

the wing-dam to have been unnecessarily advanced into the stream with the view to obstruct the navigation of the river, it was even in that light an injury of which any body had a right to complain. On this question, there is, in the opinion of the committee, little or no contrariety in the testimony submitted. All the witnesses examined before the committee agree in stating, that prior to the improvements made by the canal company on the eastern shore, the only known navigable channel was on the western side, from Rogers' Bottom to tide water. The company opened a channel from Rogers' Bottom to the head of the canal, with a view of course to advance their own interests. As soon as this channel was opened, the passage on the western shore was abandoned, and the whole commerce of the river passed down the eastern side as far as the head of the canal. This was a place of deposit from which they might either take the river or the canal as circumstances should happen to dictate. As the wing dam is now extended, the complaint is, this choice is no longer left them; but on the contrary when they get to the head of the canal, they are compelled to go through it, from the impossibility of getting round the upper extremity of the wing-dam. The committee cannot perceive the justice of the complaint. The company, with a view of their own interests, and at a great expense, opened a channel where there was none before. Every body uses their channel because it is not in their power to prevent it. And the legislature are called upon to destroy the usefulness of the channel to the canal, in order to subserve the purposes of men who have no absolute right to use it at all.

It will further appear to the legislature that three fourths of the produce of the river passes through the canal in preference to the river, when the choice is open to either. The pilotage from the head of the canal to tide water, costs the owner of the produce about the same as the tollage of the canal. From this fact alone the committee feel assured that if the produce of the river could be passed through the canal without interruption as it arrives, the channel of the river from the head of the canal would be entirely abandoned. From the testimony of Emmons and others, it will appear that the company have already done very much to quicken and facilitate the operations of the canal, and that the causes which have heretofore conspired to retard its navigation, may, by the adoption of proper regulations, be entirely surmounted.

The committee will here take the liberty respectfully to suggest to the legislature, that this whole controversy is referable to the rights and powers vested in the company by the act of incorporation. The company have either exceeded their powers or they have not. If they have not exceeded their powers, it cannot be either expedient or just to interpose with a strong hand, and in the face of their own grant, to strip the company of their chartered rights. The faith of the state must be held sacred. If it is not bound by grants to individuals, or by contracts made with its own citizens, there is at once an end to every thing dependent upon the public faith, which comprises the best interests of society. Works of public improvement—the interest of commerce—the cause of literature and science are deprived of the source whence their life and activity spring.

If the company have exceeded their powers, the ordinary jurisdiction of the state are fully competent to enquire into the matter as a public wrong, and to abate the wing dam as a nuisance. As the committee are informed a prosecution is now pending in Cecil county court, on the indictment of a grand jury, in which the wing-dam is denounced as a nuisance, a petit jury are fully competent to ascertain the truth of the fact, and to afford ample justice to all parties. The committee are not aware of any reason why the courts in this instance are not to be trusted with a jurisdiction which they have held time immemorial. **WILLIAM PRICE, Chairman.**

The bill authorising a loan, was read a second time and laid on the table.

Mr Chambers from the committee to whom was referred the bill incorporating the president and commissioners of the town of Elkton, and declare their powers, reported the same with sundry amendments; which were read the first and by special order a second and third time and assented to, and the bill having been read as amended, will pass with the proposed amendments. Amendments proposed. 1st. In the 3rd line 7th section, strike out 'fifty' and insert 'forty.' 2nd. At the end of the same section add the following proviso: 'Provided always. That in appraising any of the lands within the limits of the said town, which may be occupied and used as farms, that then such lands shall be valued and assessed as lots of four acres of ground with the buildings and improvements thereon, and shall not be valued and assessed by the number of acres in said farm or part or parts of farms.'

* Mr Chambers from the committee to whom was referred the bill relative to the town of Elkton, reported the same without amendment, and the bill being read a third time, will not pass, and was sent to the house of delegates.

The following message was read, agreed to and sent to the house of delegates:

BY THE SENATE, February 7, 1822

Gentlemen of the House of Delegates,—Your message proposing an adjournment on the 16th inst is received: The business now before the senate can be completed by that day, and we therefore concur in your proposition. By order, **WM. KILTY, Clk.**

The bill relating to the penitentiary of Maryland, was read a second time, and on motion of Mr Johnson, made the order of the day for Saturday next.

Mr Johnson from the committee submitted the following report:

The committee to whom was referred the bill entitled, An act to abolish survivorship in joint tenancy, beg leave to report, That they have had the same under consideration, and are of opinion that it ought not to pass. Entire changes of the law relating to real estates, should not, your committee think, be made unless called for by strong and obvious reasons. It is a subject that admits not of legislative experiment. The law of joint tenancy has been in force in this state from colonization to the present day; and has been thought well suited to our political condition. All its branches have been long since accurately defined, and are now completely understood. It is pos-