

Whether or not the one company erred in making the offer, or the other in declining to accede to it, is not so material to inquire. It is obvious that the attitude of the parties, and the character of the question, is now essentially changed. Rights which were then litigated, have been judically settled; the delay which it was so expedient to avoid, has been suffered; the expense of the controversy has been encountered, and many of the evils which were anticipated have been endured. The proposal is not now, to relinquish doubtful claims, but to surrender legal rights; not to avoid delay, but voluntarily to encounter it; not to adjust controversies already pending, but to sow the seeds for an abundant harvest of future litigation. If these views be correct, and the committee will briefly submit their reasons for so believing, it can scarcely admit of a doubt, that the President and Directors acted wisely and faithfully in declining the overture made in January last.

The right of the Canal Company to the selection of a site for their operations, has now been judically and finally settled. That this right has not been exercised wantonly, or in any disposition to injure or retard the rival enterprise, must be apparent from the fact, that the location which has been adopted rarely, and to a small extent only, varies from the position which had been originally selected, before any apprehensions existed of a collision with any competitor. Wherever these variations have occurred, they have been demanded by a due regard to the interests of the Canal Company; they were made without the slightest reference to an interference with any other party; and they do not exceed, in amount, those deviations from every original plan of construction when it is required to be reduced to practical operation.

The contracts for the sections at the lower Point of Rocks were made under authority of an order of the Board, of the 14th January, some days anterior to the date of the resolution of the Rail Road Company; and definitive arrangements were at the same time made to place the entire line to the falls above Harper's Ferry under contract.

The original location of the canal, in some few instances, carried its outward embankment further into the bed of the river than ever was deemed advisable. The object of this location was to avoid the expense and labor of excavating the precipitous rocks which impinged upon the river. The selection was to be made between two difficulties, and the determination of the question involved considerations of present expense and future security. In some few instances, a more precise examination of the ground, with a view to the actual construction of the work, has induced the few alterations to which reference has been made. The experience of the company, as well as the skill of its engineers, combine to confirm the propriety of these changes.

But the proposition now under consideration, to permit the conjoint construction of the two works agreeably to the plans and surveys made by Messrs. Knight and Roberts, in 1830, would necessarily involve, not only a departure from the route now recommended on every principle of expediency, but increase the evils, and augment the dangers sought to be avoided, to an enormous extent. The reports of those engineers clearly showed that this conjoint location was feasible; but no opinion was required of them, in their capacity as commissioners, as to the expediency of such a measure; nor were they called upon to detail the advantages, or disadvantages, which would result from the operation.

In the course of the legal controversy recently terminated, it was judged expedient by the counsel of the Canal Company to examine witnesses upon this subject, and the opinions of Judge Roberts, one of the commissioners, of Colonel Abert, not at that period in any manner connected with either company, but who had personally, in the service of the Government, examined and surveyed the whole ground, from Cumberland to the points under consideration, and of Mr. Cruger, who had for some time been in the employ of the Company as Engineer, were taken upon oath, as witnesses. Their testimony concurred in representing this conjoint location to be upon scientific principles, wholly disconnected with any views of policy, hazardous in the extreme to the Canal.