

P1753

REPORT

OF THE

SELECT COMMITTEE

OF THE

SENATE OF PENNSYLVANIA,

IN RELATION

TO THE BRIDGE ACROSS THE OHIO RIVER

AT

WHEELING, VIRGINIA.

HARRISBURG:

J. M. G. LESCURE, PRINTER TO THE STATE.

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REPORT.

Mr. Darsie, from the select committee to which was referred so much of the Governor's annual message as relates to obstructions to the navigation of the Ohio river, by the erection of a bridge opposite the city of Wheeling, made a report, which was read as follows, viz :

The Ohio river, connected, as it is, with the Atlantic seaboard, and with the northern lakes, by the great public works constructed by the State of Pennsylvania, is the main inland channel of commerce between the States of this Union. For one thousand miles it is the highway along which freight and passengers arrive at and depart from these works. In overcoming the obstacles of land transportation, between the Ohio and Atlantic seaboard, along which commerce had painfully halted, and in opening channels of cheap, easy and secure transportation, to and from the Ohio river, Pennsylvania has expended many millions of dollars, has burthened herself with debt, and subjected her people to heavy taxation, looking for reimbursement to the revenue that might be derived from the trade and travel passing through these channels, and the advantages of the Ohio river as a free and common highway, by which commerce might arrive at, and depart from, her ports. In the benefit derived from these works the people of every State have shared; and by the cheap, secure and speedy transportation furnished for manufactures and agricultural products, they have benefitted the whole world. It has been estimated that property exceeding fifty millions of dollars in value, and more than three hundred thousand passengers, pass to and from the Ohio river, along the channels and through the avenues opened on that river by Pennsylvania.

The principal points of trade, connected with these works by the Ohio river, are Cincinnati, Louisville, St. Louis and New Orleans. To and from these depots of trade for the vast western and south-western region, the transportation is carried on chiefly by steamboats. Of these a large portion were constructed at Pittsburg, are owned and navigated by citizens of this State, contributing, in no small degree, to its wealth and honor.

The enterprize of her citizens has opened regular and stated communication, by these vessels, between the ports of this State and all the ports on the Ohio and Mississippi rivers and their tributaries. Regular steam packets ply from Pittsburg to New Orleans, St. Louis, Galena, Nashville and Louisville, and intermediate ports. Between Pittsburg and Cincinnati a regular daily line of steam packets has been for some years established, transporting, as is estimated, annually, by this line alone, one hundred and sixty-eight thousand passengers, and eighty thousand tons of freight, with cheapness, speed and security unsurpassed in the history of commerce. Each succeeding year witnesses increased capital, enterprize and skill in steamboat navigation, and the construction of steam vessels on the western waters, improving in speed and comfort, diminishing expense, and overcoming obstacles to their navigation.

During the last year one hundred and fifty steamboats were built on the Ohio river, and fifty of these, with a tonnage of seven thousand two hundred and twenty tons, were built at Pittsburg. Conscious how important the navigation of the Ohio is to her prosperity, Pennsylvania has made appropriations to improve it within her own borders; and, at her instance, Congress has also made repeated appropriations for the

same purpose. And now Pennsylvania may boast of the commerce that passes between the east and the west, along the channels she has opened with the Ohio river, and of the steam marine that arrives at and departs from her western ports, as being unsurpassed by any State in the Union.

It is evident that the great works of Pennsylvania, terminating on the Ohio, and the liberal expenditures of her citizens in equipping vessels for its commerce, were alike based on the essential rights of its free navigation as a public and common highway, not only through her own borders, but along its whole course. This right, moreover, is guarantied by the sanctions of law and the compact between the States. Your committee would refer to the following authorities:

1. "The well established principle of international law, that a State possessing the upper part of a navigable river, is entitled to descend to the sea, without being embarrassed with useless and oppressive duties and regulations."—1 Kent's Com., 35.

2. The resolution of Congress, in 1786, offered by Mr. Grayson, of Va., declaring that the navigable waters, leading into the Mississippi, should be free and common highways for the citizens of the United States.

3. The provisions of the ordinance of 1787, establishing the above principle as a compact between the States, which has been made a condition of the admission of every State into the Union, bordering on these waters.—Ord. 1787. Const. of Missouri, Alabama, &c.

4. The provisions of the Constitution of the United States, that commerce shall be regulated by Congress; and that no preferences shall be given to the ports of one State over those of another.

5. The compact of Virginia, on the 18th of December, 1789, on the admission into the Union of her Kentucky territory as a separate and independent State, that the use and navigation of the Ohio river should be free and common to the citizens of the United States.—Rev. Code, 1819, p. 59.

But notwithstanding these guaranties, the essential rights of the State of Pennsylvania have been invaded; the commerce of her citizens interrupted; their steamboats exposed to danger, and subjected to insulting and oppressive impositions; trade and travel have been stopped on its passage to and from her public works; vessels have been shut up in her ports, and the freedom of the Ohio river, as a public and common highway, has been denied to her citizens.

