

CHAPTER 237

TELEPHONE AND TELEGRAPH COMPANIES

237.01 TELEPHONE COMPANY.

HISTORY. 1915 c. 152 s. 2; G.S. 1923 s. 5287; M.S. 1927 s. 5287.

The telephone company, after the expiration of the term of its original franchise which was conditioned upon its furnishing to the state free poles, wire, conductors and conduits for its separate police and fire alarm system, cannot be compelled by the railroad and warehouse commission to furnish such facilities to the state. Such use of its property is not a public use subject to commission supervision, but a private use to be covered, if at all, by voluntary contract. *St. Paul v Tri-State Tel. Co.* 193 M 484, 258 NW 822.

Control of public utilities in Minnesota. 16 MLR 515.

237.02 UNDER RAILROAD AND WAREHOUSE COMMISSION.

HISTORY. 1915 c. 152 s. 1; G.S. 1923 s. 5286; M.S. 1927 s. 5286.

The statute is not unconstitutional as conferring judicial powers upon the railroad and warehouse commission. The powers conferred are administrative and legislative in character. The commission is given jurisdiction and supervisory powers over telephone companies the same as it has over railroad and express companies, and such jurisdiction extends to all telephone companies regardless of the character of their organization. *State ex rel v Four Lakes*, 141 M 124, 169 NW 480.

As of the date of the adoption of Laws 1915, Chapter 152, any telephone company holding a franchise from a municipality at the time the law took effect is permitted by section 15 of the act to surrender such franchise and receive, in lieu thereof, from the commission an indeterminate permit to occupy the streets of the municipality with its poles or wires. No private proprietary right, vested in the village of Litchfield by the franchise issued by its council in 1905, was impaired or affected by the written declaration of surrender tendered by relator to the village clerk for filing pursuant to said section 15. *State ex rel v Holm*, 138 M 281, 164 NW 989.

The state forestry telephone lines are not controlled by the telephone regulatory laws of this state and are not within the control of the railroad and warehouse commission. 1934 OAG 849, Nov. 27, 1934 (203s).

Cooperative telephone companies come under the jurisdiction of the railroad and warehouse commission. The stockholders subject to such limitations as may be imposed by the rights of the community, control the policy and acts of the telephone company. Where a farm line company disconnects its line from the local exchange, there is no reason why a subscribing non-member should not apply to the railroad and warehouse commission for a declaration of his rights; or, if his rights have been violated, he can seek redress in the courts as a private matter of his own concern. 1934 OAG 850, March 2, 1933 (98b-6).

237.03 SCOPE OF LAW.

HISTORY. 1915 c. 152 s. 3; G.S. 1923 s. 5288; M.S. 1927 s. 5288.

Rate making for the future is an inherently legislative act, whether done by the legislature directly, or by an administrative body to which is delegated the duty of fixing rates in detail. The orders of such tribunals are subject to the same tests and command the same regard as amendments of the legislature. The powers of the reviewing court are purely judicial and lack legislative attributes. Its function is to protect constitutional rights, not to sit as a board of revision with appellate legislative authority. The court cannot substitute its own judgment for that

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of the commission. In rate proceedings the commission must make finding of fact sufficiently specific to enable the court to determine whether it has complied with all statutory requirements, and whether the substantial rights of the company have been observed. *State v Tri-State Tel. Co.* 204 M 516, 284 NW 294.

Laws 1915, Chapter 152, exempts from its operation and effect private contracts with telephone companies existing at the time of the passage of the act. The contract between the members, in this case, fixing rates and exacted by defendant for the use of its line, is so ambiguous and uncertain as to leave the legal rights of the parties in doubt. *Goodrich v N. W. Tel. Co.* 148 M 219, 181 NW 333.

The two telephone companies joined in proceedings against the attorney general of the state of Minnesota on motions to (1) stay proceedings; (2) to dismiss; (3) for a restraining order; (4) an application for an interlocutory injunction. The motion to stay proceedings and dismiss were denied, but the motion for a restraining order and applications for interlocutory injunctions were granted. *N.W. Bell Tel. Co. v Hilton*, 274 Fed. 384.

