CHAPTER 169

HIGHWAY TRAFFIC REGULATION ACT

169.01 DEFINITIONS.

HISTORY. 1925 c. 416 s. 1; 1927 c. 412 s. 1; M.S. 1927 s. 2720-1; 1937 c. 464 s. 1; Ex. 1937 c. 38 s. 1; 1939 c. 430 s. 1; M. Supp. 1. 2720-151.

(APPLYING TO 1927 ACT.)

Where the owner lets an automobile and driver temporarily for hire and the hirer merely directs when and where to go, whom to carry, and what routes to take, the driver remains the servant of the owner in the matter of managing and operating the machine and the owner is responsible for driver's negligence in managing or operating it. Antonelli v Adam, 175 M 438, 221 NW 716.

The sufficiency of the foundation for opinion evidence by non-expert witnesses that defendant was not under the influence of intoxicating liquor, is a matter largely for the trial court. State v Graham, 176 M 164, 222 NW 909.

The rules of the uniform highway traffic act requiring travel on the "right half of the traveled portion of the highway", and that meeting vehicles "shall pass each other to the right", are not so inexorable as to make a driver who attempts to pass an approaching vehicle to the left guilty of negligence if, without his failing in due care otherwise, an emergency was created of such a nature that ordinary prudence justified him in turning to the left rather than the right. Sathrum v Lee, 180 M 163, 238 NW 580.

The auto of the plaintiff and defendant collided on a roadway running north and south. The defendant being on the wrong side of the highway, his negligence in this respect was the proximate cause of the injury. Larrsch v Breilien, 181 M 400, 232 NW 710.

In the daytime, but during a violent snowstorm, the lights of the plaintiff's automobile were not lighted. The question as to whether or not the fact that his headlights were not lighted was not, as a matter of law, the proximate cause of his injury. Larrsch v Breilien, 181 M 400, 232 NW 710.

Defendant's only explanation of the cause of an automobile accident resulting in the death of his guest rider being open to repudiation, it was not error to submit to the jury the rule res ipsa loquitor, its application being continued on the repudiation of defendant's explanation by the jury. Heath v Woleski, 181 M 492, 233 NW 239.

An ordinance providing for the punishment of a person convicted of driving an automobile while intoxicated, is not in conflict with the constitution, or any law of this state and is, therefore, valid. State v Hughes, 182 M 144, 233 NW 874.

A tractor which is hooked or attached to the grader in preparation for doing the work of the day, was left standing with the motor running while two employees were adjusting the grader blade. It is held that under the circumstances the tractor was "actually engaged in work upon the surface of the highway". Johnson v Bergquist, 184 M 576, 239 NW 772.

The rate of speed of an auto within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. It was not reversible error for the court to refuse to strike as a conclusion of a witness her statement that the automobile traveled "just like a flash of lightning". Quinn v Zimmer, 184 M 589, 239 NW 902.

Whether defendant who was struck and injured while crossing a street upon a crosswalk, against the traffic signal, was guilty of contributory negligence was under the evidence for the jury, there being no statute or ordinance forbidding a pedestrian to cross against a traffic signal upon the crosswalk. Larson v Walker, 189 M 536, 250 NW 449.

Plaintiff's decedent was killed in a collision between a truck driven by decedent, and a police patrol car driven by appellant. The patrol car was being used as an ambulance in emergency service. Whether a siren on the patrol car was sounded as required by statute, was a question for the jury; and if the jury found that the siren was not sounded, the court's charge relative to applicability of speed and other provisions of the uniform traffic act was correct. Hogle v Menth, 193 M 326, 258 NW 721.

Request to instruct the jury as follows: "The court instructs the jury that the violation of a statute merely creates a rebuttal presumption of fact and does not constitute negligency or contributory negligence as a matter of law", was properly refused. Timmerman v March, 199 M 376, 271 M 697.

A railroad may be required to take precautions in the management and operation of the road with respect to public safety, in addition to those required by statute, or by order of the railroad and warehouse commission. Licha v N. P. Ry. Co. 201 M 427, 276 NW 813.

(APPLYING TO 1937 ACT)

The question asked of the court by the jury was entirely beyond the pleadings, evidence, and theory of trial. The court properly read to the jury such parts of the highway traffic regulation act as were applicable. Grove v Lyon, 211 M 69, 300 NW 373.

Application of the term "roadway" where the accident occurred where there was a roadway divided between northbound and southbound traffic. Wojtowicz v Belden, 211 M 461, 1 NW(2d) 409.

The question of contributory negligence in the instant case is controlled by the highway traffic regulation act. The decision that plaintiff was guilty of contributory negligence as a matter of law is predicated upon a finding of fact here as a matter of law contrary to the finding of fact by the jury upon the trial. The finding here is based upon evidence that plaintiff's rate of speed was such that he could not stop within range of his lights. Olson v Duluth & Iron Range, 213 M 116, 5 NW(2d) 492.

Stinson boulevard with its two roadways separated by the parkway, constituted one highway; the area between the extended lines of curbs of Summer street and of the curbs along the outer side of the boulevard constitute an intersection; and the right of way rules at intersections apply to street-cars the same as automobiles. O'Neill v Minneapolis Street Railway, 213 M 523, 7 NW(2d) 665.

The legislative purpose of protecting the public from the menace of drivers operating motor vehicles while intoxicated should not be thwarted by a construction that does violence to the clear and unambiguous language of the statutes. Martinka v Hoffmann, 214 M 346, 9 NW(2d) 13.

Emergency doctrine defined. Where the front of defendant's truck was suddenly projected into the driveway, and decedent was not aware of such projection until about the instant of the collision, there was no contributory negligence on the part of decedent. Merritt v Stuve, 215 M 44, 9 NW(2d) 329.

An oral plea of guilty to a violation of the state traffic act is not admissible as evidence in a civil action. Warren v Marsh, 215 M 615, 11 NW(2d) 528.

Where the traffic at an intersection was controlled by an automatic "stop-and-go" signal, and the "caution" or yellow light came on beneath the green or "go" light before defendant entered the intersection, defendant's action was prima facie evidence of negligence. Flitton v Daleki, 216 M 549, 13 NW(2d) 477.

The act of an authorized person in actuating the starter of a car parked in gear, without taking the precautions that ordinary care would dictate, was a superseding, intervening cause, not stimulated by the act of the proprietor of the filling station in so parking the car. Kayser v Kowalska, 217 M 140, 14 NW(2d) 337.

A driveway leading from a private parking lot onto a public highway is within the definition of "private road or driveway" as found in section 169.01. Schnore v Baldwin, 217 M 396, 14 NW(2d) 447.

There was no evidence which made applicable to defendant an instruction that "where a person is placed in a position of danger by the negligence of an-

other and suddenly is confronted by an impending peril, and makes an attempt to escape, he is not chargeable with negligence if, in his excitement and confusion, he in fact places himself in a position of greater peril." Anderson v Gray, 206 M 367, 288 NW 704.

Where a person is convicted for the first time of driving a vehicle while under the influence of liquor, and the trial court recommends that the driver's license be not revoked, the commissioner of highways is without power to revoke the driver's license or to require such person to show financial responsibility. Ausmun v Hoffmann, 208 M 13, 292 NW 421.

The phrase "intended for the use of pedestrians" refers to an area actually in use at the time being by pedestrians rather than to some indefinite or unascertained strip which may subsequently come into use for a pathway or sidewalk. St. George v Lollis, 209 M 322, 296 NW 523.

The situation disclosed by the record did not entitle the defendant to the requested instruction explaining the sudden emergency rule, for there was no evidence warranting a finding that the emergency was the fault of the plaintiff, or of the driver of his car. Corridan v Agranoff, 210 M 237, 297 NW 759.

The statute requiring pedestrians to "walk near the left side of the roadway, giving way to on-coming traffic" applies to divided highways, so that a pedestrian struck while walking on the wrong lane with, rather than against, traffic is prima facie guilty of neglect. Wojtowicz v Belden, 211 M 461, 1 NW(2d) 409.

In a case involving an automobile collision and since the modern tendency is to admit evidence freely and to give as wide scope as possible to the investigation of facts, courts must be slow to set up technical rules to exclude as evidence what would be accepted as relevant in the ordinary affairs of life. Green v Mathiowetz, 212 M 171, 3 NW(2d) 97.

A road contractor, although not subject to the provisions of the highway traffic regulation act, may nevertheless be held liable at common law for failure to observe the requirements of due care in his operations upon the highway. Hockenhull v Strom, 212 M 71, 2 NW(2d) 430.

A statute providing that in civil actions a violation of provisions of the highway traffic regulations act by either party shall be only prima facie evidence of negligence, evinces an intention only to relieve violator of conclusive force of his violation and to permit him to rebut it. Olson v Duluth, 213 M 106, 5 NW(2d) 492.

A motor vehicle proceeding on the left roadway of a two roadway highway, the roadways of which are separated by a parkway in the middle of which there are street-car tracks, is not entitled, providing that "the driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway," to the right of way over a street-car at an intersection of the highway with a cross street where the motor vehicle and the street-car were proceeding in the same direction, and the motor vehicle turned right at the intersection and crossed in front of the street-car. O'Neil v Mpls. St. Ry. Co. 213 M 514, 7 NW(2d) 665.

Where the driver of an authorized emergency vehicle slows down, with red lights flashing and signal sounding as required by Section 169.03, in approaching an intersection with the "stop" signal against him and with the "go" signal in favor of a standing street-car on his left facing the intersection, and where, under all the circumstances, it appears safe for him to proceed past the "stop" signal and cross the intersection, it is a fact question whether the driver of such vehicle proceeded cautiously in entering the intersection. Rogers v Mpls. St. Ry. 218 M 454, 16 NW(2d) 516; Flaherty v Gt. Northern, 218 M 495, 16 NW(2d) 553.

The statute supersedes a city ordinance in so far as the latter is in conflict with the former. 1938 OAG 63, May 22, 1937 (396c-9).

The city of Crookston may not by ordinance legally permit angle parking on a city street which is a part of the state trunk highway, in the absence of approval by the commissioner of highways. Once a public thoroughfare is designated a part of the state trunk highway system, such thoroughfare becomes a state trunk highway. 1940 OAG 127, Sept. 26, 1939 (989a-16).

Governmental responsibility for torts. 26 MLR 320.

169.02 TRAFFIC LAWS.

HISTORY. 1937 c. 464 ss. 2 to 4; M. Supp. ss. 2720-152 to 2720-154.

(APPLYING TO 1937 ACT.)

Except as specifically provided in the highway traffic regulation act, the common law prevails, and a driver is not barred from recovery simply because he is making a movement not specifically authorized and not forbidden by the act. Carlson v Peterson, 205 M 20, 284 NW 847.

169.03 APPLICATION.

HISTORY. 1911 c. 365 s. 18; G.S. 1913 s. 2637; G.S. 1923 s. 2711; 1925 c. 416 ss. 24, 26; 1927 c. 412 s. 33; M.S. s. 2720-33; 1937 c. 464 ss. 5 to 7; M. Supp. ss. 2720-155 to 2720-157; 1945 c. 383 s. 1.

(APPLYING TO 1927 ACT.)

See State v Hughes, 182 M 144, 233 NW 874; Johnson v Bergquist, 184 M 576, 239 NW 772; Hogle v Menthe, 193 M 326, 258 NW 721.

(APPLYING TO 1927 ACT.)

A Minneapolis city ordinance being within the power conferred by the general welfare clauses of the city charter, and requiring fuel dealers to carry liability insurance as a condition precedent to obtaining a license, is valid and does not conflict with Section 169.03 of the highway traffic regulations act. Sverkerson v City of Mpls. 204 M 388, 283 NW 555.

Whether a contractor whose employee was operating a road scraper upon the wrong side of the highway producing dust affecting visibility, was negligent in colliding with a motorist, and whether the motorist exercised care commensurate to the risk to himself, were questions for the jury. Hockenhull v Strom, 212 M 73, 2 NW(2d) 430.

A motorist stopping at and then entering a "thru" street at an intersection, and making a left turn, is not guilty of contributory negligence as a matter of law in case of collision with a street-car where the street-car was not so close at the time he entered the intersection as to constitute an immediate hazard. Yien Tsiang v Mpls. St. Ry. 213 M 21, 4 NW(2d) 630.

The purpose of giving a "warning" is to apprise a party of impending danger of which he is not aware, to enable him to protect himself against it. Where he is fully aware of the existence of danger, warning is unnecessary, and this rule is applicable in the case of an intersectional collision between an automobile and a street-car. O'Neil v Mpls. St. Ry. 213 M 514, 7 NW(2d) 665.

The necessity for and the extent of slowing down an emergency vehicle is a question of fact for the jury. Rogers v Mpls. St. Ry. 218 M 454, 16 NW(2d) 516; Flaherty v Gt. Northern, 218 M 495, 16 NW(2d) 553; Travis v Collett, 218 M 592, 17 NW(2d) 68; Nees v Mpls. Co. 218 M 532, 16 NW(2d) 758.

City ordinances may require reports in addition to those required by statute. OAG July 19, 1944 (989b-1).

169.04 LOCAL AUTHORITIES NOT RESTRICTED.

HISTORY. 1927 c. 412 s. 32; M.S. s. 2720-32; 1937 c. 464 s. 8; 1939 c. 359; M. Supp. s. 2720-158.

(APPLYING TO 1927 ACT.)

There being no express authority given the village council of Chisholm to exclude the vehicular travel over those parts of the public streets which pass through school grounds during the hours when pupils are likely to be present,

and no power bestowed upon the village council to regulate traffic for public "welfare", it cannot be held that the court erred in excluding an ordinance prohibiting vehicles from using the part of the streets mentioned from eight A. M. to five P. M. on school days. Petrich v Chisholm, 180 M 407, 231 NW 14.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor, is valid. It is not in conflict with the constitution or the law of this state . State v Hughes, 182 M 144, 233 NW 874.

The requirement that the driver of an automobile extend his left hand before he stops, does not apply to his stopping in obedience to the direction of a semaphore. Turnblom v Chrichton, 189 M 588, 250 NW 570.

(APPLYING TO 1937 ACT)

The ordinance being within the powers conferred on the city of Minneapolis by its charter, does not conflict with the highway traffic regulation act. Sverkerson v City of Minneapolis, 204 M 388, 283 NW 555.

The distinction between the taxing power and the police power will be found in the purpose for which the particular power is exercised. When applied to the establishment of parking meters, the ordinance is held valid. Hendricks v City of Minneapolis, 207 M 151, 290 NW 428.

It was not error in the instant case to read as part of the court's instructions, Section 169.04, which authorizes certain local authorities to designate certain streets and highways as one-way roadways and to require all vehicles thereon to move in a certain specified direction. Where a statute is applicable it is generally proper to read it. O'Neill v Mpls. St. Ry. 213 M 523, 7 NW(2d) 665.

Fines collected for violation of ordinance or by-laws of a town regulating traffic on town roads, must be paid into the county treasurer. OAG May 20, 1939 (949b-4).

The electors of a town may authorize the supervisors to employ police officers to enforce by-laws regulating traffic on town roads. OAG May 20, 1939 (989b-4).

169.05 NOT TO APPLY TO PRIVATE ROADWAYS.

HISTORY. 1937 c. 464 s. 9; M. Supp. s. 2720-159.

169.06 TRAFFIC SIGNS, SIGNALS, MARKINGS.

HISTORY. 1927 c. 412 ss. 56, 57; M.S. 1927 ss. 2720-56, 2720-57; 1937 c. 464 ss. 10 to 15; 1939 c. 413; M. Supp. ss. 2720-160 to 2720-165; 1941 c. 419.

(APPLYING TO 1927 ACT.)

Plaintiff was injured when the auto in which he was riding on a trunk highway in the night-time came in contact with the center pier of an overhead railroad bridge, the reflector on the pier being out of order. The railroad company having constructed the bridge and the center pier and appurtenances, which was approved by the highway commissioner, does not have the duty of caring for a reflector placed upon said pier. Murphy v G. N. Ry. 189 M 109, 248 NW 715.

The testimony of a passenger in a crowded Ford being driven at the speed of 35 miles per hour, that he did not hear the crossing whistle sounded or the locomotive bell rung, it not appearing that such passenger was listening for sounds, or that the windows of the Ford were open, or that he heard the rumbling of the freight train running at 25 miles an hour at any moment prior to the Ford's collision with the nineteenth car from the front, is of no probative value as against the positive testimony of several witnesses in a position to know that the whistle was sounded and the bell rung. Hence it was error to deny the defendant engineer's motion for judgment notwithstanding the verdicts. Krause v Chicago, St. P., Mpls. & Omaha, 207 M 175, 290 NW 294.

(APPLYING TO 1937 ACT.)

The defendant motorist was negligent, since the jury concluded that he entered the intersection when the controlling semaphore showed green-yellow, the

law requiring traffic facing a yellow signal following green to stop applies also to a yellow under green signal. Litman v Walso, 211 M 398, 1 NW(2d) 391.

Where the driver of a motor vehicle enters an intersection with the "go" signal of an automatic device, and the signal signals to "stop" before he has crossed it, he must give an appropriate signal of intention to stop; and before stopping must signal a driver immediately in the rear. A vehicle must be equipped with proper signalling device. Christenson v Hennepin Transportation, 215 M 395, 10 NW(2d) 406.

Entering an intersection after the yellow light shows, though under the green, is prima facie evidence. It is not negligence per se. Flitton v Daleki, 216 M 550, 13 NW(2d) 477.

That the automatic traffic signal was on "go" when the street-car approached the intersection did not conclusively establish that the sign was on "stop" for cross traffic when the decedent pedestrian was struck by the street-car after having proceeded 35 feet from the curb. The pedestrian was not necessarily guilty of contributory negligence. Moeller v St. Paul City Ry. 218 M 353, 16 NW(2d) 289.

A violation of Section 169.06 is prima facie evidence of negligence in a civil action. In case of an emergency vehicle the necessity for and the extent of slowing down or stopping is a question of fact for the jury. Rogers v Mpls. St. Ry. 218 M 454, 16 NW(2d) 516; Travis v Collett, 218 M 592, 17 NW(2d) 68.

169.07 UNAUTHORIZED SIGNS PROHIBITED.

HISTORY. 1927 c. 412 s. 58; M.S. 1927 s. 2720-58; 1937 c. 464 s. 16; M. Supp. s. 2720-166.

169.073 DISPLAYING OF RED LIGHTS FORBIDDEN.

HISTORY. 1943 c. 141 s. 1.

169.08 UNLAWFUL TO ALTER, DEFACE, OR REMOVE SIGNS.

HISTORY. 1937 c. 464 s. 17; M. Supp. s. 2720-167.

169.09 ACCIDENTS.

HISTORY. 1925 c. 416 s. 27; 1927 c. 412 ss. 29, 62; M.S. 1927 ss. 2720-29, 2720-62; 1937 c. 464 ss. 18 to 23; 1939 c. 430 ss. 2, 3; M. Supp. ss. 2720-168 to 2720-173; 1941 c. 439; 1943 c. 548 s. 1; 1945 c. 207 s. 1.

(APPLYING TO 1927 ACT.)

The jury was properly informed of the statute regulating the subject of automobiles, since the jury could find the existence of conditions in the road to which the statute was applicable. The charge against defendant being that he drove an automobile in a culpable, negligent manner and at unlawful speed, causing death of a person, it was permissible to call attention to any law that bore on the alleged negligent driving, even though not especially set forth in the indictment. State v Peterson, 153 M 310, 190 NW 345.

Ordinarily a passenger of a street-car ceases to be such when he steps from the car into the street; and the street railway company owes no duty ordinarily to warn or protect its passengers from obvious street dangers arising from the operation of vehicles. Ruddy v Engebret, 164 M 40, 204 NW 630.

Damages in personal injury action. 13 MLR 151.

(APPLYING TO 1937 ACT.)

The judge of any court, or justice of the peace, need not secure possession of the driver's license so as to send it to the commissioner, but has the power in its sentence to require immediate surrender to the court. OAG Aug. 19, 1938 (291f).

