and promote the growth and development of the State; but we insist that fundamental rules and strictures be placed in the Constitution guaranteeing to the people security against the dominance of corporate and corrupt control of public affairs, state, county, and municipal; to provide for the reasonable regulation and control of all public or quasi-public utility corporations and transportation companies not in conflict with the United States Interstate Commission law; to provide for the payment of a just and fair proportion of taxes by all corporations, making it mandatory upon the legislature to pass efficient laws for the enforcement of such general provisions in such cases where such general provisions are not self-executing."¹⁹

The campaign in Pima County was typical of those conducted in other counties of the Territory in so far as the charges and counter-charges of the candidates were concerned. Pima was exceptional in that the Republican paper, The Tucson Citizen, hurled charges of "corporation men" at the Democratic candidates while the Democratic paper, The Arizona

17. Arizona Democrat, Editorial, July 18, 1910.

18. Arizona Daily Star, July and Aug., 1910.

19. Platform of the Maricopa Democrats: Arizona Democrat, August 22, 1910.

Daily Star, maintained that the corporations were of great value to the territory and should not be molested. The latter said,

"All this talk about corporations wanting to control and dictate the Constitution will be found coming from those who seek to gain political prestige by creating a prejudice against a class of men who have been and are the very salt of the earth in Arizona."²¹

The Editorial policy of the Star was that the people of Pima County should pick men who would "protect the people and at the same time protect the corporations."²²

In Pima County the Democrats nominated as candidates for delegates Eugene S. Ives, a corporation lawyer; W. H. Sawtelle, a lawyer; Thomas Kavanaugh, a mining man; J. M. Ronstadt, a cattleman; and A. S. McKelligan, divisional storekeeper for the Southern Pacific.²³ The Republicans nominated S. L. Kingan, a lawyer; W. F. Cooper, also a lawyer; James G. White, clerk for the Southern Pacific; George Pusch, a cattleman; and C. C. Jacome, a merchant.²⁴ The Citizen attacked Sawtelle and Ives on their records of dealing with the Southern Pacific and repeatedly tried to draw them out on their attitude toward the corporations.²⁵

20. The Arizona Daily Star and The Tucson Citizen, July, Aug., Sept., and Oct., 1910.

21. The Arizona Daily Star, July 26, 1910.

22. Ibid., Aug. 24, 1910.

23. Ibid., Aug. 18, 1910.

24. The Tucson Citizen, Aug. 12, 1910.

25. Ibid., Aug. 27, 1910.

Sawtelle and Ives denied that they would allow the Southern Pacific Company to dictate their policies. In one statement Mr. Ives said,

"I say it without respect to the fact that I have been a representative of a corporation that although they are banded against us in this election they can not beat us."²⁶

Mr. Ives, feeling that his former relations with the Southern Pacific Company would work against him, confined himself almost wholly to discussing the initiative and referendum.²⁷

In the election the sentiment in the County was very evenly divided. Mr. Epes Randolph, head of the Western Division of the Southern Pacific, felt very strongly against the proposed initiative and referendum, and threw his support to the Republicans,²⁸ who were elected by small majorities.

When the Constitutional Convention assembled in Phoenix in October, 1910, the Democrats had 41 delegates and the Republicans 11.²⁹ There was no doubt that the Democrats would write the Constitution along the lines of their campaign pledges. Mr. G. W. P. Hunt was elected president of the Convention and appointed the following committees³⁰ dealing with corporations:

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26. The Arizona Daily Star, Sept. 11, 1910.
 27. The Tucson Citizen, Aug. 27, 1910.
 28. McKelligan, A. S., Divisional Shopkeeper of Southern Pacific Company, Interview, Jan., 1931.
 29. Minutes of the Constitutional Convention, 1910, p. 1.
 30. Ibid. 1910, p. 3.

Committee on Railroads:

<u>Name</u>	<u>Occupation</u>	<u>Residence</u>
Jones, F. A.	Traffic expert	Phoenix
Cuniff, M. G.	Merchant	Crown King
Ellinwood, E. E.	Lawyer	Bisbee
Bradner, S. B.	Switchman	Benson
Connelly, P. F.	R. R. Engineer	Douglas
Short, E. L.	Merchant	Bouse
Jacome, C. C.	Merchant	Tucson

Committee on Public Service Corporations other than Railroads:

Ingraham, F. L.	Lawyer	Yuma
Parsons, A. F.	Lawyer	Phoenix
Kinney, Alfred	Capitalist	Globe
Lynch, A. R.	Laywer	Safford
Maeur, B. B.	Doctor	Tempe
Wills, T. M.	Cattleman	Mammoth
Langdon, John	Machinist	Globe
Pusch, G.	Cattleman	Tucson

Committee on Private Corporations and Banks:

Roberts, C. M.	Miner	Dos Cabazos
Keegan, K. J.	Saloon keeper	Globe
Goldwater, M.	Banker	Prescott
Ellinwood, E. E.	Lawyer	Bisbee
Tuthill, A. M.	Doctor	Morenci
Tovrea, E. A.	Butcher	Lowell
Winsor, Mulford	Newspaperman	Yuma
Curtis, Bracey	Banker	Nogales
Wells, Ed. W.	Lawyer	Prescott

There was much doubt throughout the Territory and in the Convention as to the exact attitude that Mr. E. E. Ellinwood of Bisbee would take. He was the legal representative of the Copper Queen Mining Co. and his every move was watched with suspicion by the anti-corporation delegates. This suspicion is well shown in a newspaper article commenting on a motion by Mulford Winsor to prevent lobbyists from entering the convention hall:--

"After adjournment Ellinwood treated the incident with considerable levity while leaving the chamber. This was doubtless due to the fact that instead of having to 'lobby' for the Copper Queen, the voters had been gulled into electing him to the floor of the convention, thus making the Winsor resolution utterly ineffective in so far as at least one of the people's worst enemies is concerned. It will now doubtless be up to Ellinwood to do the 'floor work,' 'entertaining,' 'wineing and dining' for the corporate interests, though it already appears that a large majority of the delegates regard everything which Ellinwood does with suspicion. One delegate on leaving the chamber remarked in connection with an incident in which Ellinwood figures, that he 'would not second that fellow's motion to adjourn without examining it for a joker.'"³¹

Mr. Ellinwood fought a lone battle at the Convention. In committee meetings while working up the various propositions he did everything in his power to secure provisions favoring the corporations. He soon became aware that he had no chance to get his conservative proposals accepted and changed his tactics entirely. For a short time he became even more radical than the anti-corporation Demo-

31. The Voice of the People, Tucson, Oct. 14, 1910

crats and succeeded in getting some of his proposals put before the convention. His object apparently was to make the Corporation Commission so strong that the delegates would never accept the committee's proposals³² The press immediately censured his proposals and pointed out their flaws. The Star commented on this;-

"The Tucson Citizen, after fighting Mr. E. E. Ellinwood as a corporation attorney who wanted to put the initiative and referendum into the Constitution and thus defeat Statehood, now turns on him as the agent for the corporations, leader of the conservative Democrats who will give them a constitution full of corporation jokers!"³³

The proposal of Mr. Ellinwood which aroused the greatest amount of adverse comment was that,

"The stockholders shall be individually liable for the indebtedness of said corporation to the amount of the par value of their stock subscribed and unpaid; and the stockholders of all corporations shall be individually liable for all labor performed by such corporations." ³⁴

Immediately the press of the Territory pointed out that such a provision would give a monopoly to the present existing companies by driving out the small ones. The Arizona Gazette said,

"Hence the big investors would control the situation in the State, thus creating the kind of monopoly at which the Ellinwood proposition purports to aim a prodigious and death-dealing swat. It does not take a Sherlock Holmes to locate the colored gentleman in the cordwood, concealed by the Copper Queen attorney."³⁵

32. Winsor, Mulford, and Hunt, G.W.P.: Interviews, Dec., 1930

33. The Arizona Daily Star, Oct. 7, 1910.

34. Douglas Dispatch, Oct. 27, 1910.

35. Arizona Gazette, Oct. 27, 1910.

The proposition was voted down in the Convention - an action that caused Mr. Wm.B. Cleary, a labor leader of Bisbee, to write to Mr. Hunt:-

"I am proud of the way nine of the Cochise delegation stood in that fight. It shows that Ellinwood can not boss them. It is the first delegation that ever went from this county that was not dominated by the Copper Queen. . . . Watch Ellinwood! He works in the dark with the creatures of the night, the real enemies of the people. Kill his proposition! Kill it like you would a snake! " ³⁶

After his defeat on this proposition, Mr. Ellinwood made only a few efforts to secure his own desires. He tried to restrict the rate-regulating power of the Corporation Commission to public service corporations only.³⁷ He also tried to raise the salary of the commissioners from the proposed \$3,000 to \$5,000 a year.³⁸ After his defeat on both these propositions he realized that he had no chance and made no further effort to push his own ideas. His feeling on the matter is shown by the fact that he was the only Democrat who failed to sign the completed Constitution.³⁹

The actual propositions which were finally accepted by the Convention and put into the Constitution were written almost entirely in the committee rooms and were passed on the Convention floor with little or no debate.⁴⁰

36. Letter, Wm. E. Cleary to G. W.P. Hunt, Oct. 29, 1910.

37. Winsor, Mulford: Interview, Dec., 1930.

38. Ibid.

39. Ellinwood, E. E., Interview, Nov. 1930. The original ballots taken on the Adoption of the Constitution by the Convention may be seen in the Capitol Building in Phoenix. Mr. Ellinwood's vote is recorded as "No".

