

consequent upon stopping the business of the road, it is hardly possible to state it, and because it would in some degree depend upon the measures which it might become the duty of the Rail Road company to take for its protection, should such a work be seriously contemplated.

Such of these as obviously suggest themselves, are,

1. That of looking to the company constructing the slack water improvement, upon the occurrence of actual injury, for the cost of repairing damages done to the road and for those sustained in the consequent interruption in the trade and travel upon it.

2. That of reconstructing 23 miles of the road, so as to raise the levels above the reach of the increased high water occasioned by the dams.

3. That of seeking the interposition of the tribunals of the State of Virginia, to prevent the construction of works which would so certainly occasion injury to those parts of the Rail Road the levels of which had been adjusted with the knowledge and permission of the canal company by its Chief Engineer.

The proceeding under the 1st and 2nd heads pre-supposes the actual infliction of all the injury arising from a suspension of the trade and travel upon the Rail Road; the extent of which, however, both in its positive and consequential loss, it is now impossible and would at any time, even after the occurrence of the disaster, be extremely difficult to ascertain or estimate.

Without both the disposition and ability of the company from whose acts the damage may have been sustained, promptly to afford the requisite indemnity in either of the cases supposed, the injury would only be aggravated by either proceeding; and the State being a large partner in both works, the positive loss to her could in either case, by any possibility, be avoided.

It might become unavoidable therefore, as the alternative of effectually escaping the mischief here supposed to the State and to the Rail Road company, to seek the interposition of the Virginia courts, to prevent the infliction of the injury.

Though this should prove effectual for the purpose, it might nevertheless lead to expensive litigation, in which the State would necessarily be a party and involved in the loss and expense on both sides; and it would certainly prove destructive of the great object (presuming that to be despatch) of the improvement referred to in the order to which this letter is in reply.

I have the honor to be Sir,

Very respectfully,

Your ob't servant,

LOUIS M'LANE,
President.