169.10 REPORTS TABULATED AND ANALYZED.

HISTORY. 1911 c. 365 s. 17; G.S. 1913 s. 2636; G.S. 1923 s. 2710; 1937 c. 464 s. 24; M. Supp. s. 2720-174.

The testimony of a police officer, which was to be based on memoranda taken in preparation for a report to the commissioner of highways required under Section 169.09, was rightfully excluded. Lowen v Pates, 219 M 566, 18 NW(2d) 455.

169.11 CRIMINAL NEGLIGENCE.

HISTORY. 1937 c. 464 s. 25; M. Supp. s. 2720-175.

(APPLYING TO 1937 ACT.)

The evidence sustained the finding that the defendant was guilty of driving his car in reckless and grossly negligent manner, thus killing Kurtzahn. State v Cook, 212 M 495, 4 NW(2d) 323.

Manslaughter by motorist. 22 MLR 771.

What is "wilful or wanton act." 24 MLR 96.

Decedent's statements made at hospital 11 hours after the accident in response to questions propounded by state's witness were not spontaneous in nature, and were too far removed in point of time to be considered part of res gestae. State v Clow, 215 M 381, 10 NW(2d) 359.

169.12 PERSONS UNDER INFLUENCE OF DRUGS OR LIQUOR PROHIBITED FROM DRIVING VEHICLES.

HISTORY. R.S. 1851 c. 24 s. 3; P.S. 1858 c. 21 s. 3; G.S. 1866 c. 14 s. 3; G.S. 1878 c. 14 s. 3; G.S. 1894 s. 1947; R.L. 1905 s. 1260; 1925 c. 416 ss. 3, 29; 1927 c. 412 s. 2; M.S. 1927 s. 2720-2; 1937 c. 464 s. 26; 1939 c. 430 s. 4; M. Supp. s. 2720-176; 1941 c. 552.

(APPLYING TO 1927 ACT.)

A woman crossing a street at a street intersection was struck and killed by an automobile driven by defendant. The verdict convicting him of manslaughter on the charge that her death was caused by his culpable negligence is sustained by the evidence. Whether defendant was under the influence of intoxicating liquor, was a question for the jury. State v Malin, 179 M 1, 228 NW 171.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor, is valid. State v Hughes, 182 M 144, 233 NW 874.

Evidence of the defendant's talk and conduct so near to the time of the accident that it would aid the jury in determining whether or not he was then under the influence of intoxicating liquor, was admissible. State v Reilly, 184 M 266, 238 NW 492.

The burden of proof that death was caused by external, violent and accidental means, and was within the terms and conditions of the policy, was upon the plaintiff; and there being no evidence as to how the accident happened, a case was not made out within the terms and conditions of the policy. Sleeter v Progressive Assur. Co. 191 M 108, 253 NW 531.

The evidence sustains the verdict convicting a defendant for driving while intoxicated under the law governing the degree of evidence required in a criminal case. State v Winberg, 196 M 135, 264 NW 578.

The evidence made a jury issue of the pleaded contributory negligence of plaintiff, a guest passenger, in that with knowledge that defendant had consumed intoxicating liquor, he remained a passenger of the truck. The verdict was for the plaintiff. Gudbrandsen v Pelto, 199 M 220, 271 NW 465.

The evidence sustains the conviction that defendant drove his automobile on the streets of the city while under the influence of liquor, and in violation of a city ordinance. Duluth v Le Fleuer, 199 M 470, 272 NW 389.

Evidence examined and held not sufficient to submit the issue of the husband's intoxication to the jury. Olson v Kennedy, 199 M 493, 272 NW 381.

One Nels Damsgaard was charged with operating a motor vehicle while under the influence of intoxicating liquor, in violation of a city ordinance. Special Laws 1889, Chapter 351, Section 7, providing that the judge of the municipal court of St. Paul shall hear and dispose of cases involving a violation of the city ordinance in a summary manner, is construed to mean without a jury trial. The fact that at the time the ordinance was passed there existed a statute covering the same subject matter as the ordinance, and that persons charged with violating the statute were entitled to a jury trial, does not affect the result. State ex rel v Parks, 199 M 622, 273 NW 233.

Plaintiff while a guest in defendant's car received an injury from crushing into the center pier of a viaduct. The defense was plaintiff's contributory negligence in remaining a passenger knowing that the defendant was under the influence of liquor. There was no offer of proof that plaintiff knew or could know that the defendant was under the influence of intoxicants while she was his passenger. Consequently, the verdict was for the plaintiff. Vondrashek v Dignan, 200 M 530, 274 NW 609.

(APPLYING TO 1937 ACT.)

A person being convicted for the first time of driving while intoxicated, the commissioner of highways is without power to revoke his license if the trial court recommends against the revocation. Ausmun v Hoffmann, 208 M 13, 292 NW 421.

The evidence supports the conviction of defendant for driving while under the influence of liquor. Acts punishable under the general laws of the state may also be punished under municipal ordinances. State v Weeks, 216 M 279, 12 NW(2d) 493.

Laws 1941, Chapter 552, Section 1, requires the commissioner of highways to revoke the license of a driver convicted on a first offense of driving a motor vehicle while intoxicated without the necessity of a recommendation by the court. Martinka v Hoffmann, 214 M 347, 9 NW(2d) 13.

Drunken driving and reckless driving are two separate and distinct offenses; complaint on one count does not sustain a conviction of the other. OAG July 8, 1944 (494b-23).

Statutes prohibiting operation of motor vehicles by intoxicated persons. 27 MLR 474.

169.13 RECKLESS DRIVING; PENALTY.

HISTORY. 1927 c. 412 s. 3; M.S. 1927 s. 2720-3; 1937 c. 464 s. 27; 1939 c. 430 s. 5; M. Supp. s. 2720-177.

(APPLYING TO THE 1927 ACT.)

In a triangle automobile collision, the question of negligence was for the jury and the evidence is sufficient to sustain the verdicts. Harrington v Wagner, 176 M 383, 223 NW 603.

Driver of car was not negligent as to a child who coasted from a terrace. Phillips v Heiser, 179 M 108, 228 NW 350.

The evidence was too scant and uncertain to sustain a recovery by a boy on the bicycle. McCormick v Johnson, 179 M 578, 229 NW 881.

The evidence is sufficient to support the jury's finding that the tankwagon on which the plaintiff was riding was, at the time of the accident, being operated in the interest of the owner; and the question of the plaintiff's contributory negligence in riding upon the wagon, knowing that the driver was intoxicated, was for the jury. Beckman v Wilkins, 181 M 245, 232 NW 38.

Plaintiff, while jacking up the right front wheel of his car, parked on a busy street, was injured by the defendant who, parking his own car, backed into the plaintiff. The issue of plaintiff's contributory negligence was for the jury. Budish v Villaume, 181 M 259, 232 NW 264.

The evidence justified the finding of the jury that the defendant was negligent in driving his automobile which came into collision with another automobile,

as to one of the plaintiffs, a guest riding with him. Defendant's negligence was the proximate cause of the injury. Pitzen v Pitzen, 181 M 338, 232 NW 334.

Defendant sent his servant from Brainerd to Minneapolis with instructions to obtain an automobile and drive it to Brainerd. The servant invited guests to ride with him to Brainerd, and they accepted. Through negligent driving an injury occurred to one of the guests. There is no evidence from which the jury could find that defendant's servant had actual or implied or apparent authority to invite anyone to ride on the trip, and the defendant is not liable. White v Brainerd Service Co. 181 M 366, 232 NW 626.

The evidence sustained the finding that the servant driving the defendant's car was negligent, and was driving under authority from the defendant. Hollander v Dietrick, 181 M 376, 232 NW 630.

A local advertising manager for the Standard Oil Co. was driving during the noon hour, on his own time, an automobile which the company had recently specially painted to advertise a commodity just put on the market. The question as to whether the drive was solely for the driver's purposes, or was in the nature of advertising the master's business, was one of fact for the jury. The jury found for the plaintiff, and that verdict was sustained. Shotts v Standard Oil, 181 M 386, 232 NW 712.

Where an automobile accident insurance policy provides that the insurance is made available to any person operating a car with the permission of the assured, the fact that one so permitted to use the car uses it for a purpose other than that for which he asked to use it, does not release the insurer from liability. Peterson v Maloney, 181 M 437, 232 NW 790.

There is no charge that the street improvement as originally made or planned was affected, and the allegation that defendant's servants were negligent in maintaining the street in a defective and dangerous condition is clearly charged and is sufficient. McKnight v City of Duluth, 181 M 450, 232 NW 795.

A complaint charging that the driver carelessly, negligently, unlawfully and without giving warning, drove his car into, upon and against the plaintiff, does not limit the charge of negligence to the one question of failure to give warning. Baufield v Warburten, 181 M 506, 233 NW 237.

The fact that plaintiff was crossing the street at a place other than a crosswalk, did not absolve the driver of the automobile from his duty to exercise ordinary care, nor did it make the plaintiff guilty of contributory negligence as a matter of law. Saunders v Yellow Cab Co. 182 M 62, 233 NW 599.

A husband selected, purchased and paid for an automobile and for its upkeep, the title and registration was in the name of the wife who signed the chattel mortgage securing the unpaid purchase price. She did not drive the car. The wife was not liable for the negligence of her husband in driving a car registered in her name. Cewe v Schuminski, 182 M 126, 233 NW 805.

The facts warranted the jury in finding that the defendant was guilty of reckless driving. Honkomp v Martin, 182 M 404, 234 NW 638.

Where defendant's bus struck a parked car it moved another car upon the plaintiff, the action of the jury in finding for the plaintiff is sustained. Flannagan v Twin City Motor Bus Co. 184 M 219, 238 NW 326.

Where there was no evidence showing how the truck ran down a child in an alley, the court properly dismissed the action at the close of plaintiff's case. O'Neil v Cochrane, 184 M 354, 238 NW 632.

The plaintiff driving his car on a paved road turned onto the left side of the road to avoid traveling over a patch of sand and gravel scattered on the right path of the roadway. When just past the sand and gravel, he turned to the right to get on to his proper side of the road, and collided with the car coming from the opposite direction. It was held that the presence of a patch of sand was not the direct or proximate cause of the collision. Hamilton v Vare, 184 M 580, 239 NW 659.

There is evidence to sustain a finding of defendant's neglect in that he operated his truck upon a public highway in violation of the statute, and that such negligence was the proximate cause of the damages resulting to the plaintiff. Ball v Gessner, 185 M 105, 240 NW 100.

In an action to recover for death by wrongful act based upon the alleged concurring negligence of the two defendants, the evidence is insufficient to support the verdict because it may be that only one of the defendants was negligent, and if so, the identity of the wrongdoer is not shown by the evidence. Yeager v Held, 186 M 71, 242 NW 469.

Where a child of five years was injured and was six years old at the time of the trial, she was immature, and it was not error in refusing her testimony. Borowski v Sargent, 188 M 102, 246 NW 540.

The evidence sustains the finding of the jury that the defendant was negligent in closing the right front door of his automobile when the plaintiff was getting in at the rear door. The plaintiff was not negligent in placing her hand on the door jamb in getting in through the rear door. Wildes v Wildes, 188 M 441, 247 NW 508.

Plaintiff consented to ride as a guest in defendant's car, knowing that it was operated in violation of law, after dark, and without the proper headlights required. Assuming that in so riding she was negligent and assumed the risk, it was still a question for the jury whether such negligence or assumption of risk proximately contributed to or caused the injury. White v Cochrane, 189 M 300, 249 NW 328.

Whether plaintiff who was injured by defendant's car while in the act of crossing a city street upon a crosswalk against the traffic signal, was guilty of contributory negligence was, under the evidence, for the jury, there being no statute or odinance by the city of Duluth forbidding a pedestrian to cross against the traffic signal upon the crosswalks of the street. Larson v Fox, 189 M 536, 250 NW 449.

Defendant's negligence is not questioned. Under the evidence, the plaintiff was not guilty of contributory negligence as a matter of law. The question of contributory negligence was one of fact for determination by the jury, who found for the plaintiff. Guthrie v Brown, 192 M 434, 256 NW 898.

The evidence as to the icy condition of the street made it a jury question whether the defendant's failure to stop his car was excusable. It was also a jury question whether the plaintiff, a passenger on the street-car, standing on the rear platform ready to alight, was thrown against the sides of the platform because of the sudden stopping of the street-car, or from the impact of the defendant's automobile against the rear doors of the street-car. Jannette v Patterson, 193 M 153, 258 NW 31.

Where a taxicab let off a passenger in a place where it is likely that a vehicle coming from behind will be unable to pass from the left because of the street-car rails and icy ruts, it is for the jury to determine whether the driver of the cab was negligent, and whether such negligence proximately caused or contributed to the injury received by plaintiff when a car coming from behind struck the cab as she was in the act of alighting. Paulus v Keolsch, 195 M 603, 263 NW 913.

Where the defendant wholly failed to sustain the burden of proving contributory negligence, and where there is no evidence from which the jury could reasonably infer or find that the plaintiff was guilty of contributory negligence, it was a prejudicial error for the trial court to submit that issue to the jury. Kogin v Ide, 196 M 493, 265 NW 315.

The court erred in not giving to the jury, at plaintiff's request, the statutory information given in Section 168.13. Kunkel v Paulson, 197 M 107, 266 NW 411.

The rule that it is only in the clearest of cases, where the facts are undisputed, that the question of contributory negligence becomes one of law, upon the facts stated in the opinion, required submission to the jury of the issue of contributory negligence. Hack v Johnson, 201 M 9, 275 NW 381.

Where it appears that an automobile was driven between 40 and 45 miles per hour, in excess of statutory rate of speed, in free wheeling on a snow-covered, slippery, tarvia surfaced highway, so that it skidded 380 feet, went off the road and knocked down an eight-inch tree, the question of the driver's negligence is for the jury. McKeown v Argutsinger, 202 M 595, 279 NW 402.

169.14 SPEED RESTRICTIONS.

HISTORY. 1903 c. 356 s. 1; R.L. 1905 s. 1275; 1911 c. 365 s. 16; G.S. 1913 s. 2635; 1917 c. 475 s. 1; G.S. 1923 s. 2709; 1925 c. 416 s. 10; 1927 c. 412 s. 4; M.S. 1927 s. 2720-4; 1937 c. 464 s. 28; 1939 c. 430 s. 6; M. Supp. s. 2720-178.

(APPLYING TO 1927 ACT)

The jury was properly informed of the statute regulating the speed of automobiles. The charge against the defendant being that he drove an automobile in a culpable, negligent manner and at an unlawful speed against a person causing death, it was permissible to call attention to any law that bore on the alleged negligent driving, even though not specially set forth in the indictment. State v Peterson, 153 M 310, 190 NW 345.

Automobile drivers must use due care in approaching crosswalks. The rights of pedestrians to cross the street are not subordinate to those of automobile drivers. McMahon v Flynn, 154 M 326, 191 NW 902.

When approaching the most used crossing in the city, defendant speeded his car to over 20 miles per hour and when he applied the brakes the car slid 60 feet on a dry, level pavement. This speed sustained the verdict that the defendant was negligent. Flaaten v Lyons, 157 M 362, 196 NW 478.

A statutory highway rule does not absolve a chauffeur approaching too rapidly from the right from the duty of slowing down and otherwise using due care for the protection of others. Primock v Goldenberg, 161 M 160, 200 NW 920.

A road overseer is not liable to one injured on a public highway because of his failure to keep it in repair and safe for travel. The liability of a highway official as a private individual attaches only when the duty is ministerial, and his failure to act is the proximate cause. Stevens v Northern States Motor, 161 M 345, 201 NW 435.

Where an accident happens in consequence of the negligence of both parties, neither is entitled to recovery. Defendants were entitled to an instruction that if plaintiff's car travels at a speed exceeding ten miles per hour for one-tenth of a mile, it was prima facie unreasonable. O'Connor v Sinykin, 162 M 382, 202 NW 891.

A person intending to board a bus who stands at on near the edge of a broad paved highway where he is run down by an automobile driven at a high rate of speed, is not guilty of contributory negligence as a matter of law because he failed to get out of the way. Lustik v Walters, 169 M 313, 211 NW 311.

An indictment, charging murder in the third degree committed by recklessly, wantonly, and unlawfully, while drunk, driving an automobile at a speed dangerous to life along a public street against another car in which were human beings, so as to cause death of one named, and stating that such reckless driving in defendant's drunken condition regardless of the life of others upon such public street, is valid against a demurrer and as against objections to the introduction of testimony. State v Shepard, 171 M 414, 214 NW 280.

An instruction embracing the statutory rates of speed which make a prima facie case of negligence when such speed continued for one-tenth of a mile, is without prejudice to the defendant when the record fails to show that such speed continued for that distance. Eichhorn v Lundin, 172 M 591, 216 NW 537.

In a collision between an automobile and a pedestrian, the negligency of the driver as regards speed and failure to give timely warning of his approach, was for the jury. Schmitt v Jackson, 174 M 577, 219 NW 912.

Defendant drove at an excessive and dangerous rate of speed over an icy road and the car overturned. Plaintiff, a guest in the car, cannot be declared guilty of contributory negligence as a matter of law in remaining in the car without protest, although plaintiff realized that defendant was driving at a dangerous rate. Stenstrom v Blooston, 177 M 95, 222 NW 462.

In an action for damages sustained by plaintiff in a collision by his car with a truck parked on a paved highway and without a rear red light after dark, all contrary to law, to justify an instructed verdict for defendants on the grounds of plaintiff's contributory negligence, such negligence must appear as a matter of law. Held: defendant's negligence was proven, and the question of plaintiff's

contributory negligence was for the jury. Mechler v McMahon, 180 M 252, 230 NW 776.

The plaintiff and defendant were riding in South Dakota in an automobile owned and driven by the defendant. The statute of South Dakota makes driving at a rate of more than 40 miles per hour prima facie evidence of negligence. The defendant was driving in excess of 50 miles per hour. The evidence sustains the finding that the defendant was negligent; and whether the plaintiff was a guest, or the defendant and plaintiff were engaged in a joint enterprise, the defendant is liable in any event. Berlin v Koblas, 183 M 278, 236 NW 307.

Plaintiff's automobile which was following that of the defendant on a paved highway collided with it; the collision resulted from the sudden stopping of defendant's car without giving the statutory notice or signal. A finding for plaintiff was sustained. Peterson v Dahl, 184 M 213, 238 NW 324.

Where two motor vehicles are approaching each other, traveling in opposite directions, neither is justified in taking close changes. In this case a collision between a Ford and a motor bus, the driver of the Ford was guilty of contributory negligence, and may not recover. Engholm v Northland Transportation Co. 184 M 349, 238 NW 795.

The violation of a duty created by statute or ordinance proximately resulting in injury to one for whose protection such law was enacted, results in liability irrespective of such conduct as would constitute negligence in the absence of such law. In such case the wrongdoer is guilty of negligence per se. The test is whether the particular statute or ordinance was enacted for the benefit of the injured party. If not intended for his protection, the statute and ordinance are immaterial. Mechler v McMahon, 184 M 476, 239 NW 605.

It was not error to receive testimony as to the conditions at the place of the accident on the day following; nor to admit the statement of a witness that a car traveled "just like a flash of lightning"; and to admit testimony of the speed of the car within four miles of the place of collision. Quinn v Zimmer, 184 M 589, 239 NW 902.

In an action to recover for death by wrongful act based upon the alleged concurring negligence of the two defendants, the evidence is insufficient to support the verdict because it may be that only one of the defendants was negligent, and the identity of the wrongdoer is not shown. Yeager v Held, 186 M 71, 242 NW 469.

Suit on behalf of a minor should proceed in his name, by his guardian, rather than in the name of the latter on behalf of the minor. Borowski v Sargent, 188 M 102, 246 NW 540.

Plaintiff's intestate was riding in the rear seat of a car owned by the defendant and driven by defendant's wife. Considering the method of driving, the condition of the road, the automobile, and the speed, the finding of negligence in the defendant is sustained. Anderson v Anderson, 188 M 602, 248 NW 35.

