

no doubt, for transportation more than the tolls for the right of way, why should not the company who have encountered all the expenses of construction be allowed the same privilege of making an additional charge, to cover additional expense in placing the means of conveyance on the said Rail Road.

But it on the other hand it be argued that the company by this act, are only allowed to charge 8 and 4 cents for tolls; (interpreting tolls to mean the charge for the right of way and conveyance both,) we have the singular instance of the same import of word, in the same law, meaning different things, and the company subjected to liabilities and restrictions in the use and enjoyment of the product of their own labor, and money which others are not, "*sic vos non vobis vellera pertis oves*."

But it may be argued that if other carriers on the rail way be compelled to pay to the company the sums of 8 and 4 cents for transportation, they cannot enter into competition with the company, and therefore it becomes a monopoly, odious to the laws of the land, and that then it is right and proper that some steps should be taken to protect the public from the oppression. If such be a monopoly it arises from the circumstances of the case which are not disapproved of by the majority report, which says:—"Now if it be contended that the rail road is a highway for the public at large, with the privilege to the company, however, of prescribing regulations for the use of the same. (see page 12.) the company in such case would be entitled to their tolls, but to no preference in other respects over any other member of the community, who might choose to avail himself of the means which that highway affords, of transportation or travel in cars not belonging to the corporation." Now, if we except the tolls, what preference can the company contend for more? These tolls operate just so much as they amount to in favor of the company; and if they exclude competition this exclusion is effected by those means which it must be admitted the company are entitled to, for by reference to the act of Delaware, passed June the 17th, 1836, entitled, "A further supplement to an act, entitled, An act to incorporate the Wilmington and Susquehanna Rail Road Company," the said company are expressly authorised and "empowered to increase their capital stock," or borrow money, "for the purpose of completing their rail road to the Susquehanna River," and shall also have power to "supply" themselves with "*locomotive engines, cars and steam boats,*" for the proper transportation of passengers, goods, wares and merchandize, thereby conclusively looking to the company's use of their own cars, &c. if they desire it.

To the argument drawn from its being a monopoly, we beg leave to reply, by saying, that so far from being such a monopoly as is repugnant to the bill of rights, we assert that it is such a monopoly as is recognised by the laws of reason, expediency and public approbation, and general practice—a monopoly *per excellentiam*.