40. Minutes of the Constitutional Convention, 1910, pp.424-29.

Mr. F. A. Jones was responsible for the proposition creating the Corporation Commission and giving it absolute authority⁴¹ over the railroads. Mr. Jones, incidentally, was the first⁴² man appointed on the newly-created Corporation Commission.

Mr. H. C. Baker, of Phoenix, introduced the proposition for the control of corporations other than railroads. This provision was taken from the joint constitutions of North Dakota,⁴³ Alabama, Utah, and Washington. These propositions passed the Convention with only 11 dissenting votes -- those of 10 Republicans who voted against all the Democratic proposals,⁴⁴ and that of Ellinwood.

There was little discussion throughout the Territory on these provisions. Mr. Hunt, in an interview in the Globe Silver Belt, immediately after the Convention, said:

"Although the reactionaries are still haping on the 'Viciousness' of the initiative and referendum. . . they have not said anything about the provision to which they really object most; namely, that relating to the Corporation Commission, giving the people through their Commission power to control public service corporations and railroads."⁴⁵

41. Minutes of the Constitutional Convention, 1910, pp.424-429.

42. Hunt, G. W. P. , op. cit.

43. Minutes, op. cit.

44. Ibid.

45. Globe Silver Belt, 1911; Clipping found in files of G. W. P. Hunt; date line not shown.

The Constitutional provisions dealing with the powers and duties of the Corporation Commission are found in Article XV., Section 3 states:-

"The Corporation Commission shall have full power to, and shall, prescribe just and reasonable classification to be used, and just and reasonable rates and charges to be made and collected, by public service corporations within the State for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the State, and may prescribe the forms of contracts, and the systems of keeping accounts to be used by such corporations in transacting such business, and make and enforce reasonable rules, regulations, and orders for the convenience, comfort and safety, and the preservation of the health, of the employees and patrons of such corporations; . . . "46

Section 6 gives the Commission a free hand in making rules with the stipulation,

"The law making power may enlarge the powers and extend the duties of the Corporation Commission, and may prescribe rules and regulations to govern proceedings instituted by and before it; but until such rules and regulations are provided by law, the Commission may make rules and regulations to cover such proceedings." 47

The First State Legislature, meeting in 1912, adopted, almost without change, the California Corporation Laws and further defined the powers of the Commission. These laws guaranteed a Commission, -

"vested with power and jurisdiction to supervise and regulate every public service corporation in the State and to do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."48

46. State Constitution of Arizona.

47. Ibid.

48. Revised Code of Arizona, 1913, p. 797.

The laws specifically give the Commission the power to fix the rates, fares, or charges of any public service corporation for any services or commodity whenever the Commission, upon investigation, shall find that the rates, fares, or charges are excessive.⁴⁹ No corporation has the right to raise its rates without having a rate hearing before the Commission and obtaining the permission of that body.⁵⁰ The laws further stipulate that any corporation must file a thirty day notice with the Commission in the event of an arbitrary lowering of rates. The Commission, upon presentation of good cause, is given the power to allow this change to be made in less than the required thirty days.⁵¹

Public service corporations are denied the privilege, without consent of the Commission, of selling, leasing, assigning, mortgaging, or otherwise disposing of, or encumbering the whole or any part of their property necessary or useful in the performance of their duties to the public.⁵²

Other laws prescribe the Commission's powers over the issuance and sale of stocks and bonds of corporations,⁵³ and give them power to regulate all public service corporations in any way necessary to improve the service of such corporations to the public.⁵⁴

49. Revised Code of Arizona, 1913, p. 797.

50. Ibid., pp. 797, 798.

51. Ibid., p. 789.

52. Ibid., p. 809.

53. Ibid., p. 809.

54. Ibid., p. 798.

These laws, adopted by the First Legislature, have not been altered since that time.⁵⁵ The Corporation Commission came into being with sufficient power to regulate the public service corporations of the State as they saw fit and to insure the people of the State the best service and lowest fares possible.

55. The Revised Code of Arizona, 1928, shows no changes in laws relating to the Corporation Commission from those given in the Revised Code of 1913.

CHAPTER IV.

THE CORPORATION COMMISSION AND RAILROAD RATES.

The Arizona Corporation Commission has been functioning since 1912. During that time it has earned both praise and criticism. It has met with opposition from certain factions from the time of its inception and, like any other instrument of government, has made new friends and enemies with its various rulings.

In 1931 the opposition to the Corporation Commission was shown by the presentation of two bills to the Legislature, one calling for the equalization of the tax and rate making valuations of corporations of the State,¹ and the other, a proposed Constitutional amendment, was designed to replace the present three-man Commission with one Commissioner.²

It has been charged that the Corporation Commission has failed in its regulation of the public utility corporations of the State. This chapter traces the work of the Commission in its dealings with the railroad rates in the State.

The securing of data for this chapter and the final chapter has been hindered by the fact that the Annual Reports of the Corporation Commission have not been issued since 1924. This failure to issue reports is said to

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1. House Bill Number 20, Arizona Legislature, 1931; Arizona Daily Star, Feb. 12, 1931.
 2. Senate Bill Number 42, Arizona Legislature, 1931; Arizona Daily Star, Jan. 23, 1931.

be due, "To the influence of the enemies of the Commission, in the Legislature, who have repeatedly cut down the Commission's appropriations, making it impossible to function efficiently, let alone issue an Annual Report."³

At the meeting of the First Legislature of the State of Arizona Governor G. W. P. Hunt said,

"Arizona's Constitution has created a Corporation Commission and clothed it with certain powers, the employment of which powers will undoubtedly work great benefits to the people . . . To render the Commission still more effective, its powers should be made self-operative by statutes defining all the necessary rules and regulations for its operation."⁴

The Legislature, in its First Special Session, followed his suggestions and gave the Commission absolute power in the regulation of corporations, their rates and services.⁵ In addition to these rules the Legislature adopted statutes dealing with the conduct of corporations. The setting of a three-cent passenger fare was prominent among these.⁶

The Commission, composed of Mr. W. P. Geary, Mr. A. W. Cole, and Mr. F. A. Jones, in its first few meetings endorsed these statutes of the Legislature and issued General and Special Orders to all corporations warning them to abide by the new standards.⁷

The work of adjusting railroad rates went on as rapidly as practicable. On June 16, 1912, the Commission issued General Order Number 6 notifying the railroads

3. McBride, J. F., Interview, Feb., 1931.

4. Governor's Message to First Legislature, 1912, p. 25.

5. Corporation Laws of Arizona: Enclosed in First Annual Report of Corporation Commission, pp. 1 - 125

6. Journal of First Arizona Legislature, p. (House) 184. (Spec. Ses.)

7. First Annual Report of Corporation Commission, pp. 225 - 290.

of the State that the freight tariffs of the Interstate Commerce Commission would become effective until such time as the Arizona Commission could investigate and set its own rates.⁸

On August 3, 1912, an order was issued asking all interested parties to be present at a hearing on the matter of rate-making on potatoes, onions, fruits, and vegetables, applying among all points in the State.⁹ In the hearing, held September 4, 1912, the rates on these commodities were materially reduced.¹⁰

The matter of three-cent passenger fare was one of the important problems handled by the Commission. This occupied their attention from 1912 to 1916 before it was finally settled. The Legislature passed the three-cent fare law and it was approved by Governor Hunt on June 5, 1912.¹¹ The railroads of the State immediately filed referendum petitions, a process which kept the law from going into effect until an election could be held.¹²

While waiting for the election the Commission issued General Order Number 19, December 13, 1912, prescribing the three-cent fare and inviting all railroads who were being injured by this ruling to show cause for exemption.¹³

8. First Annual Report of Corporation Commission, p. 276.

9. Ibid., p. 283.

10. Ibid., pp. 454-56.

11. Fourth Annual Report of Corporation Commission, p. 62.

12. Ibid.,

13. First Annual Report of Corporation Commission, pp. 287-8.

The Southern Pacific and the Ray and Gila Valley railroads were the only two who appeared and were officially exempted.¹⁴

In the election, held July 2, 1913, the people of the State upheld the three-cent fare by a vote of approximately 2 to 1.¹⁵ The law was to take effect on December 14, 1914.¹⁶