Under ordinary circumstances, a street railway company is not responsible for injuries to passengers caused by obvious street dangers. The fact that the street-car was stopped at other than the usual stopping place under the circumstances in this case, did not increase the railway company's duty or responsibility. Fox v Minneapolis Street Ry. Co. 190 M 343, 251 NW 916.

Evidence of negligence sufficient to support a verdict against both defendants. Fryckland v Jackson, 190 M 356, 252 NW 232.

It is a question for the jury whether plaintiff who on a stormy night on a slippery street, drove his car into the rear of a car parked diagonally without lights, was guilty of contributory negligence. Tully v Flour City, 191 M 84, 253 NW 22.

Defendant's negligence is not questioned. Under the evidence presented, plaintiff was not guilty of contributory negligence as a matter of law. The evidence sustains a finding in favor of the plaintiff. Guthrie v Brown, 192 M 434, 256 NW 898.

This was a collision between an automobile with a trailer overtaking and passing another car, colliding with the overtaken vehicle. While there is no statute requiring the driver of a motor vehicle to give a signal upon overtaking and passing another vehicle from the rear, the question as to whether or not ordinary care requires a warning should be submitted to the jury. It was error in

the court in not giving a requested instruction on the statutory regulation governing the use of trailers. Dziewczynski v Lodermeier, 193 M 580, 259 NW 65.

The presumption that a deceased person exercised due care for his own safety, yields to credible undisputed testimony, and does not remain to create an issue of fact against such credible evidence. Favor v Herdliski, 194 M 321, 260, NW 500.

The evidence as to tracks of horses and skid marks of a car observed next morning at the place of a fatal collision, was properly admitted. The general verdict was sustained, although the erroneous instruction as to the special verdict compels its vacation. Raths v Sherwood, 195 M 225, 262 NW 563.

The contributory negligence of plaintiff's decedent was, under the evidence, for the jury. Golden v Guyer, 195 M 354, 263 NW 103.

A horse came suddenly upon the highway 30 feet in front of the car which was traveling 30 miles per hour. The driver did not apply his brakes but endeavored to swerve around the horse, but struck and killed the horse. The driver was confronted with an emergency and as a matter of law was not negligent in choosing the course he did; and the proximate cause of plaintiff's injury was the negligence of the owner of the horse in permitting it to escape and run at large. Wedel v Johnson, 196 M 170, 264 NW 689.

Defendant driving on the left side of the highway after passing another automobile traveling in the same direction, struck a washout, skidded to the right side of the road and turned over twice. There was sufficient evidence that defendant was operating at an excessive speed to justify the submission of defendant's negligence to a jury. Caulfield v McGivern, 196 M 339, 265 NW 24.

As to contributory negligence of plaintiff riding as a guest in an automobile, no issue could arise from the mere fact that under the circumstances stated, plaintiff did not protest against a speed of from 50 to 60 miles per hour. Hartel v Warren, 196 M 465, 265 NW 282.

The evidence justified the jury in finding defendant's servant, a traveling salesman, within the scope of his employment when his negligency caused the death of plaintiff's intestate. The issue of contributory negligence of plaintiff's intestate was for the jury. Vogel v Nash, 196 M 509, 265 NW 350.

In a collision at a right angle highway intersection between an automobile driven by plaintiff's husband and one driven by defendant, the court erred in not giving to the jury at plaintiff's request the statutory definition of an unobstructed view of a highway intersection, and the speed at which to approach such intersection. The evidence of defendant's negligence as a contributory cause of the collision was for the jury. Kunkel v Paulson, 197 M 107, 266 NW 441.

Two automobiles collided at a street intersection and a passenger in one was injured, and in this action against both drivers recovery and verdict is against each. The evidence sustains the verdict as against each driver and neither was entitled to a directed verdict, or to judgment non obstante. Kemerer v Mock, 198 M 316, 269 NW 832.

Driving a motor vehicle in excess of the statutory speed limit is prima facie violation of the statute. Bird v Johnson, 199 M 252, 272 NW 168.

In a case arising out of a collision between a bus and a truck in a cloud of smoke caused by burning brush, the question of the bus driver's negligence under the circumstances was one for the jury. Becker v Northland Transp. Co. 200 M 272, 274 NW 180, 275 NW 510.

Where motorist fails to discover substantial construction to travel within the range of illumination by his headlights until it is impossible to avoid a collision, his contributory negligence is for the jury if distracting circumstances are present. Twa v Northland Transp. Co. 201 M 234, 275 NW 846.

It is for the jury to decide whether or not a guest passenger riding in a car 80 miles per hour is guilty of contributory negligence. Holmes v Lilygren, 201 M 44, 275 NW 416.

In a head-on collision between a Ford and a bus in a deep cut caused by snow embankments, the evidence is sufficient to sustain the jury's conclusion that the bus driver was negligent, and does not establish contributory negligence of the driver of the Ford. Turnmeyre v Jefferson Transportation, 202 M 307, 278 NW 159.

Where an automobile was driven 45 miles per hour, in excess of statutory rate of speed, in free wheeling, on a snow covered, slippery, tarvia highway, so that it skidded 380 feet, the question of the driver's negligence was for the jury. McKeown v Argetsinger, 202 M 595, 279 NW 402.

Where an injury is caused by the concurrent negligence of several persons, the negligence of each is deemed a proximate cause of the injury, and each is liable for all resultant damages. Where two negligent causes combine to produce injuries, neither author can escape liability because he is responsible for only one of them. Schuster v Vicchi, 203 M 76, 279 NW 841.

It was for the jury to determine whether the plaintiff's violation of the statute requiring a signal before making a turn, proximately caused the accident. Likewise, it was for the jury to determine whether the plaintiff violated the statute requiring a vehicle turning left to stay as near the center of the intersection as practicable. Spencer v Johnson, 203 M 402, 281 NW 879.

Where it appeared that excessive speed in entering and crossing an intersection was not a proximate cause of the accident because the accident would have happened in the absence of such speed, it is not error to refuse to submit the question of excessive speed. Draxton v Katzmarek, 203 M 161, 280 NW 288.

An obstruction of the driver's view is deemed to exist when he does not have a clear and unobstructed view of an intersection, includes all obstructions without qualification as to kind, source of permanency, and may include temporary accumulations of snow upon the windshield as well as permanent structures, such as buildings and improvements. Larson v Lowden, 204 M 81, 282 NW 669.

Whether a truck driver proceeded down an alley frequented by children at a negligent rate of speed, and without warning, was a question for the jury. Otterness v Hathaway, 204 M 88, 282 NW 687.

In case of a head-on collision, a fact issue as to defendant's negligence is presented by evidence that defendant drove his automobile at a speed of 20 to 25 miles per hour following about 35 or 40 feet behind a truck in loose snow on the highway, with his left wheels in a rut on his left side of the road and with his vision obscured by a cloud of snow thrown into the air by the truck. Johnson v Reinhard, 205 M 212, 285 NW 536.

What is an accident? 2 MLR 234.

Effect of compliance with unconstitutional repealing of statute on liability for violation of previous statute. 17 MLR 322.

Necessity that plaintiff be member of class protected by statute. 19 MLR 679.

(APPLYING TO 1937 ACT)

It is error to instruct that a statute creating a presumption of neglect shifts the burden of proof. The incidence of such statute is merely upon the burden of next producing evidence. Lestico v Kuehner, 204 M 125, 283 NW 122.

"Distracting circumstances" are absent ordinarily unless there is an observed and moving object which of itself may reasonably threaten danger. The plaintiff is chargeable with contributory negligence because in daylight he drove his automobile into the intersection of two well traveled highways without knowing he was approaching a crossroad. Dreyer v Otter Tail Power, 205 M 286, 285 NW 707.

The motorist ran into a car that was backing across a highway for the purpose of turning lights upon a car which was being repaired. The question of negligence was for the jury. Carlson v Peterson, 205 M 20, 284 NW 847.

Failure of plaintiff to look the second time before entering an intersection under the facts stated was an item of evidence for the jury to consider in determining as to whether or not there was contributory negligence. Norling v Stempf, 208 M 143, 293 NW 250.

Where the evidence is such that reasonable minds might reach opposite conclusions as to the defense of contributory negligence, it is error to direct verdict against plaintiff. Fickling v Nassif, 208 M 538, 294 NW 848.

Where an automobile was driven at a speed of 35 miles per hour in the night time over a paved highway on which there were patches of ice and occasional snow flurries, and the car skidded and hit a telephone pole, the question of the driver's negligence was one of fact. Schultz v Rosner, 209 M 462, 296 NW 532.

Facts relating to and effects resulting from an automobile collision sustained the verdict. Odegard v Connelly, 211 M 342, 1 NW(2d) 137.

Where an automobile driver approaching an intersection at a lawful speed, looked to the left when about six feet from the intersection but failed to see the defendant's car, and after proceeding three feet into the intersection looked again, this time seeing defendant's car 25 feet east of the intersection coming at the rate of 35 miles per hour, the plaintiff could assume until observation indicated otherwise, that defendant would yield her right of way. Mahowald v Beckrich, 212 M 78, 2 NW(2d) 569.

The two necessary elements required to constitute "contributory negligence" are want of ordinary care and casual connection between plaintiff's conduct and the accident. Generally a plaintiff's negligence is sufficient to bar recovery if it proximately contributed to the result. Olson v Duluth, Missabe & Iron R. Ry. 213 M 106, 5 NW(2d) 492.

Whether a guest in an automobile was guilty of contributory negligence which would bar his recovery against his host for injuries sustained in the collision at highway intersection, in that he continued to ride with host who despite guest's protest persists in driving 75 to 85 miles per hour, was a question for the jury. Hubenette v Ostby, 213 M 349, 6 NW(2d) 637.

Where the evidence as a matter of law shows the defendant so carelessly and negligently operated his automobile in which plaintiff was riding that because of the snowfall and the driver's unacquaintance with the road, his car overturned, the court rightly instructed the jury to return a verdict for plaintiff. Wenger v Velie, 205 M 558, 286 NW 885.

Inability to stop within range of vision is negligence as a matter of law. 22 MLR 877.

Plaintiff is guilty of contributory negligence as a matter of law because at the rate of speed he was going through dense fog he could not stop his vehicle within the distance required to stop after discovery of danger. The fact that plaintiff violated Section 169.14 of the traffic code, such violation constituting prima facie evidence of negligence, does not entitle him to a jury trial on that issue. Olson v Duluth and Iron Range, 213 M 106, 117, 5 NW(2d) 492.

Whether defendant's driving, in spite of plaintiff's cautionary remarks, required that plaintiff guest take other steps in the interest of his own safety, should have been submitted to the jury. Hubenette v Ostby, 213 M 352, 6 NW(2d) 637.

Where a boy of six years was killed when crossing the street-car track, the court properly submitted to jury the question of speed and control of the street-car in determining whether street-car company and its motorman were guilty of negligence, the evidence being conflicting. Deach v St. Paul City Railway, 215 M 175, 9 NW(2d) 735.

The court did not err in reading to the jury Section 169.14, subdivision 1, and limiting the same to the speed just before the accident. Kerzie v Rodine, 216 M 44, 11 NW(2d) 771.

The court did not abuse its discretion in admitting expert testimony as to speed of street-car based on testimony as to where car struck pedestrian, where power was released and brakes applied, and where car came to a stop, although the expert had never operated a car, did not see this car in operation, and was not familiar with its weight or braking apparatus. Moeller v St. Paul City Railway, 218 M 353, 16 NW(2d) 290.

The two necessary elements constituting contributory negligence are want of ordinary care on the part of the person injured, and a causal connection between his conduct and the accident, the rule being that plaintiff's negligence is sufficient to bar recovery if it proximately contributes to the result. Olson v Hector Construction Co. 216 M 432, 13 NW(2d) 35.

Driver of automobile approaching railroad crossing and observing highway sign 300 feet from crossing and nevertheless approaching crossing through dense fog at a speed which did not permit driver to stop within distance illuminated by his lights was contributorily negligent as a matter of law in respect to collision. Wessman v Scandrett, 217 M 312, 14 NW(2d) 445.

"While we cannot subscribe to the view that all statutes creating presumptions or prima facie proof to apply in criminal prosecutions are invalid as depriving the defendant of the presumption of innocence, the right to trial by jury or other constitutional safeguards, neither can we go to the other extreme and adopt the Wigmore doctrine that the legislative power in this respect is unlimited. The test of reasonableness must be applied to procedural statutes as well as to statutes declaring the substantive law." State v Kelly, 218 M 261, 15 NW(2d) 554.

Where injury is sustained as the result of intentional obstruction of a highway in violation of the statute, contributory negligence of the person injured is no defense. Flaherty v Gt. Northern, 218 M 488, 16 NW(2d) 553.

Privileges and duties of emergency vehicles. Travis v Collett, 218 M 597, 17 NW(2d) 68.

Where nothing which plaintiff automobile passenger could have done would have changed the conduct of the driver and have prevented collision at highway intersection, there was no error in not submitting issue of contributory negligence to the jury. Wilson v Davidson, 219 M 42, 17 NW(2d) 31.

The ordinances of the city of Fargo providing that a pedestrian crossing a street at a point other than crosswalks shall yield right of way to vehicles could not be construed as in effect making it negligence as a matter of law for a pedestrian to cross at other than crosswalks, and in the instant case was not guilty as a matter of fact. Smith v Barry, 219 M 182, 17 NW(2d) 324.

Whether motorist was negligent in operating automobile down a winding hill at speed of 30 miles per hour, and whether such negligence proximately concurred with defective steering apparatus in producing guest's injuries should have been submitted to the jury, though defective condition of the steering apparatus was proximate cause of accident, and owner of automobile had no knowledge of such condition. Olson v Buskey, 220 M —, 19 NW(2d) 57.

Where there is inconsistency between the statute and a village ordinance, the ordinance must conform to the statute. OAG Jan. 28, 1944 (989a-19).

169.15 DRIVERS NOT TO IMPEDE TRAFFIC.

HISTORY. 1937 c. 464 s. 29; M. Supp. s. 2720-179.

(APPLYING TO 1937 ACT)

Plaintiff's car was disabled and he was pushing it with his left hand and guiding the steering wheel with his right hand. He entered the intersection without looking. Plaintiff had been drinking. He was not entitled to recovery. Green v Mathiowetz, 212 M 171, 3 NW(2d) 97.

169.16 SPEED ON BRIDGES.

HISTORY. 1927 c. 412 s. 7; M.S. 1927 s. 2720-7; 1937 c. 464 s. 30; Supp. 2720-180.

169.17 EXCEPTIONS.

HISTORY. 1925 c. 416 s. 28; 1937 c. 464 s. 31; M. Supp. 2720-181.

Emergency vehicles are excepted under certain conditions from full compliance with the speed limitations. Rogers v Mpls, St. Ry. 218 M 454, 16 NW(2d) 516; Flaherty v Gt. Northern, 218 M 495, 16 NW(2d) 553; Ness v Mpls. St. Ry. 218 M 532, 16 NW(2d) 758; Travis v Collett, 218 M 592, 17 NW(2d) 68.

169.18 RULES FOR DRIVING VEHICLES UPON ROADWAYS.

HISTORY. R.S. 1851 c. 24 s. 1; P.S. 1858 c. 21 s. 1; G.S. 1866 c. 14 ss. 1, 2; G.S. 1878 c. 14 ss. 1, 2; G.S. 1894 ss. 1945, 1946; R.L. 1905 ss. 1258, 1259; 1911 c. 365 s. 15; 1913 c. 235 s. 65; G.S. 1913 ss. 2552, 2634; 1917 c. 119 s. 22; 1919 c. 24 s. 1; G.S. 1923 ss. 2621, 2708; 1925 c. 416 ss. 15 to 17, 21, 22; 1927 c. 412 ss. 9 to 15; M.S. 1927 ss. 2720-9 to 2720-15; 1937 c. 464 ss. 32 to 39; 1939 c. 430 s. 7; M. Supp. ss. 2720-182 to 2720-189.

(APPLYING TO 1927 ACT)

In a head-on collision, the question of both negligence and contributory negligence are for the jury. Romann v Bender, 190 M 419, 252 NW 80; Prescott v Swanson, 197 M 325, 267 NW 351.

Where plaintiff brought his car to a stop near the center of the pavement on account of a tire blowout, and was struck by defendant's car from the front, the negligence and contributory negligence are for the jury. Spates v Gillespie, 191 M 1, 251 NW 835.

The overtaking vehicle to which is attached a trailer is not required by statute to signal, but to the jury should be submitted the question as to ordinary care and warning required. Dziewzynski v Lodermeyer, 193 M 580, 259 NW 65.

Whether an emergency existed which warranted the truck turning to the left side of the highway was for the jury. Oxborough v Murphy, 194 M 335, 260 NW 305.

The negligence of the defendant was well established. Plaintiff's decedent was a child seven years old, and cannot be guilty of contributory negligence; and as to whether the mother was guilty of such contributory negligence is for the jury, and the jury's verdict in favor of the plaintiff is sustained by the evidence. Dickey v Haes, 194 M 292, 262 NW 869.

Any statement secured from an injured person at any time within 30 days of his injury is presumed to be fraudulent for use in the trial of any action for damage; but the presumption disappears completely and for the whole case immediately evidence demonstrates that there is nothing fraudulent about the statements. Swanson v Swanson, 196 M 298, 265 NW 39.

Connection as a proximate cause is lacking as a matter of law, and the evidence does not support a finding that the lobar pneumonia from which plaintiff's intestate died was caused by a collision between cars occurring five weeks prior to the pneumonia. Honer v Nicholson, 198 M 55, 268 NW 852.

An automobile driver may not claim benefit of the rule justifying a loss of control caused by an emergency or traffic hazard when that condition is created by his own negligent acts. Ind v Bailey, 198 M 217, 269 NW 638.

The relative position of the cars after the accident raised a question of fact for the jury as to the likelihood of defendant's version of the accident being the correct one. Tri State v Nowotny, 198 M 537, 270 NW 684.

It is a question of fact for the jury as to whether the street-car motorman kept his proper and usual lookout, and also whether the motorist traveling on the left-hand portion of the street because he was unable to extricate his car from ruts, was himself negligent. Elkins v Mpls. St. Ry. Co. 199 M 63, 270 NW 914.

Parties to the collision were proceeding at a legal rate of speed in opposite directions, At a point of intersection decedent turned left and in so doing cut in front of defendant's car, and a collision occurred. There was no evidence of negligence on the part of the plaintiff, nor error when the trial court directed a verdict for the plaintiff. Laiti v MacNaughtin, 199 M 167, 271 NW 481.

In a case arising out of a collision between a bus and a truck in a cloud of smoke caused by burning brush, the question of the bus driver's negligence was for the jury. Becker v Northland Transp. Co. 200 M 272, 274 NW 180, 275 NW 510.

The accident occurred on a long "S" shaped curve on a paved highway over which a snowplow had made a single cut eight feed wide through the drift, and 80 rods in length. The evidence is sufficient to sustain the jury's conclusion that the conduct of defendant bus company's driver was negligent, and the evidence does not establish contributory negligence on the part of the driver of the Ford car. Turnmeyre v Jefferson Transp. Co. 202 M 307, 278 NW 159.

What constitutes the proximate cause of an injury, is a question for the jury unless the evidence is conclusive, and is to be determined by it in the exercise of practical common sense rather than by the application of abstract definitions. Shuster v Vecchi, 203 M 76, 279 NW 841.

Where an injury is caused by the concurrent negligence of several persons, the negligence of each is deemed a proximate cause of the injury and each is liable. Where two negligent causes combine to produce injuries, neither author can

escape liability because he is responsible for only one of them. Shuster v Vecchi, 203 M 76, 279 NW 841.

The driver of a bus who had trouble passing another vehicle, after passing the vehicle left the bus and beat the driver whose machine he had just passed, is not within the scope of his employment. Plotkin v Northland Transp. Co. 204 M 422, 283 NW 758.