One hundred miles below Pittsburg the Ohio river is divided, by Zane's island, into two branches, the eastern channel being one thousand and ten feet, and the western seven hundred and twenty feet in width, both navigable, at usual stages of water, for steam vessels. In Virginia, on the eastern shore of the river, stands the city of Wheeling, and on the western shore, the small town of Bridgeport, in the State of Ohio.—The position of the island between those points being convenient for bridging, persons interested in making Wheeling the head of navigation, besieged Congress for many years to erect a bridge across the Ohio at that point, the pretence being, that great public convenience for travel and transportation of the mail along the National road would be thereby attained. These solicitations were resisted by the National Legislature, and after careful examination by skillful government engineers, the project was finally rejected, on the ground that it could not be executed without seriously obstructing navigation. The measure was earnestly opposed by Pennsylvania, as an infringement on her rights and deeply injurious to her interests, as is shown by the resolutions adopted at the sessions of the Legislature of 1842 and 1844, instructing her Senators and requesting her members in Congress to use all means in their power to defeat the measure. Failing to obtain the sanction of Congress, (the only lawful authority, if any exists for that purpose,) the persons interested proceeded to act under authority of the States of Virginia and Ohio. In 1816, a charter was granted by the Legislatures of those States, authorizing a bridge to be erected across the Ohio river, at or near Wheeling. This act, besides requiring the bridge to be erected so high above the usual floods as to admit the safe passage of flat boats, and providing a draw for the passage of other vessels, contained this section:

“SECTION 19: That if the said bridge shall be so constructed as to injure the navigation of the said river, the said bridge shall be treated as a public nuisance, and shall be liable to abatement, on the same principles as other public nuisances.”

Notwithstanding this section, a bridge was erected a few years ago, and is still kept up, between Zane's island and the Ohio shore, without a draw, and so as to shut up that channel entirely, preventing the passage of steamboats. But while the eastern channel remained open, no complaint was made by the State of Pennsylvania, nor by the citizens, against this manifest infringement of their common right. At length, in February, 1847, an amendment to the original act was passed authorizing the erection of a wire suspension bridge between Zane's island and the main Virginia shore. This act also provided: “That if said bridge shall be so erected as to obstruct the navigation of the Ohio river in the usual manner, by such steamboats and other craft as are now commonly accustomed to navigate the same, when the river shall be as high as the highest flood therein heretofore known, then, unless upon such obstruction being found to exist such obstruction shall be immediately removed or remedied, the said last mentioned bridge may be treated as a public nuisance, and abated accordingly.”

Disregarding the provisions of their charter, the Wheeling and Belmont bridge company, of which the two banks and city of Wheeling are principal stockholders, having a deep local interest in cutting off navigation above that point, so as to stop commerce at their own port, and divert it from the channels opened by the State of Pennsylvania, have erected their bridge across the channel of the river so as to attain their object.— While the work was in progress, and as soon as it became manifest, from the height at which the bridge was contemplated to be suspended across the channel, that such would be the effect, alarm was taken by persons engaged in navigation, who perceived that it must occasion a serious obstruction at that elevation. The facts being made known at a public meeting in Pittsburg, measures were immediately taken to arrest the work and require it to be carried (as it might be) sufficiently high to present no obstacle. By reason of the deep interest of the State, and in order to bring the question, without delay, before the highest judicial tribunal, proceedings were forthwith commenced, in the name of the State of Pennsylvania, in the supreme court of the United States. Application was made in August last for an injunction, and a motion for that purpose is now pending in the supreme court. On that application, the learned judge before whom it was made held the following points to be fully established:

“1. That the Ohio river is a public navigable river and common highway, from its head to its mouth, and the citizens of Pennsylvania, and of the United States, have a right to navigate the same, and have carried on a valuable trade and commerce on the same, with their steamboats and other vessels.

“2. That the defendants, a private corporation, are constructing a bridge across the same from Wheeling to Zane's island.

“3. That this corporation is forbidden by the law which creates it from erecting their bridge, so as to obstruct the navigation of the Ohio river, in the usual manner, by steamboats and other crafts as are commonly accustomed to navigate the same, when the river shall be as high as the highest floods heretofore known, under penalty of being treated as a common nuisance, and abated accordingly.

“4. That the bridge about to be erected will not suffer a large class of steamboats to pass down the usual channel of the river, in the highest floods heretofore known; moreover, that the daily packets from Pittsburg to Cincinnati, could not pass under it in the usual high floods of the spring, which are from thirty to thirty-five feet, unless at a considerable loss and expense in making hinges and other contrivances to lower their chimneys; that these packets generally pass at night, and would incur not only great trouble, but risk of property and lives, in their passing an inclined plane, thirty feet lower at one end than the other. And it was adjudged that

“THE WHEELING SUSPENSION BRIDGE IS NOT SUCH AS WAS AUTHORIZED BY ITS CHARTER; IT WILL OBSTRUCT NAVIGATION OF THE OHIO RIVER, AND IS A PUBLIC NUISANCE.”
Judge Grier's Opinion.

At the time these proceedings were commenced the towers of the bridge were not completed, and no portion of it suspended across the channel. But notwithstanding

ing the pendency of the suit, and notice that Pennsylvania would resist its erection, because of its injury to her rights and interests, the bridge company proceeded with the work, and have lately completed the obstruction across the channel of the river.

