

and in the event of the said president and directors being unable to agree with the owners of lands through which the said improvement is intended to pass, for the right of way and the site of their said work, the said president and directors are hereby authorised and empowered to condemn all such lands as may be necessary for the construction of the said locks, dams, abutments, canals, lock houses, rail road, embankments or other works or appurtenances whatsoever, as is given to the Baltimore and Ohio rail road company by its charter or by any supplement thereto, and to the Chesapeake and Ohio canal company by its charter or by any supplement thereto; *Provided*, that no private property shall be taken or condemned for the use of said company, without just compensation as agreed upon between the parties or awarded by a jury, is first paid or tendered to the party entitled to such compensation; *Provided further*, that in determining the amount of compensation which ought to be made by said company to the party or parties, through or upon whose lands such rail road or canal shall be located and made, the jury shall make no allowance or deduction on account of any real or supposed benefit which the parties in interest may derive from the construction of said rail road or canal; *And provided, further*, that all costs and expenses which may accrue in consequence of the condemnation of any lands or materials for the use of said rail road or canal, shall be paid by said company.

Provisoos.

To provide
cars, &c.

SEC. 6. *And be it enacted*, That the rail road which it shall locate and construct by this act, shall provide all necessary means, cars and vehicles, and shall furnish and provide the motive power, and be subject to all expenses chargeable to transportation, and shall transport all coal, minerals, metals, lumber, stock or other articles or property whatsoever, that may be offered for transportation, and full right and privilege is hereby reserved to the citizens of this State, or any other company or companies now existing or hereafter to be incorporated under the authority of this State, to connect any other rail road or rail roads, with the rail road if any to be constructed by virtue of this act, in such manner however that no injury shall be done to the same, and the said company shall be authorised to charge any such citizen or company when using their own cars at a rate not exceeding two cents per ton per mile, on all coal or other commodities that may be transported on the rail road hereby authorised if constructed; *Provided, however*, that the cars or trains of other citizens or companies when used upon the rail road hereby authorised,

Proviso.