237.04 TELEPHONE, TELEGRAPH, ELECTRIC LIGHT, POWER, AND OTHER ELECTRIC WIRES CROSSING OR PARALLELING LINES OF RAILROADS, INTERURBAN RAILWAYS, OR OTHER PUBLIC UTILITIES; REGULATIONS BY COMMISSION FOR CONSTRUCTION, MAINTENANCE, AND OPERATION.

HISTORY. 1925 c. 152 s. 1; M.S. 1927 s. 4718-1.

Those engaged in transmitting high voltage electricity are required to exercise a degree of care to guard against injury commensurate with the danger to be apprehended; and where high tension wires are maintained at places where people may rightfully go and may be reasonably expected to go, it is required that evident insulation be provided or other evident safeguards; but it is not required that insulation be provided or safeguards where it is not expected people will go; but are not insurers against injury. *Bunlen v Eastern Minnesota*, 178 M 604, 228 NW 332.

237.05 ENFORCEMENT OF ORDERS AND REGULATIONS.

HISTORY. 1925 c. 152 s. 2; M.S. 1927 s. 4718-2.

237.06 RATES TO BE FAIR AND REASONABLE.

HISTORY. 1915 c. 152 s. 4; M.S. 1927 s. 5289.

Laws 1915, Chapter 152, exempts from its operation and effect private contracts with telephone companies existing at the time of the passage thereof. *Goodrich v N. W. Tel. Co.* 148 M 219, 181 NW 333.

The question whether rates are confiscatory must be submitted to a judicial tribunal for decision upon its own independent judgment as to both the law and the facts. Any rate insufficient to constitute a reasonable return on the value of the property used and the services required, is confiscatory. *Western Buse Tel. Co. v N. W. Tel. Co.* 188 M 524, 248 NW 224.

Patrons of telephone companies pay for the privilege of using the company's facilities. They acquire no interest in the company's depreciation reserve. The rate is based upon the present value and not upon the company's investment. *Western Buse Tel. Co. v N. W. Tel. Co.* 188 M 524, 248 NW 224.

Rural companies receiving switching services are not entitled to a credit for the use of its lines and telephone facilities by the local exchange. Their rate is not payment for the use of the facilities of the local exchange except as to that portion necessarily assigned to use in such switching services. The rural subscribers are not, by virtue of their relation to the exchange arising out of the switching services, entitled to any portion of such profit arising from advertising or publication of telephone directories. *Western Buse Tel. Co. v N. W. Tel. Co.* 188 M 524, 248 NW 224.

While a proceeding instituted by the railroad and warehouse commission to determine rates was pending in court, the company and the commission with

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the aid of the attorney general, agreed to end the litigation by substituting for the schedule of rates established by the commission March 31, 1936, a schedule of rates fixed by the commission as of May 2, 1939. Section 237.08 impliedly authorizes the commission to sanction new rates without formal notice of hearings and taking of testimony if satisfied that the rates are just and reasonable; moreover, parties to pending rate litigation, the commission representing the public and the defendant being a telephone company have the right to compose and end the controversy by stipulation. *Lenahan v Tri-State Tel. Co.* 208 M 172, 293 NW 601.

237.07 SCHEDULE OF RATES TO BE FILED WITH THE COMMISSION.

HISTORY. 1915 c. 152 s. 5; G.S. 1923 s. 5290; M.S. 1927 s. 5290.

While the telephone properties of the country are under federal control, the postmaster general places in effect rates in excess of those approved by the railroad and warehouse commission. Upon release of the federal control, the commission on its own motion made an order for the company to show cause why its rates should not be modified. It is held (1) that by inviting the city of St. Paul to attend a hearing it did not make such city a party to the proceedings; (2) under Laws 1915, Chapter 152, Section 22, the term "party" is used in the same sense as "party to the action." *State v Tri-State Tel. Co.* 146 M 247, 178 NW 603.

The foreign and interstate business of the telephone and telegraph companies comes under the federal law regulating commerce, and is within the jurisdiction of and subject to regulation by the interstate commerce commission. *Lind v Western Union*, 173 M 424, 217 NW 486.

