

the bill upon the Governor, the Board of Public Works, and the Attorney General, requiring that the State should become a defendant in the suit.

Each of those agents of the State separately answered that the State had conferred upon them no such authority, and that the General Assembly only could authorize the appearance of the State, as a defendant, in its own Courts: that it was manifest upon the face of the bill, that the State of Maryland was an indispensable party to the adjustment of priorities in the payment of the surplus tolls; that the complainant was bound to know the law of the forum to which it appealed; that a session of the Legislature had been held and adjourned without any notice or application to the State to become a party, and that the complainant must submit to the consequences of delaying the proceeding until another session of the Legislature should be held.

Upon these answers the cause was again heard in March, 1869, and on April 10, '69, the Court filed its opinion sustaining the ground taken in the answers, and passed an order to stay the proceedings accordingly.

This was the state of the case when in December last it was stated in the public press that the Company had paid to the State of Virginia \$58,000.

Having been informed, a few days after, that I would probably be called on for an official opinion upon the subject, I requested the Comptroller to obtain for me a copy of the proceedings of the Company, in order that I might know on what account the payment was made. In accordance with this request, the Clerk of the Company furnished me with the copy of the proceedings, which I beg to submit herewith to the Senate, as containing all the information I have upon the subject. No request for any opinion was made of me until that contained in the order of the Senate, except some inquiries of the present Comptroller as to the power of the Canal Company to fund the unpaid interest coupons, so as to make them to bear interest, and give such funded debt priority over the debt due by the Company to the State, &c., to which I replied on the 23d ult.

In reply to the request for my opinion upon the legality of the payment out of the net revenues of the Company, I have to state that I am not informed of the particular claims to which the payment was applied, so as to form an opinion upon them all. I have addressed a note to the President of the Company, requesting a statement, and when I shall have received it, I may be able to answer more fully. But I infer from "the agreement" in the proceedings herewith sent, that a part of the sum so paid was applied to pay interest on the bonds for \$140,000, to Selden, Withers & Co., and part to pay interest to 1st October, 1869, upon the certificates for coupons funded in 1853. I have heretofore considered the question as to the character of