

**THE
PENNSYLVANIA
CORPORATION REPORTER**

Containing

**OPINIONS, GENERAL ORDERS, ADMINISTRATIVE RULINGS, REPORTS,
CIRCULARS, RULES OF PRACTICE, ETC., OF**

**THE PUBLIC SERVICE COMMISSION
OF PENNSYLVANIA**

And

**OPINIONS OF THE COUNTY COURTS THROUGHOUT THE COMMON-
WEALTH AND OF THE ATTORNEY GENERAL INVOLVING THE LAW
OF PRIVATE CORPORATIONS, INCLUDING CORPORATION
TAX CASES AND APPEALS FROM THE
PUBLIC SERVICE COMMISSION**

Also

**INDEX AND ANNOTATIONS TO THE PUBLIC
SERVICE COMPANY LAW**

With

**TABLES OF CITATIONS OF VARIOUS SECTIONS OF THE LAW AND
OF THE OPINIONS OF THE COMMISSION**

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JULY 1915—JULY 1916

**THE PENNSYLVANIA CORPORATION REPORTER
HARRISBURG, PA.**

GLEN ROCK MOTOR CLUB *v.* YORK AND MARYLAND LINE TURNPIKE COMPANY.

Turnpike companies—Charter duties—Failure to maintain road-bed.

The respondent company was chartered in 1804 for the purpose of building and maintaining a turnpike road between York, Pa., and the Maryland Line. The charter provided the manner in which the road should be maintained. The company, however, anticipating the purchase of the road by the Commonwealth, discontinued repairs and permitted the road to deteriorate until it is not in proper condition for the service and convenience of the public.

Held: The respondent shall repair its road within six months and continue to maintain the same in proper condition. Notwithstanding the new conditions with which the turnpike companies in this State are confronted, it is incumbent upon them to properly construct and maintain their turnpike roads, and they cannot avoid the performance of their charter duties. The anticipation of a sale to the State does not relieve the respondent from performing the duties which it owes to the public.

COMPLAINT DOCKET No. 295.

Report and Order of the Commission.

James G. Glessner, for complainants.

R. E. Cochran, for respondent.

RILLING, Commissioner :

The Glen Rock Motor Club, the complainant in this case, an unincorporated association, was organized for the mutual benefit of its members and for the purpose of improving the highways in the vicinity of Glen Rock, Pa. It has filed a complaint against the York and Maryland Line Turnpike Company, the respondent, alleging the improper condition of the turnpike of respondent company. The answer of respondent alleges that said turnpike is generally in a good condition and safe for public travel and is kept and maintained in proper condition to meet the requirements of its charter.

From the record and testimony in this case we find the following facts :

1. The respondent, the York and Maryland Line Turnpike Company, was incorporated in 1807 for the purpose of constructing and operating a turnpike road from the Borough (now City) of York, Pa., southwardly about 17½ miles to the Maryland state line.
2. That the turnpike road laid out and constructed by the respondent traverses a rolling, hilly portion of our State which has now become well populated, and said turnpike has several towns and villages along its route and that said turnpike road at its southern termination at the Maryland State Line connects with a Maryland state highway and is a part of a main thoroughfare used by the public between Baltimore, Md., and York, Pa.
3. That the capital stock of the respondent company is \$80,000.00, the shares being \$100.00 each, and during the past 15 years said company has earned over and above the amount required to pay its toll collectors upwards of \$75,000.00 in tolls, of which sum it has spent for maintaining its turnpike \$65,000.00 and paid dividends amounting to \$20,000.00.
4. That upon the passage of the State Highway Act the respondent company, believing that the said turnpike road would

be acquired by the State under the provisions of said act, ceased to make any repairs on its turnpike road, permitted the same to become and remain in such a condition that it did not meet the needs of the traveling public and resulted in the complaint in this case being filed. That since the filing of said complaint the company has expended about \$4,000.00 in improving said turnpike road, but that said turnpike is still in such an improper condition that it does not meet the needs of the traveling public nor does the present condition of said turnpike comply with the requirement of the charter of said respondent.