Even before its completion, events manifested that all the apprehended evils must occur, and that this obstruction, if allowed to stand, must prove, beyond calculation, injurious to the citizens of Pennsylvania, and destructive to the rights and revenues of the State. Some of these evils may be briefly stated. The floods of the Ohio, as is well known, have reached forty-five feet above low water mark. Their rise is sudden, may happen in any month of the year, and each year they usually rise thirty-five feet above low water mark. Of the trade and travel arriving at and departing from the Pennsylvania public works, it is estimated that one-third of the freight, and at least one-half of the passengers, are transported in the regular Cincinnati packets. These packets are seven in number, costing from thirty to forty thousand dollars each, carrying from three hundred to three hundred and fifty passengers, arriving and departing at stated hours from the ports of Cincinnati and Pittsburg, receiving and discharging their cargoes, and making their trips of five hundred miles and back, with great regularity, within seven days, but with no time to spare. By their speed and regularity connection is formed with the eastern transporting lines at Pittsburg, so that travelers and merchandize pass along their course without obstruction. These vessels require for their passage from seventy-five to eighty-five feet above the surface of the water; the same space is required by other vessels of the largest class, trading between the ports of St. Louis and New Orleans. The largest and best packets require over eighty feet from the water—of some, the pilot house stands nearly fifty feet above the surface.

The suspension bridge at Wheeling is built on an inclined plane, from the Virginia shore to the island. At its highest point it is only ninety-two feet one inch above low water level, and deflects at that point four feet in every hundred. As the large packets require a space one hundred feet wide, for safe passage, the lowest point in that width is to be reckoned for the elevation. So that eighty-eight feet is the highest space above low water level, allowed for passage under the bridge. But the water is not usually at that level above two weeks in the year, and then the packets cannot run. As the height of the water affords facility for their use, so is the space for their passage under the bridge diminished. Ordinary floods leave but fifty feet space for the passage of boats requiring eighty. At floods, such as have occurred in different months of the year, the pilot house and upper cabin would be swept away. In every month of the business season, upon almost every trip, boats bound to and from Pittsburg, will be liable to detention at the Wheeling bridge. And thus the natural channel of a public river, one thousand feet wide, through which the principal internal commerce of the Union has been accustomed to pass in safety, is, by this bridge, reduced to a narrow strait of ever changing dimensions, always difficult, often dangerous, and many times impassable. To say nothing of the danger to life and property in passing at night, in stormy weather, and on high floods, the regularity of the packets will be interrupted, the boats will be thrown off their regular trips, and the certain communication with eastern lines destroyed, thus leading not only to great loss by the individual owners, but by diverting trade, greatly diminishing the revenues of the State from her public works.

Facts, recent and public, have demonstrated these results. On Saturday night, the 10th of November, the steinboat Messenger, bound with freight and passengers from Pittsburg to Cincinnati, was stopped by the bridge on twenty feet water, detained several hours, and her passage only effected by cutting off, at great risk, six feet of her chimneys. On Sunday, the 11th day of November, the Hibernia, bound with freight and passengers from Cincinnati to Pittsburg, was, on twenty-two feet water, stopped by the bridge. Her commander, unwilling to mutilate his vessel, and unable to pass, was compelled to discharge his freight and passengers at Wheeling, and re-ship them on a smaller boat to Pittsburg. The Hibernia lay at Wheeling thirty-six hours. In order to get to Pittsburg, to take her place in the line on Tuesday, her regular day, her hold was filled with water by scuttling, and she succeeded, with great hazard, in getting through on Monday night; but in passing the bridge, one of her chimneys was

caught by a projecting spike, and wrenched so as to require to be taken down, the boat and her crew being subjected to imminent danger.

The steamer Brilliant, from Cincinnati to Pittsburg, was stopped by the bridge, on Tuesday, the 18th day of December, and after five hours detention, succeeded in getting through by cutting off several feet of her chimneys.

The Hibernia, bound from Pittsburg to Cincinnati, was stopped the same day, and her owners being unwilling to cut off her chimneys, her freight and passengers were re-shipped at Wheeling for Cincinnati, on a smaller boat, and the Hibernia compelled to return to Pittsburg and lay up in her port.

These boats, built and owned at Pittsburg, were regular packets between that port and Cincinnati, unsurpassed for speed, comfort and safety.

Since these events occurred on the fall floods, not exceeding twenty-six feet and a half of water, even worse results are to be anticipated in the spring season. On the 15th of January last, the water at Wheeling was at a thirty-two feet and a half stage. This would have stopped all the packets at the bridge, if they had been running at the time. When it is remembered that these boats are the carriers of the commerce and travel passing to and from the Pennsylvania improvements, and that upon their regularity, speed and safety, the State must greatly depend, in her competition with other channels, for the revenue to discharge her public debt, and that these occurrences are liable to happen at any time, and must certainly take place in business seasons of the fall and spring, it is plain that the obstructions presented by the Wheeling bridge must be most destructive to the interests of Pennsylvania.

But it is not to steamboat navigation alone that this bridge presents a fatal obstruction. At many seasons of the year the floods of the Ohio afford a safe passage for ships to the Mississippi, and thence to the southern seaboard. Western Pennsylvania abounds in timber, iron, and other materials for naval architecture, and Pittsburg has been found a convenient port for ship building. Before the introduction of steamboats several ships were built, equipped and cleared at Pittsburg, for Atlantic and foreign ports. At a later period, steamships and other sea going vessels have been there constructed for the General Government and for individuals. Two ships for Atlantic trade are now on the stocks, and it is susceptible of demonstration, that sea vessels may be as well constructed at Pittsburg and other ports on the Ohio, at a cost of twenty per cent. less than at any Atlantic port. But while this business may flourish elsewhere on the Ohio river, the Wheeling bridge, by preventing the passage of such vessels, will operate to exclude from the ports of Pennsylvania a branch of business generally regarded as among the most honorable to a State, and advantageous to its citizens.

