

CHAP. 291. the Rail Road Company shall be responsible to the full extent of the damage or injury to the person or owner of the property sustaining the same; *Provided*, that while ample security be afforded the horses or mules tracking the canal boats, the fence shall, in all other respects, be so constructed as to save the Rail Road Company any injury therefrom.

Passages to be constructed across R. Road, &c.

V. And in the location and construction of the said road, the Rail-road company shall construct, whenever it may be required by the Canal company, passways across the Rail Road to the berm side of the Canal, and shall especially locate and construct their road, so as not to impede or impair the convenient use by the proprietors of the adjacent lands, the Canal company, and the public of the several viaducts already constructed, under the Canal, or the intended passways and roads across it by ferries or pivot bridges.

Access secured to materials to repair canal.

VI. AND WHEREAS, in all cases where the Rail Road unavoidably approaches very near to the Canal, it may obstruct the free access to the opposite side thereof, for stone to wall hereafter the inner slopes of the Canal, and for materials of stone, earth or wood to repair the same in case of breaches in its banks, it is especially provided, that in the former case the Canal company shall have access for these purposes to the quarries on the upper side of the road, after the road shall have been completed; *Provided*, that in working the same, they do not obstruct the use of the Rail Road: and in case of breaches in the Canal, within or opposite to such narrow passes, the said Rail Road company shall permit the removal of any fence along side of the Rail Road, to enable the Canal company to reach the necessary materials for such repairs, and shall allow also the use of so much of their road as shall be necessary for the transportation of stone, earth or timber for the repair of such breaches, free of cost to the Canal company, till the same shall have been repaired, when the Canal company shall replace at their own proper cost such removed fences in the condition in which they found them prior to such repairs of the Canal; and in making such repairs, use only the track, if there be two tracks, next the Canal, and in such manner as not to interrupt or prevent the use of the other track, at the same time, by the Rail-road company; and with this restriction, the Canal company may, in such cases, if they prefer so doing, erect a temporary cover over the upper track of the Rail Road, for the purpose of obtaining without impairing or obstructing the use of that track, convenient materials of stone, earth or timber from

Proviso.

Use of Rail Road to repair.