

State's proportion of the moneys received by that Company for the transportation of passengers between Baltimore and Washington, to the date of December 10, 1870.

At the time this bill was referred to the consideration of the Committee, the state of the controversy with the Baltimore and Ohio Railroad Company may be briefly summed up as follows :

The State had sued the Company in the Superior Court of Baltimore City, to recover the State's proportion of the passenger fares received by the Company, to January 1st, 1870.

It is understood that suits have been instituted in the same Court, to recover a like proportion of the passenger fares received to the first days of July, 1871, and of January, 1872.

The State had sued the Company in the same Court, to recover the difference between the coin and currency value of the dividends which had been paid upon the stock subscribed for by the State in the Baltimore and Ohio Railroad Company, under the Act of 1835, chapter 395.

The State, as a holder of the special stock of the Washington Branch Railroad, had filed a bill in the Circuit Court of Baltimore City, claiming to be entitled, as such stockholder, to a statement of the accounts of the Washington Branch Road, and alleging that it would appear upon a proper adjustment of the accounts of the said Branch Road, that a larger sum ought to be set apart, as the profits of the Washington Branch Road, than was exhibited in the accounts made up by the Baltimore and Ohio Railroad Company.

To the suit brought to recover the State's proportion of the capitation tax, the Company, had, in effect, pleaded that the Acts of Assembly requiring the payment into the Treasury of the State of one-fifth of the money received for the transportation of passengers between Baltimore and Washington, were, to the extent of such requirement, unconstitutional, because in conflict with the Constitution of the United States.

The Superior Court of Baltimore City held that this defense was good, and that the obligation assumed by the Company to pay to the State Treasurer one-fifth of the gross amount received from passengers upon the Washington Branch Road, was inoperative, because in conflict with the Constitution of the United States.

The Court of Appeals held the opposite doctrine, when the case was considered upon appeal, and expressly ruled