CHAPTER 217

GENERAL PROVISIONS RELATING TO CARRIERS.

217.01 COMMON LAW LIABILITY NOT TO BE LIMITED.

HISTORY. 1887 c. 10 s. 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77c; 1893 c. 108 s. 1; G.S. 1894 s. 381(g); R.L. 1905 s. 2008; G.S. 1913 s. 4321; G.S. 1923 s. 4801; M.S. 1927 s. 4801.

Defendant contracted with the railway company to transport live stock to a point beyond the line of its road, it having to deliver it to another road for transportation to its destination. The contract contained a provision that in order to recover damage for a law plaintiff must give notice in writing of his claim to some officer of the defendant company or its station agent before removal of the stock from its destination and before it was mingled with other stock. It did not appear that defendant had any officer or agent at the place of destination, and under the circumstances this condition precedent was unreasonable and void. Engesether v G. N. Ry. 65 M 168, 68 NW 4.

The obligation of a carrier to carry goods beyond its own line, being a matter of contract not of legal duty, the carrier may by contract limit its responsibility on intrastate traffic, but such a stipulation limiting the liability of a carrier to its own line has no application to interstate shipments, they being governed by federal statute. Dodge v Chicago, St. P. & O. Ry. 111 M 123, 126 NW 627.

The common law liability of a common carrier of goods as an insurer does not terminate until delivery to the consignee or notice to him of arrival and a reasonable opportunity for removal. At the termination of such reasonable time liability of the common carrier is that of a warehouse man. The property involved was left by the plaintiff with the defendant carrier for 53 hours after notice to him of its arrival when it was destroyed by fire. As a matter of law and independently of the provisions of the shipping bill at the time of the fire, the liability of the carrier as an insurer had ceased and its liability was that of a warehouse man who is liable only for neglect. Rustad v G.N. Ry. 122 M 453, 142 NW 727.

Under the common law a connecting common carrier engaged in interstate commerce is liable for damages to goods occurring on its line as a result of its negligence, but by the Carmack-Cummins Amendment, the initial carrier, with certain exceptions, is made liable for any damages occurring either on its own line or on the line of any of the connecting carriers. This provides a remedy under the amendment but does not abrogate the common law rule. Hanson-Peterson Co. v Atchison, Topeka & Santa Fe Ry. Co. 165 M 43, 205 NW 605.

The first 25 causes of accident relate to shipments of 23,000 chicks, and there was a loss of 6,000 in transit. A loss of about 6,000 was claimed because of the negligence of the transportation company in piling the boxes inside the depot in extremely hot weather and without sufficient ventilation. The chicks were in good shape when shipped. As to causes of action numbers 26 to 30 inclusive, there is no evidence of the condition of the chicks when delivered to the express company or the manner in which they were packed in the shipping boxes. The transportation company can be held liable for the damages on the first 25 causes of damage, but not on causes 26 to 30. Garbisch v Amer. Ry. Express Co. 177 M 494, 225 NW 432.

A carrier is bound to exercise the highest degree of care toward its passengers. Here there was evidence from which the jury might find that such a relation existed between plaintiff and defendant. Plaintiff was not guilty of contributory negligence as a matter of law, and the jury found the defendant negligent, and the verdict of the lower court is affirmed. Mardorf v Duluth-Superior Transit Co. 199 M 325, 271 NW 588.

217.02 BILLS OF LADING; LIABILITY OF CARRIER ISSUING, CONNECTING CARRIERS.

HISTORY. 1913 c. 315 s. 1; G.S. 1913 s. 4330; G.S. 1923 s. 4802; M.S. 1927 s. 4802.

A common carrier is at common law an insurer of the goods shipped except those arising from accepted causes. One accepted cause is improper packing by the shipper. The carrier must, to relieve himself from liability, show that the fault of the shipper was the sole cause of the loss. The contributory negligence rule does not apply. If improper packing is apparent, the carrier may refuse the shipment, but if he does receive them, he assumes to carry the goods as they are, and the full common law liability as carrier attaches. Northwestern Marble v Williams, 128 M 514, 151 NW 419.

