ENROLLED

HOUSE BILL No. 1158

(By Mr. Seibert)

PASSED MARCH 9, 1971

In Effect NINETY DAYS FROM PASSAGE

1158
AN ACT to amend and reenact section nine, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the right of one party having power of eminent domain to cross or alter the property and works belonging to another party with such power, and civil action related thereto.

Be it enacted by the Legislature of West Virginia:

That section nine, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. RIGHT OF EMINENT DOMAIN.

§54-1-9. Crossings, connections or alteration of works; civil action.

1 If any entity having the power of eminent domain
2 under other provisions of this article including any rail-
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road company, canal company, company organized for
the purpose of transporting oil or natural or manufactured
gas, or both, by means of pipeline, company organized
for the purpose of transporting coal and its derivatives
and all mixtures and combinations thereof with any sub-
stance by means of pipes or otherwise, telephone or tele-
graph company, company operating an electric trans-
mission line, private corporation or public corporation
operating a system of pipelines for transporting water,
private corporation or public corporation operating a
sewer system for public use, the West Virginia depart-
ment of highways, or any county court, deems it neces-
sary in the construction or relocation of its works, or any
part thereof, to cross any other railroad, canal, sewer line,
pipeline, any state or other public road at grade or other-
wise, telephone or telegraph line or electric transmis-
sion line, such crossing may be made provided said works
be so constructed as not to impede the passage or trans-
portation of persons, property, commodities or sewage
along, over or through the same. If any such company,
private corporation, public corporation, West Virginia de-
partment of highways or county court desire that the course of any other railroad, canal, sewer line, pipeline, state, or other public road, telephone or telegraph line, electric transmission line, or any stream which is not a public highway, be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof, or the construction of a parallel work, the alteration may be made in such manner as may be agreed between the said party desiring such alteration and the owner of such other facility or land to be affected thereby. In case the parties interested fail to agree upon such crossing or alteration as is desired, said party desiring such crossing or alteration may bring a civil action, and in such action the court may, in a proper case, order that any proper crossing, or alteration, may be made upon payment of just compensation for the property or interest in property to be taken and upon payment of damages, if any, to the residue thereof beyond all benefits to be derived thereby. Following said civil action, and if the court order such crossing or alteration may be made, said party desiring such crossing or alteration may
thereupon proceed under article two of this chapter to obtain the right to make such crossing or alteration and to have determined the amount of compensation and damages owing as a result thereof.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 31st day of March, 1971.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

Date 3/13/71
Time 3:45 p.m.