The Santa Fe Company had previously filed suit in the United States District Court of Arizona, asking an injunction to prevent the application of the law. On March 28, 1914, the United States District Court of Arizona handed down a decision, granting the injunction on the grounds that the Legislature, having granted the Commission the right to regulate rates, had gone over its authority in passing the three-cent fare.¹⁷

The Commission, anticipating that the injunction would be granted, acted promptly, and on March 4, three weeks previous to the decision of the Court, issued a Notice of Hearing. All railroads were asked to present figures showing the revenues and expenses of both freight and passengers.¹⁸ The Hearing was called for April 15, 1914, but was later postponed until June 10, 1914.¹⁹ At this Hearing incomplete reports were filed by all roads except the Arizona

14. First Annual Report of Corporation Commission, pp. 287-8.

15. Fourth Annual Report of Corporation Commission, p. 62.

16. Ibid.

17. Ibid., p. 65.

18. Ibid., p. 66.

19. Ibid., p. 67.

Eastern. This road refused to present any figures on the grounds that it had no way of distinguishing between the freight and passenger revenues and expenses.²⁰

During the next year contempt proceedings were brought against the Arizona Eastern, and after a long delay, on December 7, 1915, the Arizona Eastern was found guilty and fined \$5,000.²¹

Another Notice of Hearing was issued on December 23, 1915, and further statistical data was asked for. The Hearing was held on March 3, 1916, and the history and figures of every railroad in the State were discussed. In this hearing the attitude of the Interstate Commerce Commission towards the Arizona Commission was shown. In February, 1914, the railroads operating in western territory petitioned the Interstate Commerce Commission for permission to raise their rates in the Western States. Arizona joined the other states in fighting this advance on rates. On December 29, 1915,-²²
²³
²⁴

"an order was issued by the Interstate Commerce Commission in which they allowed most of the advances affecting Western States to become effective, but on the splendid showing made by the Arizona Corporation Commission no advances were allowed to Arizona."²⁵

20. Fourth Annual Report of Corporation Commission, p.120.

21. Ibid., pp.53-57.

22. Ibid., p.72.

23. Ibid., pp.75-118.

24. Ibid., pp.700-701.

25. I.C.C. Docket No.600, Fourth Annual Report of Corpn.Com. p.700.

On May 27, 1916, the Commission handed down its order in Docket No. 155 establishing the three-cent fare for the Santa Fe, Southern Pacific, and Ray and Gila Valley railroads. The Arizona Eastern, having filed incomplete reports, was given a rate of $3\frac{1}{2}$ cents with the stipulation that it must furnish more complete data and submit to a later read-²⁶justment of its rates. The other railroads in Arizona, all of them short-line roads, many of them narrow gauge, were allowed to maintain their present rates, which averaged approximately²⁷ 4 cents per mile.

The railroads protested these rates and once more filed suit in the United States District Court of Arizona. The Commission, pending settlement of the suit, issued an order allowing the roads to set their own rates, with the stipulation that they must keep account of all fares in excess of the Commission's rate and refund them in the event the suit²⁸ was lost by the railroads.

There is no further record of court proceedings in regard to this suit. It is probable that the matter was still in litigation when the Government took over control of the railroads in 1917. In any event, the rates established by the Commission have remained in effect while the roads were under State control.

In the meantime, the Commission was doing everything in its power to bring down the rates on various classes of merchandise. On September 10, 1912, the Pacific

26. Fourth Annual Report of Corporation Commission, p. 125.

27. Ibid., p. 126.

28. Fifth Annual Report of Corporation Commission, pp. 3-17.

Creamery Company, located at Tempe, Arizona, filed suit for a reduction of rates on dairy products. ²⁹ In presenting its case the company compared the Arizona rates with the New Mexico rates then in existence. March 4, 1913, the Commission established new rates. The following tabulation shows the old and new rates as compared to the New Mexico rates for ³⁰ the same distances.

Distance: miles	Rates per 100 pounds		
	Arizona:	New Mexico	New Ariz. rate
71	\$.33	\$.23	\$.21
114	.55	.35	.29
163	.60	.43	.38
180	.71	.44	.40
204	.76	.45	.43
229	.81	.48	.45
353	1.12	.55	.51

At the same time, March 4, 1913, the Commission established new rates on live-stock shipments. The new rates were approximately forty per cent lower than those ³¹ previously in use. In reviewing the evidence brought out in this hearing the Commission made this statement:

"From the evidence and the whole thereof the fact is developed that the present rates are based strictly on what the traffic will bear for a maximum and the threat of the live stock men to drive across country as a minimum consideration."³²

29. First Annual Report of Corporation Commission, pp. 423-27.
 30. Ibid.
 31. Ibid., pp. 569 - 575.
 32. Ibid., pp. 569-575.

On March 28, 1913, the Commission, in Docket No. 55, established class rates on freight which were to stay in effect until 1918. The following tabulation shows the rate for each class of freight according to the distance traveled.³³

Distance; miles :	Class rates per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
5	\$.07	\$.06	\$.06	\$.05	\$.04	\$.04	\$.04	\$.04	\$.04	\$.04
10	.09	.08	.07	.06	.05	.05	.04	.04	.04	.04
15	.12	.10	.09	.08	.06	.06	.05	.05	.05	.05
20	.15	.13	.11	.10	.08	.08	.07	.07	.07	.07
25	.18	.16	.14	.12	.10	.10	.09	.09	.08	.08
30	.22	.19	.17	.15	.12	.12	.11	.11	.09	.09
35	.25	.21	.19	.16	.13	.13	.12	.12	.10	.10
40	.28	.24	.21	.18	.15	.15	.13	.12	.11	.11
45	.30	.26	.22	.19	.16	.16	.14	.13	.12	.12
50	.32	.28	.24	.21	.18	.18	.15	.14	.12	.12
75	.45	.42	.38	.32	.26	.26	.19	.18	.17	.17
100	.62	.52	.47	.41	.35	.35	.24	.22	.21	.21
125	.76	.65	.58	.52	.44	.44	.28	.26	.24	.24
150	.85	.73	.66	.60	.50	.50	.30	.28	.26	.26
175	.92	.86	.78	.69	.58	.58	.33	.31	.30	.30
200	1.10	.96	.88	.79	.65	.65	.36	.34	.32	.32
250	1.36	1.15	1.06	.96	.78	.78	.43	.40	.35	.35
300	1.48	1.25	1.16	1.06	.88	.88	.55	.51	.41	.41
350	1.61	1.36	1.27	1.17	.94	.99	.64	.58	.48	.48
400	1.73	1.45	1.35	1.24	.99	1.07	.70	.64	.54	.54
:	:	:	:	:	:	:	:	:	:	:

In establishing these rates they were listed as maximum rates for each class of freight. This caused Commissioner Jones to draw a dissenting report. He pointed out that some of the rates listed were higher than those already in effect and should therefore be excluded.

33. First Annual Report of Corporation Commission, pp. 589-587.

He also protested against the uniform rate for all railroads and maintained that the basing of rates on a five mile "spread" was unfair.³⁴ Commissioners Cole and Geary pointed out that the rates were maximum and ruled that no railroad could raise existing rates that were lower than the prescribed maximum.³⁵

The Arizona Commission next reduced the rate on coal transportation in the state on an average of \$1.00 per ton.³⁶ The rate on tin cans and like commodities coming into Arizona from California was also reduced.³⁷

The next big problem to come before the Arizona Commission was the establishment of rates on lumber from Williams and adjacent points to points in Southern Arizona. In 1910, this matter had been brought before the Interstate Commerce Commission. In making their decision the Interstate Commerce Commission showed the rates in effect prior to 1910 in comparison with rates from San Pedro, California to points in Arizona.

34. First Annual Report of Corporation Commission, p. 576.

35. McFride, J. F.: Interview, Feb. 28, 1931.

36. I.C.C. Docket No. 5281: First Annual Report of Corporation Commission. pp. 1031 - 34.

37. Ibid., Docket No. 180.

Rates in effect, 1910, and New Rates set by the Interstate
Commerce Commission.³⁸

To--	Rates per 100 pounds					
	From Williams, Arizona.			From San Pedro, Calif.		
	Distance, miles	Lumber Old rate	Timber New rate	Distance, miles	Lumber Old rate	Timber New rate
Red Rock:	306	\$.705	\$.28	493	\$.33	\$.215
Tucson...	339	.865	.28	526	.35	.215
Penson...	387	1.01	.30	575	.35	.215
Tombstone	416	1.23	.33	599	.445	.23
Bisbee...	451	1.31	.36	639	.515	.225
Naco.....	440	1.31	.38	637	.545	.313
Douglas...	466	1.44	.38	653	.54	.513
Globe....	577	1.4625	.44	764	.50	.335

38. Saginaw and Manistee Lumber Company, et. al., vs. A. T. & S. F. R. R. Co., et. al.: Decided June 7, 1910: I.C.C. Bulletin No. 2921.