The fact that defendant drove his car 25 miles per hour following 35 feet behind a truck in loose snow on the highway, with his left wheels in a rut on his side of the road, and with his vision obscured by a cloud of snow thrown into the air by the truck; and plaintiff passed the truck and, at the time of the collision, was driving on the right side of the road with her left wheels in the right-hand rut, is a question for the jury as to the negligence of the defendant and the contributory negligence of the plaintiff. Johnson v Reinhard, 205 M 212, 285 NW 536.

Although there were marks of truck wheels on the right-hand shoulder of the highway, there was sharply conflicting evidence as to where the truck was at the time of the collision, and the factual question was rightfully left for the consideration of the jury. Elzig v Gudwangen, 91 F(2d) 434.

It is the duty of a motorman operating the street car after dark to have it under such control that when the rays of the headlight enable him to discern a vehicle on the track he can stop the car in time to avoid a collision. Failure to comply with statute relating to the duties of the drivers of horse-drawn vehicles on city streets is not conclusive evidence of contributory negligence. Heyden v Mpls. St. Ry. 154 M 102, 191 NW 254.

The evidence sustains a finding of the jury that plaintiff, who was injured in a collision with an automobile truck of the defendant, was contributory negligent. The court properly charged that the plaintiff was at fault, and properly submitted the question, as to whether his fault was the proximate cause of the injury, to the jury. Roach v Roth, 156 M 107, 194 NW 322.

Plaintiff in riding a bicycle upon the left side of a wide country road was not as a matter of law guilty of contributory negligence so as to defeat a recovery of damages from defendant whose automobile, negligently operated, ran plaintiff down. Pettygrove v Hecht, 159 M 260, 198 NW 809.

When all things are equal, vehicle on the right has the right of way even against a street-car. Bradley v Minneapolis Street Ry. 161 M 322, 201 NW 606.

Defendant's presence on the wrong side of the street causing an injury creates liability unless excusable or justifiable. The burden of proving justification is on the person who violated the statutes. He is excusable if, without fault on his part, his automobile skids across the center line of the street. Dohm v Cardozo, 165 M 193, 206 NW 377.

Verdict sustained that defendant automobile driver was negligent and plaintiff free of fault. Brasney v Barnard, 169 M 501, 211 NW 949.

Under the evidence, the question as to whether plaintiff was guilty of contributory negligence was for the jury. Hayden v Lundgren, 175 M 449, 221 NW 715.

In a triangle automobile collision, the question of negligence was for the jury and the evidence sustains the verdicts. Harrington v Wagner, 176 M 383, 223 NW 603.

A guest in an automobile having no responsibility for or share in its control, is not engaged in a joint enterprise with the owner simply because the two are making a journey together for a common object; and the question of the driver's negligence in driving in sleet and rain at 35 miles per hour over a rough road, is for the jury. Truso v Ehnheart, 177 M 249, 225 NW 98.

A horse ridden by plaintiff at a high rate of speed on a perilous road in the night-time collided with an automobile which had its lights on. Plaintiff was guilty of contributory negligence as a matter of law. Rosenthal v McCulloch, 177 M 523, 225 NW 651.

A mailcarrier having the right of way was not negligent in driving across a trunk highway. He was coming from the right and entered the intersection before the Ford reached it. He had a right to assume that the other car would be brought under control, or at least would be brought to the south side of the right of way where it belonged. Kruger v Sanford, 178 M 619, 227 NW 50.

The rules of the highway traffic act requiring use of the right half of the highway and passing to the right are not so inexorable as to make a driver, who attempts to pass an approaching vehicle to the left, guilty of negligence if, without his failing in due care otherwise, an emergency was created of such a nature that ordinary prudence justified him in turning to the left rather than to the right. Sathrum v Lee, 180 M 163, 230 NW 580.

Plaintiff parked his car against the curb and while jacking up the right front wheel was injured by the defendant who, parking his own car, backed into the plaintiff. The issue of contributory negligence on the part of the plaintiff was for the jury. Budish v Villaume, 181 M 259, 232 NW 264.

Defendant being on the wrong side of the highway, his delinquency in this respect was the proximate cause of the injury. The lights on the plaintiff's automobile were not lighted and he did not have his car within such control that he could stop within the distance in which he could see. The collision was in the daytime, but there was a snowstorm. Plaintiff's delinquency, if any, was not as a matter of law the proximate cause of the injury. Harrsch v Breilien, 181 M 400, 232 NW 710.

From 20 to 30 miles per hour without slackening speed and without showing lights or other precaution to avoid an accident. Salera v Schroeder, 183 M 478, 237 NW 180.

In a collision between a Ford and a bus, the question of negligence on the part of the bus was for the jury. The driver of the Ford is guilty of contributory negligence as a matter of law. The evidence was insufficient to warrant the courts submitting to the jury the question of contributory negligence on the part of the guest riding in the Ford. Engholm v Northland Transp. Co. 184 M 349, 238 NW 795.

The defendant Luce attempted to pass defendant Ferris' car headed in the same direction who parked on the highway. The court properly charged the jury that the driver of any vehicle upon a highway before turning from a direct line should first see that such movement can be made in safety. Giesen v Luce, 185 M 479, 242 NW 8.

In a suit on behalf of a minor child run down by an automobile, the finding that the defendant was not negligent is sustained. Borowski v Sargent, 188 M 102, 246 NW 540.

On a paved highway, driver of a slow-moving vehicle is not required to travel upon the shoulder of the highway embankment, although the shoulder may be in good condition for travel where as in the instant case, there is no evidence that such shoulder comprises a part of the traveled portion of the highway. Stone v Siegel, 189 M 47, 248 NW 285.

(APPLYING TO 1937 ACT)

In a head-on collision, the question of alleged negligence of the operator of a car is one of fact for the jury where as here, the evidence shows that he might have avoided the collision with the exercise of due care. The guest was entitled to recovery. Hinman v Gould, 205 M 377, 286 NW 364.

Testimony that a witness for plaintiff in an automobile accident settled an action brought against him by the defendant for damages arising out of the same accident is irrelevant to show an admission of liability by the witness or the witness' hostility to defendant. Esser v Brophy, 212 M 195, 3 NW(2d) 3.

A pedestrian is not guilty of contributory negligence as a matter of law for failure to look for an automobile approaching on wrong side of street, since ordinarily a pedestrian has no reason to foresee or to anticipate danger from that direction. Aide v Taylor, 214 M 212, 7 NW(2d) 757.

An oral plea of guilty of a traffic violation is not admissible in evidence in a civil action. Warren v Marsh, 215 M 620, 11 NW(2d) 528.

Court properly granted judgment non obstante to defendant who made motion for a directed verdict at close of trial, since record shows that evidence overwhelmingly preponderates in his favor on the issue of negligence in an auto collision case. Reiter v Porter, 216 M 483, 13 NW(2d) 372.

Where evidence indicated that one of the defendants may have been placed in a position of peril by negligence other than his own, the court properly in-

structed the jury on the "sudden emergency" doctrine. Vasatka v Matsch, 216 M 530, 13 NW(2d) 483.

The court requested to give and did give Section 169.18. The statute is so plain and simple that after reading no comment or interpretation is needed. Kerzie v Rodine, 216 M 45, 11 NW(2d) 771.

Whether the act of the motorman in suddenly stopping a street car in a street intersection in violation of the ordinance and without signal or warning to traffic behind is negligence is ordinarily question for the jury. Nees v Mpls. St. Ry. 218 M 532, 16 NW(2d) 758.

Evidence did not establish that plaintiff, in crossing the street at a place other than the crosswalk, was guilty of contributory negligence as a matter of law, and was sufficient to sustain the jury's finding that he was not guilty of negligence in fact. Smith v Barry, 219 M 182, 17 NW(2d) 324.

169.19 TURNING AND STARTING; SIGNALS ON STOPPING AND TURNING.

HISTORY. 1927 c. 412 ss. 16, 17; M.S. 1927 ss. 2720-16, 2720-17; 1937 c. 464 ss. 40 to 45; 1939 c. 430 s. 8; M. Supp. ss. 2720-190 to 2720-195.

(APPLYING TO 1927 ACT)

Plaintiff crossing from his store to a store on the other side of the street in the middle of the block saw a truck 150 feet away, and when about 15 feet from the east curb stopped. It then appeared to him that the driver was going to pass behind him, so he stepped forward briskly but the driver of the truck swerved to the right and struck him. The plaintiff was not guilty of contributory negligence. Anderson v Duban, 170 M 155, 212 NW 180.

If plaintiff failed to exercise the care that a person of ordinary prudence would have exercised under similar circumstances, he was guilty of negligence; and if that negligence contributed proximately in any degree to the injury as a cause he was, in law, guilty of contributory negligence and cannot recover. Eichorn v Lundeen, 172 M 591, 216 NW 537.

In this "fact" case the question of negligence of the defendants and the contributory negligence of the plaintiff were for the jury, and the verdict as reduced was reasonable. Knopp v McDonald, 176 M 83, 222 NW 580.

Plaintiff made a left-hand turn at a street intersection in front of an automobile coming from the north which he did not see, though had he looked he would have seen it. Plaintiff was clearly guilty of contributory negligence and cannot recover. Sorenson v Sanderson, 176 M 299, 223 NW 145.

The collision was between two cars coming in the same direction when the leading one attempted a "U" turn. The evidence of the excessive speed of the defendant, together with the evidence that before making the turn the driver of the leading car for some time maintained the customary warning signal by his extended hand, with other circumstances in evidence, made the issues of negligence and contributory negligence a question of fact and for the jury. Douglas v Jacobson, 179 M 86, 228 NW 347.

The evidence sustains the verdict in favor of the automobile driver who, while making a left turn, was struck from the rear by an approaching automobile. Fenske v Unterman, 181 M 275, 232 NW 326.

Where the driver of the oil truck turned into the path of a bus approaching from the rear, and there being nothing to show an emergency which would excuse such turning, the oil company is liable for the occurring damage. Erickson v Northland Co. 181 M 406, 232 NW 715. The question as to whether plaintiff failed to exercise proper care when he made the left turn was for the jury, and the evidence sustains the findings of the jury. Fulweiler v Twin City Motor Bus, 184 M 519, 239 NW 609.

Plaintiff's automobile, following that of the defendant collided with it. The collision resulted from sudden stopping of the car without giving the statutory signal. The jury properly found negligence on the part of the defendant without any contributory negligence on the part of the plaintiff. Peterson v Doll, 184 M 213, 238 NW 324.

A new trial was properly granted because the charge may have been confusing from contradictory statements therein and because it did not state the law applicable. Letourneau v Johnson, 185 M 46, 239 NW 768.

Plaintiff's decedent was killed as the result of a collision between cars driven by McCool and Moser. The decedent was a guest rider with Moser. Defendant Moser let off a passenger at the curb on the right side of the street within 50 feet of a street intersection at a place where he had the lawful right to stop. He intended to turn to the left in the intersection. He started up from where he had stopped, gave a proper signal for a left turn, drove toward the center of the street and made his turn at the center of the intersection. Moser was not guilty of a violation of the statute as a matter of law and the court did not err in submitting the question of violation of the statute to the jury. Mahan v McCool, 185 M 94, 239 NW 914.

The defendant Luce attempted to pass the car owned by defendant Ferris, both cars headed in the same direction, but the Ferris car was parked on the highway. The court properly charged the jury that the driver of a vehicle before turning from a direct line should first see that such movement can be made in safety. The evidence was sufficient to support a verdict against Luce. Geisen v Luce, 185 M 479, 242 NW 8.

As plaintiff turned into a north and south highway from the west he saw defendant's car coming fast from the south, 500 feet away. Plaintiff traveled north 54 feet and turned from the highway to the right into a 16 foot gateway. As his car was about off the highway, defendant's car collided with it. The question of defendant's negligence and of plaintiff's contributory negligence was for the jury, and the verdict in favor of the plaintiff is sustained by the evidence. Hansen v Larsen, 187 M 389, 245 NW 835.

Plaintiff was guilty of contributory negligence in swinging to the left to make a right turn into a driveway. Her abrupt change of direction was the proximate cause for the collision. Jovaag v O'Donnell, 189 M 315, 249 NW 676.

The requirement of the highway act that the driver of an automobile extend his left arm before he stops does not apply to his stopping in obedience to a semaphore. Turnblom v Crichton, 189 M 588, 250 NW 570.

Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Frykland v Jackson, 190 M 356, 252 NW 232.

Evidence was ample to support a finding of the trial court that defendant was free from negligence in making a left turn and was entitled to a directed verdict in his favor. McGerty v Nortz, 191 M 443, 254 NW 601.

Plaintiff was riding on the outside of a money truck, sitting upon the left front fender with his hand upon the radiator cap, and was repairing a mechanical signal device on the truck. Defendant pulled out from a parking place, and a collision occurred. The lower court returned a verdict for the defendant. This was error and the evidence should have gone to the jury. Guile v Greenberg, 192 M 548, 257 NW 649.

The owner of a truck which stops on a street-car track in obedience to a semaphore signal is not liable to a passenger of an approaching street-car who is injured by a sudden stop made by the street-car to avoid a collision with the truck. Herman v Mpls. St. Ry. 193 M 557, 259 NW 64, 794.

Plaintiff's negligence in no way contributed to the happening of the accident, and he can therefore recover in his own case and also as administrator of his wife's estate of which he is the sole beneficiary. Jenson v Glemaker, 195 M 556, 263 NW 624.

The question of defendant's negligence and plaintiff's contributory negligence were not in either case so clearly established as to authorize the court to remove either question from the field of the triers of fact. The court is sustained in submitting the issues to the jury, and there was sufficient evidence to sustain a verdict for the plaintiff. Williams v Russell, 196 M 397, 265 NW 270.

Whether defendant was negligent in suddenly backing diagonally parked car from snowbank into traveled portion of street was properly held for the jury, and there is sufficient evidence to sustain a verdict for the plaintiff. Stock v Fryberger, 197 M 399, 267 NW 368.

Irene Useman, a passenger on a street-car, was injured because of a collision between a street-car and a coal truck. There is ample evidence to sustain the jury in finding both defendants negligent, and a judgment against each of the defendants was upheld. Useman v Minneapolis Street Ry. Co. 198 M 79, 268 NW 866.

It was a question of fact as to whether the defendant violated the statute prohibiting motor vehicles from stopping on the main traveled portion of a public highway when it was practicable to park elsewhere. The jury found the defendant guilty of negligence and the finding of the jury is sustained. Fleenor v Rowley, 198 M 163, 269 NW 270.

Both cars were going at a legal rate of speed and decedent turned off the highway, cutting in front of defendant's car. The action of the trial court in directing a verdict for defendant was sustained. Laiti v MacNaughtin, 199 M 167, 271 NW 481.

The city is liable for the negligence of its employees in backing a road grading blade machine into the highway by which the plaintiff was injured. McCarthy v City of St. Paul, 201 M 276, 276 NW 1.

An automobile driver may be found guilty of negligence in running down a pedestrian in the act of diagonally crossing a street intersection on a showing that the pedestrian was visible, that the driver failed to observe him, made a left turn cutting the corner, and failed to sound a reasonable warning. Rier v Hart, 202 M 154, 277 NW 405.

Where the injury complained of is caused by defendant's intentional invasion of plaintiff's right of unobstructed travel on a public highway, plaintiff's contributory negligence cannot be raised as a defense by the defendant. Hanson v Hall, 202 M 381, 279 NW 227.

Where a collision occurred between cars, one of which was driving in a westerly direction and one in an easterly direction, at an intersection where the road was irregular in joining, the issues of negligence on the part of the defendant and contributory negligence on the part of the plaintiff were for the jury. Spencer v Johnson, 203 M 402, 281 NW 871.

As defendant's truck was about to make a left turn plaintiff's car collided with it from the rear. There was no room for plaintiff to pass the truck to the right. Defendant's driver did not give the warning signal required by statute until he had commenced the turn. Plaintiff had been following the truck at a distance of 50 feet. There was little ice or snow. The question of plaintiff's contributory negligence was for the jury, and its verdict in favor of plaintiff was sustained. Martini v Johnson, 204 M 556, 284 NW 433.

(APPLYING TO 1937 ACT)

Except as provided in the highway traffic regulation act, the common law prevails. A driver is not barred from recovery simply because he makes a movement not specifically authorized and not forbidden by the act. Carlson v Peterson, 205 M 20, 284 NW 847.

The employee of a contractor while operating on the wrong side of the highway produced dust, and a collision occurred. The question as to whether or not the employee was negligent and whether or not the motorist exercised care commensurate with the risk, is for the jury. Hokenhull v Strom, 212 M 71, 2 NW(2d) 430.

In action for personal injuries and damages to automobile sustained in intersectional collision at night when defendant's car was making a left turn at an acute angle, defendant's negligence and plaintiff's contributory negligence were for the jury, so that an instruction that defendant's negligence was established as a matter of law was erroneous. Abraham v Byman, 214 M 355, 8 NW(2d) 230.

Before stopping, the driver of a motor vehicle is required to give an appropriate signal as required by statute to the driver of any vehicle immediately to the rear, unless there is good and sufficient reason for not being able to do so. Christenson v Hennepin Co. 215 M 395, 10 NW(2d) 406.

In addition to giving instructions concerning the duties of one making a left turn on the highway under Section 169.19, it may have been necessary in the

instant case to instruct in accordance with section 169.20. At any rate, the alleged contributory negligence of one emerging from parking lot driveway and making a left turn was for the jury. Schnore v Baldwin, 217 M 397, 14 NW(2d) 447.

Where pedestrians ran into the street intersection in disregard of semaphore, and street car, already in intersection, stopped suddenly either to avoid injury to them or to permit them to board the street car, thereby causing truck to collide with rear end of street car, the proximate cause was for the jury. Nees v Mpls. St. Ry. 218 M 532, 16 NW(2d) 758.

Where plaintiff's truck passed two trucks and then cut in sharply and stopped suddenly partly on the paved portion of the highway, a second truckdriver attempted to drive between plaintiff's truck and vehicle parked on opposite side of the highway but struck both vehicles, after which the second truck was struck by a third truck, whether the conduct of plaintiff's truckdriver in cutting sharply ahead of the second truck and stopping suddenly without a signal was negligence which proximately caused the collision was for the jury. Landeen v De Jung, 219 M. 287, 17 NW(2d) 648.

169.20 RIGHT OF WAY.

HISTORY. 1925 c. 416 ss. 18, 23; 1927 c. 412 ss. 8, 18 to 20; M.S. 1927 ss. 2720-8, 2720-18 to 2720-20; 1937 c. 464 ss. 46 to 51; 1939 c. 430 s. 9; M. Supp. ss. 2720-196 to 2720-201.

(APPLYING TO 1927 ACT)

Where there is a collision between motor vehicles at a street intersection and defendant's negligence and plaintiff's contributory negligence are in issue, the determination of both questions is the province of the jury and its verdict should not be disturbed unless the proof is such that upon no rational basis could reasonable minds reach the conclusions they did. Armstrong v Minneapolis, 153 M 374, 191 NW 47.

The evidence sustains a finding that the defendant's driver was negligent and plaintiff was not. The fact that plaintiff did not keep to the right of the street intersection does not require a finding of a causal action between such failure and the injury. Robertson v Spitler, 153 M 395, 190 NW 992; Rimmer v Cohen, 172 M 134, 215 NW 198.

While the street-car had the right of way, the question whether the driver of the automobile of plaintiff or the motorman was negligent, and whether the motorman was wilfully negligent in failing to exercise ordinary care after seeing the automobile in the place of danger, were questions for the jury and were properly submitted. St. Clair v Duluth Street Ry. 155 M 203, 193 NW 690; O'Rourke v Duluth Street Ry. 157 M 187, 195 NW 896.

Boy on coasterwagon on the right-hand side of the street turned to the left to cross the street, and defendant in his car 20 feet behind the boy also turned left, striking the boy at the left-hand curb. The question of negligence and contributory negligence were for the jury. Oleson v Noren, 161 M 113, 201 NW 296.