The condition in which goods were delivered to the initial carrier having been shown, the presumption arises that the goods continued in the same condition down to the time of their delivery to the carrier completing the transportation. Hansen-Peterson Co. v Atchison, Topeka & Santa Fe Ry. Co. 165 M 43, 205 NW 605.

The rule that a carrier failing to reject improperly crated or loaded freight assumes to carry the freight at its peril applies to carload shipments, and the record in this case does not support the claim of a custom among carriers not to inspect loading of carload shipments. Levine v Dul. & Iron Range, 171 M 205, 214 NW 17.

A letter received by the plaintiffs from the agent of the company at the point of destination showing loss of property shipped C.O.D. is competent evidence. Garbisch v Amer. Ry. Express Co. 177 M 494, 225 NW 432.

217.03 REMEDY OVER OF CARRIER ISSUING.

HISTORY. 1913 c. 315 s. 2; G.S. 1913 s. 4331; G.S. 1923 s. 4803; M.S. 1927 s. 4803.

The record supports the finding that the cattle in controversy were lost or damaged as a natural and proximate consequence of defendant's lack of care. The fact that the cattle were billed from a range cattle district was notice that they required wild cattle care. The connecting carrier is liable to the initial contracting carrier. Northern Pacific v Minnesota Transfer, 219 M 8, 16 NW(2d) 894.

217.04 PREFERENCES FORBIDDEN.

HISTORY. 1874 c. 26 ss. 9, 10; 1875 c. 103 ss. 7, 8; G.S. 1878 c. 6 ss. 73, 74; 1885 c. 188 s. 20; 1887 c. 10 ss. 2, 5; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 ss. 77b. 77e; G.S. 1894 ss. 380(b), 383; R.L. 1905 s. 2009; G.S. 1913 s. 4332; G.S. 1923 s. 4804; M.S. 1927 s. 4804.

In this action plaintiff endeavored to state a cause of action against defendant corporation, a common carrier, for unjust discrimination alleging a variety of acts and occurrences in the year 1890 at Wells station, in Faribault county. Both the trial court and the supreme court held that the complaint failed to state facts sufficient to constitute a cause of action. Myers v Chic. M. & St. P. Ry. 50 M 371, 52 NW 962.

A railway company is obliged to give equal or substantially similar facilities for the transportation of grain to all persons who in good faith erect or decide to erect warehouses at any of its stations. The company may impose reasonable terms and conditions upon persons who demand such facilities, but they must be the same for all. If the demand is unreasonably refused, the state railroad and warehouse commission may, based upon its investigation, enforce the performance of such duty. Farwell Farmers' Warehouse Ass'n v Mpls. St. P. & S. St. M. Ry. Co. 55 M 8, 56 NW 248.

A hackman is not a party, having such relations with a common carrier as will permit him, to enter a depot to solicit business; but in common with all others in that business he has the right and privilege of soliciting public patronage without being discriminated against at all points outside the depot when such points or places have been properly designated; and has the right of entry without dis-

crimination to the depot to deliver or receive passengers or baggage subject to such rules and regulations as are made in the interest of the traveling public. Godbout v St. P. Union Depot, 79 M 188, 81 NW 835.

A contract by a common carrier to supply to a particular interstate shipper a specified number of cars on certain dates to be used in such shipment is not a violation of the act of congress regulating interstate commerce unless it appears that the contract, if performed, will extend to that shipper an unreasonable preference over other shippers. Farrell v G. N. Ry. 119 M 302, 138 NW 284.

The jurisdiction of the state courts in an action by a shipper against a carrier for damages resulting from unlawful discrimination is not affected by the provisions of the interstate commerce act where the transportation is wholly within the state. A shipper's common law right of action for damages for discrimination in rates is not taken away by our rate regulating statute. Sullivan v Mpls. & Rainy River, 121 M 488, 142 NW 3.