In 1913 the lumber company of northern Arizona charged that the rates from San Pedro, an average of 175 miles farther than Williams, to Arizona points were again lower than rates from Williams. In reviewing the case the Corporation Commission checked on the comparative rates and once more Arizona rates were lowered. The following tabulation shows old and new rates.³⁹

To--	Rates per 100 pounds.					
	From Williams, Arizona.			From San Pedro, Calif.		
	Distance, miles	Lumber		Distance, miles	Lumber	
		Old rate	New rate			
Sahuarita..	356	\$.58	\$.29	547	\$.425	
Nogales....	403	.74	.31	594	.45	
Bisbee.....	446	.48	.32	637	.441	
Globe.....	576	.55	.35	767	.55	

The rates established by the Corporation Commission were, almost without exception, taken to the Interstate Commerce Commission. This body verified the actions of the Arizona Commission in almost every instance.⁴⁰ The rates thus established stayed in force until the United States entered the war in 1917.

On December 28, 1917, the United States Government took control of all railroads in the Country; On May 25, 1918, the Director General of Railroads increased all rates twenty-five percent. This increase was effective June 25,

39. Second Annual Report of Corporation Commission, pp.138-146.
 40. Annual Reports of Corporation Commission, 1912, pp. 1027-1055; 1913, pp. 371 - 386; 1914, pp.543-565;1915, pp.693-705; 1916, pp.329-335; 1918,pp.437-441; 1919,pp.476-479; 1920,pp. 524-528; 1917, 1921, 1922, 1923, and 1924, no cases are listed in the Reports.

1918.⁴¹ Five days later, on June 30, all the short-line railroads were returned to state control. Some reduced their rates but others maintained the Government rates. The Commission was in doubt as to the procedure it should adopt and finally "to aid the country" allowed the Government rates to stand.⁴²

Government control of the railroads terminated March 31, 1920. The Interstate Commerce Commission was to control rates until September 1, 1920.⁴³ Another twenty five percent raise was put on all schedules before the roads were left to state control.⁴⁴ The Arizona Commission immediately brought rates back to their former level and on October 18, 1920, every railroad in the State petitioned for a twenty five percent raise in freight rates and a twenty per cent raise in passenger fares.⁴⁵ This petition was denied and roads carried the case before the Interstate Commerce Commission. The case was decided May 3, 1921, and the railroads got most of the advances for which they petitioned.⁴⁶ In reporting the case the Commission says,

"It was not expected that an adverse decision by the Federal Commission could be averted. . . The case, however, was fought with every means at our command and we were successful in securing a greater number of exceptions than any other State... The carriers' sworn statements in the hearing before the Federal Commission showed that the advances amount to approximately \$132,000 per month, which would aggregate more than \$1,000,000 saved to the people of this State during the ten months of litigation."⁴⁷

41. Seventh Annual Report of Corporation Commission, p. 458.

42. Ibid., p. 418.

43. Eighth Annual Report of Corporation Commission, p. 458.

44. Ibid.

45. Ninth Annual Report of Corporation Commission, pp. 77-100.

46. I. C. C. Bulletin No. 11971, 1921.

47. Ninth Annual Report of Corporation Commission, pp. 524-525.

In 1923, the Arizona Commission started a fight to once more reduce freight rates in the State. In 1925 they had a hearing before the Interstate Commerce Commission. In addition to showing the discrepancies in the Arizona rates it was pointed out,

"The population of Arizona has increased 63.5 percent from 1910 to 1920, a greater percentage than in any other state; there has also been a marked increase in the density of traffic and the earnings of the carriers in Arizona, and other changes have occurred."⁴⁸

On June 15, 1926, the Interstate Commerce Commission handed down a decision materially reducing class rates on freight.⁴⁹

According to Mr. Reif, head of the railroad department of the Corporation Commission, these Arizona rates have been used as a basis for rate-making in all the Western States.⁵⁰

The following table shows the rates prior to 1926 and the new rates established.⁵¹

48. I.C.C. Bulletin No. 14999, 1925, p. 56.

49. Ibid

50. Reif, A. M.: Interview, Feb. 28, 1931.

51. I.C.C. Bulletin No. 14999, p. 47

Distance: in Miles.	Class rates per 100 pounds.									
	1		2		3		4		5	
	Old	New	Old	New	Old	New	Old	New	Old	New
10	\$.255	\$.25	\$.211	\$.211	\$.175	\$.18	\$.15	\$.15	\$.11	\$.13
20	.25	.30	.21	.26	.175	.21	.15	.18	.11	.13
30	.31	.35	.27	.30	.245	.25	.215	.21	.17	.18
40	.395	.40	.34	.34	.295	.28	.25	.24	.215	.21
50	.45	.45	.395	.38	.34	.32	.295	.27	.25	.23
75	.635	.55	.59	.47	.555	.47	.45	.33	.365	.28
100	.845	.70	.72	.60	.61	.49	.555	.42	.495	.35
125	.96	.79	.815	.67	.695	.55	.61	.47	.555	.40
150	1.125	.90	.96	.77	.79	.63	.70	.54	.65	.45
200	1.41	1.01	1.195	.86	.985	.71	.89	.61	.815	.51
250	1.69	1.18	1.435	1.00	1.185	.83	1.06	.71	.97	.59
300	1.87	1.28	1.595	1.09	1.31	.90	1.17	.77	1.07	.64
350	2.045	1.45	1.735	1.23	1.43	1.02	1.285	.87	1.17	.75
	A		B		C		D		E	
10	.125	.13	.09	.10	.075	.08	.065	.06	.05	.05
20	.125	.13	.09	.10	.075	.08	.065	.06	.05	.05
30	.17	.18	.16	.14	.16	.11	.13	.09	.115	.07
40	.215	.20	.185	.16	.17	.12	.14	.10	.13	.08
50	.25	.23	.215	.18	.20	.14	.17	.11	.13	.09
75	.365	.28	.27	.22	.225	.17	.20	.14	.17	.11
100	.495	.35	.34	.28	.27	.21	.215	.18	.17	.14
125	.555	.40	.385	.32	.285	.24	.245	.20	.20	.16
150	.65	.45	.45	.36	.34	.27	.28	.23	.225	.18
200	.815	.51	.565	.40	.425	.30	.355	.25	.285	.20
250	.97	.59	.675	.47	.51	.35	.425	.30	.34	.24
300	1.07	.64	.745	.51	.565	.38	.47	.32	.385	.26
350	1.17	.73	.815	.58	.62	.44	.51	.36	.41	.29

In regard to rates on the shipment of ore, the Corporation Commission has had little to do. The mining companies of the State have settled the matter among themselves and the railroads and the Commission has done nothing except ratify the increases or decreases in the rates asked by the railroads.

The Present rate on ore is: 53

Per ton mile

Up to 200 miles 3.14
From 200 to 350 miles... .09
Over 350 miles..... .08

The Corporation Commission, in addition to rate-fixing, has power to regulate the railroads in regard to service. During the years 1912 to 1924 there was little demand for the Commission to stress this privilege. Complaints were few, and in most cases were adjusted unofficially.

In 1913 a complaint was brought against the Santa Fe that, although Trains Nos. 3 and 4, "The Chicago-Los Angeles Limited," stopped at Williams, Flagstaff, Ashfork, Seligman, and Kingman, it was impossible to buy local tickets from one town to the next. In presenting their case the Santa Fe pointed out that there were other local trains, but the Commission overruled their objections and forced them to accept local fares on "The Limited."⁵⁴

Various complaints were brought against the roads on the basis of poor Pullman schedules between local points. In all cases where complaints were made the railroads were made to supply the required service.

In 1920 the Arizona Eastern and the Santa Fe railroads were ordered to supply better station facilities in Phoenix.⁵⁵

53. Reif, A. M.: Interview, Feb, 28, 1931.

54. First Annual Report of Corporation Commission, pp. 563-567.

55. Eighth Annual Report of Corporation Commission, p.325.

In Conclusion, then, it is only fair to state that regardless of the complaints brought against the Corporation Commission as it stands today, and in spite of its steadily decreasing appropriations each year, up to 1930 it has done its duty, in regard to railroad rates, as well as could be expected.

CHAPTER V.

THE CORPORATION COMMISSION AND POWER RATES.

The Corporation Commission, on its creation, was given full power to regulate all public utility corporations, to fix rates charged for services, and to see that the people of the State received adequate service.¹ It is the purpose of this chapter to review the work of the Commission in its dealings with the light and power companies of the State. It is also intended to show why complaints against the Corporation Commission are becoming stronger each year.

Data for this chapter have been secured from the Annual Reports of the Commission for the years 1912 to 1924, inclusive, from interviews with members of the Commission and opponents of the Commission as it now stands, and by going through the files of the Commission. The difficulties of securing accurate data after the year 1924 will be explained in taking up the complaints against the Commission.

