

entirely prevents the passage of the Rail Road along the side of the former work. The reason expressed by the Governor, for this course of conduct on the part of the Canal company, was their determined hostility to the Rail Road, which they have chosen to consider in the light of a formidable rival. For proceedings thus characterised, it was submitted, by his Excellency, to the consideration of the General Assembly, "whether the dignity of the State would not be consulted by a refusal of any future favors requested by the Canal company, until that company shall be made to retrace her steps, and afford a passage for the Rail Road, upon such terms as the Legislature may, in its wisdom, think proper;" and if the Legislature should concur in these views, corresponding measures of coercion were urged to compel the Canal company to permit the Rail Road to pass as far as Harper's Ferry.

Charges thus gravely preferred against the Chesapeake and Ohio Canal company, and the severe retaliatory measures recommended to bring her, as it were, to a sense of duty and obedience, have placed the whole matter relating to the construction of both works along the difficult passes between the Point of Rocks and Harper's Ferry, in the fore-ground of the committee's inquiry. This involved not only the practicability of such a construction under existing circumstances; but also the facts whether the Chesapeake and Ohio Canal Company did change the location of their work along the passes designated for the purposes alleged, or did in any of their proceedings, in consequence of the invitation of the last General Assembly, manifest a want of proper respect for, and deference to the wishes and authority of the State.

That it is practicable to construct both works along the narrow passes mentioned, in a particular mode, the observations of the undersigned, and the evidence taken, during a visit of the committee to the ground for these purposes, lead them to believe. Whether, even if practicable, under far more advantageous circumstances, such a construction of both works can be enforced, by any act on the part of this State, contrary to the clear consent of the party invested with the right of way and soil, is another and far different question, which the undersigned would approach, particularly under the circumstances of the present case, with the greatest caution and reserve.

On the very threshold of such an inquiry they are met by the vested and settled rights of one of the companies, solemnly adjudged them by the highest judicial tribunal in