Refusal to install stock scales may be unlawful discrimination. State ex rel v G. N. Ry. 122 M 55, 142 NW 7.

Baggage means articles carried by a passenger for his personal use, but if the carrier knowingly accepts merchandise as baggage, it assumes baggage liability. A limitation printed on the baggage check does not limit the carrier's liability unless assented to by the passenger and a contract of limitation entered into, and the burden of proof is upon the carrier to prove that such contract was fairly and honestly made. Ferris v Mpls. & St. L. Ry. 143 M 90, 173 NW 178.

The Transportation Act of 1920, prohibiting the delivery of freight at the point of destination without the payment of tariff charges except under special rules and regulations as the interstate commerce commission may prescribe, does not of itself operate to release the consignor from liability when the carrier delivers freight to the consignee without payment, nor does it make the consignor's liability secondary to that of the consignee. The general rule is that the consignor who makes the contract with the carrier is primarily liable for tariff charges. This case involves milling in transit privileges, and although the bill of lading provided that the consignee should pay the charges, a finding that the consignor remained liable is sustained. Chicago Junction Ry. v. Duluth Log. Co. 161 M 466, 202 NW 24.

After the interstate commerce commission established maximum reasonable interstate freight rates effective in districts which included a portion of the state of Minnesota, the carriers advanced their rates to the maximum. These rates are higher than the intrastate rates established by the Minnesota railroad and warehouse commission. The disparity in rates produced unjust discrimination against certain cities in Minnesota, and the railroad and warehouse commission brought suit to compel the carriers to remove such discrimination and to observe the statutory requirements as respects intrastate rates. The trial court correctly ruled that the suit could not be maintained as the making of rates is a legislative and not a judicial function. State ex rel v N. P. Ry. 168 M 393, 210 NW 399.

Giving of credit by a public service corporation as a discrimination. 5 MLR 153.

217.05 CERTAIN PREFERENCES ALLOWED.

HISTORY. 1885 c. 188 s. 25; 1887 c. 10 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77a; 1889 c. 124 s. 1; G.S. 1894 s. 379(a); R.L. 1905 s. 2010; G.S. 1913 s. 4333; G.S. 1923 s. 4805; M.S. 1927 s. 4805.

217.06 REBATES FORBIDDEN; PENALTIES.

HISTORY. 1905 c. 177 s. 1; G.S. 1913 s. 4334; G.S. 1923 s. 4806; M.S. 1927 s. 4806.

The shipper's common law right of action for damages for discrimination in rates is not taken away by our rate-making statutes which furnish no civil remedy to the shipper. In such an action, whether based upon the common law or the statutory duty not to discriminate in rates, the shipper may recover the difference between the charges exacted of him and those accepted from the most favored shipper. Sullivan v Mpls. & Rainy River, 121 M 488, 142 NW 3.

The carriers' discrimination in rates. 6 MLR 519.

217.07 RAILROADS; DEMURRAGE PAID; REPORTS TO COMMISSION.

Unconstitutional.

217.08 ANNUAL REPORTS; COMMON CARRIER.

HISTORY. 1871 c. 22 s. 6; 1875 c. 103 s. 5; G.S. 1878 c. 6 s. 71; 1885 c. 188 ss. 6 to 8; 1887 c. 10 s. 17; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77q; 1897 c. 284; R.L. 1905 s. 1984; G.S. 1913 s. 4232; G.S. 1923 s. 4703; M.S. 1927 s. 4703.

217.09 ACCIDENTS AND WRECKS; REPORTS TO COMMISSION.

HISTORY. 1871 c. 22 s. 12; 1905 c. 122 s. 1; 1907 c. 290 s. 1; G.S. 1913 s. 4233; G.S. 1923 s. 4704; M.S. 1927 s. 4704; 1937 c. 211 s. 1; M. Supp. s. 4704.

A legislative committee has power to compel its right to inspect reports of accidents, wrecks, or casualties. OAG Feb. 16, 1933.