The presumption that one who lost his life in an accident exercised due care for his own safety may be overcome by evidence. Where the evidence of contributory negligence leaves no room for honest difference of opinion among reasonable men, the court may direct a verdict. Plaintiff's intestate on entering a street intersection had the right to assume that the driver of defendant's truck would not violate the law of the road, and the evidence warranted the jury in finding in plaintiff's favor on the issue of contributory negligence. Claire v Peterson, 161 M 16, 200 NW 817.

When all things are equal, the vehicle on the right has the right of way, even against a street-car. Bradley v Minneapolis Street Ry. 161 M 322, 201 NW 606.

A provision exempting the insurer for liability from injuries resulting from "knowingly violating the laws or rules of a corporation or firm for safety", does not include injuries sustained while violating state law by driving at an excessive speed on the wrong side of the highway. Jennings v Travelers Ins. 163 M 267, 203 NW 966.

The right of way rule was not intended to and does not apply to fire apparatus. Ring v Minneapolis Street Ry. 173 M 265, 217 NW 130.

A fireman riding on a fire truck and the driver of such truck operating under the same captain are not engaged in a joint enterprise and the negligence of the driver, if any, cannot be imputed to the fireman. Ring v Minneapolis Street Ry. 173 M 265, 217 NW 130.

The automobile entered the crossing first and from the right and had the right of way over the street-car. Davis v Minneapolis Street Ry. 173 M 186, 217 NW 99.

It was the duty of the plaintiff to watch for cars coming from the right, and the fact that plaintiff claims to have looked to the right at the time and place when the defendant's car must have been there in plain sight is not sufficient to overcome the otherwise undisputed showing of failure on her part to exercise ordinary care. Plaintiff was guilty of contributory negligence as a matter of law. Chandler v Buchanan, 173 M 31, 216 NW 254.

Contributory negligence of an automobile driver is not imputed to a passenger, and there being no evidence of contributory negligence so far as the passenger was concerned, submitting that question to the jury was error. Vukos v Duluth Street Ry. 173 M 237, 217 NW 125.

The doctrine res ipsa loquitor when applicable is only a substitute for direct evidence and rests upon necessity. It has no application in this case where all the facts attending the accident are disclosed in the evidence. Heffter v. Northern States Power, 173 M 215, 217 NW 102.

The question as to who reached the intersection first and whether or not the defendant was or was not on the wrong side of the road was for the jury. Hayden v Lundgren, 175 M 449, 211 NW 715.

Where two automobiles came into collision in broad daylight at right angled intersection of two streets, it is fair to assume that there was negligence on the part of one or both of the drivers and the finding of the jury will not be disturbed. Jefferis v Baumann, 175 M 623, 221 NW 680.

Plaintiff driving northerly made a left-hand turn at the street intersection in front of an automobile coming from the north. Had he looked, he would have seen the automobile coming. Although he had the right of way, he was plainlly guilty of contributory negligence as a matter of law. Sorenson v Sanderson, 176 M 299, 223 NW 145.

This is an action by guest riders against the owner and driver of the car. Notwithstanding the qualified right in approaching the intersection from the right of the car with which he collided, the finding of the jury that he was negligent was sustained by the evidence. Tegles v Tegles, 177 M 222, 225 NW 85.

When a driver stops in obedience to a stop sign it is his duty to exercise due care with reference to the traffic on the through street before entering thereon. If he fails to stop in obedience to the stop sign, he can claim no benefit from the right of way rule. If he does stop, and thereto exercises due care in entering the through highway, he then has the benefit of the right of way rule. Bell v Pickett, 178 M 540, 227 NW 854.

In a collision between an automobile and a motorcycle, the evidence did not as a matter of law, establish contributory negligence on the part of the motorcycle operator. When the jury found for the motorcyclist there was evidence to sustain the verdict. Brown v Knutson, 179 M 123, 228 NW 752.

In leaving a village, its main street up to that point coincidental with a trunk highway, leaves it and continues north with a slight swerve to the west. The trunk highway turns on an easy curve to the east at an angle of 70 degrees. The two constitute an intersection. It was error of the trial court to instruct the jury that chauffeur "driving straight ahead" on Main street "to leave this highway" was under no obligation "to give any signal to any vehicle that was approaching" from his right on the trunk highway. Spencer v Mankato Mill, 180 M 509, 231 NW 202.

The trial court gave judgment for the defendant non obstante concluding that plaintiff's contributory negligence appeared as a matter of law. The appellate court reversed that decision. Heflin v Swenson, 181 M 277, 232 NW 265.

Plaintiff, eight and one-half years old, was struck while crossing a street at a point not a street intersection. The evidence sustains the finding of the jury that the driver of the automobile was negligent and the plaintiff is not guilty of contributory negligence. Hollandar v Dietrich, 181 M 376, 232 NW 630; Saunders v Yellow Cab Co. 182 M 62, 233 NW 599.

In an action brought by a minor who was a passenger in one of the two cars which collided, negligence of the drivers of both cars was established by the evidence. Lund v Olson, 182 M 204, 234 NW 310.

Assuming that the injured child was on the wrong side of the road, it does not in this case follow as a matter of law that she was so negligent or at fault in not observing the statute that she could not recover. The matter of the negligence of the defendant and the contributory negligence of the plaintiff were properly for the jury. Peterson v Miller, 182 M 532, 235 NW 15.

In this action to recover for the death of a child, the negligence of defendant, and contributory negligence of the child, were for the jury. Harkness v Zube, 182 M 594, 235 NW 281.

Whether defendant violated the statute by attempting to pass plaintiff's car on a curve, together with other questions raising the matter of negligence or contributory negligence, were all matters of fact for the jury. Dux v Ringdahl, 182 M 611, 235 NW 383.

In an action by the plaintiff to recover damages to its truck, the evidence sustains a finding that the defendant had the right of way and was not negligent, and that plaintiff was negligent and so entitled the defendant to a verdict on his counter-claim. Free Press v Billig, 183 M 286, 236 NW 306.

The prima facie presumption of reasonable speed may be overcome by circumstances; and, if the jury so finds, the speed is not then unlawful and the statutory right of way is not lost by the vehicle approaching from the right. Hustvet v Kuusinen, 184 M 222, 238 NW 330.

The evidence does not conclusively show that the plaintiff was guilty of contributory negligence and the issue was properly submitted to the jury. Fulweiller v Twin City Bus Co. 184 M 519, 239 NW 609.

It cannot be held that a pedestrian is guilty of contributory negligence as a matter of law who, before stepping off the curb upon a crosswalk, looks both ways but discovers no approaching cars within a block in either direction, walks briskly across without further looking and is struck by a car a little more than half way across. Plante v Pulaski, 186 M 280, 243 NW 64.

The defendant, being negligent, the question of contributory negligence in that the plaintiff was driving his car without having his headlights lighted one-half hour after sunset, was for the jury. Krinke v Gramer, 187 M 595, 246 NW 376; Bolster v Cooper, 188 M 364, 247 NW 250.

The requirement that the driver of an automobile extend his left hand before he stops does not apply when he stops in obedience to the direction of a semaphore. Turnbloom v Crichton, 189 M 588, 250 NW 570.

Defendant knew that the street was wet and slippery and knowing that, entered the intersection at a speed in excess of 25 miles per hour and then put on the brakes with sufficient force to lock the wheels. It was for the jury to say whether or not the slipping of the car was excusable, or whether it was due to the negligence of the defendant. Waister v Kaufer, 188 M 341, 247 NW 237.

Plaintiff being in the intersection an appreciable time before the defendant, driving at an excessive rate of speed, entered the intersection from the right and collided with plaintiff's car when that car was more than half way across the intersection. The plaintiff was not guilty of contributory negligence as a matter of law. Henjum v Smith, 190 M 378, 252 NW 227.

The evidence does not, as a matter of law, establish negligence on the part of the defendant, and there is evidence to sustain finding of the jury in his favor. McIlvaine v Delaney, 190 M 401, 252 NW 234.

The presumption that plaintiff's decedent was exercising ordinary care was conclusively overcome before the testimony and justified the trial court in ordering adjournment for the defendant, notwithstanding verdict, on the grounds that the

negligence of the decedent proximately contributed to his death. Williams v Jungbauer, 191 M 16, 252 NW 658.

Plaintiff was not required to anticipate that defendant would drive into the intersection at an unlawful rate of speed, even if at the time she entered the intersection she saw defendant approaching at a safe distance away. Matz v Krippner, 191 M 580, 254 NW 912.

The evidence clearly justified the jury in finding the plaintiff, coming from the right and struck by a car after passing the center of the street intersection, was not guilty of contributory negligence. Reynolds v Goetze, 192 M 37, 255 NW 249; Guthrie v Brown, 192 M 434, 256 NW 898.

Plaintiff entered the intersection from the south. It was a clear day; there was no traffic; there were no obstructions and no distracting circumstances. He claims to have looked, but had he done so the defendant's car must have been in clear view. Plaintiff was guilty of contributory negligence as a matter of law. Underdown v Thoen, 193 M 260, 258 NW 502.

The evidence made defendant's negligence and plaintiff's contributory negligence, jury issues. Johnston v Jordan, 193 M 298, 258 NW 433.

Plaintiff's assistant was killed in a collision between a truck driven by him, and a police patrol car, used as an ambulance in emergency service. Assistant's contributory negligence and the question whether the siren on the patrol car was sounded, and the negligence of the driver on the patrol car, were all questions for the jury. Hogle v Menth, 193 M 326, 258 NW 721.

Where the evidence is conflicting, the question of negligence of either party is a question of fact for the jury. Kidd v McCue, 193 M 617, 259 NW 546; Bayers v Bongfeldt, 201 M 546, 277 NW 239.

Motorist upon entering intersection first had the right of way and could assume that the driver of the truck approaching from his right would exercise ordinary care. Montague v Loose-Wiles Co. 194 M 546, 261 NW 188.

Plaintiff was the sole beneficiary of any recovery by his decedent's estate. The allegation of contributory negligence made it a question for the jury, and not for the court. The verdict, based on the conclusion that the negligent operation of the defendant's truck by his servant was the sole proximate cause of decedent's death, is sustained by the evidence. Duncanson v Jeffries, 195 M 347, 263 NW 92.

In a collision between a motorcycle and a truck, the plaintiff on the motorcycle was held contributorily negligent as a matter of law. Wetterlind v Hintz, 195 M 426, 263 NW 462.

Plaintiff entered the intersection first and had the right of way. Defendant was negligent, and plaintiff has a complete right of recovery. Nye v Bach, 196 M 330, 265 NW 300.

The verdict in favor of plaintiff is sustained both as to the defendant's negligence and plaintiff's lack of contributory negligence. Williams v Russell, 196 M 397, 265 NW 270.

Plaintiff's failure to see defendant's laundry truck approaching from a bridge on her right did not constitute contributory negligence and a verdict for plaintiff is sustained. Overly v Troy Laundry, 196 M 413, 265 NW 268.

Pedestrian first on the intersection had a right to assume that an automobile driver would yield the right of way. Kogin v Ide, 196 M 493, 265 NW 315.

The trial court erred in not giving to the jury, at plaintiff's request, the statutory definition of "an obstructed view", and in refusing to read Mason's Minnesota Statutes 1927, Section 2720-3a; and the remarks by which the court prefaced reading Mason's Minnesota Statutes 1927, Section 2720-4a, were improper. Kunkel v Paulson, 197 M 107, 266 NW 441.

The jury could find that Goldie had forfeited her right of way entering the intersection to the right of the Browns, by driving at excessive speed, and that Browns entered the intersection first after having stopped in obedience to a stop sign. The instruction relating to these circumstances was incorrect, and prejudicial to the Browns, and a new trial must be had. Draxton v Brown, 197 M 511, 267 NW 498.

Plaintiff, a passenger on a street-car, was injured in a collision between a street-car and a coal truck. The instructions of the trial court were not prejudicial to either party, and the evidence sustains a verdict against both defendants. Useman v Mpls. St. Ry. 198 M 79, 268 NW 866.

Where a driver looked to his left a sufficient distance to see no one was near to the crossing who might present a "reasonable danger of collision", he may direct his observations in other directions and he cannot be held, as a matter of law, guilty of contributory negligence because he does not observe a more distant fast approaching vehicle which wrongfully fails to yield him the right of way. Pearson v Norell, 198 M 303, 269 NW 643.

There was testimony that the motor car came to a dead stop and noted that the street-car was discharging passengers, and the accident occurred because the street-car was speedily accelerated from the dead stop. It was error for the lower court to direct a verdict for the defendant street-car company as there was sufficient evidence to present a question of fact for the determination of the jury. Drown v Mpls. St. Ry. 199 M 193, 271 NW 586; Drown v Mpls St. Ry. 202 M 266, 277 NW 423.

The verdict of the jury in finding the defendant negligent and finding no contributory negligence, is sustained. Timmerman v March, 199 M 377, 271 NW 697.

The motorist immediately before entering a highway observed the defendant's bus 150 to 200 feet away approaching from the right, started to cross, and was struck by the bus when nearly across the intersection. It was held that questions of the bus driver's negligence and plaintiff's contributory negligence, were for the jury; and the court in directing a verdict for the defendant was in error. Ernst v Union City Mission, 199 M 489, 272 NW 385.

Where the questions of defendant's negligence were submitted to the jury, it is not prejudicial error to fail to charge the jury that if the negligence of a third person was the sole proximate cause of the accident, its verdict must be for the defendant. The verdict against the defendant necessarily precludes any finding that the accident was caused solely by the negligence of anyone else. Lacheck v Duluth-Superior Transit Co. 199 M 519, 217 NW 366.

Considering that plaintiff was guilty of negligence in not looking to his left, there was sufficient doubt of such causal connection to take the case to the jury. Butcher v Tomczik, 200 M 262, 273 NW 706.

Plaintiff who claimed to have looked both directions before entering the street intersection, at a place where his view was not in any way obstructed and there were no distracting circumstances, and he failed to observe defendant's car until it was only ten feet away, was, as a matter of law, contributorily negligent. Gotzian v Wolk, 201 M 38, 275 NW 372.

The finding by the jury for the defendants because of plaintiff's contributory negligence is sustained. Peterson v Raymond, 202 M 320, 278 NW 471.

A driver of a motor vehicle is guilty of contributory negligence as a matter of law if he enters the highway when, to his right, he sees another automobile approaching at such high speed that an ordinarily prudent person would realize the danger of a collision. Haeg v Sprague, 202 M 425, 281 NW 261.

Street traffic having been stopped by a traffic officer, plaintiff's car being blocked by traffic three feet distant from the rear of a street-car, the street-car in starting turned right on Wabasha Street, and the rear of the car came in collision with plaintiff. It was the duty of the crew of defendant street-car to observe the condition of traffic before making the turn to see that the turn could be made in safety to other vehicles. Anderson v St. P. St. Ry. 203 M 119, 280 NW 3.

Where a car struck a pedestrian on a crosswalk, the question of defendant's negligence and plaintiff's contributory negligence, were for the jury. Johnson v McKune, 203 M 128, 280 NW 177.

In a collision between a truck and a motorcycle, the rider of the motorcycle was not guilty of contributory negligence as a matter of law. Hennek v Lundh, 203 M 154, 280 NW 180.

Where it appeared that excessive speed was not a proximate cause of the accident because the accident could not have been avoided and would have happened

in the absence of such speed, it is not error to refuse to submit the question of excessive speed. Draxton v Katzmarek, 203 M 161, 280 NW 288.

Since it is clear on the record that defendant violated his duty, the question of contributory negligence was for the jury, and should not have been passed upon by the court. Salters v Uhler, 208 M 66, 292 NW 762.

Where an automobile driver approaching an intersection at a lawful rate of speed looked to the left when six feet from the intersection and failed to see defendant's car, and after proceeding three feet looked again this time seeing it about 25 feet from the intersection coming at a rate of 40 miles per hour, such driver could assume that the defendant would yield the right of way, and her act of continuing across did not constitute contributory negligence as a matter of law. Mahowold v Bechrich, 212 M 78, 2 NW(2d) 569.

Generally, negligence and contributory negligence are for the jury, unless all reasonable men draw the same conclusion from the facts. The contributory negligence of a truck driver in entering an intersection after seeing an automobile approaching from the right 60 feet away at not less than 50 miles per hour, held for jury. Glynn v Krippner, 47 F(2d) 281; Glynn v Krippner, 60 F(2d) 406.

Duty of a pedestrian crossing a street on a crosswalk, 17 MLR 451.

Damages; inadequate verdict. 19 MLR 679.

Proximate cause. 21 MLR 67.

(APPLYING TO 1937 ACT)

Contributory negligence of plaintiff whose car was hit from his left by defendant's truck is reasonably negatived by persons on or near the intersection of four other cars, three approaching from plaintiff's front and one coming from his right and turning ahead of him. Evert v Scheurer, 205 M 272, 285 NW 892.

Plaintiff held chargeable with contributory negligence as a matter of law because in daylight he drove his car into the intersection of two graveled and well-traveled highways without knowing he was approaching a crossroad. Dreyer v Otter Tail Power, 205 M 286, 285 NW 707.

The driver of an automobile entering a "thru" highway where there is a stop sign may be found guilty of negligence in failing to yield the right of way to an automobile approaching on the "thru" highway so closely as to constitute an immediate hazard. Blom v Wilson, 209 M 419, 296 NW 502.

The testimony being in conflict as to the facts, it was error for the trial judge to direct a verdict against plaintiff upon ground of contributory negligence where the evidence could support a theory that in crossing a "thru" highway, plaintiff was exercising a statutory right of way. Neubarth v Fink, 210 M 55, 297 NW 171.

It is not enough to absolve an autoist from negligence that he stops in obedience to a stop sign before entering a thru highway and yields the right of way to other vehicles then on the intersection. The statute requires him to yield also to other cars "approaching so closely on said thru highway as to constitute an immediate hazard." Zickrich v Strathern, 211 M 329, 1 NW(2d) 134.

The driver at a lawful rate of speed looked to the left when about six feet from the intersection but did not see defendant's car. After proceding three feet into the intersection, he saw defendant's car about 25 feet east of the intersection coming at 40 miles per hour. The driver could presume until observation indicated the contrary, that defendant would yield the right of way, and plaintiff's act in continuing across the intersection did not constitute contributory negligence as a matter of law. Defendant's negligence was for the jury. Mahowold v Bechrich, 212 M 78, 2 NW(2d) 569.

A motorist stopping and then entering a "thru" street at an intersection and making a left turn, is not guilty of contributory negligence as a matter of law in case of collision with the street-car where the street-car was not so close at the time he entered the intersection as to constitute an immediate hazard, and he did not discover the danger of collision until too late to avoid it. Tsiang v Mpls. St. Ry. 213 M 21, 4 NW(2d) 630.

A motor vehicle proceeding on the left roadway of a two roadway highway, the roadways of which are separated by a parkway in the middle of which there are

street-car tracks, is not entitled under this section providing that "the driver of the vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway," to the right of way over a street-car at an intersection of the highway with a cross street, where the motor vehicle and the street-car were proceeding in the same direction and the motor vehicle turned right at the intersection and crossed in front of the street car. O'Neil v Mpls. St. Ry. 213 M 514, 7 NW(2d) 665.

Under Minnesota law, motor vehicle crossing highway intersection must yield right of way to vehicle approaching from right and so close that there is danger of collision if both proceed, and the right of way statute does not warrant automobile driver in taking close chances. Walkup v Bardsley, 111 F(2d) 789.

Statutory provision that driver of vehicle approaching intersection shall yield right of way to vehicle which has entered intersection from different highway was not intended to conflict with provision that driver on the left shall yield right of way when two vehicles enter intersection at approximately the same time. Walkup v Bardsley, 111 F(2d) 789.

The test in determining whether a roadway is public or private depends upon the right of the public generally to use the right of way for vehicular travel rather than the amount of travel or use made thereof. The road in the instant case was a "private road or driveway". Merritt v Stuve, 215 M 48, 9 NW(2d) 329.

If vehicles come to the intersection so close in point of time that there is reasonable danger if both proceeded, it was then plaintiff's clear duty to stop and yield the right of way to the defendant. In the instant case the jury might well conclude that plaintiff took unreasonable chances. Kane v Locke, 216 M 174, 12 NW(2d) 495.