These results were foreseen by the bridge company long before any alarm was excited in this State—an unsuccessful application was made by them last winter to the Virginia Legislature, to sanction the departure from their charter, as to the height of their bridge, and a renewed application is now pending at the present session of that body. It is admitted by them that large boats cannot pass without a change in their construction, but they contend that the construction of steamboats ought to be accommodated to the elevation of the bridge. Such a claim is, on many accounts, wholly inadmissible. The packet line was established and in operation years before the bridge was built. Competent engineers have demonstrated, and indeed it is not denied, that the bridge might have been built so as to allow the packets to pass. The obligation was therefore upon the bridge company, independent of their charter, to regard existing rights. Besides the express injunction of their charter, not to violate these rights, the free navigation of the Ohio river was a public and common right of the packet owners, involving space in the air as well as space in the water, both being essential to its use. Both elements are equally free to the navigator, whether required for the hull of his vessel or its chimneys. The same power that may diminish the elevation of the vessel in the air, may limit its draught in the water. The same power may regulate depth of hull that can prescribe the height of chimneys, and the construction of vessels below the water line may as well be made to accommodate the purpose of crossing as their proportions above that line. The claim therefore subjects the entire rights of

navigators of a public river, for a thousand miles, to the convenience and caprice of those who wish to cross from one bank to the other.

Free navigation implies the free and unrestricted use of either element, so far as required for the passage of every water craft. To compel the navigator to change, or accommodate its construction to any arbitrary rule, or artificial purpose, is to destroy the freedom of navigation, and if it be allowed at one place to change or limit the construction of boats, above the water surface, it may, with equal propriety, be claimed elsewhere. If the space for head-way may be limited to fifty feet, for the convenience of a bridge at Wheeling, why not to thirty feet at Cincinnati? If the height of chimneys may be limited, why not the length of hull, breadth of beam, number of boilers, or power of engine? If a suspension bridge at Wheeling may compel boats to lower their chimneys, a pier bridge at Stubenville or Cincinnati, may find it convenient to limit the width of boats—to take off their side wheels, and substitute stern propellers. Without pursuing the illustration further, it is apparent that such a claim is wholly inconsistent with the rights of navigation.

It is said that high chimneys are unnecessary. To this the answer is, that experience on the Ohio river, in opposition to numberless theories, has led to their use as the best means of procuring draught for purposes of speed and power. And what could be more unwise, than for purposes of local advantage, to throw out of use a power that has proved safe and useful, to enter into an unlimited field of experiments, involving safety to life and property? It is said, that the chimneys of a large number of boats on the Ohio, are made so as to be lowered with hinges. But this has arisen from the necessity of passing the canal bridge at Louisville. And two important facts are demonstrated by this very circumstance:

1st. The general advantage of high chimneys.

2d. The impolicy of allowing any regulation that may interfere with the improvement of steam navigation.

When the canal at Louisville was constructed, the locks were supposed to be large enough to pass the largest steamboat that would ever navigate the Ohio, and the bridge to be high enough for the tallest chimneys to pass under. But in a few years boats lengthened from one hundred and fifty feet to three hundred feet, and chimneys elevated forty feet to eighty and ninety feet. Although these are demonstrated to be great improvements, commerce is crippled by the necessity of accommodating its vessels trading above and below the falls, to the dimensions of the Louisville lock and bridge, and navigators are subject to the hazard and expense of lowering their chimneys every time they pass through the canal. This necessity may be reluctantly submitted to in order to get round the natural obstructions of the falls, by passing through private property, but what can justify such an artificial obstruction on a public river?

The enterprize manifested in the erection of this bridge, and the expense of its construction, are urged as an argument in its favor, the force of which may be understood by a relative estimate of the respective cost and utility of the packets and bridge. The estimated cost of the bridge is two hundred and ten thousand dollars, including the western bridge and two ferry rights. Being a permanent structure, a small annual sum will keep up repairs, and at a trifling expense two toll-gatherers will collect its revenues. The seven packets cost two hundred and twenty-five thousand dollars, being an average of thirty-five thousand dollars each—they have to be replaced every five years—they give employment to more than five hundred persons, and their weekly aggregate expenditure exceeds seven thousand dollars. What is the enterprize of this bridge corporation, compared with that exhibited by the individual owners of these packets? As to utility, the bridge affords a convenient crossing over the space of one thousand feet, that in general might be passed with equal speed and more ease by a ferry. The packets transport passengers and freight the distance of five hundred miles, with more speed, cheapness, comfort and safety than by any other means the art of man has devised. The expense of the bridge, moreover, was incurred with full knowledge of the rights violated, in open disregard of its charter.