217.10 ORDERS PRIMA FACIE EVIDENCE.

HISTORY. 1887 c. 10 s. 14; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77n(a); R.L. 1905 s. 1989; G.S. 1913 s. 4240; G.S. 1923 s. 4711; M.S. 1927 s. 4711.

217.11 ACCOUNTS OF RAILROADS; DUTIES AND POWERS OF COMMISSION.

HISTORY. 1911 c. 327 ss. 1, 2; G.S. 1913 ss. 4244, 4245; G.S. 1923 s. 4715, 4716; M.S. 1927 ss. 4715, 4716.

217.12 CARRIER; WAREHOUSEMAN; FAILURE TO OBEY ORDER OR LAW.

HISTORY. 1887 c. 10 s. 4; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77d; 1891 c. 106 s. 4; G.S. 1894 s. 399; R.L. 1905 s. 1975; G.S. 1913 s. 4195; G.S. 1923 s. 4654; M.S. 1927 s. 4654.

An alternate writ of mandamus was issued on the relation of the state railroad and warehouse commission to compel the Adams Express Company, a nonresident joint stock association and a common carrier, to print and complete for public inspection schedules showing classification rates, fares, and charges in force and to file a copy of such schedule with the commission. On appeal by the defendant from an order of the district court for Ramsey county denying a motion to quash the alternate writ, the decision of the lower court was affirmed. State ex rel v Adams Express Co. 66 M 271, 68 NW 1085.

The facts did not justify an order of the railroad and warehouse commission requiring defendant to build and maintain a passenger station at Emmons, Minnesota. State ex rel v Mpls. & St. L. Ry Co. 76 M 469, 79 NW 510.

217.13 RAILROADS; VIOLATION OF LAW; TRIAL.

HISTORY. 1887 c. 10 s. 22; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77d; 1891 c. 106 s. 4; G.S. 1894 s. 399; R.L. 1905 s. 1976; G.S. 1913 s. 4196; G.S. 1923 s. 4655; M.S. 1927 s. 4655.

217.14 INCRIMINATING QUESTIONS.

HISTORY. 1887 c. 10 s. 11(c); G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77k(c); G.S. 1894 s. 389; R.L. 1905 s. 1977; G.S. 1913 s. 4197; G.S. 1923 s. 4656; M.S. 1927 s. 4656.

217.15 COSTS AND ATTORNEY'S FEES.

HISTORY. 1887 c. 10 s. 15; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77o; G.S. 1894 ss. 393(c), 399; R.L. 1905 s. 1978; G.S. 1913 s. 4198; G.S. 1923 s. 4657; M.S. 1927 s. 4657.

Attorney's fees properly allowed. Abrahamson v Canadian Northern, 177 M. 136, 225 NW 94.

The facts in this case do not bring it within the provision of section 217.15, and attorney's fees should be eliminated and only the ordinary costs and disbursements taxed against the appellants. Chicago & N. W. Ry. v. Verschingel, 197 M 580, 268 NW 2, 709.

217.16 TICKET AGENTS; LICENSE FOR.

HISTORY. 1893 c. 66 ss. 1 to 4; G.S. 1894 ss. 2785 to 2788; R.L. 1905 s. 2043; G.S. 1913 s. 4428; G.S. 1923 s. 4941; M.S. 1927 s. 4941.

Laws 1893, Chapter 66, entitled "An act to regulate the sale and redemption of transportation tickets of common carriers and to provide punishment for the violation of the same," is not unconstitutional either as class legislation, delegation of the police power, interference with interstate commerce, or as being without due process of law. State v Corbett, 57 M 345, 59 NW 317.

217.17 UNUSED TICKETS; REDEMPTION OF.

HISTORY. 1893 c. 66 ss. 5 to 7; G.S. 1894 ss. 2789 to 2791; R.L. 1905 s. 2044; G.S. 1913 s. 4429; G.S. 1923 s. 4942; M.S. 1927 s. 4942.

Following State v Corbett, 57 M 345, Laws 1893, Chapter 66, is constitutional. State v Manford, 97 M 173, 106 NW 907.

