

supplement to the Delaware and Maryland Rail Road Company, passed by the General Assembly of Maryland, at December session 1834, after having regulated the toll to be charged on the rail road, (in the 3d section,) it is enacted in the succeeding section that the said company are hereby authorised "to purchase, hold and enjoy such real estate as may be necessary and proper for promoting the objects of said company, whereon they may erect all needful buildings, wharfs, warehouses, and also shall have power to establish a line, or lines of *steam boats* between Philadelphia and Baltimore, in connection with the said rail road, and to purchase *steam boats,*" &c.

From these acts, we think the right of the company to ply the steamboats across the Susquehanna river is clearly deducible. As it respects the right to charge for its use, we cannot entertain a doubt, it being unreasonable to suppose that this or any company would go to the expense of purchasing steamboats to transport passengers and merchandise gratuitously. How then is this charge regulated? not by the foregoing section, that refers to tolls on the rail road only; for by no process of reasoning can it appear that a rail road is a steamboat. We infer that this charge will and must be regulated by what a due regard for the interest of the company requires, in making the said road the cheapest, most expeditious and comfortable route between the two great emporiums of Pennsylvania and Maryland. As to what is said in the report respecting ferries, we have no doubt that the State has full power to establish a ferry or ferries on any part of the Susquehanna river, in her territory, provided the ferry boats do not use the wharves of the said company. The distance from the depot in Baltimore to the depot in Philadelphia is stated to be over 100 miles—the distance between the ends of the wharves on the Susquehanna and by the company's boat, is less than a mile; so that a charge of 4 cents a mile on passengers on the rail road, would give \$4 through to Philadelphia, and vice versa, leaving a traction, which might be said to be made up by the distance across the Susquehanna, and on which an additional charge might be predicated, if we conclude 8 and 4 cents to be the maximum charge for passengers and commodities on the rail road. We should not have dwelt on this subject had it not been for the importance attempted to be given to the expression of the *individual* impression of Mr. Coten, it not being shown in evidence that the company have ever claimed or exercised the right. We confess that we cannot concur in the surprise mentioned in the majority report at the company's not considering a *steamboat* to be a rail road.

Having now given our opinion of the construction of the several charters of this company, we will briefly advert to the testimony;—and first of Mr. Rudolph. By reference to his written testimony, it appears, he sometimes speaks positively, at other times doubtingly, and at all times from memory, not having any of the books of the company to refer to. As we have already decided the subject of