The importance of this bridge, in view of the Baltimore and Ohio railroad connecting at that point with some western railroad, is pressed with more earnestness. But the

bridge engineer, in his report, admits that, as now constructed, it is insufficient for the purposes of such roads, and will require further adaptation for their use. What further obstruction may be thus occasioned is not disclosed. The great business of transportation is transacted by carriers on land, and carriers by water. The rivalry between these modes is of infinite use to society. While land carriage on railroads is, of necessity, a monopoly, carriage by water on a public river is free to all. This freedom secures competition, and thence cheapness. The car excels in speed, the boat has the advantage in cheapness. While competition is open and fair they check each other; give to either an unnatural advantage, and the public must suffer. To commerce, as it rushes eastward from the south and west, Pennsylvania offers herself at the head of the Ohio river as a carrier by water, Baltimore bids lower down as a carrier by land. Any difference in speed is compensated by price. But block up the passage to Pittsburg, or impose upon commerce seeking the Pennsylvania channel the burthen of danger and delay at the Wheeling bridge, or the hazard and expense of transshipment, and an advantage is given to her rival with which Pennsylvania cannot compete.

It is manifest, that the question now presented, is one of the most grave in character, and momentous in consequence to Pennsylvania, that can well arise. It acquires additional importance from the consideration that, stimulated by the example of Wheeling, other companies having in view private speculation or local advantages, are organized, or in contemplation elsewhere, for bridging the Ohio. At Cincinnati the stock for a bridge is already taken, and similar projects are announced at other towns along the river. As the power exercised at Wheeling will be claimed by others having like objects, it will be regulated by the same measure. The mere will and speculative purposes of bridge companies, must not be permitted to ruin a public highway, hitherto regarded as of more value to commerce, than any other in the world, and to reach which, Pennsylvania has expended so many millions of dollars. With her ports at the head of that vast system of natural channels, afforded by the western rivers, extending from the Gulf and Rocky mountains, to the foot of the Alleghenies—with an established trade and large steam shipping, penetrating into the vast region of the south and west, and depending upon the trade and commerce that may be thence brought to her public works, for the payment of the debt incurred in their construction—Pennsylvania cannot too vigilantly guard against any obstruction to these channels of commerce. While they remain free, she need not fear competition.

It has been urged, that Pennsylvania having authorized bridges across the Allegheny and Monongahela rivers, she cannot, with propriety, object to the example being followed by others. In 1810, when the Allegheny and Monongahela bridges were chartered, no steamboat had been launched upon the western waters. There was no established trade to be incommoded by them; no navigation was interfered with, the evils of such policy could not then be foreseen. And moreover, the Monongahela has been improved, and made navigable by the expenditure of her money. None but her own citizens are injured by erections across the Allegheny, and the general advantages which her public works afford to commerce, are more than an equivalent for any inconvenience they may occasion. There is then no reason why Pennsylvania may not insist upon that freedom of commerce and navigation, guaranteed by the Constitution, and the security whereof was one of the main objects of the federal union.

To vindicate these rights, and remove the obstructions by which they have been violated, proceedings in the name of the State are now pending in the supreme court of the United States. Upon free and unrestricted commerce, much of the wealth and dignity of a State depends, and it has always been regarded as one of the most sacred duties of a State to protect its citizens in the lawful prosecution of their trade and business. Whatever regulates the vessel, regulates the commerce of which it is the vehicle. The violation of vessels engaged in commerce, impediments in their course, labor or expense to their navigators, have always been regarded as claiming the cognizance of a sovereign State, and demanding redress by its intervention.

When added to this, the incalculable injury to the revenue of her public works is taken into consideration, it is evident that the wrong now in question, is one for which it behooves the State to seek prompt redress. It is believed that the Constitution of

the United States affords a peaceful and adequate remedy, by appeal to the supreme court; and that this tribunal will not fail to take cognizance of a case, for the relief of which its jurisdiction was established. It is consistent with the feelings and character of this Commonwealth, and her abiding confidence in the provisions of the Constitution for every exigency, to await the judgment of that court; and at this crisis it is not essential to do more than manifest due vigilance over her rights, and a firm and peaceful resolution to maintain them. Without entering, therefore, into any legal discussion, your committee consider that the proceeding now instituted and pending, will prove adequate for the abatement of the nuisance created by the Wheeling bridge, and to vindicate the rights violated by its erection.

The committee would recommend the adoption of the following joint resolutions :