217.18 MILEAGE BOOKS.

HISTORY. 1905 c. 221 s. 1; G.S. 1913 s. 4430; G.S. 1923 s. 4943; M.S. 1927 s. 4943.

217.19 COMPANY NOT LIABLE, WHEN.

HISTORY. 1905 c. 221 s. 2; G.S. 1913 s. 4431; G.S. 1923 s. 4944; M.S. 1927 s. 4944.

217.20 MEMBERS OF FAMILY MAY USE; PENALTY.

HISTORY. 1913 c. 151 s. 1; G.S. 1913 s. 4432; G.S. 1923 s. 4945; M.S. 1927 s. 4945.

217.21 RAILROAD COMPANIES TO SELL MILEAGE BOOKS.

HISTORY. 1917 c. 118 s. 1; G.S. 1923 s. 4946; M.S. 1927 s. 4946.

217.22 COUPONS GOOD FOR PRO RATA INCREASE.

HISTORY. 1917 c. 118 s. 2; G.S. 1923 s. 4947; M.S. 1927 s. 4947.

217.23 PROCEEDINGS FOR ENFORCEMENT OF ABOVE SECTIONS.

HISTORY. 1917 c. 118 s. 3; G.S. 1923 s. 4948; M.S. 1927 s. 4948.

217.24 CERTAIN RAILROAD COMPANIES EXCLUDED.

HISTORY. 1917 c. 118 s. 4; G.S. 1923 s. 4949; M.S. 1927 s. 4949.

217.25 ORDER; WHEN TO BECOME EFFECTIVE.

HISTORY. 1917 c. 118 s. 5; G.S. 1923 s. 4950; M.S. 1927 s. 4950.

217.26 MILEAGE BOOK ISSUED BY ONE COMPANY GOOD ON ALL LINES.

HISTORY. 1917 c. 118 s. 6; G.S. 1923 s. 4951; M.S. 1927 s. 4951.

217.27 PURCHASER TO HAVE SAME RIGHTS ON ALL RAILROADS.

HISTORY. 1917 c. 118 s. 8; G.S. 1923 s. 4953; M.S. 1927 s. 4953.

217.28 STATE EMPLOYEES MAY USE MILEAGE BOOKS.

HISTORY. 1921 c. 515 s. 1; G.S. 1923 s. 4954; M.S. 1927 s. 4954.

217.29 DEPARTMENT TO KEEP RECORD AND REPORT USE OF BOOKS.

HISTORY. 1921 c. 515 s. 2; G.S. 1923 s. 4955; M.S. 1927 s. 4955.

217.30 APPEALS TO SUPREME COURT.

HISTORY. 1885 c. 188 s. 23; 1887 c. 10 s. 15; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77o; 1891 c. 106 s. 3; G.S. 1894 ss. 393(c), 393(d); 1897 c. 288; R.L. 1905 s. 1980; G.S. 1913 s. 4200; G.S. 1923 s. 4659; M.S. 1927 s. 4659.

Relator appealed from an order of the commission to the district court, and the order was affirmed. Relator then appealed to the supreme court which affirmed the judgment of the district court. Relator then obtained a writ of error to the supreme court of the United States and gave a supersedeas bond which was approved and filed. In such proceedings an appeal from the district court to the supreme court does not affect a stay of the judgment nor does an appeal bond. There is no stay unless ordered by the court, and for such order an appeal bond as required by section 175.35 is necessary. State ex rel v District Court, 136 M 455, 161 NW 164.

Application of motor vehicle mail carrier for order of district court pending appeal to the supreme court should be made to the district court in the first instance. State v Lefebvre, 172 M 601, 215 NW 188.

Where the district court has reversed a rate-fixing order of the commission, an appeal by the state and applicant does not stay entry of judgment unless so directed either by the district court or the supreme court. State ex rel v District Court, 189 M 487, 250 NW 7; State v Tri-State, 204 M 516, 284 NW 294; State v Rock Island Motor Transit Co. 209 M 105, 295 NW 519.

