

The two last stated interrogatories were also propounded to Mr. Patterson, one of the directors of the company, and his answers were, "There has been no application made for such purpose by any person, to the best of his knowledge."

And to the question next put, "would the granting (of said application) be consistent with the regulations and practice of said company?" Mr. Patterson answered, he "presumes it would, upon such terms as the company would have prescribed legitimately; but cannot answer *positively*, not being sufficiently informed, but *believes* there is no regulation prohibiting it."

Mr. Patterson, a director, having heard the interrogatories that were propounded to Mr. Cohen the vice president; and having heard Mr. Cohen's several answers thereto, adopted said answers as his, and confirmed the same fully.

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Such is the testimony which has been elicited by the enquiry devolved upon the committee, and it has received from them, that deliberate and impartial consideration which the importance of the subject demanded.

Now, if it be contended that the rail road is a *highway*, for the public at large, with the privilege to the company however & prescribing regulations for the using of the same, it will hardly be denied, that those regulations must be reasonable & general in their application, bearing fairly upon all persons alike. The company in such case would be entitled to their Tolls, but to no preference or advantages in other respects, over any member of the community who might choose to avail himself of the means which that Highway affords for travel or transportation in Cars not belonging to the corporation.

The *monopoly* of carrying on a *Highway*, is such a monopoly as is repugnant to the Declaration of Rights, a charter paramount to all others in this State, and is therefore unconstitutional, any act of incorporation to the contrary notwithstanding.

Or if the said rail road is to be considered as a *private way*, the using of which is to be confined exclusively to the cars of the corporation, then the *Tolls*, which they may lawfully receive, constitute the *only* compensation which they are allowed to demand for the service rendered by the company in transporting passengers or merchandize on such private way.

It being alledged by the rail road company, that the way across the *Susquehanna river*, forms *no part* of the property or way belonging to the said rail road, they cannot dispute the right of the legislature at all times to exercise full power and authority over all that part of the *river*, which lies between one *terminus* of the road at Havre-de-Grace, and an other terminus of the road on the opposite shore.

In that case the acts of assembly of 1781, chapter 22nd. section 2nd. and of 1799, chapter 83, sections 2nd. and 3rd. relating to Ferries, would be applicable here—and the rail road company might