

Proviso.

railway upon the bed of the said turnpike road, with power also to alter the grade thereof, and they may construct their said railway and run their cars thereon, subject only to such regulations and conditions as may be prescribed by said turnpike company; *provided however*, that the rate of fare to be charged by said railway company, shall not exceed the sum of twenty cents per passenger, or five cents per mile, between the city of Baltimore and the village of Herring Run, and said President and Directors of said company shall have full power to establish the rates of fare for all intermediate distances *pro rata*.

In case of not being able to agree with Turnpike company.

Sec. 7. *And be it enacted*, That in case the said company shall not be able to agree with the President and Directors of the Baltimore and Philadelphia Turnpike Company, for the construction and establishment of their railway upon the bed of the said turnpike road, then they shall be, and they are hereby authorized to make and construct the said railway of a width not exceeding sixty feet, with the necessary additions for excavations and embankments, upon a line running in the same general direction with the said turnpike road, by the most practicable route from the eastern limits of the city of Baltimore and along any of the streets of said city, east of Broadway to the village of Herring Run, and thence to the Alms house of Baltimore city, and for that purpose, if the same be necessary or expedient to cross the said turnpike road and other public roads or streets of said city whenever the line of the said railway must intersect the same; *provided*, that in case the consent of the owner or owners of any ground to be occupied by said railway, cannot be obtained, that the President and Directors of said company may agree with the owners of land for the purchase and occupation of the land required for said road, and also for the purchase of stone, gravel, earth or timber required in the construction thereof, and in all cases where they are unable to agree with such owner or owners, or where he or they shall be a *feme covert*, infant or *non compos mentis*, the said President upon giving notice in writing of not less than twenty days to the parties interested may apply to a Justice of the Peace of Baltimore city or Baltimore county; who shall thereupon issue his war-

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