Participation in railroad and warehouse commission proceedings as a basis for right to appeal. 25 MLR 938.

217.31 COMBINED RAILROAD AND TOLL BRIDGES.

HISTORY. 1869 c. 78 s. 1; G.S. 1878 c. 34 s. 52; G.S. 1894 s. 2691; R.L. 1905 s. 2005; G.S. 1913 s. 4283; G.S. 1923 s. 4764; M.S. 1927 s. 4764.

217.32 SIDETRACKS TO SAND OR GRAVEL PIT.

HISTORY. 1893 c. 65 s. 1; G.S. 1894 s. 7730; R.L. 1905 s. 2006; G.S. 1913 s. 4284; G.S. 1923 s. 4765; M.S. 1927 s. 4765.

The statute does not require railroads to construct and operate sidetracks to industries where the conditions are such that to do so would necessarily affect in an unreasonable degree the safe operation of trains. In this case the building of a spur track would not in any way interfere with the main line of traffic, and the spur running to the stone quarry should be installed. State v Chgo. Milwaukee & St. Paul Ry. 115 M 51, 131 NW 859.

Under the police power a railroad company may be compelled to depress its tracks. The right of private enterprises to railroad sidetrack facilities based upon contract, prescription, or estoppel as against the railroad company is subject to a city's police power to order a separation of railroad and street grades where public necessity so requires. Twin City Separator Co. v Chgo. Milwaukee Ry. 118 M 491, 137 NW 193.

The state under its police power may require a railroad company to provide such sidetrack facilities to industries adjacent to its track as shall be found necessary and reasonable. Ochs v Chgo. & Northwestern Ry. 135 M 323, 160 NW 866.

A spur track required by an order of the commission to be constructed by the defendant in part at its own expense to connect with plaintiff's plant was for a public use, and such order did not amount to the taking of property for private use. Range Sandland Co. v Gt. N. Ry. 137 M 314, 163 NW 656.

The power of eminent domain inheres in the state as an attribute to its sovereignty and is vested in the legislature and may be directly exercised or delegated to governmental agencies. The fact that the owner of a grain elevator has acquired an easement entitling him to special privileges in making use of an existing sidetrack, which is to be extended, does not deprive a railroad company of the right to condemn the land required for such extension. N. P. Ry. v Pioneer Fuel, 148 M 214, 181 NW 341.

217.33 CARRIER TO MOVE TEST CAR.

HISTORY. 1913 c. 129 s. 2; G.S. 1913 s. 4214; G.S. 1923 s. 4674; M.S. 1927 s. 4674.

217.34 STOCKYARDS SCALES; PRIVATE PROHIBITED.

HISTORY. 1913 c. 252 s. 2; G.S. 1913 s. 4222; G.S. 1923 s. 4684; M.S. 1927 s. 4684.

217.35 WATERING AND FEEDING TROUGHS AT STOCKYARDS; SANITARY.

HISTORY. 1919 c. 231 s. 1; G.S. 1923 s. 4696; M.S. 1927 s. 4696.

217.36 ACTIONS; ATTORNEY'S FEE.

Unconstitutional.

217.37 RAILWAY CARS MUST BE CLEANED.

HISTORY. 1921 c. 179 s. 1; G.S. 1923 s. 4881; M.S. 1927 s. 4881.

217.38 LIVE STOCK SANITARY BOARD TO MAKE RULES.

HISTORY. 1921 c. 179 s. 2; G.S. 1923 s. 4882; 1927 c. 182; M.S. 1927 s. 4882.

217.39 TIME ALLOWED FOR LOADING PRODUCE.

HISTORY. 1903 c. 320; R.L. 1905 s. 2027; G.S. 1913 s. 4389; G.S. 1923 s. 4885; M.S. 1927 s. 4885.

217.40 CONSTRUCTION OF CHAPTER.

HISTORY. R.L. 1905 s. 1988; G.S. 1913 s. 4239; G.S. 1923 s. 4710; M.S. 1927 s. 4710.

