

upon passengers. With a view therefore of ascertaining, with accuracy, the facts upon which these allegations rested, the committee addressed interrogatories to the Chesapeake and Delaware Canal Company, which were answered by the President, Mr. Newbold, under date of the 31st January, and the 5th February, and along with these answers sundry documents were exhibited and referred to. The committee also addressed interrogatories to Messrs. Peck, Clyde & Company, proprietors of a line of steam boats, driven by Errickson propellers, and running through this canal, which were answered under date of the 3rd inst. In addition to the information thus obtained, the committee had before it a correspondence between the Chesapeake and Delaware Canal Company and Messrs. Stockton, Falls & Company, and Messrs. Hutchinson and Weart, proprietors of stage lines west of Cumberland, who proposed establishing a line of passenger boats between Philadelphia and Baltimore, by way of the canal, all of which documents will be found in the appendix to this report.

From all the information which this committee has been able to collect, it is ascertained that this company from the time of the completion of the work in 1829, has been in the constant habit of charging for passengers passing through the canal, at rates, the variation and unusual character of which will be commented upon in another part of this report.

It is, however, proper here to advert to the grounds of justification urged by the company, for the exercise of power to charge toll on passengers, as it is not even pretended that this right is given in express terms by either the original charter or any of the supplements thereto, but it is contended, that as the exclusive property in the canal is vested in the company, that therefore, it follows as a necessary consequence that all powers not expressly prohibited, are granted, and that the company has the right to make any contracts or agreements which do not conflict with the express provisions of the charter.

Against such a doctrine of construction your committee enter their protest, and beg leave to examine for a moment the consequences of such an assumption of power on the part of any corporation. This construction would make the corporation the master and the State the slave, which is reversing all our preconceived ideas of State sovereignty; for if the creature is to judge of the implied powers granted, it follows necessarily that it will usurp all that are not expressly prohibited by its charter, and in truth this privilege is relied upon by the company in question, and that in the face of the often repeated decisions of the highest Judicial tribunals of this State and of the United States, which have declared that a corporation is entitled to no franchise not expressly granted by its charter, unless the same be absolutely necessary to carry out the main object contemplated by the charter, and therefore it follows that the sovereign and not the creature is entitled to all powers not expressly granted.