The first case handled by the newly-created Commission came up in 1913. The Municipal League of Phoenix protested that the Pacific Gas and Electric Co. was not only

1- Revised Code of Arizona, 1913, pp.797-798, Arizona Constitution, Article XV, Sect. 3.

charging excessive rates for electricity but was discriminating by giving certain concerns in Phoenix a lower rate than other business houses were receiving.² The complaint showed that the rates varied in certain instances from two to six cents₃ below the advertised rate of ten cents per kilowatt hour.

The rates₄, as filed by the company, April 15, 1912, were as follows:

\$.10 per k.w.h. for all classes of
business houses

\$.12 per k.w.h. for all residences.

Arizona State Asylum:

\$.09 per k.w.h. for first 1000.

\$.08 per k.w.h. for second 1000.

\$.07 per k.w.h. for third 1000.

\$.06 per k.w.h. for all over 3,000.

Indian School:

\$.05 per k.w.h.

The Commission in investigating the case had difficulty in determining a valuation for the company, upon which to base new rates. The only figures available were those of 1906.⁵ Finally, however, a temporary figure was reached and these new rates were ordered on June 23, 1913:⁶

2- First Annual Report of Corp. Comm., p.353

3- Ibid., 355.

4- First Annual Report of Corp. Comm., p.354.

5- Ibid., pp.360-370.

6- Ibid., p.371.

	<u>Per k.w.h.</u>
First 100 k.w.h. per month	\$.085
Next do.	.07
Next do.	.06
Next 200 k.w.h. per month	.05
Next 250do.	.04
Next 250 do.	.035
In excess of 1,000 k.w.h.	.034

Power rates:

First 100 k.w.h. per month	.075
Next 100 do.	.06
Next 100 do.	.05
Next 200 do.	.04
Next 250 do.	.03
Next 250 do.	.028
In excess of 1000 k.w.h.	.026

The company filed suit to keep the Commission from enforcing the new rates and on November 19, 1913, the United States District Court of Arizona, handed down a decision enjoining the Commission from enforcing its order.⁷ The Court held that the Commission, in setting a valuation of \$23,500 as working capital as compared to the Company's appraisal of \$50,000 had not allowed enough. The Court also held that the allowance of twelve per cent for overhead charges, as ruled by the Commission, was insufficient.⁸

The Commission immediately filed an appeal in the Supreme Court and opened a new investigation into the valuations of the Company, and, on January 30, 1914, while this suit was pending a "Compromise Agreement" was signed by both parties.⁹ This agreement was a distinct victory for the Pacific Gas and Electric Company. It was agreed that the

7. Third Annual Report of Corp. Comm., pp.11-19

8. Ibid., pp. 13-15, ~~Chapter 11~~, Bonbright et al. v. Geary et al., 210 Federal 44, 1913.

9. Second Annual Report of Corp. Comm., pp 7-9.

matter under dispute should be settled out of court. The company, in accordance with the ruling of the Court, was to be allowed to earn eight to ten per cent on its invested capital. A basis for valuation was laid down, and the Company was allowed to set its own valuations. The rates stipulated by the Commission were set aside and the Company was allowed to put new rates, based on its own valuations, into effect.¹⁰

This "Compromise Agreement" was signed by Commissioners A. W. Cole and W. P. Geary. Commissioner A. F. Jones filed a dissenting report, saying,

"It is true this co-called Compromise Agreement will result in somewhat lower rates and it is equally true that these same or lower rates could have been made effective without an agreement, that, in effect, has placed the Commission in the unenviable position of having made extravagant concessions and placed in the hands of the Company, and in known persons, the performance of functions the Commission is required by law to perform, and have sworn to discharge."¹¹

Mr. Jones went on to review the history of the case:

"Soon after the Court had enjoined the Commission from enforcing its order.....the Company approached the Commission for a compromise."¹²

Several propositions were made at various times and were all turned down by the Commission. On January 3, 1914, Mr. Jones left for Washington to represent the Commission in a hearing before the Interstate Commerce Commission. It was

10. Second Annual Report of Corp. Comm., pp.10-11.

11. Ibid., p. 14

12. Ibid.

understood that nothing would be done in regard to the Gas Company's propositions until he returned.¹³ He returned January 20, and, next day, heard of the agreement. He says,

"On January 21, 1914, I learned that the agreement had been signed and delivered to the Company after I left for Washington, or on the dates of either January 3, 5, or 6, 1914. There is nothing in the office of the Commission indicating that any agreement has been reached, although the rules of the Commission provide that all such acts of the Commission shall be done in regular formal session, at which minutes shall be recorded and docket entries made."¹⁴

Mr. Jones was led to believe that the matter was still open until the "formal" agreement of January 30, was signed.

Previous to that time he found that the other Commissioners were "too busy" to discuss the matter.¹⁵ Mr. Jones, in objecting to the agreement itself, said that except in respect to overhead, or intangible values, which could be set by the Commission, "the Commission has no direct voice in the determining of the value of the property in question."¹⁶ He also pointed out that, "Impartial engineers appraised and valued the property, which was found to be less than half of the value claimed by the Company."¹⁷

At the same time the case against the Pacific Gas and Electric Company was being settled, the Commission was investigating the Tucson Gas, Electric Light, and Power Company rates. The City of Tucson filed suit against

13. Second Annual Report of Corp. Comm. p. 15.

14. Ibid.

15. Ibid.

16. Ibid., p. 16.

17. Ibid., p. 17.

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this Company, charging excessive rates and discrimination. In the Complaint it was shown that the rates charged for light and power varied from two and a half cents to twenty cents per kilowatt hour, and that certain customers were being favored with low rates.¹⁸ Again the Commission was hampered in its work by not having accurate figures upon which to base its decisions. On July 9, 1913, however, it handed down a decision ordering the following rates:¹⁹

Lighting Rates:

k.w.h. per month	per k.w.h.
First 100	.11
Second 100	.10
Third 100	.08
Fourth 200	.06
Fifth 250	.05
Sixth 250	.04
Over 1,000	.039

Power Rates:

First 100	.10
Second 100	.08
Third 100	.06
Fourth 100	.05
Fifth 250	.04
Sixth 250	.035
Over 1,000	.028

The Tucson Gas, Electric Light and Power Company immediately put the case into Court and while the settlement was pending the Commission and Company reached an agreement.

18. First Annual Report of Corp. Comm., p. 399.

19. Ibid., p. 418

This Agreement was, in many ways, a replica of that made with the Pacific and Electric Company. The lighting rates ordered by the Commission were set aside and new rates were put into effect.²⁰

Lighting Rates:

k.w.h. per month	per k.w.h.
First 100	.12
Next 200	.11
Next 200	.09
Next 500	.06
Over 1,000	.05

The next case of importance to come before the Commission is shown in Docket 92. The Mayor of Globe filed suit against the Globe Light and Power Company, charging that their rate of twenty cents per kilowatt hour was excessive. The Commission, after an examination, agreed that these rates were too high and on June 23, 1914 ordered new rates, as follows:²¹

Lighting Rates:

k.w.h. per month	per k.w.h.
0 - 100	.15
101 - 200	.14
201 - 300	.13
301 - 500	.12
501 - 700	.11
701 -1000	.10
1001 -1500	.09
1501 -2000	.08

20. Second Annual Report of Corp Comm., p. 20

21. Ibid., p. 10

Power Rates:

0 - 100	.10
101 - 300	.09
301 - 500	.08
501 - 800	.07
801 - 1200	.06
1201 - 2000	.05
2001 - 3000	.04
3001 - 5000	.035

Evidently these rates did not work too great a hardship on the Company for there is no evidence of a protest having been made. It is also equally evident that these rates, excessive in comparison to rates charged in other localities in the State, were not changed by order of the Commission prior to 1925, there being no record in the Annual Reports of any such order or of any petition on the part of the Company to lower their rates.

Soon after the agreement with the Pacific Gas and Electric Company was reached the Company petitioned for permission to issue notes and bonds for the sum of \$200,000. Mr. Geary and Mr. Cole signed an order, March 14, 1914, giving this permission.²² Commissioner Jones again issued a dissenting opinion saying,

"The authorization, at this time, of additional bonds or stock by this admittedly already over-capitalized company is wholly without justification."²³

He further charged that Commissioners Cole and Geary met privately and issued the order. He said they refused to discuss the matter with him at authorized meetings of

22. Second Annual Report of the Corp. Commission., p. 173.
23. Ibid., p. 173.

the Commission, or at any other time.²⁴ It is interesting to note that at no time, prior to 1925, do the records of the Corporation show that the application of any power company in the State to issue bonds and stock, had been denied.

