

make good all injury done to the party, over or under whose works, these branches may be conducted.

Fifthly.—It is agreed between the said parties, that any contractor who may be employed upon a joint contract for the two Companies, shall be dismissed, upon the requisition of the President of either Company, made by authority, and in pursuance of a resolution of his Board, and that a provision to this effect, be entered into all such contracts.

Sixthly.—And whereas the entire location of the Chesapeake and Ohio Canal, is deemed by the said Canal Company to have been definitively made and established along the whole line between the lower Point of Rocks and the bridge across the Potomac at Harpers' Ferry aforesaid, whilst the definitive location of the precise track of the Baltimore and Ohio Rail Road along the adopted route has been completed only from the lower Point of Rocks, to the big or lower Catoctin Creek, both inclusive, and from Miller's Narrows to the said bridge across the Potomac at Harper's Ferry aforesaid, both inclusive, leaving a space intermediate to the big or lower Catoctin Creek and Miller's Narrows of about seven miles of the adopted route, on which the location of the Rail Road has not yet been definitively made. It is therefore agreed between the said canal and Rail road companies, that such parts of their respective works as shall not be constructed *conjointly* as aforesaid, in pursuance of this agreement, may be separately constructed by each respective company, at any time, and in any manner whatever, without let or hindrance from the other, as the same has been located by the said commissioners, or by either of them, and that the said Rail road company may, at any time, complete the location of their Rail road throughout the part which the said commissioners mention and describe in their said report, along which the canal has already been so deemed to be definitively located, but along which part of its route, the said Rail road has not been definitively located; to wit, between Catoctin Creek and Miller's Narrows, aforesaid, a distance of about seven miles, more or less, provided, that the Rail road shall not be definitively located or constructed so near to the location of the canal, as the same is now considered by the said canal company to be fixed, as to prevent the construction of a birm to the said canal of at least eight feet wide the whole distance, except between the two Catoctin creeks, along which space, the birm to the canal may be reduced to a breadth not less than three feet in any place,—and further, that the Rail road company may construct the Rail road accordingly, on such location, so by them to be made as aforesaid, without the interference, hindrance or molestation of the said ca-