

Turnpike, Plank Road and Passenger Railway Companies.

An. Code, sec. 382. 1904, sec. 343. 1888, sec. 233. 1868, ch. 471, sec. 107. 1882, ch. 456.

314. Corporations for making turnpikes, or plank roads, or passenger railways outside of the limits of the city of Baltimore, may be formed as hereinbefore provided; no such passenger railway to exceed twelve miles in length; and such turnpikes, plank roads, or passenger railways may be constructed on the bed of any county road or on part of the bed thereof, the consent of the county commissioners of the county in which said road may lie, having been first given in writing and recorded among the proceedings of said county commissioners, and also recorded in the book or journal of proceedings of said corporation; the location of the bed of any part of said county road may be changed by said corporation, for the purpose of a better construction of said turnpike, or plank road, or passenger railway; provided, the land to be occupied be obtained by agreement with the owners thereof, or by condemnation; at least fifteen feet in width of the bed of any turnpike road shall be covered with broken stone or gravel, or other hard or durable materials, to the depth of at least twelve inches, unless the natural bed be hard; and the bed of any plank road shall be well and securely laid and covered with plank or wood for the same width.

Turnpikes can claim no more protection from the state than passenger railway companies; state affords no special protection to turnpike company from interference with its tolls, nor does it prohibit a person from building a road which may affect the turnpike. Policy of state is to encourage competition. Hagerstown Turnpike Co. *v.* Evers, 130 Md. 13.

A corporation held to have been incorporated under this section. This section referred to in construing sec. 324—see notes thereto. Back River Co. *v.* Homberg, 96 Md. 436.

For the regulations concerning carriers prescribed in the act creating the public service commission, see sec. 362, *et seq.*

As to railroads, see sec. 194, *et seq.*

As to fraud upon turnpikes, see art. 27, sec. 235.

As to "Turnpikes," see also art. 27, sec. 526.

An. Code, sec. 383. 1904, sec. 344. 1888, sec. 234. 1882, ch. 456, sec. 2.

315. In all cases when any passenger railway company uses the road-bed or any portion thereof of any turnpike, street or road in any county in this State, it shall, at all times, keep in good and proper repair, not only the portions of said turnpike, street or road which may be embraced between the rails of its track, but also that part which shall extend for a distance of two feet on either side of said rails; and in case of refusal or neglect to comply with the provisions of this section within five days after due notice in writing shall have been given by the county commissioners of the county in which said passenger railway has its tracks, then it shall be subject to a penalty or fine of ten dollars a day for each and every day of such refusal or neglect to repair and put in order any such turnpike, street or road; said fine to be recovered by suit before any justice of the peace of said county, in the name of the county commissioners of said county.

This section referred to in construing art. 91, sec. 28, *et seq.*—see notes to sec. 28. United Rys. & Elec. Co. *v.* State Rds. Comm., 123 Md. 585.

Cited but not construed in Anne Arundel Co. *v.* United Rys. Co., 109 Md. 381.