

they were reported, were proposed as the basis of an adjustment or compromise between the two companies, for the joint construction of the two works, between those points. In desiring, at that time, such a joint construction, the Canal company, were actuated by very powerful reasons. The legal contest for the prior right of way, above the Point of Rocks, was then in the Court of Chancery, undecided.—The works of the Canal were in a State of great forwardness, as far as that point, and the Feeder, with which the whole of the Canal between Seneca and Harper's Ferry, was to be supplied with water, could not be attained as long as the legal obstructions existed. With a view to push forward the work to the Feeder at Harper's Ferry whilst the suit between the Companies was still pending, without any expectation of a decision for a considerable time in advance, the Canal company were willing and desirous to compromise with the Rail Road company, for a joint construction of the two works to Harper's Ferry, in which rout, the joint location of Messrs. Knight and Roberts, already mentioned, was to have been adopted. This expected and desired adjustment having failed, the location thus made could not be viewed as in any manner binding upon the Canal company, afterwards; and, therefore, after the decision of the Court of Appeals, awarding them the prior right of way along the north shore of the Potomac, they proceeded to make an independent location for an independent work, and adopted the present location, to which they had an undoubted and settled right, with a view to the security, convenience and economy of their work. To these considerations, and these alone, it is the firm belief of the undersigned, the Canal company looked, in making and fixing the present location of their work between the Points mentioned. They are confirmed in this opinion, from what they personally observed during the visit of the committee to the ground in question, and by the confidence which they entertain, that nothing in the evidence of Engineers taken on that occasion, can lead to a different impression.

Further:—The Canal company, it would seem, had every reason to believe, that, at the time the decision of the Court of Appeals was made, on January 5th, 1832, that the Rail Road company would not seek a position for their work, along the side of the Canal. The ground of this belief is found in a report of the Baltimore and Ohio Rail Road company, themselves, to the Legislature of Maryland, dated January 31, 1831, which, in adverting to the unsuccessful