Under the circumstances the matter of negligence of defendant, and contributory negligence of the plaintiff were for the jury. Hubred v Wagner, 217 M 129, 14 NW(2d) 115.

The trial court erred in refusing defendant's request for instructions with reference to the duties falling upon plaintiff, the driver, as covered by section 169.20, subdivision 4. Schnore v Baldwin, 217 M 394, 14 NW(2d) 447.

After stopping to let off passengers the street car proceeded at about four miles per hour across the street. A motor car coming from the right was 100 feet away. The evidence clearly indicates no negligence on the part of the motorman, and the court properly directed a verdict for plaintiff. Flom v St. P. City Ry. 218 M 474, 16 NW(2d) 551.

Applicability of the emergency rule. Rogers v Mpls. St. Ry. 218 M 454, 16 NW(2d) 516; Travis v Collett, 218 M 592, 17 NW(2d) 68.

Where, as here, it appears there was nothing plaintiff could have done which would have changed the conduct of the driver and have prevented the accident, there was no error in not submitting the issue of contributory negligence to the jury. Wilson v Davidson, 219 M 42, 17 NW(2d) 31.

Plaintiff, having looked to his right as he approached the intersection, was not guilty of contributory negligence as a matter of law because he did not look to the right again after he started to cross the intersection. Due care is not measured by the number of times a driver looked, nor how often, or when, or from where. This was a case for the jury. Jeddelah v Hackenhull, 219 M 541, 18 NW(2d) 584.

169.21 PEDESTRIANS, RIGHTS, DUTIES.

HISTORY. 1937 c. 464 ss. 52 to 55, 57; 1939 c. 430 s. 10; M. Supp. ss. 2720-202 to 2720-205, 2720-207.

(APPLYING TO THE 1937 ACT)

The phrase "intended for the use of pedestrians" refers to an area actually in use at the time being by pedestrians rather than to some indefinite or unascertained strip which may subsequently come into use for a pathway or sidewalk. An intersection where there is neither sidewalk nor pathway in use, and no crosswalk marked on the pavement or otherwise determined, there is no crosswalk in

the meaning of the statute so as to give the pedestrian the statutory right of way to which he is normally entitled when he is within a crosswalk. St. George v Lollis, 209 M 322, 296 NW 523.

There was no error in refusing to instruct the jury that the plaintiff violated the traffic law and was guilty of negligence when he walked south on the west shoulder, unless he proved excuse or justification for so walking. Corridan v Agranoff, 210 M 237, 297 NW 759.

The words "walk near the left side of the roadway giving way to oncoming traffic" apply to divided highways so that a pedestrian struck while walking on the wrong lane with, rather than against, traffic is prima facie guilty of negligence. Wojtowicz v Belden, 211 M 461, 1 NW(2d) 409.

Violation of statute requiring pedestrian to walk on the left side of the roadway, giving way to oncoming traffic, is only prima facie evidence of negligence. Nicholas v Minn. Milk Co. 212 M 333, 4 NW(2d) 84.

The court properly instructed the jury with reference to obligations imposed upon decedent by section 169.21, subdivision 3, relating to the right of way as between a pedestrian and a vehicle. Deoch v St. Paul City Railway, 215 M 171, 9 NW(2d) 735.

The court rightly refused to give an instruction which required the jury to find a boy not 13 years of age contributorily negligent if he violated the traffic act by walking with instead of against oncoming traffic if they found it was reasonably possible for a pedestrian to walk against on-coming traffic. Hubred v Wagner, 217 M 132, 14 NW(2d) 115.

Evidence to the effect that pedestrian, while proceeding across street stopped in middle of street waiting for traffic to clear, and that when automobile from opposite direction approached he stepped back against rear of car, was sufficient to sustain a find of contributory negligence of the pedestrian. Bravo v Reil, 218 M 315, 15 NW(2d) 871.

In an action for death of a carpenter from injuries sustained when tractor-trailer was backed against loading platform, evidence that during absence of tractor and driver the trailer was moved a few feet from platform, making room for carpenter to work, of which moving the driver of the tractor was not warned, sustained the verdict for defendant's finding want of negligence on the part of driver and contributory negligence of decedent. Norton v Connolly, 218 M 366, 16 NW(2d) 170.

That the automatic traffic signal was on "go" when street-car approached intersection did not conclusively establish that sign was on "stop" for cross traffic when pedestrian, who was killed when struck by street-car after traversing 35 feet from the curb, started to cross the intersection so as to establish the pedestrian was guilty of contributory negligence as a matter of law. Moeller v St. Paul City Railway, 218 M 361, 16 NW(2d) 289.

Plaintiff crossed the street in the middle of the block, carefully looked both ways until after he was more than half way across and was struck by a truck that was driving on the wrong side of the street to avoid another truck. The question of contributory negligence was for the jury, and the jury's finding that plaintiff was not guilty of contributory negligence is sustained. Smith v Barry, 219 M. 182, 17 NW(2d) 324.

169.22 NOT TO SOLICIT RIDES.

HISTORY. 1937 c. 464 s. 56; M. Supp. s. 2720-206.

169.23 STREET-CARS AND SAFETY ZONES.

HISTORY. 1925 c. 416 s. 19; 1927 c. 412 s. 22; M.S. s. 2720-22; 1937 c. 464 s. 58; M. Supp. s. 2720-208.

(APPLYING TO 1927 ACT)

It was error to refuse to qualify an instruction that the boy by passing a street-car on the left violated the law and was guilty of negligence, by stating that if the boy was from ten to fifteen feet in front of the car before it started, then his

violation of the statute could not be considered as contributing to his injury. Newton v Mpls. St. Ry. 186 M 439, 243 NW 684.

Under ordinary circumstances, a street railway company is not responsible for injuries to passengers caused by obvious street dangers. The fact that the street car was stopped at other than the usual stopping place, under the circumstances here, did not increase the railway company's duty or responsibility. Fox v. Mpls. St. Ry. 190 M 343, 251 NW 916.

Automobile was traveling abreast of the street-car is not "approaching", and the car is not "about to stop" when it merely reduces speed on approaching a crossing. Pierce v Sanden, 29 F(2d) 87.

One seeking to board a street-car must take special care for his own protection and particularly where the automobile is traveling abreast of the moving street car so as to render this section applicable. Pierce v Sanden, 29 F(2d) 87.

169.24 TO STOP TEN FEET FROM STREET-CARS.

HISTORY. 1927 c. 412 s. 22; M.S. 1927 s. 2720-22; 1937 c. 464 s. 59; M. Supp. s. 2720-209.

(APPLYING TO 1927 ACT)

Evidence as to icy condition of street and an obstruction thereon made it a jury question whether the defendant O'Dea's failure to stop his car before it came in contact with the rear of a street-car about to stop, was excusable. Jannette v Patterson, 193 M 153, 258 NW 31.

One slipping or falling on steps or street in alighting from street-car held not contributorily negligent as a matter of law in not observing a truck approaching from the rear before getting off, or in assuming that it would stop; he having no occasion to anticipate that he would fall, or that truck would be abreast so close to the street-car as to injure him. Wawin Coal Co. v Orr, 33 F(2d) 27.

(APPLYING TO 1937 ACT)

The trial court, in directing a verdict for defendants, correctly followed the established rule that, under ordinary circumstances, a street railway company has no duty to warn or protect passengers leaving its street-cars against obvious street dangers arising from the operation of vehicles thereon. Kieger v St. Paul City Railway, 216 M 39, 11 NW(2d) 757.

169.25 NOT TO GO THROUGH SAFETY ZONES.

HISTORY. 1927 c. 412 s. 23; M.S. 1927 s. 2720-23; 1937 c. 464 s. 60; M. Supp. s. 2720-210.

169.26 SPECIAL STOPS.

HISTORY. 1927 c. 412 s. 25; M.S. 1927 s. 2720-5; 1937 c. 464 s. 61; M. Supp. s. 2720-211.

(APPLYING TO 1927 ACT)

Evidence sustains the finding of negligence on the part of the defendant railway in failing to sound whistle or bell at crossing in traveling at high rate of speed and negligently placing a string of box cars upon a spur track in such manner that plaintiff's view was obstructed. Polchow v Chgo. St. P. M. & O. Ry. 199 M 1, 270 NW 673.

Plaintiff was not guilty of contributory negligence as a matter of law in failing to get out of his automobile to look and listen for approaching trains. Polchow v Chgo. St. P. M. & O. Ry. 199 M 1, 270 NW 673.

Where the driver of an automobile collides with an obstruction upon a highway because atmospheric or other conditions interfere with his ability to see it in time to avoid the collision, the presence of the obstruction upon the highway is a material element or substantial factor in the happening of a resulting collision

with it and consequently a proximate cause of any resulting injury. Flaherty v Gt. Northern, 218 M 488, 16 NW(2d) 553.

169.27 DANGEROUS HIGHWAY; RAILROAD CROSSING TO BE MARKED.

HISTORY. 1937 c. 464 s. 62; M. Supp. s. 2720-212.

(APPLYING TO 1937 ACT)

Over an open railroad crossing where the view of travelers on the highway is unobstructed, and the crossing is protected by high "sawbuck" warning signs, automatic stop signs and flashing red lights, a train speed of 50 miles per hour is as a matter of law not negligent. Failure of railroad employees to anticipate that motor car would enter crossing without stopping, is not evidence of negligence. Engberg v G. N. Ry. 207 M 194, 290 NW 579.

169.28 DRIVERS OF CERTAIN VEHICLES MUST STOP.

HISTORY. 1925 c. 416 s. 20; 1937 c. 464 s. 63; Ex. 1937 c. 38 s. 1; M. Supp. s. 2720-213.

169.29 CROSSING RAILROAD TRACKS WITH CERTAIN EQUIPMENT.

HISTORY. 1937 c. 464 s. 64; M. Supp. s. 2720-214.

169.30 THROUGH HIGHWAYS DESIGNATED.

HISTORY. 1927 c. 412 s. 21; M.S. 1927 s. 2720-21; 1937 c. 464 s. 65; 1939 c. 430 s. 11; M. Supp. s. 2720-215.

(APPLYING TO 1927 ACT)

When a driver stops in obedience to a stop sign, it is then his duty to exercise due care in reference to the traffic on the thru street before entering thereon. If he fails to stop in obedience to the stop sign, he can claim no benefit from the right of way rule. If he does stop and thereafter exercises due care, he then has the benefit of the rule. Bell v Pickett, 178 M 540, 227 NW 854.

Having stopped in obedience to the sign, the driver has the same right at the intersection he would have at any unmarked intersection. Samonthia v Ohasay, 188 M 179, 246 NW 670.

The protection of thru streets furnished with stop signs does not require drivers of cars which enter the thru street to do so at their peril, but only to exercise ordinary care with regard to the traffic on the thru street at the time of entering thereon. Johnston v Selfe, 190 M 269, 251 NW 525.

Under the evidence presented, neither party was guilty of negligence as a matter of law but there was sufficient evidence to go to the jury. Waldron v Page, 191 M 302, 253 NW 894; Guthrie v Brown, 192 M 434, 256 NW 898.

A police ambulance or patrol car in the absence of an audible signal or siren has not right of way over ordinary vehicles. Bogle v Menth, 193 M 326, 258 NW 721.

If the court deems it proper to call attention to the law which declares that a driver forfeits the right of way if he enters the intersection without coming to a full stop, there being a stop sign, the court should also call attention to the law that a driver who enters an intersection at a forbidden speed also forfeits his right of way. Kunkel v Paulson, 197 M 107, 266 NW 441.

Where a driver on a trunk highway approaching an intersection with a county road looked to his left a sufficient distance to see that no one was nearer to the crossing than he, and that no one was presenting "reasonable danger of collision," he may direct his vigilance in other directions and should not be held guilty of contributory negligence as a matter of law because he did not observe a more distant, fast approaching vehicle which wrongfully fails to yield him the right of way. Pearson v Norell, 198 M 303, 269 NW 643.

Defendant was guilty of negligence as a matter of law if he heedlessly went by both signs and entered the intersection at a speed of not less than 35 miles per hour. Findley v Brittenham, 199 M 197, 271 NW 449.

169.31 TO STOP BEFORE REACHING SIDEWALKS.

HISTORY. 1937 c. 464 s. 66; M. Supp. s. 2720-216.

169.32 STOPPING, STANDING, AND PARKING.

HISTORY. 1927 c. 412 s. 24; M.S. 1927 s. 2720-24; 1937 c. 464 s. 67; M. Supp. s. 2720-217.

(APPLYING TO 1927 ACT)

Whether defendant's negligent parking of his car in the night-time with headlights lit, on the wrong side of the highway, was the proximate cause of a collision with another car in which collision plaintiff was injured, was for the jury. The evidence was not such as to make proper an instruction requested that if defendant's original wrong only became injurious through some distinct wrongful act of another, defendant should not be held liable. Edblad v Brower, 178 M 465, 227 NW 493.

Where defendant's truck was parked, unlighted, after dark on the traveled portion of a highway, the question of defendant's negligence and plaintiff's contributory negligence were for the jury. Knutson v Farmers' Coop. 180 M 116, 230 NW 270.

The highway in question being tarviated to the width of 20 to 22 feet, the court interpreting the 1927 Act accordingly told the jury that the 15 feet provision requiring a parked vehicle to leave free for passage of other vehicles meant the tarvia portion of the road. Knutson v Farmers' Coop. 180 M 116, 230 NW 270.

The evidence being conflicting, the question of defendant's negligence and plaintiff's contributory negligence, were for the jury. Ward v Bandel, 181 M 32, 231 NW 244.

Erroneous instructions relative to negligence and contributory negligence held not prejudicial. Mechler v McMahon, 184 M 476, 239 NW 605.

The negligence of the defendant in parking his truck in violation of the statute was the proximate cause of the damage. The evidence does not show that the driver of the automobile which went off the highway because of improper parking of the truck, was negligent as a matter of law. The verdicts in favor of the plaintiffs were sustained. Ball v Gesner, 185 M 105, 240 NW 100.

The words "impossible to avoid stopping and temporarily leaving such vehicle in such position" are constituted as meaning that the car must be disabled to such extent that it is not practicable to move it so as to leave 15 feet of clearance. Geisen v Luce, 185 M 479, 242 NW 8.

The "standing" of the car on the highway was not the proximate cause of plaintiff's injury which plaintiff received through the negligent operation of the car in which he was riding as a guest while the driver was attempting to pass the standing car. Geisen v Luce, 185 M 479, 242 NW 8.

The evidencce sustains a finding that defendant drove his car against plaintiff's car which was parked on the side of the highway to replace a tire. The jury rightfully found for the plaintiff. Lund v Springsteel, 187 M 577, 246 NW 116.

The "M" truck was parked on a paved highway in the night-time for a tire change. The "W" truck stopped to assist in making the change. Neither truck left the statutory regulations of 15 feet on the pavement. The jury was justified in finding that it was negligence not to keep the "M" truck so equipped that the tire change could have been made without parking on the pavement; and both drivers were negligent in not observing the regulations required by the statute; and in not setting out a flare in the rear of the parked trucks or giving other adequate warning. Brown v Murphy, 190 M 81, 251 NW 5.

The contributory negligence of plaintiff's decedent was for the jury and the court did not err in refusing defendant's motion for a directed verdict. Golden v Geyer, 195 M 354, 263 NW 103.

When it is practicable to park on the shoulder as in this case, a driver is forbidden to park on the main traveled portion of the highway. Even a momentary stop is a violation of the law. Fleenor v Rowley, 198 M 163, 269 NW 370.

Plaintiff's decedent was killed in an accident by the decedent driving his car into a truck and car parked upon the highway, the parking being the result of the pulling by the truck of the motor-car out of the ditch without sufficient time left for readjustment. Both truck and motor-car were parked on the wrong side of the roadway. The evidence sustained a verdict for the plaintiff as to the truck and its driver. Szyperski v Swift, 198 M 154, 269 NW 401.

Defendant's truck ran out of gas which was the reason it was parked on the highway. This would not justify a finding as a matter of law that the defendant was negligent. Hartwell v Progressive, 198 M 488, 270 NW 570.

Plaintiff was a guest in the car of Doyle, who collided with a car driven by defendant Roberg. Both drivers were negligent and a judgment was found against both. It was not contributory negligence on the part of the plaintiff who, notwithstanding her nervousness, continued to ride with Doyle through the thick fog. Thorstad v Doyle, 199 M 543, 273 NW 255.

The rule that it is only in the clearest of cases where the facts are undisputed that the question of contributory negligence becomes one of law. Upon the facts stated, this case required submission to the jury on the issue of contributory negligence. Plaintiff's decedent was driving a truck loaded with planks 20 feet long. He stopped his truck with the front wheel ten feet from the north curb, the truck being at an angle so that the rear ends of the timbers extended over the street-car tracks. Defendant driving a cattle truck, seeing that he would have to turn to the left to pass the standing truck, held his arm out as a warning, but in order to miss another car defendent had to swing back and the left-hand corner of defendant's rack caught the left corner of decedent's timbers, killing the decedent. The jury found that the plaintiff's decedent was guilty of contributory negligence, and there was no recovery. Jack v Johnson, 201 M 9, 275 NW 381.

Where the injury complained of is caused by the defendant's intentional invasion of plaintiff's right of undisputed travel on a public highway, the contributory negligence of the plaintiff is no defense. Hanson v Hall, 202 M 381, 279 NW 227.

Plaintiff, a guest passenger, assisted the owner in pushing the car off the right of way when it became out of order. The car was left partly on the pavement. Plaintiff standing on the shoulder six feet from the traveled portion of the highway, was injured by a passing car. There was no contributory negligence, and plaintiff properly obtained a verdict. Allanson v Ceynar, 203 M 93, 280 NW 6.

Where taxicab stops on a street to let off a passenger in a place where it is likely that a vehicle coming from behind will be unable to pass to the left thereof or to stop, because of the condition of the street, it was for the jury to decide whether the driver of the cab was negligent; or whether the negligence contributed to the injuries when a car, coming from behind, struck passenger as she was in the act of alighting. Paulos v Yellow Cab, 195 M 603, 263 NW 913.

(APPLYING TO 1937 ACT)

The trial court was not justified in directing a verdict for the defendant where the evidence was sufficient to enable the jury to conclude that the defendant was negligent. The fact that section 169.32 may not apply is immaterial, because this clearly comes under the provisions of section 169.35. Bartley v Fritz, 205 M 192, 285 NW 484.

On a paved trunk highway, at midnight, plaintiff ran his car into the rear of defendant's parked truck. The verdict awarding plaintiff damages is sufficiently sustained. Johnson v Kutches, 205 M 383, 285 NW 881.

Decedent's car was parked on the side of the road with its right wheels off the traveled portion of the highway, and decedent was endeavoring to fix his lights when killed by car coming from behind. The question of decedent's contributory negligence was for the jury, and not finding such contributory negligence, there was recovery on the part of the plaintiff. Latourelle v Horan, 212 M 520, 4 NW(2d) 343.

169.33 POLICE OFFICIALS MAY MOVE CARS.

HISTORY. 1925 c. 416 s. 14; 1927 c. 412 s. 24; M.S. 1927 s. 2720-24; 1937 c. 464 s. 68; 1939 c. 430 s. 12; M. Supp. s. 2720-218.

(APPLYING TO 1937 ACT)

See annotations in Section 169.32.

Where an automobile is abandoned on a city street, and if the owner is unknown, it may be placed in a local garage for safe-keeping and the garage keeper may sell it for storage charges, unless redeemed. OAG Dec. 2, 1937 (632a).

169.34 WHERE STOPS ARE PROHIBITED.

HISTORY. 1927 c. 412 ss. 25, 34; M.S. 1927 ss. 2720-25, 2720-34; 1937 c. 464 s. 69; Ex. 1937 c. 38 s. 1; 1939 c. 430 s. 13; M. Supp. s. 2720-219.

