

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. 322—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. 368, *et seq.*

As to railroads, see sec. 197, *et seq.*

An. Code, 1924, sec. 315. 1912, sec. 383. 1904, sec. 344. 1888, sec. 234. 1882, ch. 456, sec. 2.

313. 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.* (now Art. 89B, sec. 3)—*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.

An. Code, 1924, sec. 316. 1912, sec. 384. 1904, sec. 345. 1888, sec. 235. 1868, ch. 471, sec. 108.

314. When any turnpike, or plank road or passenger railway, shall have been finished one mile in length, the president and directors shall report to the county commissioners of the county in which it may lie, under the oath of the president and a majority of the directors, and the treasurer of the corporation, the actual cost of said road, so far as finished; and thereupon the county commissioners shall appoint three citizens of the county to examine said road, and determine whether the same is constructed in such manner as will subserve the public interests for the uses to which said road is applicable, who shall report to said county commissioners in writing, and said report shall be reviewed by said county commissioners; and if they shall determine that the road is properly constructed, then as to such turnpike or plank road the company shall be authorized to erect a toll-gate thereon, and to charge such rates of toll as will yield eight per centum per annum net profit on said actual cost, for distribution to the stockholders; and the same proceedings shall be had as each succeeding mile shall be completed, until the said turnpike, or plank road, or passenger railway, shall be finished; but when more than one mile of any turnpike or plank road shall be completed, it shall not be necessary for the corporation to erect more gates than it may deem convenient; and it shall be empowered to collect at the gate or gates which may be erected, tolls to yield at the rate aforesaid, for the number of miles of said road or turnpike which may be finished.