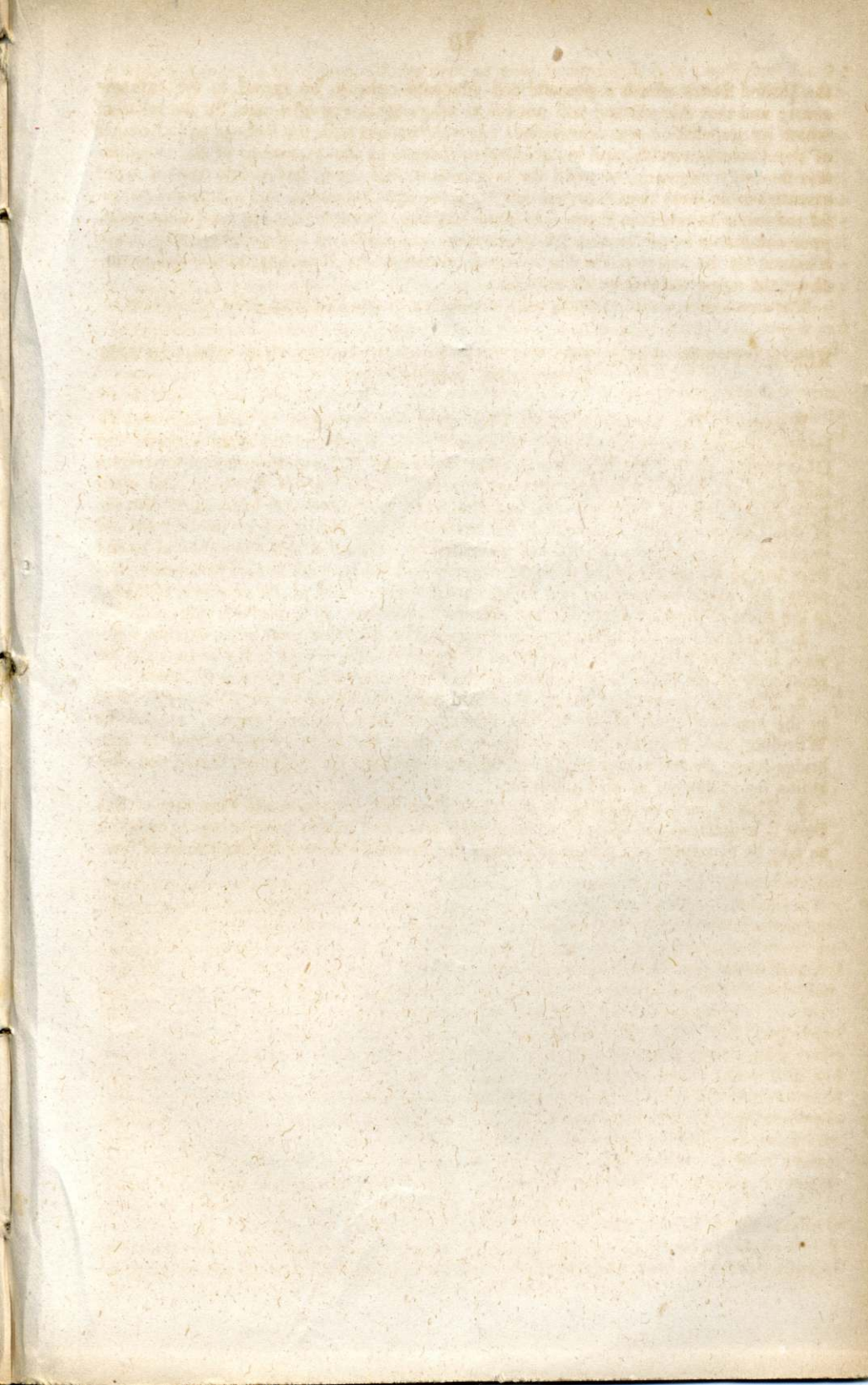
RESOLUTIONS RELATING TO THE BRIDGE OVER THE OHIO RIVER OPPOSITE WHEELING.

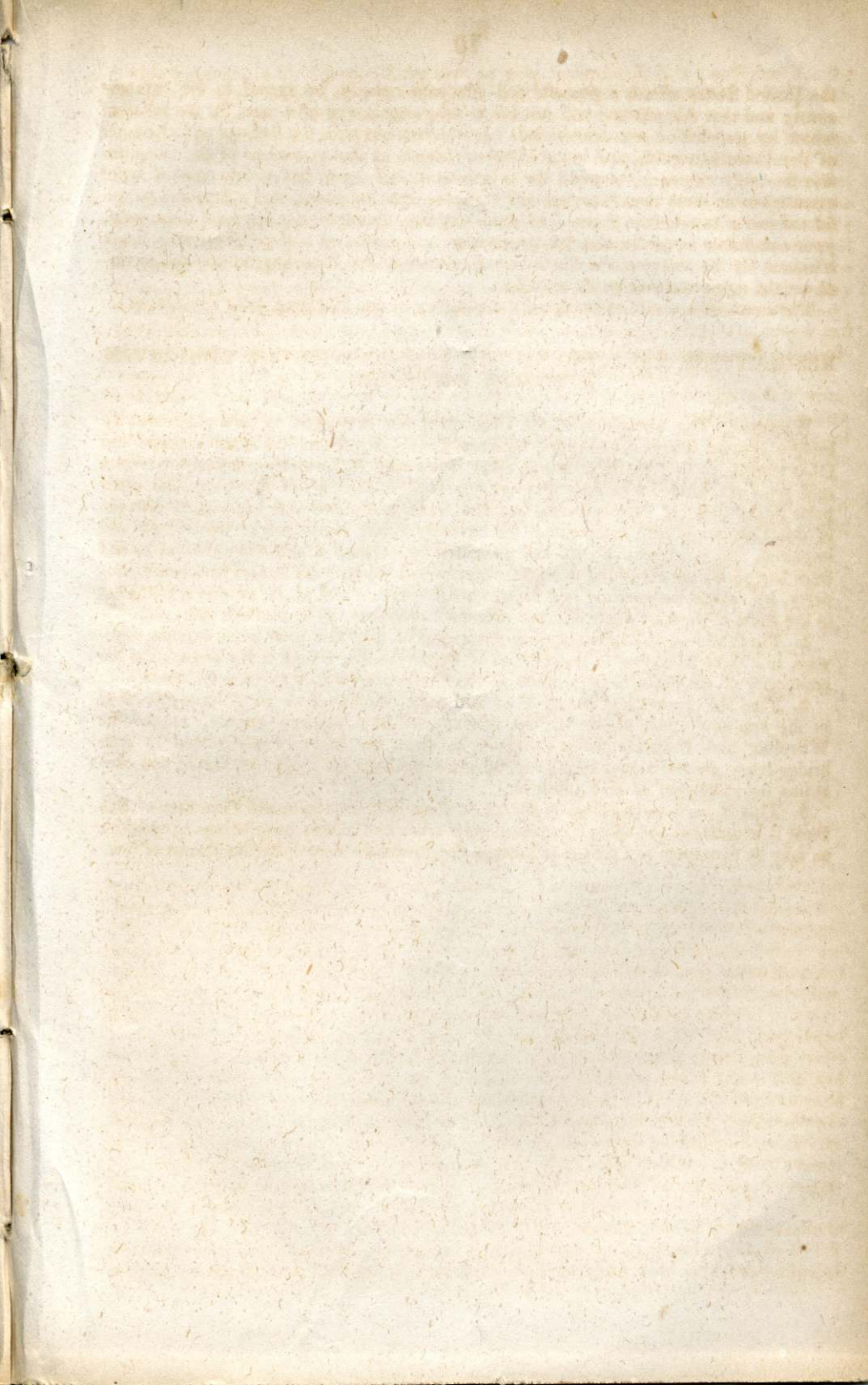
WHEREAS, The navigation of the Ohio river has been, and is now obstructed by bridges erected across its channel, between Zane's island and the main Virginia and Ohio shores, so that steamboats and other water craft hitherto accustomed to navigate said river are hindered in their passage to and from the port of Pittsburg, and other ports in the State of Pennsylvania, and the trade, commerce and business of citizens of this Commonwealth interrupted, the revenue of her public works diminished and impaired, and steamboats owned and navigated by citizens of this State, bound to and from her ports, are subjected to labor, expense and delay, with hazard to life and property, by reason whereof the said bridges are a common and public nuisance, injurious to the State of Pennsylvania and her citizens; therefore, be it resolved, &c.,

