

CHAP. 291.

accepted by both companies in its construction, at and through the narrow passes aforesaid, after the canal shall have been opened; three feet water shall be allowed to be and remain at all times in the canal, except when it may be necessary to lay and carry up to that height, the foundation walls, along the lower side of the Rail Road, and if the canal company, shall, prior to the opening of the navigation make such foundation and carry up to that height, the dry walls aforesaid, required to sustain the road next the canal, it shall have power to do so, and shall receive for such work the price which the canal company may have paid for the same according to the usual cost of such work; and during the construction of the said Rail Road, the Rail Road company shall make every reasonable and proper effort to guard against injury to the canal, or any of its works, and shall cause to be removed as speedily as practicable, any stone, earth, or other material which their contractors or agents may throw or occasion to fall therein, in constructing the Rail Road, to the impediment or obstruction of the navigation of the canal after the same shall have been opened, and shall keep open and free from obstruction a space wide enough for the passage of a canal boat, next the tow path of the canal, if practicable.

Three feet water to be in canal. Except.

Canal Company may construct dry wall.

Amount be allowed.

Guard against injury of canal.

Keep free from obstruction. Boat to pass.

Rail Road

Distinct as possible from Canal.

Fence between a narrow passes.

IV. In the location of the Rail Road, at all places or portions of the above line, it shall be removed, as far as practicable, from the line of the Canal without increasing the curvature of the road beyond the radius of four hundred feet, and the inclination above thirty feet per mile; so as to prevent in all cases the locomotive engines from frightening the horses, or mules tracking the Canal boats; and when so near an approach is made to the Canal by the road, as to endanger such conveyances, and especially in the narrow passes aforesaid, the Rail Road company shall, prior to the introduction of any locomotive engines, on such part of the said road, cause to be erected within or upon the margin of their road next the canal, or within the canal adjoining the partition wall, a close fence of boards, of sufficient elevation to prevent such locomotive engines from alarming the horses or mules tracking the canal boats; the said fence shall be kept up in good repair at all times thereafter, by the said Rail Road Company, so long as locomotive engines may be employed on the said road; and for any damage or injury which may result or happen to any person, by reason of a neglect to keep up such fence in all places where the same may be necessary,