

EARLY RAILROAD CORPORATE CHARTERS

1. **Railroads were a unique form of “highway”** and no one knew when they first began as businesses how they were to so sharply diverge from turnpikes and canals.
2. **Railroad corporate charters were granted by the States.** In the beginning, this required special legislation but later on general laws were enacted that set up a formal administrative procedure to grant **articles of incorporation**. The transcontinental “Pacific” railroads were the only ones to receive charters from the Federal Government.
3. **A Corporation is a fictitious person created by law and endowed with many of the functions of a human being.** It may possess property and a treasury distinct from its members, and debts *due to* or *by* the corporation are not debts due to or by the individuals composing it. Corporations can sue and be sued and they can be criminally prosecuted, fined, and dissolved by the sovereign. In U.S. law the Supreme Court has extended portions of the Bill of Rights to corporations (e.g., within limits, freedom of speech).
4. **The early railroad charters were very loosely written** and gave the corporation great leeway. The charters usually set the number of directors, the amount of capital stock (this was oftentimes way out of line with the size of the railroad), the borrowing authority (usually very vague and subject to great abuse in the 19th Century), annual reports, the description of the route along with the required crossings.
5. **Some of the early Charters used the Canal Model: that is, the fees collected from shippers were divided into a Toll Charge** (the fee for using the canal/railway) and a **Transportation Charge** (the fee charged by the canal boat operator/freight car operator).

6. Most importantly, and the reason why railroads were very unusual, the State would grant the railroad ***the power of eminent domain*** (that superior dominion of the sovereign power over property within the State which authorizes it to appropriate it for public use). Without such power, the railroad could not construct its line over the best possible route without being blackmailed by property owners. However, it was a two edged sword as it made the railroads politically vulnerable to those who lived along its right-of-way.