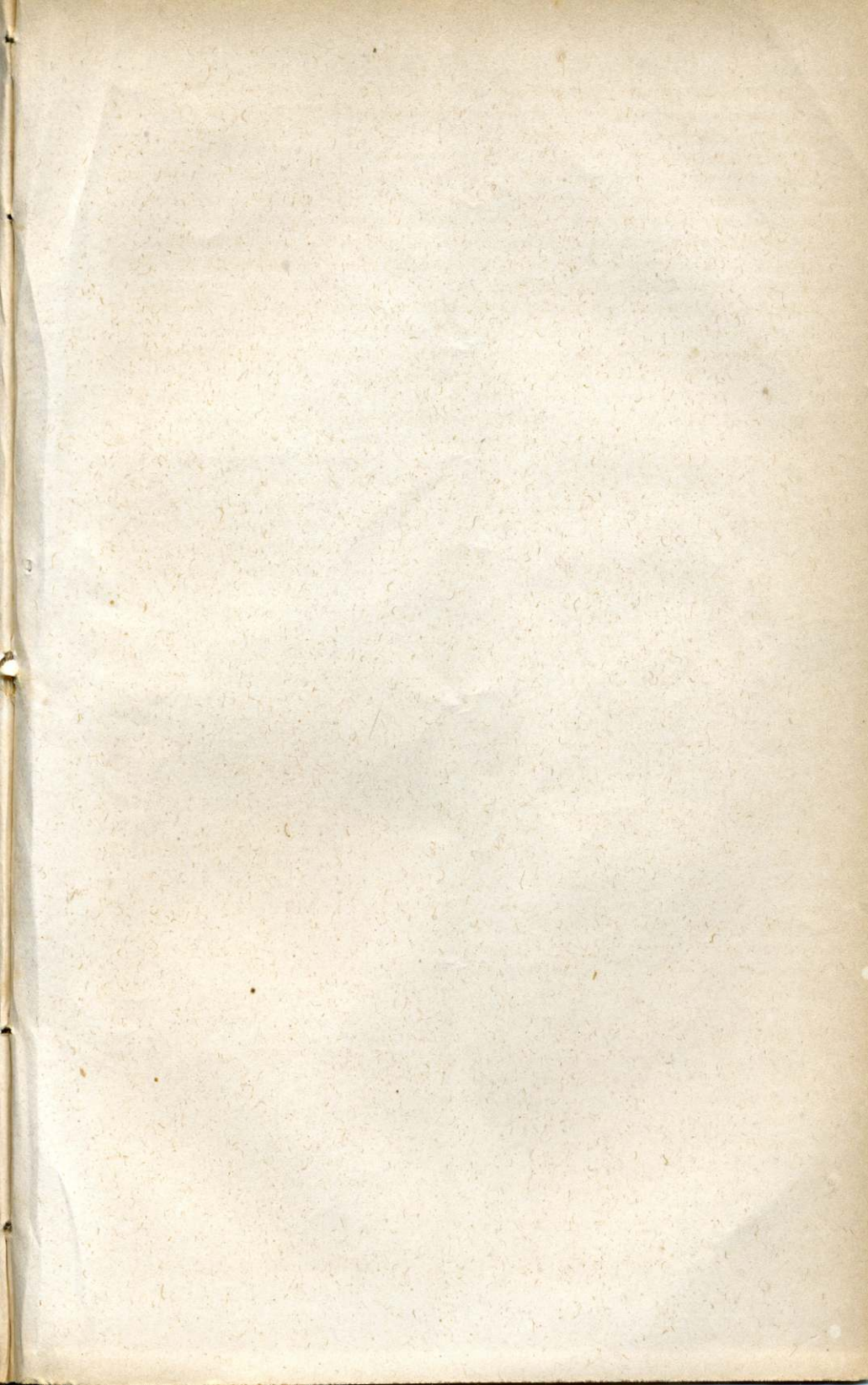
1. That the free and uninterrupted navigation of the Ohio river as a common highway, is a right belonging to the citizens of Pennsylvania, which being essential to the prosperity of the State, it is the duty of the Commonwealth to assert and defend.

