

CHAP. 395.

Case of vacancy

Their duties

In case of deciding
to construct both
works by the same
contractorShall determine
proportion paya-
ble by eachIn relation to
bridges

Relating to fences

differences that may arise between the said companies in carrying into operation the plan here contemplated, for the construction of said canal and rail road, and their respective appurtenances, and the decision of said commissioners upon all points submitted to them shall be final between the said companies; and in the case of the death, resignation, disqualification or refusal to act of any one or more of such commissioners, the vacancy so occurring shall be filled by the authority by whom the appointment was originally made, and it shall be the duty of said commissioners, as soon after their appointment and qualification as practicable, to ascertain all the passes of said river where the canal and rail road must, from the nature of the ground, be brought into contact, and the length of such contact at such passes respectively, and forthwith to determine upon the plan and mode of the joint construction of said works at said passes, of which plan and mode they shall give notice to the said companies respectively, and if the said commissioners shall determine that it would be best to have said two works constructed at such passes or any of them, exclusive of the laying of the rails on said rail road by the same contractor or contractors and under the same contract, the said commissioners shall have the power, and are hereby required to determine the proportions of the contract price or prices to be paid by the said companies respectively, under such contract or contracts, and their decision, after notice thereof given to said companies, shall bind them respectively, and whenever it shall become necessary in the construction of said rail road, to erect permanent bridges across the said canal, and the said companies cannot agree upon the height and mode of construction thereof, the said commissioners are hereby authorised and required to determine the same, and their decision shall be binding on said companies respectively.

SEC. 4. *And be it enacted*, That the Baltimore and Ohio Rail Road Company, be and hereby is discharged from all obligations to erect and keep in repair at any place or places, within or upon the margin of the said rail road next to the canal aforesaid, a fence of boards