On May 19, 1914, the Commission granted the application of the Yuma Electric and Water Company to establish new, and lower, rates. These rates were as follows:

Lighting Rate:

K.w.h. per month	per k.w.h.
First 50	.16
Next 50	.14
Next 100	.12
Next 100	.10
Next 200	.08
Next 250	.07
Next 250	.06
Over 1000	.055

Power Rate:

First 100	.09
Next 100	.08
Next 100	.07
Next 200	.06
Next 250	.05
Next 250	.04
Over 1000	.035

These rates stayed in effect until December 23, 1919. At that time the City of Yuma protested that the rates were excessive and pointed out that the profits of the Company had increased from \$3,350.03 in 1917 to \$13,961.34 in 1918.²⁵ The Commission ordered new rates established as follows:²⁷

24. Second Annual Report of Corporation Commission, p. 174.

25. Ibid., pp. 210 - 211.

26. Seventh Annual Report of Corp. Comm., p. 143.

27. Ibid.

Lighting Rates:

k.w.h. per month	per k.w.h.
First 50	\$.125
Next 50	.10
Next 100	.09
Next 100	.08
Next 200	.07
Next 250	.06
Next 250	.055
Over 1000	.05

Power Rates:

First 250	.08
Next 250	.06
Next 250	.045
Next 250	.035
Over 1000	.03

On april 19, 1920, the Yuma Company, as a member of the Arizona Gas, Electric Light and Power Association, an unincorporated body, petitioned for an increase in the allowable rate of return and an increase in depreciation charges as allowable deductions from income. They argued that the dollar had declined in value and they should therefore be allowed a higher rate. This petition was denied by the Commission.²⁸

In 1921, the Commission, on its own initiative, investigated the rates, rules, regulations, and affairs of the Yuma Light, Gas and Power Company.²⁹ This particular investigation is interesting in that it is the only instance, prior to 1925, wherein the Commission took the

28. Ninth Annual Report of Corp. Comm., p. 337.

29. Triennial Report of Corp. Comm., p. 106

initiative in investigating any power company in the State. After a detailed examination of the Company's revenues and expenditures, the figures, as usual, being supplied by the Company's accountants, the Commission on November 16, 1921, decided that the electric rates as established were satisfactory, but allowed an increase in the gas rates of the Company.

On the same day the petition of the Yuma Ice, Electric and Manufacturing Company for an increase in electric rates was denied in part. This Company, in competition with the Yuma Light, Gas and Power Company, maintained that the closing of the cotton mills in Yuma would cut their revenues by \$6,800 and that the Sierras Power Company, from whom they secured their power, had raised its rates, thus increasing their expenditures. The Commission denied the petition to raise lighting rates, but allowed a slight raise in both cooking and power rates.

In 1914, the International Gas Company petitioned the Commission for permission to erect a plant in Nogales. They offered the following rates:

k.w.h. per month		Lighting per	Power k.w.h.
First	100	.12	.10
Next	100	.11	.09
Next	100	.09	.08
Next	200	.07	.07
Next	250	.06	.06
Next	250	.05	.05
Over	1000	.04	.04

30. Triennial Report of Corp. Com., p. 140.

31. Ibid., pp. 93-105.

32. Third Annual Report of Corp. Comm., pp. 223-234.

The Commission, in granting this petition, September 4, 1914, held that the Nogales Light and Power Company, already established in Nogales, was an antiquated concern and inadequate for the needs of the district.³³

On August 23, 1913, the Arizona Gas and Electric Company which had taken over the International Gas Company's holdings, petitioned for a twenty per cent increase on rates in Nogales. After investigation the Commission granted this increase.³⁴ At the same time the Nogales Electric Light and Power Company was allowed the same increase.³⁵ Nine months later, May 27, 1919, both companies were allowed to raise their rates, outside the city of Nogales, by ten per cent.³⁶

In 1922 the Arizona Gas and Electric Company protested to the Commission that the Nogales Electric Light and Power Company had contracted to supply the new Santa Cruz County court house for a flat rate of \$40 per month instead of the published meter rates. The Nogales Company, in retaliation claimed that the Arizona Company was charging the city of Nogales \$.096 per kilowatt hour for electrical service while they were supplying Camp Stephen D. Little at \$.04 per kilowatt hour for the same service.³⁷ In handing down a decision on the case, April 7, 1922, the Commission ruled that the \$40.00 flat rate was satisfactory, but that a meter rating must be kept in order to aid the Commission in its rate-making investigations. The

33. Third Annual Report of Corporation Commission, pp.233-234.

34. Seventh Annual Report of Corporation Commission, pp.25-29.

35. Ibid., pp.25-29.

36. Ibid., pp.321-326.

37. Triennial Report of the Corporation Commission, p.186.

Commission held that if the city of Nogales had contracted to pay \$.096 per kilowatt hour there was nothing that they (the Commission) could do about it.

38

In 1915 the city of Mesa filed a complaint against the Southside Gas and Electric Company, charging that the rates were excessive. On November 20, 1915, the Commission, after investigation, ordered new rates. The following table shows both the rates complained of and the new rates established.

39

Old Rates:

Lighting Rates:

k.w.h per month	per k.w.h.
First 100	\$.20
Second 100	.18
Third 100	.16
Fourth 100	.14
Over 400	.12

Power Rates:

First 22 k.w.h. per horsepower,	\$.10	per k.w.h.
Second 22	do.	.08 do.
Third 22	do.	.06 do.
Balance	do.	.04 do.

New Rates:

Lighting Rates:

k.w.h. per month	per k.w.h.
0 to 10	.14
10 to 100	.13
101 to 200	.12
201 to 300	.10
301 to 500	.09
501 to 1000	.06
1001 to 1500	.04
Over 1500	.03

38. Triennial Report of the Corp. Comm., p. 186.

39. Fourth Annual Report of Corp. Comm., pp. 30 - 49.

New Rates: (continued)

Power Rates:

0 to 100	.08
101 to 200	.07
201 to 300	.06
301 to 500	.05
501 to 750	.045
751 to 1000	.04
1001 to 1500	.035
1501 to 2000	.03
Over 2000	.025

On November 8, 1918, the Commission investigated a petition from the Southside Gas and Electric Company operating in Mesa, Chandler and Tempe, Arizona, asking for a twenty-five per cent increase in rates. The decision handed down allowed the Company the requested raise in gas rates but denied the increase in the electric rates.⁴⁰

In 1920 the Southside Company again petitioned for an increase in lighting rates. The Commission, December 15, 1920, allowed some of the increases requested. The table shows the old rates, the rates requested by the Company, and the new rates allowed by the Commission.⁴¹

Lighting Rates: k.w.h. per month	Old Rate per k.w.h.	Requested Rate per k.w.h.	New Rate per k.w.h.
0 to 10	\$.14	\$.155	\$.155
11 to 100	.13	.14	.14
101 to 200	.12	.14	.12
201 to 300	.10	.12	.10
301 to 500	.09	.10	.10
501 to 1000	.06	.07	.07
Over 1000	.04	.06	.06

40. Seventh Annual Report of Corp. Comm., pp. 133-138.

41. Ninth Annual Report of Corp. Comm., pp. 161 - 166.

From 1918 through 1920 the Commission allowed various companies throughout the State to increase their rates. On May 25, 1918, the Tucson Gas, Electric Light and Power Company was given permission to add a surcharge of⁴² twenty-two per cent on all rates. On October 22, 1918, the Holbrook Light and Power Company, having proved to the satisfaction of the Commission that it was operating at a deficit, was allowed to increase its rates⁴³ from \$.20 to \$.25 per kilowatt hour. On March 4, 1920, the Flagstaff Electric Light Company was allowed to increase its lighting rates from \$.18 to \$.19 per kilowatt hour in the first block and from \$.08 to \$.10 per kilowatt hour in the second block. The power rates were raised in the same proportion.⁴⁴ There are no figures given in the Report to show the size of the "block" mentioned or the actual rate per kilowatt hour for power.

On November 29, 1920, the Commission ordered the Tucson Gas, Electric Light and Power Company to remove its surcharge of twenty-two per cent on all charges of less⁴⁵ than eight kilowatts, or \$1.00 per month. This surcharge was allowed to be continued on all amounts over eight kilowatts and in 1922 the Tucson Chamber of Commerce filed a petition asking for its removal. After a long investigation taking months to complete, the Commission, April¹³, 1922, ordered the surcharge removed and new residential lighting rates established, as

42. Triennial Report of Corp. Comm., p. 189.
43. Seventh Annual Report of Corp. Comm., pp. 61 - 66.
44. Eighth Annual Report of Corp. Comm., pp. 269-270.
45. Ninth Annual Report of Corp. Comm., p. 134.

46
as follows:

Residential Lighting Rates:

k.w.h. per month	
First 8	\$1.00 flat rate
8 to 100	.125 per k.w.h.
101 to 300	.11 do.
301 to 500	.09 do.
501 to 1000	.06 do.
Over 1000	.05 do.