Whether the act of the motorman in suddenly stopping street car in street intersection in violation of ordinance and without signal or warning to traffic behind is negligence, is ordinarily a question for the jury. Nees v Mpls. St. Ry. 218 M 532, 16 NW(2d) 758.

169.35 PARKING ON ROADWAY.

HISTORY. 1937 c. 464 s. 70; Ex. 1937 c. 38 s. 1; 1939 c. 430 s. 14; M. Supp. s. 2720-220.

(APPLYING TO 1927 ACT)

The court correctly charged that if the jury found that the excessive width of the truck claimed to be two inches did not cause, or contribute to cause, the accident then that fact was not material. Jouri v Olson, 191 M 101, 253 NW 98.

Requested instruction embodying statutory language as to the width of the load was properly refused as the evidence establishes conclusively that the alleged offending vehicle did not exceed the authorized width, and that there must have been a protruding plank that was otherwise adequately covered in the court's charge. Ohad v Reese, 197 M 483, 267 NW 490.

(APPLING TO 1937 ACT)

If defendant or his employee parked the truck on the tarvia portion of the highway in the manner described by plaintiff's witnesses, he violated the provisions of section 169.35. Consequently it was error for the trial court to direct a verdict for the defendant. Bartley v Fritz, 205 M 192, 285 NW 484.

169.36 BRAKES MUST BE SET.

HISTORY. 1927 c. 412 s. 26; M.S. 1927 s. 2720-26; 1937 c. 464 s. 71; M. Supp. s. 2720-221.

(APPLYING TO 1927 ACT)

The question being whether defendant ought to have anticipated that his car parked on a descending grade in front of his home might start down the grade, evidence that it had been so parked for many years was admissible. Bergman v Williams, 173 M 250, 217 NW 127.

The doctrine of res ipsa loquitor is that when a thing which caused an injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of events would not happen had there been proper care, the accident itself affords reasonable evidence in the absence of explanation by the defendant that it arose from want of care. The doctrine is applied where a taxicab rolled down-hill driverless, and crashed into a window. Borg v Clark, 194 M 305, 260 NW 316.

The act of an unauthorized person in actuating the starter of a car parked in gear, without taking the precautions that ordinary care would dictate, was a super-

seding intervening cause, not stimulated by the act of the proprietor of a filling station in so parking the car, which broke the chain of causation between the act of leaving the car in gear and the injury to plaintiff. Kayser v Jungbauer, 217 M 140, 14 NW(2d) 337.

169.37 RESTRICTIONS ON LOADS.

HISTORY. 1937 c. 464 s. 72; M. Supp. s. 2720-222.

169.38 TO DRIVE ON RIGHT SIDE OF HIGHWAYS.

HISTORY. 1927 c. 412 s. 27; M.S. 1927 s. 2720-27; 1937 c. 464 s. 73; M. Supp. s. 2720-223.

169.39 COASTING.

HISTORY. 1927 c. 412 s. 28; M.S. 1927 s. 2720-28; 1937 c. 464 s. 74; M. Supp. s. 2720-224.

169.40 FOLLOWING FIRE APPARATUS.

HISTORY. 1937 c. 464 s. 75; M. Supp. s. 2720-225.

169.41 MUST NOT CROSS FIRE HOSE.

HISTORY. 1937 c. 464 s. 76; M. Supp. s. 2720-226.

169.42 REFUSE ON HIGHWAY.

HISTORY. 1937 c. 464 s. 77; M. Supp. s. 2720-227.

169.43 SWINGING GATES, RACKS, OR PARTITIONS FORBIDDEN.

HISTORY. 1937 c. 464 ss. 78, 79; M. Supp. ss. 2720-228, 2720-229.

169.44 PASSING SCHOOL BUSES.

HISTORY. 1937 c. 464 s. 80; 1939 c. 430 s. 15; M. Supp. s. 2720-230.

169.45 DESIGN AND COLOR OF SCHOOL BUSES.

HISTORY. 1937 c. 464 s. 81; M. Supp. s. 2720-231.

169.46 NOT TO HITCH BEHIND MOTOR VEHICLES.

HISTORY. 1927 c. 412 s. 28; M.S. 1927 s. 2720-28; 1937 c. 464 s. 82; M. Supp. s. 2720-232.

(APPLYING TO 1927 ACT)

See annotations, Section 169.39.

169.47 VEHICLES WITH UNSAFE EQUIPMENT NOT TO BE DRIVEN ON HIGHWAY.

HISTORY. 1937 c. 464 s. 83; 1939 c. 430 s. 16; M. Supp. s. 2720-233.

(APPLYING TO 1937 ACT)

Except as specifically provided in the highway traffic regulations act, the common law prevails, and a driver is not barred from recovery simply because he is making a movement not specifically authorized and not forbidden by the act. The court did not err in submitting to the jury the question as to whether plaintiff's lights failed to conform to the requirements of the traffic act and whether if they

did not, there was causal connection between their failure and the collision. Carlson v Peterson, 205 M 20, 284 NW 847.

Since the modern tendency is to admit evidence freely and to give as wide a scope as possible to the investigation of facts, courts should be slow to set up technical rules to exclude as evidence what would be accepted as relevant in the ordinary affairs of life. Greene v Mathiowetz, 212 M 171, 3 NW(2d) 97.

Even if the vehicles operated only during hours of daylight, they are required to be supplied with the equipment made mandatory by this section. 1938 OAG 271, Aug. 1, 1938 (632a-22).

169.48 VEHICLE LIGHTS.

HISTORY. 1911 c. 365 s. 13; Ex. 1912 c. 7 s. 1; G.S. 1913 s. 2632; 1919 c. 391; 1921 c. 472 s. 4; G.S. 1923 s. 2705; 1937 c. 464 s. 84; M. Supp. s. 2720-234.

(APPLYING TO 1937 ACT)

The court did not err in submitting to the pury the question as to whether plaintiff's lights failed to conform with the requirements of the traffic act and whether if they did not, there was causal connection between their failure and the collision. Carlson v Peterson, 205 M 20, 284 NW 847.

Where a freight train passing over a highway crossing in the nightime and a car, traveling 45 miles per hour, runs into the 19th car from the end, the failure to sound the statutory bell and whistle signals cannot be considered a proximate cause of the collision. Unless there is something about the environnment creating an extraordinary hazard, due care does not require of a railroad company the installation of warning signals in addition to those required by the railroad and warehouse commission. Sullivan v Boone, 205 M 437, 286 NW 350.

Where a team and wagon was being driven after dark without being equipped with lights or a reflector, and in consequence the driver of a car approaching from the rear did not see the team and wagon until he was 15 feet away and had to turn abruptly to the left to avoid a collision, lost control of the car which turned over, the facts indicate that the violation of the statute by the driver of the team and wagon is prima facie evidence of negligence. Smith v Carlson, 209 M 268, 296 NW 132.

Where the hayrack was not properly lighted, and one of the defendants may have been placed in a position of peril by such negligence, the court properly instructed the jury in the "sudden emergency" doctrine governing conduct of parties suddenly faced with danger. Vasatka v Matsch, 216 M 537, 13 NW(2d) 483.

In an action against the county for negligence in operating a snowplow at dawn without lights, motion for judgment notwithstanding verdict for the plaintiff or new trial was properly denied, there being a conflict in testimony as to whether the lights were functioning. Smith v County of Ramsey, 218 M 325, 16 NW(2d) 169.

169.49 HEADLIGHTS.

HISTORY. 1927 c. 412 s. 48; M.S. 1927 s. 2720-48; 1937 c. 464 s. 85; M. Supp. s. 2720-235.

(APPLYING TO 1927 ACT)

The evidence sustains a finding that the defendant was on the wrong side of the highway and his delinquency in this respect was the proximate cause of the injury to plaintiff. The fact that the lights of plaintiff's car were not lighted, and there was a severe snowstorm at the time preventing good vision, was not as a matter of law a proximate cause. The verdict in favor of plaintiff was sustained. Haarsch v Breilien, 181 M 400, 232 NW 710.

Where plaintiff overtook and collided with defendant's truck, plaintiff's alleged contributory negligence did not appear as a matter of law; and the matter of the defendant's negligence, and plaintiff's contributory negligence, was properly left for the jury. Brown v Raymond, 186 M 321, 243 NW 112.

Defendant who had run down a boy on a bicycle was entitled to an instruction stating that the failure to have the bicycle equipped with lamps or reflectors

would be negligence as a matter of law, if such negligence proximately contributed to the injury. Campbell v Sargent, 186 M 293, 243 NW 142.

Unless excusable or justifiable, one violating a statute is liable for injury proximately resulting. The act may be excusable or justifiable if, without fault on the part of the driver, the car is compelled to be parked on the highway without a rear light. Martin v Tracy, 187 M 529, 246 NW 6.

Whether failure to have headlights lighted was the proximate cause of the collision where plaintiff had the right of way, was for the jury. Krinke v Gramer, 187 M 595, 246 NW 376.

A driver who fails to have his headlights lighted one-half hour after sunset is liable as a matter of law for a result proximately coming from his negligence; and if such failure contributes to his own injury, he cannot recover. Krinke v Granmer, 187 M 595, 246 NW 376.

The motor of defendant's truck stalled and he was endeavoring to push his truck off the highway when plaintiff's car struck the rear of the truck. This was about 9:00 P. M. of a clear summer evening. Plaintiff's lights were tilted down so that the driver could not see more than 40 feet ahead. He was driving 30 miles per hour. Under the circumstances, the plaintiff's driver was guilty of contributory negligence as a matter of law and cannot recover. Orrvar v Morgan, 189 M 306, 249 NW 42.

Where the evidence was conflicting as to the location of each of the cars and as to the lighting of the cars, the question of defendant's negligence and plaintiff's contributory negligence was for the jury. Romann v Bender, 190 M 419, 252 NW 80.

The general verdict should stand, although there was an erroneous instruction as to the special verdict. Evidence of tracks of horse and skid marks of car observed next morning at the scene of fatal collision, was properly admitted. The issues of appellant's negligence and respondent's contributory negligence, were for the jury. Raths v Sherwood, 195 M 225, 262 NW 563.

169.50 REAR LIGHTS.

HISTORY. 1927 c. 412 s. 48; M.S. 1927 s. 2720-48; 1937 c. 464 s. 86; M. Supp. s. 2720-236.

(APPLYING TO 1927 ACT)

See annotations under Section 169.49.

(APPLYING TO 1937 ACT)

On the question as to whether or not the rear lights were lighted on the truck, the exclusion of certain testimony should not result in a new trial because the question as to whether or not the tail light of the truck was burning would be immaterial, because the light in any event would have been shut off from plaintiff, owing to circumstances. Johnson v Kutches, 205 M 383, 285 NW 881.

Vehicles operated during hours of daylight are required to have rear lamps. 1938 OAG 271, Aug. 1, 1938 (632a-22).

169.51 MUST BE EQUIPPED WITH LIGHTS.

HISTORY. 1925 c. 416 s. 13; 1937 c. 464 s. 87; M. Supp. s. 2720-237.

169.52 LIGHTS AND FLAGS AT END OF ROAD.

HISTORY. 1925 c. 416 s. 12; 1927 c. 412 s. 36; M.S. 1927 s. 2720-36; 1937 c. 464 s. 88; M. Supp. s. 2720-238.

169.53 LIGHTS FOR PARKED VEHICLES.

HISTORY. 1927 c. 412 s. 54; M.S. 1927 s. 2720-54; 1937 c. 464 s. 89; M. Supp. s. 2720-239.

(APPLYING TO 1927 ACT)

The truck was standing on the paved highway and unlighted, and the owner would be liable unless there was contributory negligence on the part of the plaintiff. Had the accident occurred in daylight, the plaintiff might have been held for contributory negligence as a matter of law, but under the circumstances in this case it was properly left for the jury. Forester v Consumers', 174 M 105, 218 NW 249.

The evidence justified the court in submitting to the jury the issue of defendant's negligence in parking his unlighted truck, and the contributory negligence of the defendant who drove his Ford coupe into the truck. Ward v Bandel, 181 M 32, 231 NW 244.

The truck owner parked his unlighted truck and a collision occurred because a Ford car drove into it. The negligence of each was a proximate and contributing cause of the injury to a guest passenger in the Ford, who obtained a verdict against the truck owner. The judgment was paid by the insurance company, who became subrogated to any right of contribution which the truck owner might have against the owner of the Ford. The insurance company was unable to obtain contribution because his principal, the owner of the truck, parked his truck on a public street in the night-time knowing there was no tail light burning thereon. This was a violation of the statute. This was an illegal act and contribution on his behalf cannot be obtained. Fidelity & Casualty v Christianson, 183 M 182, 236 NW 618.

The violation of a duty created by statute or ordinance proximately resulting in an injury to one for whose protection such law was enacted, results in liability. The wrongdoer is guilty of negligence per se. Violation of a statute or ordinance which has not been enacted for the protection of the injured person, is immaterial. Mechler v McMahon, 184 M 476, 239 NW 605.

In this action to recover for injuries received when the automobile in which plaintiff was riding collided with the rear end of defendant's truck unlawfully parked on the pavement in the night-time with no tail light burning, the question of defendant's negligence and the contributory negligence of the driver of the car, was for the jury. Olson v Purity Bakery Co. 185 M 571, 242 NW 283.

One violating a statute is liable for any injury proximately resulting therefrom, unless justifiable. Martin v Tracy, 187 M 529, 246 NW 6.

Plaintiff assisting in changing a tire on a car wrongfully parked close to the center line of the pavement, on a dark and rainy night, the tail light on the parked car being out and no effort made to warn traffic from the rear, was guilty of contributory negligence as a matter of law. Dragotis v Kennedy, 190 M 128, 250 NW 804.

A passenger in a car which collided with an unlighted trailer at night is not guilty of contributory negligence as a matter of law. Brown v Murphy, 190 M 81, 251 NW 5.

Defendant's truck was parked with its front wheel about three feet from the curb and the rear end projecting into the street at an angle of thirty degrees. It was a snowy night, streets were slippery; plaintiff driving to the right of the center line, struck the rear of defendant's truck parked diagonally without lights. Defendant was guilty as a matter of law, and whether the plaintiff was guilty of contributory negligence was for the jury. Tully v Flour City Coal Co. 191 M 84, 253 NW 22.

(APPLYING TO 1937 ACT)

Defendant Kutches parked his gravel truck on the right lane of the paved highway in the night-time for the purpose of adjusting a loose board at the end of the truck. Plaintiff, a guest, alighted to assist him in making the adjustment. While standing on the pavement back of the rear right wheel of the truck, he was run down by a car approaching from the rear. On the evidence, the issues of negligence of each defendant, its causal proximity to injuries sustained by plaintiff, and plaintiff's contributory negligence, were all for the jury. Anderson v Johnson, 208 M 373, 294 NW 224.

Evidence that decedent's car was parked to the side of the road with its wheels off the traveled portion of the highway, was not overcome with the physical facts, and consequently the trial court did not err in refusing to grant judgment notwithstanding the verdict upon the ground of contributory negligence. Whether decedent's failure to exhibit lights was excusable, and whether the decedent negligently remained in a position of peril, were questions of fact and not questions of law and the trial judge properly referred the matter to the jury. Latourelle v Horan, 212 M 520, 4 NW(2d) 343.

Driver was guilty of contributory negligence as a matter of law, for although he saw the flares, he did not bring his car into control and crashed into a water tank. Olson v Hector Co. 216 M 432, 13 NW(2d) 35.

169.54 BICYCLES MUST HAVE LIGHTS.

HISTORY. 1927 c. 412 s. 48; M.S. 1927 s. 2720-48; 1937 c. 464 s. 90; 1939 c. 430 s. 17; M. Supp. s. 2720-240.

169.55 ANIMAL-DRAWN VEHICLES MUST HAVE LIGHTS.

HISTORY. 1937 c. 464 s. 91; M. Supp. s. 2720-241.

The rule as to sudden emergency was proper where two motor cars collided because of the presence of a hayrack on the right of way not properly lighted. Vasatka v Matsch, 216 M 530, 13 NW(2d) 483.

169.56 MOTOR VEHICLES MAY HAVE SPOT-LIGHTS.

HISTORY. 1927 c. 412 s. 49; M.S. 1927 s. 2720-49; 1937 c. 464 s. 92; M. Supp. s. 2720-242; 1945 c. 207 s. 2.

169.57 SIGNAL-LIGHTS.

HISTORY. 1927 c. 412 s. 49; M.S. 1927 s. 2720-49; 1937 c. 464 s. 93; M. Supp. s. 2720-243; 1945 c. 207 s. 3.

No duty rests upon a street railway company to equip its cars with automatic signal lights attached to its brakes, unless by statute or ordinance. Nees v Street Ry. 218 M 532, 16 NW(2d) 758.

169.58 IDENTIFICATION LIGHTS.

HISTORY. 1937 c. 464 s. 94; M. Supp. s 2720-244; 1945 c. 207 s. 4.

169.59 FENDER LIGHTS.

HISTORY. 1937 c. 464 s. 95; M. Supp. s. 2720-245.

169.60 EQUIPPED WITH LIGHTS.

HISTORY. 1937 c. 464 s. 96; Ex. 1937 c. 38 s. 1; M. Supp. s. 2720-246.

(APPLYING TO 1937 ACT)

Where a freight train is passing over a highway crossing in the night-time and an automobile traveling 35 to 40 miles per hour runs into the 19th car from the end, there being 86 cars in all, the failure to sound the statutory bell and whistle signals cannot be held to be the proximate cause of the collision. To hold the railroad at fault would be equivalent to shouldering the entire duty of care upon the railroad, and relieve the motorist entirely. Sullivan v Boone, 205 M 437, 286 NW 350.

169.61 COMPOSITE LIGHTS.

HISTORY. 1927 c. 412 s. 50; M.S. 1927 s. 2720-50; 1937 c. 464 s. 97; M. Supp. s. 2720-247; 1945 c. 207 s. 5.

(APPLYING TO 1927 ACT)

Plaintiffs drove their car into an unguarded concrete mixer placed crosswise in the middle of the road to guard a partially constructed culvert. There were no lights or warning signs. The defendant was guilty of negligence. As to whether or not Wicker was guilty of contributory negligence was for the jury to judge the condition of his lights. The passengers were not guilty of contributory negligence as a matter of law. Wicker v North States Constr. Co. 183 M 79, 235 NW 630.

Plaintiff who driving his car on a dark drizzling night collided with an unlighted truck, was not guilty of contributory negligence as a matter of law upon the theory that he failed to drive in such manner as to avoid a collision. The defendant claimed that he should have plainly seen the objects ahead of him. The jury found for the plaintiff. Mechler v McMahon, 184 M 476, 239 NW 605.

Where plaintiff's decedent, while leading a team of horses over a highway, was killed by defendant's car, a recovery was had by the plaintiff because the plaintiff was not guilty of contributory negligence as a matter of law, and the jury found him not so guilty. Raths v Sherwood, 195 M 225, 262 NW 563.

Where plaintiff was injured at night by driving his car against the carcass of a horse that had just been killed in a collision with F's truck, the jury found that the plaintiff having proper lights and acting under an emergency was not guilty of contributory negligence, and the proximate cause of the accident was the act of the owner of the horse in permitting it to run at large. Widell v Johnson, 196 M 170, 264 NW 689.

Where a disabled bus and relief bus were standing on the pavement, the trial court is justified in finding the bus company negligent; and where the motorist failed to discover the obstruction which was within range of his headlights until it was impossible to avoid a collision, his contributory negligence was for the jury where, as in this case, there were distracting circumstances. Twa v Northland, 201 M 234, 275 NW 846.

169.62 CERTAIN LIGHTS PERMITTED ON CERTAIN MOTOR VEHICLES.

HISTORY. 1937 c. 464 s. 98; M. Supp. s. 2720-248.

169.63 NUMBER OF LIGHTS.

HISTORY. 1937 c. 464 s. 99; 1939 c. 430 s. 18; M. Supp. s. 2720-249.

169.64 CERTAIN LIGHTS PROHIBITED.

HISTORY. 1927 c. 412 s. 55; M.S. 1927 s. 2720-55; 1937 c. 464 s. 100; M. Supp. s. 2720-250.

