

**370.**

See notes to sec. 373.

**372.**

See notes to sec. 373.

**373.**

Rates which permit street railway to earn 6.26% on fair value of its property are not confiscatory under Federal Constitution. Meaning of "confiscation" and "fair return." Value of company's property. Automobile competition. United States cases reviewed. Allowance for depreciation. Extraordinary obsolescence. Second fare zone abolished. Commission's power legislative in character. Burden of proof. *Pub. Serv. Commn. v. United Rwys. Co.*, 155 Md. 578 (*cf. dissenting opinion*).

"Public" referred to in last paragraph of this section is whole public rather than local public. Order of P. S. C. approving relocation of railroad on condition that tracks as relocated be at point involving heavier grade, invalid. Discretion of P. S. C. must not be arbitrarily exercised. P. S. C. has only statutory powers and incidental implied powers. See notes to sec. 206. *Pub. Serv. Commn. v. P. B. & W. R. R. Co.*, 155 Md. 117.

1927, ch. 569.

**373A.** The power conferred upon the Commission by Section 373 of this sub-title, to determine the just and reasonable rates, tolls, fares and charges for the transportation of persons, freight or property to be thereafter observed and in force as the maximum to be charged for the service to be performed, and to fix the same by order to be served upon all common carriers or other corporations, by whom such rates, fares, and charges are thereafter to be observed, shall include the power to determine the just and reasonable rates, tolls, fares and charges to be thereafter observed and in force as the minimum or maximum and minimum to be so charged, and to fix the same by such an order.

**376.**

See notes to sec. 373.

An. Code, 1924, sec. 379. 1912, sec. 438. 1910, ch. 180, sec. 26 (p. 368). 1929, ch. 448.

**379.** No common carrier, railroad corporation, or street railroad corporation, shall begin the construction of a railroad or street railroad, or any extension thereof, or exercise any franchise or right under any provision of the railroad law, or of any other law not heretofore lawfully exercised, without first having obtained the permission and approval of the commission. The commission shall have power to grant the permission and approval herein specified whenever it shall, after due hearing, determine that such construction or such exercise of the franchise or privilege is necessary or convenient for the public service.

No franchise, nor any right to or under any franchise to own or operate a railroad or street railroad, shall be assigned, transferred or leased, nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by the commission. The permission and approval of the commission to the