In the Seventh State Legislature, March, 1925, Representative Brooke of Yavapai County introduced House Bill 189, which provided for the organization of municipalities to secure the same benefits and privileges as irrigation districts.⁴⁷ This bill was drawn up and supported by a representative group of Tucson business men. Its passage would have allowed Tucson and other cities of the State to organize as irrigation districts, vote bonds, and secure power from the Salt River Valley Water Users Association at \$.015 per kilowatt hour. The Tucson Gas, Electric Light and Power Company sent representatives to Phoenix to lobby against the bill, and though it was passed in the House by a vote of 37 to 1, it was never brought to a vote in the Senate.⁴⁸ Within a month after the bill was defeated the Tucson Company announced a decrease in rates of approximately twenty per cent, and, "as an inducement to create new irrigation districts a special rate of \$.02 per kilowatt hour for irrigation pumping"⁴⁹ was established.

46. Triennial Report of Corp. Comm., pp. 189-213.

47. Journals of the Seventh State Legislature. p.(House) 377. The Journal erroneously gives credit for the introduction of this bill to Mr. Hannon of Greenlee County.

48. Journals of the Seventh State Legislature, p.(House)602.

49. Headman, Sam., Manager, Tucson Gas, Electric Light and Power Company; Interview, April, 1931.

It is noticeable in going through the Reports of the Corporation Commission, 1912 to 1924 that during those twelve years only seven petitions of power companies were rejected. Two of these instances -- the petition of the Southside Gas and Electric Company, Nov. 8, 1918, for an increase of twenty-five per cent in rates, and that of the Yuma Ice and Electric Manufacturing Company, November 16, 1921, for an increase in electrical rates -- have already been mentioned. Four of the remaining five petitions denied were presented in 1915. The Prescott Gas and Electric Company and the Pacific Gas and Electric Company both submitted petitions for a change in the classifications of rates which, the companies affirmed, would result in a lower price to the consumer. The Commission upon investigation found that the proposed classifications would not reduce the prices to the average consumer, and, in the case of the Women's Club of Phoenix, the new classification would result in an increase of \$5.75 per month on the minimum rating. Both petitions were, therefore, denied.

On May 14, 1915, the Commission denied two⁵⁰ petitions of the Tucson Gas, Electric Light and Power Company.⁵¹ The first one was a request for the right to charge interest on delinquent accounts. The Commission found that such action would result in a larger delinquent account and would thus raise the rates. The second petition asked for the privilege of

50. Third Annual Report of Corp. Comm., pp. 259-262, 264-267.
51. Ibid., pp. 333 - 337.

keeping the Company books in the New York office and for the right to charge for cut-outs and cut-ins for short suspensions of service. The Commission ruled that the books must be kept in Arizona for easier inspection by the Commission, and that since the cutting-in and cutting-out of service amounted to little more than pulling a switch the petition should be denied,

The other petition denied was that of the Arizona Gas, Electric Light and Power Association. This Association, comprising practically every power company in the State, asking for an increase in the allowable rate of return and in increase in depreciation charges as allowable deductions from income. The Commission denied this petition April 19, 1920.⁵²

The Complaints against the Corporation Commission in its dealings with the utility companies of the State reached a new height in 1931 with the meeting of the Tenth State Legislature. Soon after the session opened. House Bill 20 was introduced by Representative Valentine. This bill was intended to fix a valuation on utility companies which could be used for both taxation and for rate-making purposes.⁵³ In presenting his arguments for the bill Mr. Valentine pointed out the wide discrepancy now existing between the valuations of the Tax Commission and those of the Corporation Committee. He presented the following figures:⁵⁴

52. Ninth Annual Report of Corp. Comm., pp. 331-337.

53. Arizona Daily Star, Feb. 12, 1931.

54. Ibid., Feb, 18, 1931.

Tax and Rate-Making Valuations.

Company	Tax Valuation	Rate Valuation
Arizona Power Co., Prescott	\$2,532,709	\$7,852,789
Arizona General Utilities, Safford.	73,850	205,975
Holbrook Light & Power Co.	31,636	55,255
Public Utilities Cons. Corp.	629,058	1,289,229
Ajo Improvement Co.	37,155	109,209
Cochise Utilities Co.	22,593	79,772
Superior Light and Power Co.	77,800	163,655
Wilcox Power Co.	26,816	67,485
Ray Elec. and Telephone Co.	20,260	32,718
Arizona Edison Co, Bisbee	2,844,000	13,612,000
Tucson Gas, Elec. Light and Power Co.	2,024,925	4,436,824
Central Ariz. Light & Power Co.	3,583,655	8,291,690
Nogales Utilities.	599,058	1,206,867

Mr. C. R. Howe, newly elected member of the Corporation Commission, explains these great differences shown in Mr. Valentine's figures. The rate-making valuations are inaccurate in that they are the accumulated figures of years and show no discount for depreciation. The Corporation Commission itself does not have any accurate, summarized record of the rate-making valuations of each company, and it is impossible for anyone else to secure these data. Furthermore, Mr. Howe pointed out, the tax valuations are set by the assessors of the various counties and, while covering only the physical property of the companies, are usually based at approximately fifty per cent of the actual value of said property. In rate-making valuations certain intangible subjects such as overhead, personnel education, and depreciation must be taken into account. Therefore, it is said to be impracticable to secure any valuation which would be suitable for both rate-making and taxation

55
purposes. The House of Representatives, while not agreeing entirely with Mr. Howe's argument, saw the logic behind it and defeated Mr. Valentine's bill. 56

At the same time Mr. Fred Sutter, of Cochise County, President of the Senate, introduced Senate Bill 42, proposing an amendment to the State Constitution which would abolish the present Corporation Commission and create the office of Corporation Commissioner to take its place. 57 Mr. Sutter, in presenting his bill, told of his efforts to secure data on the Arizona Edison Company of Bisbee. He had asked the Commission for figures and had been refused any information. He had been allowed to look into the files of the Commission, but "with the way they've got things fixed in that office even a certified accountant would be at a loss in trying to get information." 58

He presented the argument that the improvement in machinery, the increasing use of electricity at all hours instead of only at night, as formerly, and the resultant lowering of cost to the utility companies has not been taken into account by the Commission, since rates have remained practically level.

55. Howe, C. R.: Interview, April, 1931.

56. Arizona Daily Star, Feb. 20, 1931.

57. Ibid., Jan. 28, 1931.

58. Sutter, Fred: Interview, Feb., 1931.

Mr. Sutter further contended that the system of grading rates by "blocks" was unfair. As an example of what this system has done to consumers he pointed out that in November, 1929, the Adams Hotel, in Phoenix, was entirely filled and used enough electricity to get into the lower rate blocks. The electric bill for that month was \$1,096. A year later, November, 1930, the hotel was not more than half full, due to the business depression. During the month it used thirty-four per cent of the amount it had used the previous November, yet the cost of electricity was \$1,072, a difference of only \$24.⁵⁹

Mr. Sutter, in his proposed amendment, called attention to the division which has existed in the Commission since 1926. In that year Commissioner Claypool, of Miami, and Commissioner Vaughn signed a permit allowing the city of Miami to buy the local power company, the property of Mr. C. W. Van Dyke. The company had been appraised for rate-making purposes by the Commission at \$214,000.00, and the permit signed by the two Commissioners allowed the city of Miami to pay \$600,000.00 for the property. Commissioner Betts protested this decision and since that time the disagreement has increased. The election of Mr. Howe in 1930 is said to have changed matters only in that he now stands with Mr. Betts against Mr. Vaughn.⁶⁰

59. Sutter, Fred: Interview, Feb., 1931.

60. Howe, C. R.: Interview, April, 1931.

Senator Sutter, in asking for one commissioner in place of three, reasons, "If two can manage the office efficiently, why can't one?"⁶¹

Senate Bill 42 died in the House after passing the Senate unanimously,⁶² but Senator Sutter declared he has other plans to relieve the "thoroughly bad conditions now existing".⁶³ It is charged that Mr. Sutter's animus towards the Arizona Edison Company, of Bisbee and, towards the Corporation Commission, is due largely to personal and business motives.⁶⁴

Regardless of the merits or demerits of the bills and arguments in question, certain facts become immediately apparent to anyone trying to secure data on the work of the Commission. The Annual Reports, as explained in Chapter IV, ceased to appear after 1924, and the information that may be secured from the Triennial Report, 1922, 1923, and 1924, is scanty indeed. In most cases the report gives only the complaint and the decision reached. No other facts on the case are given. In securing information on the Commission's activities since 1924 the observer runs into even greater difficulty. The Commission is perfectly willing to allow anyone to go through their files to secure any data, but such a procedure is one that requires a great deal of time and technical knowledge. The Commission has absolutely no summarized

61. Sutter, Fred: Interview, Feb., 1931.

62. Arizona Daily Star, Jan. 29, 1931.

63. Sutter, Fred: Interview, Feb., 1931.

64. Howe, C. R.: Interview, April, 1931.

data on any of the rates or rate-making valuations of any of the power companies. Such information as it has, is filed in the docket cases, and it requires an expert to get any real understanding of the mass of unorganized materail in each case.

