

the regulations of said commission; and the work shall be done under the supervision and to the satisfaction of said commission; and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given or by whom the work was done; provided, however, that no electric railway company in operation upon any public or private road or existing or abandoned turnpike, when acquired hereunder shall be disturbed in its operation or in the maintenance of its roadbed and overhead construction, and all necessary repairs, together with the maintenance of the space between its tracks and two feet on each side thereof shall be performed by such railroad company under the supervision and to the satisfaction of said commission. And provided further, that whenever any State highway shall be constructed over or through any portion of any street or highway of any incorporated city or town of this State, such construction shall be in conformity with the grade or grades of such street or highway, as shall be approved by the municipal authorities of said city or town. Any violation of any provision of this section shall be a misdemeanor, and the person or corporation violating the same shall be liable to prosecution at the instance of said commission, or at the instance of any taxpayer, and upon conviction before any justice of the peace exercising jurisdiction in the county where the offense shall have been committed, shall be fined an amount of not less than twenty-five dollars (\$25) and no more than one hundred dollars (\$100) for each offense. Any person arrested under this section shall have the right to appeal to the circuit court of such county for trial, and all fines collected under this section shall be paid to the State Roads Commission and by it applied to the maintenance fund of said commission.

No express power is given state roads commission to create sources of revenue in connection with its management of roads system. The power of a state to impose a charge for conduits and manholes in the public highway has not been delegated to commission. *C. & P. Tel. Co. v. State Roads Comn.*, 132 Md. 200.

This section referred to in holding that mandamus would not issue directing water board of Baltimore city to connect appellee's dwelling with a water main, when such connection involved an opening in a recently paved street. Principles controlling issue of mandamus. *Lee v. Leitch*, 131 Md. 32.

An. Code, sec. 37B. 1914, ch. 490.

33. Any person who shall ride, drive or walk upon any new roadbed, or new repairs of any roadbed, constructed or being constructed by or under the supervision of the State Roads Commission of Maryland before the same is opened for traffic, and any person who shall remove any light or guard set up for the purpose of closing said road or any part thereof to traffic, and any person who shall otherwise maliciously injure or damage in any manner any highway built under the provisions of Article 91 of the Code aforesaid, either in the course of its construction or thereafter, or who shall otherwise maliciously injure or damage any work, material or structure used in connection therewith, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not more than one hundred dollars (\$100.00) or be imprisoned not more than three months, or in the discretion of the Court, may be both fined and imprisoned as aforesaid, provided, however, that nothing herein contained shall affect any