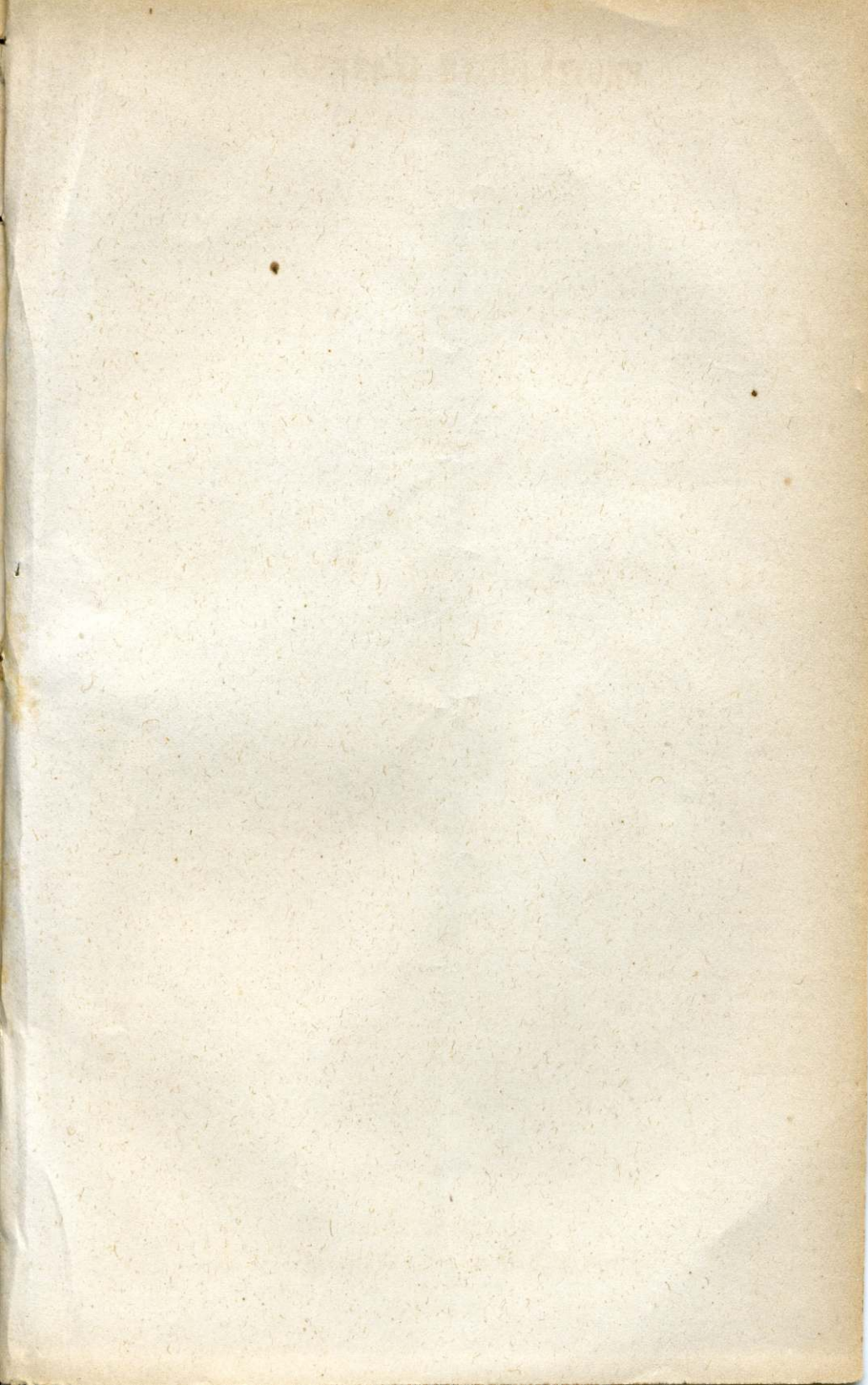
2. That the proceedings in behalf of said State, instituted by her Attorney General in the supreme court of the United States, and now pending therein, against the Wheeling and Belmont bridge company, to abate the nuisance occasioned by their bridge lately erected across said river, be prosecuted to final judgment, decree and execution for abatement of said nuisance.

3. That if such proceedings shall fail to abate said nuisance, the Governor of this State is authorized and directed to cause such other and further proceedings to be taken as may be necessary and proper to procure the abatement thereof by due course of law.









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