In conclusion, it is interesting to note some of the instances of lack of activity on the part of the Commission in dealing with the power companies. It has already been mentioned that in no case has the Commission denied the petition of any company in issue more bonds or stock, yet Mr. Mike Murphey, one time manager of the Globe Power Company, admitted in the presence of witnesses, that practically every power company in the State was over-capitalized. Mr. Murphey went on to say that power could be produced, taking everything into account, for between \$.005 and \$.0075 per kilowatt hour,⁶⁵ a statement which leads one to wonder why the Commission has allowed the average rate in Arizona to remain around \$.08 per kilowatt hour.

An investigation of the Reports further reveal that, with the exception of the rate adjustment of the Globe Light and Power Company in 1914, there is no instance recorded where the Commission has made any attempt to regulate the power companies located in Miami, Bisbee, Clark-date, or any other town controlled by the big mining interests

65. Murphey, M., Statement made in Phoenix, at private meeting in Hotel Adams, 1925.

of the State. Such an omission may not necessarily mean that the mining companies are influencing the Commission, but the fact that the Arizona Edison Company can charge the same rates in Bisbee, with a valuation of \$810,000, as the Phelps Dodge Company with a valuation of \$450,000⁶⁶ certainly shows that the situation could bear some investigation on the part of the Commission.

The Reports record only one instance where the Commission has taken the initiative in investigating a power company. All other investigations have been made because of complaints filed by municipalities or civic organizations. Such activities, or lack of activity, on the part of the Commission is said to be due to the fact that they have no figures of their own upon which to base their calculations. The Commission, because lack of funds, has been handicapped in conducting its own surveys, and considers that it has been forced to accept the figures presented by the power company engineers. Mr. Howe, elected to the Commission in 1930, has been instrumental in starting surveys by the Commission. Surveys of four companies are called for during 1931. This work, according to Mr. Howe, "is being done by sacrificing other business the Commission should attend to in order to secure enough money."⁶⁷

66. Howe, C. R., Interview, April, 1931.

67. Ibid.

The Commission, in the light of the foregoing facts, has been hampered somewhat in doing the work it should do in regard to the power companies. Such handicaps, however, do not seem sufficient to justify some of the actions of the Commission. Clearly, whatever the reason may be, the Arizona Corporation Commission has not lived up to the hopes and expectations of the men who were responsible for the creation of the Corporation Commission in the Constitutional Convention of 1910.

APPENDIX

ARTICLE XV.

THE CORPORATION COMMISSION.

Section 1. A Corporation Commission is hereby created to be composed of three persons, who shall be elected at the general election to be held under the provisions of the Enabling Act approved June 20, 1910, and whose term of office shall be co-terminus with that of the Governor of the State elected at the same time, and who shall maintain their chief office, and reside, at the State Capital. At the first general State election held under this Constitution at which a Governor is voted for, three commissioners shall be elected who shall, from and after the first Monday in January next succeeding said election, hold office as follows:

The one receiving the highest number of votes shall serve six years, and the one receiving the second highest number of votes shall serve four years, and the one receiving the third highest number of votes shall serve two years. And one commissioner shall be elected every two years thereafter. In case of vacancy in said office, the Governor shall appoint a commissioner to fill such vacancy. Such appointed commissioner shall fill such vacancy until a commissioner shall be elected at a general election as provided by law, and shall qualify. The qualifications of commissioners may be prescribed by law.

Section 2. All corporations other than municipal engaged in carrying persons or property for hire;

or in furnishing gas, oil, or electricity for light, fuel, or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes, or in transmitting messages or furnishing public telegraph or telephone service, and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations.

Section 3. The Corporation Commission shall have power to, and shall, prescribe just and reasonable classifications to be used, and just and reasonable rates and charges to be made and collected, by public service corporations within the State for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the State, and may prescribe the forms of contracts and the systems of keeping accounts to be used by such corporations in transacting such business, and make and enforce reasonable rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons of such corporations; Provided, that incorporated cities and towns may be authorized by law to exercise supervision over public service corporations doing business therein, including the regulation of rates and charges to be made and collected by such corporations: Provided, further, that classifications, rates, charges, rules, regulations, orders, and forms or systems prescribed or made by said Corpo-

ration Commission may from time to time be amended or repealed by such Commission.

Section 4. The Corporation Commission, and the several members thereof, shall have power to inspect and investigate the property, books, papers, business, methods, and affairs of any corporation whose stock shall be offered for sale to the public, and of any public service corporation doing business within the State, and for the purpose of the Commission, and of the several members thereof, shall have the power of a court of general jurisdiction to enforce the attendance of witnesses and the production of evidence by subpoena, attachment, and punishment, which said power to take testimony under commission or deposition within or without the State.

Section 5. The Corporation Commission shall have the sole power to issue certificates of incorporation to companies organizing under the laws of this State, and to issue licenses to foreign corporations to do business in this State, and to issue licenses to foreign corporations to do business in this State, as may be prescribed by law.

Section 6. The law-making power may enlarge the powers and extend the duties of the Corporation Commission, and may prescribe rules and regulations to govern proceedings instituted by and before it; but, until such rules and regulations are provided by law, the Commission may make rules and regulations to govern such proceedings.

Section 7. Every public service corporation organized or authorized under the laws of the State to do any transportation or transmission business within the State shall have the right to construct and operate lines connecting any points within the State, and to connect at the State boundaries with like lines; and every such corporation shall have the right with any of its lines to cross, intersect, or connect with, any lines of any other public service corporation.

Section 8. Every public service corporation doing a transportation business with the State shall receive and transport, without delay or discrimination, cars loaded or empty, or passengers delivered to it by any other public service corporation doing a similar business, and deliver cars, loaded or empty, without delay or discrimination, to other transportation corporations, under such regulations as shall be prescribed by the Corporation Commission, or by law.

Section 9. Every public service corporation engaged in the business of transmitting messages for profit shall receive and transmit, without delay or discrimination, any messages delivered to it by any other public service corporation engaged in the business of transmitting messages for profit, and shall, with its lines, make physical connections with the lines of any public service corporation engaged in the business of transmitting messages for profit, under such rules and regulations as shall be prescribed by the Corporation Commission, or by law; Provided, that such public service corporations shall deliver messages to other such corpo-

rations, without delay or discrimination, under such rules and regulations as shall be prescribed by the Corporation Commission, or by law.

Section 10. Railways heretofore constructed, or that may hereafter be constructed, in this State, hereby declared public highways, and all railroad, car, express, electric, transmission, telegraph, telephone, or pipe line corporations, for the transportation of persons, or of electricity, messages, water, oil, or other property for profit, are declared to be common carriers and subject to control by law.

Section 11. The rolling stock and all other movable property belonging to any public service corporation in this State, shall be considered personal property, and its real and personal property, and every part thereof, shall be liable to attachment, execution, and sale in the same manner as the property of individuals; and the law-making power shall enact no laws exempting any such property from attachment, execution, or sale.

Section 12. All charges made for service rendered, or to be rendered, by public service corporations within this State shall be just and reasonable, and no discrimination in charges, service, or facilities shall be made between persons or places for rendering a like and contemporaneous service, except that the granting of free or reduced rate transportation may be authorized by law, or by the Corporation Commission, to the classes of persons described in the Act of Congress ap-

proved February 11, 1887, entitled An Act to Regulate Commerce, and the amendments thereto, as those to whom free or reduced rate transportation may be granted.

Section 13. All public service corporations whose stock shall be offered for sale to the public shall make such reports to the Corporation Commission, under oath, and provide such information concerning their acts and operations as may be required by law, or by the Corporation Commission.

Section 14. The Corporation Commission shall, to aid it in the proper discharge of its duties, ascertain the fair value of the property within the State of every public service corporation doing business therein; and every public service corporation doing business within the State shall furnish to the Commission all evidence in its possession, and all assistance in its power, requested by the Commission in aid of the determination of the value of the property within the State of such service corporation.

Section 15. No public service corporation in existence at the time of the admission of this State into the Union shall have the benefit of any future legislation except on condition of complete acceptance of all provisions of this Constitution applicable to public service corporations.

Section 16. If any public service corporation shall violate any of the rules, regulations, orders, or decisions of the Corporation Commission, such corporation shall forfeit and pay to the State not less than one hundred dollars nor more

than five thousand dollars for each such violation, to be recovered before any court of competent jurisdiction.

Section 17. Nothing herein shall be construed as denying to public service corporations the right of appeal to the courts of the State from the rules, regulations, orders, or decrees fixed by the Corporation Commission, but the rules, regulations, orders, or decrees so fixed shall remain in force pending the decision of the courts.

Section 18. Until otherwise provided by law, each Commissioner shall receive a salary of three thousand dollars a year, together with his actual necessary expenses when away from home in the discharge of the duties of his office.

Section 19. The Corporation Commission shall have the power and authority to enforce its rules, regulations and orders by the imposition of such fines as it may deem just, within the limitations prescribed in Section 16 of this Article.

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