Great Northern having voluntarily installed stock scales at 54 of its stations in Minnesota, its refusal to furnish a scale at the station of Bertha is a discrimination against that place, and the commission has authority to require the railway to supply a scale at that station. State ex rel v G. N. Ry. 122 M 55, 141 NW 1102.

The evidence sustained the commission and the district court in requiring the railway company to provide a small station and custodian service at Lawndale. State ex rel v G. N. Ry. 123 M 463, 144 NW 155.

The commission has authority to order the railway company to remove its station building one-half mile from its present location to the village which it serves. The order of the commission directed to the railway company is not to be disturbed unless the commission exceeded its powers. Railroad and Warehouse Commission v G. N. Ry. 124 M 533, 144 NW 771.

We have no statute directly conferring upon the commission the power and authority to order the construction and maintenance by intersecting railroads

of a union station at crossings like the one at Dodge Center, and the order of the commission in this case is an unlawful invasion of the proper rights of the affected railroads. Palmerlee v Chgo. Gt. Western Ry. 152 M 291, 188 NW 328.

217.41 REMEDIES CUMULATIVE; ATTORNEY'S FEES.

HISTORY. 1875 c. 103 s. 4; 1885 c. 188 s. 9; 1887 c. 10 ss. 11(a), 18(c); G.S. 1878 Vol. 2 (1888 Supp.) c. 6 ss. 77k, 77r; G.S. 1894 ss. 389(a), 396(c); R.L. 1905 s. 1986; G.S. 1913 s. 4237; G.S. 1923 s. 4708; M.S. 1927 s. 4708.

In an action for damages for discrimination in rates, whether based upon the common law or the statutory duty not to discriminate the shipper, the shipper may recover the difference between the charges exacted of him and those accepted from the most favored shipper; and though the rates charged to plaintiff were those established by law, such a recovery neither compels the defendant to commit a second wrong nor in any way affects the legally established rates. Sullivan v Mpls & Rainy River, 121 M 488, 142 NW 3.

Where damages are asked on account of discrimination the common law remedies are retained and the statutory remedy is in addition thereto. Seaman v Mpls. & Rainy River, 127 M 180, 149 NW 134. Watob Paper v Northern Pacific, 58 Fed. Supp. 928.

Section 235.06 is a penal provision only, but it does not in any manner affect the civil liability of the carrier. This civil liability remains as the common law. National Elevator Co. v. G. N. Ry. 138 M 100, 164 NW 79.

217.42 APPLICATION OF PRECEDING PROVISIONS.

HISTORY. R.L. 1905 s. 2045; G.S. 1913 s. 4433; G.S. 1923 s. 4957; M.S. 1927 s. 4957.

217.43 CERTAIN SECTIONS NOT APPLICABLE TO CERTAIN RAILROAD COMPANIES.

HISTORY. 1911 c. 336 s. 1; G.S. 1913 s. 4249; G.S. 1923 s. 4727; M.S. 1927 s. 4727.

217.44 FORFEITURES; VIOLATIONS; PENALTIES.

HISTORY. 1871 c. 22 ss. 7 to 9; 1874 c. 26 s. 16; 1875 c. 103 s. 8; G.S. 1878 c. 6 s. 74; 1885 c. 188 ss. 14, 27; 1887 c. 10 s. 12; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 77L; G.S. 1894 s. 390; R.L. 1905 ss. 1987, 2046; G.S. 1913 ss. 4238, 4434; 1919 c. 231 s. 2; 1921 c. 179 s. 3; G.S. 1923 ss. 4697, 4709, 4883, 4958; M.S. 1927 s. 4697, 4709, 4883, 4958.

Laws 1887, Chapter 10, Section 3, is inconsistent with and supersedes Laws 1887, Chapter 14, Section 1. State ex rel v St. P. Mpls, & Manitoba, 40 M 353, 42 NW 21.

The commission has no power to interfere with the abandonment by a railroad of part of its line that is being operated at a loss. Hill City Ry. Co. v Youngquist, 32 F(2d) 819.