Under this section no approval by the commission is required of the initial tariffs or rates filed by a telephone company. Nor is the telephone company under section 237.16 required to obtain from the commission a certificate of public convenience to authorize it to re-route messages by use of existing lines and equipment. Under section 237.12 there is a presumption that where application is made for a change of routing, public convenience will be promoted by the physical connection of the lines of telephone companies. *Tri-State Tel. Co. v Inter-County Tel. Co.* 211 M 496, 1 NW(2d) 853.

Under section 237.12 where facts found by the commission show, or in the absence of explicit finding the statutory presumption is, that the public convenience will be promoted by the continuance of a physical connection between the lines of telephone companies, it is the mandatory duty of the commission to order the continuance of such connections. *Tri-State Tel. Co. v Inter-County Tel. Co.* 211 M 496, 1 NW(2d) 853.

Under this section, no approval by the commission is required of the initial tariff rates filed by a telephone company, nor is the telephone company required to obtain from the commission a certificate of public convenience to authorize it to re-route messages by the use of existing lines. *Tri-State Tel. Co. v Inter-County Tel. Co.* 211 M 496, 1 NW(2d) 853.

237.08 COMMISSION TO FIX REASONABLE RATES.

HISTORY. 1915 c. 152 s. 6; G.S. 1923 s. 5291; M.S. 1927 s. 5291.

See annotations under sections 237.06 and 237.07.

Rate making by agreement of the public utility with the commission. 25 MLR 233.

237.09 DISCRIMINATION PROHIBITED.

HISTORY. 1915 c. 152 s. 7; G.S. 1923 s. 5292; M.S. 1927 s. 5292.

237.10 COMMISSION TO PRESCRIBE UNIFORM RULES.

HISTORY. 1915 c. 152 s. 8; G.S. 1923 s. 5293; M.S. 1927 s. 5293.

237.11 INSPECTION OF BOOKS OF TELEPHONE COMPANIES IN CASE OF FAILURE TO MAKE REPORTS.

HISTORY. 1915 c. 152 s. 9; 1919 c. 183 s. 1; G.S. 1923 s. 5294; M.S. 1927 s. 5294.

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237.12 CONNECTIONS BETWEEN TELEPHONE COMPANIES NOT TO BE DISCONTINUED WITHOUT ORDER FROM COMMISSION.

HISTORY. 1915 c. 152 s. 10; 1919 c. 183 s. 2; G.S. 1923 s. 5295; M.S. 1927 s. 5295.

Where facts found by the commission show, or in the absence of finding the statutory presumption is, that public convenience will be promoted by the continuance of a physical connection between lines of telephone companies, it is the mandatory duty of the commission to order the continuance of such connections. *Tri-State v Inter-County Tel. Co.* 211 M 497, 1 NW(2d) 853.

One who is not a stockholder but who receives service from a cooperative farm line has no enforceable right where the cooperative company through its majority stockholders disconnect the line from exchanges. 1934 OAG 850, March 2, 1933 (98b-6).

Where facts found by the commission show, or in the absence of explicit finding the statutory presumption is, that public convenience will be promoted by the continuance of a physical connection between the lines of telephone companies, it is the mandatory duty of the commission to order the continuance of such connections. *Tri-State Tel. Co. v Inter-County Tel. Co.* 211 M 496, 1 NW(2d) 853.

Telephones; physical connection; eminent domain; police power: 1 MLR 95.

237.13 TELEPHONE COMPANIES REQUIRED TO PERMIT PHYSICAL CONNECTION.

HISTORY. 1921 c. 354 s. 1; G.S. 1923 s. 5296; M.S. 1927 s. 5296.

Right to compel physical connection between telephone companies rests entirely upon statutory law. *Western Buse Tel. Co. v N. W. Tel. Co.* 188 M 524, 248 NW 220.

237.14 FREE OR REDUCED RATES TO OFFICERS.

HISTORY. 1915 c. 152 s. 11; G.S. 1923 s. 5297; M.S. 1927 s. 5297.

