

right, which, as they conceive, must still remain to be decided, let the surveys result as they may, but being desirous to facilitate as far as they can, the removal of every impediment which the chancellor conceives to stand in the way of his decision, for this reason alone, they have, since the chancellor's first order of the [18th January,] 1829, whereby these surveys were resolved on, united in all the measures necessary to hasten the fair execution of the order, in reference to what they understand to be the chancellor's object in making it, this company not waiving hereby any of the rights which they have asserted in their answer to the bill of the Baltimore and Ohio Rail Road Company, but now, and at all times wholly insisting on them, and each and all of them; and with entire deference to the chancellor of Maryland, protesting against the necessity and propriety of the present order in reference to what they conceive to be their right in the controversy out of which this order has grown, have barely to remark, that they understand the object of the chancellor's order to be the ascertainment of the practicability of conducting both the canal and the rail road along the left bank of the Potomac river, without inconvenience to either of the works: with this understanding of the Chancellor's order, they cannot perceive the necessity or use of surveys or drawings at those places, where it is obvious from ocular observation, that there is abundant room for both works to proceed without crowding each other; such an operation at such places can serve no other end but to produce unnecessary delay and expense. The Chesapeake and Ohio canal company have no instruction or requisition to offer, but such as they conceive will meet the views of the chancellor:—that is to say, to furnish surveys, drawings, &c. as required by the chancellor at those passes only where both works cannot proceed without inconvenience to one or both: such inconvenience this company think, would arise to them, when the pass is so narrow as to push the canal, in whole, or in part, into the bed of the river, or to drive them to the necessity of narrowing the canal within its contemplated width of sixty feet, or compelling them to cross the river on an aqueduct, to avoid the pressure of the rail road. Surveys, drawings, the testimony of witnesses, and an estimate of the increase of expense at such passes as these, so far as it is proposed to carry the rail road along the bank of the river, comprise all the instructions which this company has to make on the subject, and having made these, this company leave the subject of further instructions to the rail road company, on whose suggestion this