

## CHAP. 287.

Proviso.

Commissioners to estimate cost of graduation &amp;c.

Canal 50 ft. width.

In case &amp;c.

Report plan of reducing canal.

Or if Canal Company &amp;c. choose to preserve the fifty feet wide.

Payment (when and how made

To be in full satisfaction.

Further proviso.

Radius and deviations

Rail Road may meantime be commenced between the narrow passes.

not extend to a necessary impracticability to construct the rail road of the breadth of twenty feet, and a greater breadth has already been given to the canal than fifty feet, at the water surface, the breadth of the latter shall not be reduced; *Provided*, that if, in the opinion of the board of commissioners, to be appointed as hereinafter provided, and who are required to report upon the subject as soon as practicable after their appointment, the graduation of the said road at the passes aforesaid, would exceed the sum of one hundred thousand dollars, the canal retaining a width of fifty feet, then the said commissioners shall determine what reduction in the width of the said canal, not reducing it, in any event, to less than forty feet in width, may be necessary to make the cost of graduating the said road in the said passes equal to the sum aforesaid—and shall report a plan of such reduction in width to the two companies respectively, and such plan shall be followed in the reduction of the width of the canal, and in the construction of the said rail road by the said Rail Road Company—or should the Canal Company desire to retain the width of fifty feet for the said canal, notwithstanding any report of the said commissioners, they shall be permitted to do so; *provided*, that they shall graduate the said road, at the passes aforesaid, agreeably to a plan to be approved by the said board of commissioners within six months after such plan shall have been furnished and approved by the said board; and the said Rail Road Company shall pay to the said Canal Company, for such graduation, as the work proceeds, such sums, and at such times, as the board of commissioners may direct and appoint, in proportion to the sum of one hundred thousand dollars, which sum of one hundred thousand dollars, when paid by the said Rail Road Company, shall be in full satisfaction for such graduation—the said graduation to be approved and accepted by the said board of commissioners; and further, it is hereby *provided*, that the said road shall be considered as constructed according to the terms of this provision, if no curve be required therein of a less radius than four hundred feet, and if no deviation from a horizontal line be required, to adapt the road to these passes exceeding thirty feet per mile.

III. The Rail Road may be commenced on the line before described, at all places between the narrow passes aforesaid, where it can be done without interfering with the ground occupied by the present contractors, and with their consent, at all places whatever, so soon as this act shall have been