

**Railroad Companies—Duty to Construct and Maintain Crossings—Whether Crossing Includes Approaches.**

The term "crossing," as used in Chapter 148 of the Laws of 1919, making it the duty of railroad companies "to construct and thereafter maintain, in proper condition, a good and safe crossing," includes the approaches.

William L. Bullock, Esq.,  
County Attorney,  
Conrad, Montana.

My dear Mr. Bullock:

You have requested my opinion upon the question whether the term "crossing," as used in Section 1 of Chapter 148 of the Laws of 1919, requiring railroad companies "to construct and thereafter maintain, in proper condition, a good and safe crossing," includes the approaches.

Both at common law and under statutes requiring railroad companies to construct crossings it has been held that the term includes the approaches. (33 Cyc. 261 and 925.)

The law as stated in 3 Elliott on Railroads, Section 1097 et seq., is as follows:

"Strictly speaking a highway crossing may be defined as a space included within the boundaries of the right of way and the boundaries of the highway \* \* \*. A crossing, however, often embraces more than the mere space included in the boundaries referred to, and it may not include so much. Crossings are constructed for the purpose of enabling persons, horses and vehicles, or the like, to cross the railway tracks, and all the structures, and the like, reasonably necessary to enable that object to be safely accomplished are included in the crossing. Thus embankments or bridges necessary to enable a traveller to get on or off the crossing are regarded as a part of the crossing."

Farley v. Chicago Etc., R. Co., 42 Ia. 234;  
Maltby v. Chicago & W. M. R. Co., 17 N. W. 717;  
People v. Chicago & Alton R. Co., 67 Ill. 118;  
Oliver v. Northeastern Ry. Co., R. L. 9 Q. B. 409;  
Paducah & E. R. Co. v. Commonwealth, 10 Am. & Eng. Ry. Cases, 318;

Collier v. Georgia Etc. Ry. Co., 76 Ga. 611;  
State v. C. B. & Q. Ry. Co., 45 N. W. 489.

It is therefore my opinion that the term "crossing," as used in Section 1 of Chapter 148 of the Laws of 1919, includes the approaches.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.