5. That by the charter of said company, as found in Section No 11, page 314, of the Act of 1804, it is provided that the respondent "shall cause a road to be laid out, of fifty feet in width, and at least twenty-one feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone, pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit of it, an even surface, and so nearly level in its progress, as that it shall, in no place, rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order the whole distance aforesaid; and the said president, managers and company, shall have power to erect permanent bridges over all the waters crossing the said road."

6. That at the present time the turnpike road of respondent is not constructed nor maintained as required by its charter in that it is not constructed of sufficient width. That large stones are permitted to remain thereon, that the roadbed is in a rough, unsafe condition with ruts and holes therein and large and unnecessary water breakers (so-called) thereon, that the same is not kept properly crossed with proper material, that by permitting the water to run along the centre thereof and by reason of the use thereof the centre of the roadway is lower than the sides and rocks and stones are exposed in such a manner as to impede and interfere with public travel thereon.

The respondent turnpike company together with many others was chartered in the early part of the 18th century during the

period when our Commonwealth was in the early state of its development. These turnpike companies were intended to provide improved facilities for transportation and travel over the several routes designated in their charter throughout our State and were of great convenience and benefit to the inhabitants of our State in its growth and development. These companies met a great need and served a very useful purpose, many of them were highly profitable to the owners while some did not provide the revenue anticipated. In later years many were abandoned while some were acquired by the local authorities and at the present time there are but a small portion of the original number remaining.

With the establishment of the State Highway Department and the coming of the automobile as a means of public travel the turnpike companies in our State are face to face with new conditions which must be met and which seriously affect their cost of maintenance and operation.

The State Highway Act of 1911 provides a manner in which they may be acquired by the State. In the present case the stockholders anticipating the purchase by the State have not maintained their turnpike as required by their charter and such action on their part resulted in the filing of this complaint.

Notwithstanding the new conditions with which the turnpike companies in this State are confronted it is just as necessary and incumbent upon them to properly construct and maintain their turnpike road as it ever was and they cannot seek to avoid the performance of their charter duties. The anticipation of a sale to the State does not justify or relieve the respondent from properly maintaining its turnpike or performing the duties it owes to the public.

The spirit of good roads is abroad in our Commonwealth. The day has passed when poorly constructed and maintained highways will be permitted or endured. If the present conditions in our State in relation to the construction and maintenance of its highways are such as to render the respondent company less valuable, its stockholders should accept the conditions as they exist and recognize the fact that progress in our State is some times made at the sacrifice of some private interests.

The respondent owes a public duty to the State, and that duty

should be performed by it. The respondent has not furnished to the Commission any sufficient reason for permitting the highway route named in its charter to become or remain in an improper condition. In the march of events new methods and new ideas take the place of old ones, and this is true in the maintenance of highways as well as in other matters.

The route set forth in respondent's charter is an important highway in our State, connecting populous centres, and the public needs require that it be placed and maintained in a safe and proper condition so as to meet the needs of the public travel thereon. The charter of the respondent clearly sets forth the manner in which the turnpike of respondent should be constructed and maintained. If this is done this highway will be of great service to the traveling public.

The Commission is of the opinion that the respondent turnpike company should make the necessary arrangements whereby it will within six months from this date reconstruct the route named in its charter in accordance with the terms therein specified and thereafter maintain the same as therein provided.

ORDER.

This case being before The Public Service Commission of the Commonwealth of Pennsylvania upon complaint and answer on file, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed of record a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

Now, to-wit, January 26, 1916, It is ordered: That the York and Maryland Line Turnpike Company shall reconstruct the route named in its charter in accordance with the terms therein specified within six months from the date hereof and thereafter maintain the same as provided in said charter.

By the Commission,

WM. D. B. AINEY, *Chairman.*