

ment to an act; entitled, an act to incorporate certain companies," with a proviso, that they shall not be allowed to do so and so, and refers itself to the acceptance or rejection of said company, the company rejected it,—five years after, an act to confer the same or similar advantages on said company, is passed without the proviso, which act is accepted by said company, therefore, argues the majority report,—the prohibitory proviso of the first act is also accepted by them, and consequently infer a violation of chartered privileges. Comment is unnecessary. The minority arrive at a different conclusion and acquit the company, of any wrong under that head.

The second branch of the order relative to over charge for tolls, deserves a more serious and careful consideration, and is necessarily involved in greater difficulty, from the various charters granted the companies previous to their union, and whilst they looked to the respective States in which the several portions of their road are located, for their privileges, and in order to put the subject in its proper light before the house, and to arrive at such conclusion as would do full justice to all parties concerned; we will endeavour as faithfully as possible to submit the result of our investigation.

In the Pennsylvania and Delaware charters, (section 15 and 16) it is enacted, "That on the completion of said Rail Road, it shall be deemed a public highway, for the conveyance of passengers, and the transportation of merchandize and commodities, &c," the act of Delaware is in the same words. In determining the question, whether the company have the right to charge more than eight and four cents for transportation,—we must consider the meaning of the word *toll* used in the act, if it be construed to mean the consideration to be paid for transportation, or conveyance, the law then clearly prohibits any charge over that amount, if on the other hand it be construed to mean the charge for the right of way only, then the company have the right to charge an additional compensation for the use of their cars, &c, in the conveyance of passengers and transportation. The 16th section of the act, provides that no Car, Carriage, Wagon or other conveyance shall pass the places appointed for paying tolls of said company, without paying toll. In this section, the word manifestly means a right of way, or it involves an absurdity in the law. The acts of Pennsylvania and Delaware both, declare it a highway for the use of all persons who choose to avail themselves of it, reserving to the company the right of charging the sum of 8 and 4 cents for merchandize and persons transported thereon, as a compensation to said company, in consideration of the money expended by them in constructing the road. Now no one would contend that persons other than the company, would not have the right to charge something additional above to the tolls they are required to pay the company for the right of way, as a compensation for the use of their conveyance! And then if persons who have encountered none of the expenses of the construction, are allowed to charge, of which there can be