

equity and justice, only ask "out of the profits," what the Company was obliged to take.

We have deemed it right to set forth this claim of the Company to your Honorable Body, and leave you to deal with it as you judge to be meet and proper.

We now ask your Honorable Body to consider the question of the continuance of the imposition of the "Capitation Tax" on the Washington Branch. Twenty per cent. of the gross earnings from passenger transportation on the Washington Branch, and from the Relay House to Baltimore on passengers between Baltimore and Washington, which would be equivalent to forty per cent. of the net earnings from that source, must now be paid to the State Treasury.

By the Act of 1831, chapter 330, Section 8, a supplement to the first Act authorizing the construction of the Washington Branch, it is expressly provided, namely, "And if said Company shall not complete the said road, with at least one set of tracks, so as to be used and traveled on from the commencement of it, as authorized by this Act, to the line of the District of Columbia, within three years after the commencement of the actual construction, the Legislature hereby reserve the right to incorporate another Company, or to authorize any other persons, in their discretion, to lay out and make a railway on and over any ground, and in any direction between the City of Baltimore and the District of Columbia, anything in this Act, or any Act to which it is a supplement, to the contrary notwithstanding."

What may be the legal interpretation of that clause or its legal effect, we do not assume to determine. But here are two most important facts, by the subsequent Act. viz :

That the Company must pay practically forty per cent. of its net earnings from passenger traffic to the State, and the express reservation of the right on the part of the State to authorize another Company to build a road between the two cities, only in case this Company should fail in the construction of the Branch within a definite period after its commencement.

Is it not clear that there is at least an implied contract on the part of the State, that this Company should have the exclusive right of transportation between the two cities? When the State ceases to observe this contract, and charters a Company to build another practically parallel road, the active competition of which largely diminishes those earnings, should the State still demand one-fifth of the gross receipts from passenger transportation—especially when such continued requirement produces results practically ruinous to this important work? Is it equitable for the State to pro-