(APPLYING TO 1927 ACT)

Privately owned automobiles of members of volunteer fire department, and the fire department vehicles, may be equipped with red or green lights. OAG Feb. 6, 1933.

169.65 COMMISSIONER TO ENFORCE PROVISIONS FOR LIGHTS AND APPROVE OR DISAPPROVE LIGHTING APPARATUS AND DEVICES.

HISTORY. 1927 c. 412 s. 52; M.S. 1927 s. 2720-52; 1937 c. 464 ss. 101 to 103; M. Supp. ss. 2720-251 to 2720-253; 1945 c. 207 s. 6.

169.66 COMMISSIONER MAY HOLD HEARINGS.

HISTORY. 1937 c. 464 s. 104; M. Supp. s. 2720-254.

169.67 BRAKES.

HISTORY. 1927 c. 416 s. 11; 1927 c. 412 s. 43; M.S. 1927 s. 2720-43; 1937 c. 464 ss. 105, 106; Ex. 1937 c. 38 s. 2; 1939 c. 430 s. 19; M. Supp. ss. 2720-255, 2720-256; 1945 c. 205 s. 7.

(APPLYING TO 1927 ACT)

A six-year old child was injured by an electric bus on a public street. It was not error to refuse to read the statute as to brakes on motor vehicles because there was no evidence of faulty brakes or negligence on the driver in applying brakes. Forseth v Duluth-Superior Transit Co. 202 M 447, 278 NW 904.

A person is guilty of a misdemeanor who operates a motor vehicle with defective brakes. OAG Jan. 28, 1937 (494b-23).

(APPLYING TO 1937 ACT)

A motorist who by driving at high speed with defective brakes contributed to the predicament with which he was confronted was not entitled to have his case considered under the sudden emergency rule. Lee v Zaske, 213 M 244, 6 NW(2d) 793.

169.68 HORNS.

HISTORY. 1911 c. 365 s. 14; G.S. 1913 s. 2633; 1921 c. 472 s. 5; G.S. 1923 s. 2707; 1927 c. 412 s. 44; M.S. 1927 s. 2720-44; 1937 c. 464 s. 107; M. Supp. s. 2720-257.

(APPLYING TO 1927 ACT)

Where plaintiff's intestate walked from the left to the right side in front of defendant's car, the only negligence of defendant suggested upon the record was the failure to warn the deceased of the approach of her car by signal, and this was the only item submitted to the jury. Boyer v Josephson, 185 M 221, 240 NW 538.

A pedestrian was run down while walking diagonally across a street intersection. The jury found the defendant guilty of negligence because the pedestrian was plainly visible and should have been observed, and defendant was negligent in failing to sound a reasonable warning. Reyer v Hart, 202 M 154, 277 NW 405.

(APPLYING TO 1937 ACT)

Game wardens may equip their private cars with stop lights and sirens. OAG Sept. 1, 1937 (208i).

169.69 MUFFLERS.

HISTORY. 1903 c. 356 ss. 3, 4; R.L. 1905 s. 1276; 1911 c. 365 s. 13; Ex. 1912 c. 7 s. 1; G.S. 1913 s. 2632; 1919 c. 391; 1921 c. 472 s. 4; G.S. 1923 s. 2705; 1925 c. 416 s. 25; 1927 c. 412 s. 47; M.S. 1927 s. 2720-47; 1937 c. 464 s. 108; 1939 c. 430 s. 20; M. Supp. s. 2720-258.

169.70 REAR VIEW MIRRORS.

HISTORY. 1927 c. 412 s. 45; M.S. 1927 s. 2720-45; 1937 c. 464 s. 109; M. Supp. s. 2720-259.

169.71 WINDSHIELDS.

HISTORY. 1927 c. 412 s. 46; M.S. 1927 s. 2720-46; 1937 c. 464 s. 110; 1939 c. 430 s. 21; M. Supp. s. 2720-260.

169.72 SOLID RUBBER TIRES.

HISTORY. 1927 c. 412 s. 41; M.S. 1927 s. 2720-41; 1937 c. 464 s. 111; M .Supp. s. 2720-261.

169.73 BUMPERS AND REFLECTORS.

HISTORY. 1937 c. 464 s. 112; 1939 c. 430 s. 22; M. Supp. s. 2720-262.

169.74 SAFETY GLASS.

HISTORY. 1937 c. 464 s. 113; M. Supp. s. 2720-263.

169.75 CERTAIN VEHICLES TO HAVE AT LEAST THREE LIGHTS.

HISTORY. 1937 c. 464 s. 114; 1939 c. 430 s. 23; M. Supp. s. 2720-264.

(APPLYING TO 1927 ACT)

The negligence of the garage man in violating the flare statute cannot be imputed to plaintiff's decedent who voluntarily, and as a matter of accommodation, assisted him. Peterson v Norris, 193 M 400, 258 NW 729.

There being no evidence that defendant's truck was parked or left standing upon the highway, the trial court properly refused plaintiff's request to charge the jury that this section was applicable. Hartwell v Progressive, 198 M 488, 270 NW 570.

Defendant claims error in the refusal of the trial judge to read the parking and other similar statutes. The appellate court found the decision of the trial court free from prejudicial error. Thorstad v Doyle, 199 M 543, 273 NW 255.

Laws 1933, Chapter 252, requires motor trucks to carry certain kinds of fuses to be lit and set out in case the trucks are parked at night on the pavement. It was error to permit an employee in the state highway patrol department to testify that the fuses prescribed by that chapter were impracticable. The law authorizing the commissioner of highways to approve fuses was not adopted until after the collision occurred. Johnson v Sunshine Cry. 200 M 428, 274 NW 404.

Where a disabled bus and a relief bus were standing on the pavement at night without putting out flares, the trial court properly gave the substance of section 169.75 to the jury. Twa v Northland, 201 M 234, 275 NW 846.

(APPLYING TO 1937 ACT)

Defendant Kutches parked his truck on the right lane of a highway in the night-time for the purpose of adjusting a loose board on the end of the truck. Anderson, a guest, alighted from the truck to assist him, and while standing on the pavement back of the rear right wheel was injured by an approaching automobile. The issues of negligence by each defendant, its causal proximity to the injuries sustained by plaintiff, and plaintiff's contributory negligence, were all for the jury. The verdict for the plaintiff is sustained by the record. Anderson v Johnson, 208 M 373, 294 NW 224.

After dark two trucks, one disabled and the other a service car, blocked one lane of a trunk highway. Plaintiff's decedent, who came to the assistance of the truck drivers, was killed while standing in front of the service truck. The failure of the driver of the service truck to set out flares which should be available, and the use of which is required by statute, is found to be negligence on his part, and a proximate cause of the injury. The decedent, as a matter of law, was not guilty of contributory negligence. Duff v Bemidji Motor Service, 210 M 456, 299 NW 196.

Where one creates a dangerous situation on a public highway, his duty is to exercise a degree of care commensurate thereto. The evidence concerning this three vehicle collision supports the jury's finding of appellant's negligence, and that it was concurrent with that of his co-defendants. Where its spirit and purpose cover the case, the reading of a statute to the jury is not prejudicial error, notwithstanding its "exact wording" may not be applicable. Olson v Neubauer, 211 M 218, 300 NW 613.

169.76 EXPLOSIVES.

HISTORY. 1937 c. 464 s. 115; M. Supp. s. 2720-265.

169.77 ADJUSTING HEADLIGHTS.

HISTORY. 1927 c. 412 s. 53; M.S. 1927 s. 2720-53; 1937 c. 464 s. 116; M. Supp. s. 2720-266; 1945 c. 428.

169.78 MOTOR VEHICLE TESTING STATIONS.

HISTORY. 1937 c. 464 s. 117; M. Supp. s. 2720-267.

169.79 VEHICLES MUST BE REGISTERED.

HISTORY. 1927 c. 412 s. 6; M.S. 1927 s. 2720-6; 1937 c. 464 s. 118; M. Supp. s. 2720-268.

(APPLYING TO 1937 ACT)

Souvenir or humorous license plates are unlawful only when they obstruct the view of official number plate. OAG Aug. 8, 1939 (632a-16).

Small signs may be affixed to the registration plates, provided such affixing does not violate the provisions of section 169.79. OAG Feb. 1, 1944 (632a-16).

169.80 SIZE, WEIGHT, LOAD.

HISTORY. 1921 c. 396 s. 1; G.S. 1923 s. 2632; 1925 c. 416 s. 4; 1927 c. 412 s. 35; M.S. 1927 s. 2720-35; 1937 c. 464 ss. 119 to 121; Ex. 1937 c. 45 s. 1; 1939 c. 23 ss. 1, 2; 1939 c. 430 s. 24; M. Supp. ss. 2720-269 to 2720-271.

(APPLYING TO 1927 ACT)

The court correctly charged that if the jury found that the excessive width of the truck claimed to be two inches did not cause or contribute to the accident, then that fact was not material. Kouri v Olson, 191 M 101, 253 NW 98.

The trial court properly refused to give an instruction embodying the statutory language because this vehicle did not exceed the statutory width. Ohad v Reese, 197 M 483, 267 NW 490.

Violation of a duly enacted resolution restricting load weights on highways is a misdemeanor. The resolution must be adopted by the county board. 1942 OAG 142, April 22, 1942 (229A-8).

169.81 HEIGHT AND LENGTH OF VEHICLE AND LOAD.

HISTORY. 1927 c. 412 s. 35; M.S. 1927 ss. 2720-35, 2720-42a; 1937 c. 464 ss. 122, 123; M. Supp. ss. 2720-272, 2720-273; 1943 c. 226 s. 1.

(APPLYING TO 1937 ACT)

Plaintiff's decedent, ten years old, ran between two loaded wagons fastened together and drawn by a tractor along a residential street. Her intention was to ride on the tongue of the rear wagon. She fell, and was killed by the second wagon. In this case contributory negligence of the girl does not appear as a matter of law, and the jury could find that it was negligent for the defendant to haul loads of this character along a street frequented by children who, to the defendant's knowledge, were attracted by the chances the exposed part of the tongue of the rear wagon offered for a ride. Middaugh v Waseca Canning Co. 203 M 456, 231 NW 818.

169.82 WEIGHT OF TRAILERS.

HISTORY. 1927 c. 412 s. 42; M.S. 1927 s. 2720-42; 1937 c. 464 s. 124; 1939 c. 430 s. 26; M. Supp. s. 2720-274; 1943 c. 226 s. 2; 1945 c. 207 s. 8.

(APPLYING TO 1927 ACT)

In an action arising out of a collision in which a trailer attached to a car overtaking and passing another car, collided, it was error by the trial court not to give a requested instruction on the statutory regulation governing trailers. Dziewczynski v Lodermeyer, 193 M 580, 259 NW 65.

The trial court after instructing the jury that there was no statute requiring the driver of a passing car to give a signal upon overtaking them should have, under the circumstances, submitted to the jury the question whether

ordinary care required a warning. Dziewczynski v Lodermeyer, 193 M 580, 259 NW 65.

169.83 LIMIT OF WEIGHT UPON VEHICLES.

HISTORY. 1921 c. 396 s. 2; G.S. 1923 s. 2633; 1925 c. 416 s. 5; 1937 c. 464 s. 125; M. Supp. s. 2720-275; 1943 c. 226 s. 3; 1945 c. 113.

169.84 LIMIT OF LOAD OVER BRIDGES.

HISTORY. 1937 c. 464 s. 126; M. Supp. s. 2720-276.

169.85 WEIGHING VEHICLES; FAILURE TO SUBMIT TO WEIGHING; MISDEMEANOR.

HISTORY. 1927 c. 412 s. 38; M.S. 1927 s. 2720-38; 1937 c. 464 s. 127; M. Supp. s. 2720-277.

(APPLYING TO 1927 ACT)

Car owner is not entitled to a refund because he is unable to carry the weight upon which was based the taxes paid. OAG Feb. 21, 1935 (632e-24).

A municipality has authority to limit the weight of commercial vehicles on all streets except trunk highways. OAG Aug. 16, 1935 (59a-32).

169.86 SPECIAL PERMITS FOR MOVING VEHICLES.

HISTORY. 1921 c. 396 s. 3; G.S. 1923 s. 2634; 1925 c. 416 s. 6; 1927 c. 412 ss. 37, 39; M.S. 1927 ss. 2720-37, 2720-39; 1937 c. 464 s. 128; M. Supp. s. 2720-278; 1943 c. 226 s. 4.

169.87 RESTRICTIONS ON LOADS DURING CERTAIN SEASONS.

HISTORY. 1921 c. 396 s. 5; G.S. 1923 s. 2636; 1925 c. 416 s. 9; 1927 c. 412 s. 40; M.S. 1927 s. 2720-40; 1937 c. 464 s. 129; M. Supp. s. 2720-279.

Sign limiting weight to three tons per axle means a total tonnage of 12,000 pounds. OAG May 5, 1944 (632a-24).

It is the duty of the town board to protect the roads during the period when the roads are soft and would be injured by traffic over them by heavily loaded vehicles. OAG March 20, 1945 (989a-12).

169.88 DAMAGES; LIABILITY.

HISTORY. 1937 c. 464 s. 130; M. Supp. s. 2720-280.

169.89 PENALTIES.

HISTORY. R.S. 1851 c. 24 s. 2; P.S. 1858 c. 21 s. 2; G.S. 1866 c. 14 s. 4; G.S. 1878 c. 14 s. 4; G.S. 1894 s. 1948; 1903 c. 356 s. 7; R.L. 1905 ss. 1261, 1278; 1911 c. 365 ss. 21, 26; G.S. 1913 ss. 2640, 2645; 1917 c. 320 s. 1; 1921 c. 396 s. 4; G.S. 1923 ss. 2635, 2714, 2718; 1925 c. 416 s. 31; 1927 c. 412 s. 60; M.S. 1927 s. 2720-60; 1937 c. 464 s. 131; 1939 c. 430 s. 27; M. Supp. s. 2720-281.

Over an open railroad crossing, where the view of travelers on the highway is unobstructed and the crossing is protected by high "sawbuck" warning signs, and flashing red lights, a train speed of 50 miles per hour is, as a matter of law, not negligent. Engberg v Gt. Northern, 207 M 194, 290 NW 579.

169.90 OFFENSES.

HISTORY. 1937 c. 464 ss. 132, 133; M. Supp. ss. 2720-282, 2720-283.

169.91 ARRESTS.

HISTORY. 1925 c. 416 s. 34; 1927 c. 412 s. 63; M.S. 1927 s. 2720-63; 1937 c. 464 ss. 134, 135; 1939 c. 430 ss. 28, 29; M. Supp. ss. 2720-284, 2720-285.

169.92 FAILURE TO APPEAR A MISDEMEANOR.

HISTORY. 1927 c. 412 s. 63; M.S. 1927 s. 2720-63; 1937 c. 464 s. 136; M. Supp. s. 2720-286.

169.93 ARRESTS WITHOUT WARRANT.

HISTORY. 1937 c. 464 s. 137; M. Supp. s. 2720-287.

169.94 RECORD OF CONVICTION.

HISTORY. 1911 c. 365 s. 24; G.S. 1913 s. 2643; G.S. 1923 s. 2716; 1925 c. 416 s. 33; 1937 c. 464 ss. 138, 139; M. Supp. ss. 2720-288, 2720-289.

An oral plea of guilty to a violation of the state highway traffic regulation act is not admissible as evidence in a civil action. Warren v Marsh, 215 M 615, 11 NW(2d) 528.

169.95 COURTS TO KEEP SEPARATE RECORDS OF VIOLATIONS.

HISTORY. 1927 c. 412 s. 64; M.S. 1927 s. 2720-64; 1937 c. 464 s. 140; M. Supp. s. 2720-290.

169.96 INTERPRETATION AND EFFECT.

HISTORY. 1927 c. 412 s. 65; M.S. 1927 s. 2720-65; 1937 c. 464 s. 141; 1939 c. 430 s. 30; M. Supp. s. 2720-291.

(APPLYING TO 1937 ACT)

Where the evidence is such that reasonable minds might reach opposite conclusions as to the defense of contributory negligence, it is error to direct a verdict against the plaintiff. Fickling v Nassif, 208 M 538, 294 NW 848.

Negligence of one driving a team and wagon after dark without lights in consequence of which an approaching car turned abruptly to the left to avoid a collision, lost control of his car and was injured, furnishes a fact question under this section as to whether or not a violation of the statute by the driver of the team was prima facie evidence of negligence. The question of plaintiff's contributory negligence in this emergency is to be determined by whether or not he exercised the judgment which could reasonably be expected from a prudent person under the circumstances. Smith v Carlson, 209 M 268, 296 NW 132.

A passenger in defendant's car brings this action. The car was driven at a speed of 35 miles per hour for more than three and a half miles over a paved highway on which were patches of ice difficult to see because of snow flurries, and the car skidded and hit a telephone post. The question of the defendant driver's negligence was one of fact and the jury found for the defendant. Schultz v Rosner, 209 M 462, 296 NW 532.

The verdict finding the defendant motorist negligent was sustained since the jury could conclude that he entered the intersection when the controlling semaphore showed green-yellow. Litman v Walso, 211 M 398, 1 NW(2d) 391.

The statute requiring pedestrians to walk on the left side of the roadway giving way to oncoming traffic applies to divided highways, so that a pedestrian struck while walking in the wrong lane with rather than against traffic is prima facie guilty of negligence. Wojtowicz v Belden, 211 M 461, 1 NW(2d) 409.

The action of the trial judge in charging the jury upon the emergency rule after refusing defendant's request for such instruction, thus depriving defendant of benefit of regulation thereon to the jury, did not constitute reversible error. Latourelle v Horan, 212 M 520, 4 NW(2d) 343.

Question whether decedent's failure to exhibit lights at night upon a parked vehicle was excusable, and whether decedent had been negligent by remaining in a position of obvious peril, were questions of fact. Latourelle v Horan, 212 M 520, 4 NW(2d) 343.

A motorist stopping at and then entering a thru street and making a left turn, is not guilty of contributory negligence as a matter of law where he collides with the street-car, and the street-car was not so close at the time he entered the intersection as to constitute an immediate hazard. Tsiang v Mpls. St. Ry. 213 M 21, 4 NW(2d) 630.

The general rule is that plaintiff's negligence is sufficient to bar recovery if it proximately contributed to the result. The plaintiff is guilty of contributory negligence as a matter of law because, at the rate of speed he was going through dense fog, he could not stop his vehicle within the distance required to stop after discovery of danger. Olson v Duluth & Missabe, 213 M 106, 5 NW(2d) 492.

A motorist who by driving at high speed with defective brakes contributed to the predicament with which he was confronted was not entitled to have his case considered under the sudden emergency rule. Lee v Zaske, 213 M 244, 6 NW(2d) 793.

Failure to comply with statute regarding adequate brakes is prima facie evidence of negligence. Lee v Zaske, 213 M 244, 6 NW(2d) 793.

Whether defendant's driving, in spite of plaintiff's cautionary remarks, required that guest take other steps in the interest of his own safety, should have been submitted to the jury. Hubenette v Ostby, 213 M 349, 6 NW(2d) 637.

Evidence per se; or prima facie; interpretation. Fletton v Daleki, 216 M 550, 13 NW(2d) 477; Schnore v Baldwin, 217 M 398, 14 NW(2d) 447; Rogers v Mpls. St. Ry. 218 M 454, 16 NW(2d) 516; Flom v St. P. City Ry. 218 M 474, 16 NW(2d) 551; Flaherty v Gt. Northern, 218 M 495, 16 NW(2d) 553; Nees v Mpls. St. Ry. 218 M 532, 16 NW(2d) 758.

169.97 CITATION.

HISTORY. 1925 c. 416 s. 35; 1937 c. 464 s. 142; M. Supp. s. 2720-292.

Sections of the highway traffic regulation act should be construed together. Rogers v Mpls. St. Ry. 218 M 458, 16 NW(2d) 518; Travis v Collett, 218 M 599, 17 NW(2d) 69.