

File No. 36404 Continued.

extent nor otherwise" and the Company accordingly accepted a modification of its exemption created by the 18th Section of its Charter to the extent named; but it was provided in that Act "that nothing in this Act shall be construed as exempting any property or franchise of the said Railroad Company from taxation for county and municipal purposes, which by express laws and the decisions of the Court of Appeals of this State is now held liable to taxation." The sole and only purpose of this exemption was to save to the localities the result of the decision of the Court of Appeals in 48 Md., holding taxable property not used for Railroad purposes, or property on which no exemption has been engrafted.

Thus it will be seen that the line was clearly defined in 1878 regarding the rights of the Railroad Company, the State and localities, and this condition remained unchanged in 1888 when the Special Commission created by Chapter 488 of the Acts of 1888 to report on the "Subject of Taxation" in Maryland made its findings to the General Assembly. The Commission had for membership John P. Poe, Professor Richard T. Ely, James Alfred Pearce and James McSherry, the last two afterwards members of the Court of Appeals. This Commission gave to the subject a most elaborate and exhaustive study, and speaking of railroad exemptions, it was said:

"But the exemption of the Baltimore & Ohio Railroad does not now rest alone on the provisions of its Charter. Indeed, its entire status as to taxation and exemption was altered, and it now has a different and a more favored position than formerly. \* \* \* \* \* This decision (referring to the right of the State to collect one-fifth of all passenger fares on the Washington Railroad) was followed by a contract between the General Assembly and the Railroad Company, which we believe to be one of the most complete illustrations of a cast-iron legislative contract, as well as a one-sided bargain, known in this country."

That the conclusion of these eminent authorities must have been correct seems to be without doubt, for we find as a next step, with a view to wresting from the Company this "cast-iron legislative contract" and "one-sided bargain", the adoption of the Amendment of 1891 to the State Constitution providing that "any corporation chartered by this State which shall accept, use, enjoy or in anywise avail itself of any rights, privileges or advantages that may hereafter be granted or conferred by any general or special Act, shall be con-