No private proprietary right vests in the village of Litchfield by the franchise issued by its council in 1905, was impaired or affected by the written declaration of surrender tendered by the relator to the village clerk for filing, pursuant to Laws 1915, Chapter 152, Section 15. *State ex rel v Holm*, 138 M 281, 164 NW 989.

At the expiration of the telephone company's franchise which was conditioned upon its furnishing to the city free poles, conductors, wires and conduits for its separate police and fire alarm systems, the commission cannot compel the company to furnish such facilities to the city. *St. Paul v Tri-State Tel. Co.* 193 M 484, 258 NW 822.

237.15 COMMISSION GIVEN POWER TO DELEGATE AUTHORITY TO EMPLOYEES.

HISTORY. 1915 c. 152 s. 12; 1919 c. 183 s. 3; G.S. 1923 s. 5298; M.S. 1927 s. 5298.

The commissioner of administration and finance not having classified the employees of the railroad and warehouse commission nor fixed a scale of salaries for such employees, the employees are entitled to the salaries fixed by the commission and there is no legal ground for disproving the estimate for such salaries. *State ex rel v Chase*, 165 M 268, 206 NW 396.

In valuing telephone properties the commission should pay its expenses out of its regular appropriation and later assess and collect those expenses from the telephone company. OAG Dec. 17, 1937 (98a-15).

237.16 COMMISSION TO GRANT AUTHORITY FOR CONSTRUCTING TELEPHONE LINES AND EXCHANGES.

HISTORY. 1915 c. 152 s. 13; G.S. 1923 s. 5299; 1925 c. 184 s. 1; M.S. 1927 s. 5299.

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It is not the policy of the state to discourage application for telephone service and the commission should encourage duplication if it will promote public convenience by reducing the rates and make it possible for a greater number of persons to be served. 1934 OAG 847, July 12, 1934 (98a-13).

237.17 EXTENSION OF LONG DISTANCE LINES.

HISTORY. 1915 c. 152 s. 14; G.S. 1923 s. 5300; 1925 c. 184 s. 2; M.S. 1927 s. 5300.

237.18 SURRENDERING OF LICENSE AND SECURING OF NEW AUTHORITY.

HISTORY. 1915 c. 152 s. 15; G.S. 1923 s. 5301; M.S. 1927 s. 5301.

Declaration of surrender. State ex rel v Holm, 138 M 281, 164 NW 989.

237.19 MUNICIPALITIES GIVEN RIGHT TO OPERATE TELEPHONE EXCHANGES.

HISTORY. 1915 c. 152 s. 16; G.S. 1923 s. 5302; M.S. 1927 s. 5302.

A village owning and operating a telephone exchange may sell or lease it without submission to the electors, the village council having full power. OAG April 16, 1929.

237.20 NOTICE TO COMMISSION AND PROCEDURE.

HISTORY. 1915 c. 152 s. 17; G.S. 1923 s. 5303; M.S. 1927 s. 5303.

237.21 VALUATION OF TELEPHONE PROPERTY.

HISTORY. 1915 c. 152 s. 18; G.S. 1923 s. 5304; M.S. 1927 s. 5304.

The commission has power to fix reasonable rates for particular communities and localities without affecting other localities and without making a state-wide adjustment of rates. Application of N. W. Bell Tel. Co. 164 M 279, 204 NW 873.

237.22 COMMISSION GIVEN RIGHT TO CHANGE ANNUAL DEPRECIATION CHARGE.

HISTORY. 1915 c. 152 s. 19; G.S. 1923 s. 5305; M.S. 1927 s. 5305.

Where a valuation of the property of a public utility has been made by a state commission and has been accepted by it and by the state courts in a litigation over the question whether rates fixed by the commission allow a constitutionally adequate return upon that valuation, objections come too late when made by the commission for the first time in this state upon the utilities' appeal from a judgment sustaining the rate. United Railways v West, 280 US 234.

237.23 COMPANIES GIVEN RIGHT TO PURCHASE PROPERTY OF OTHER COMPANIES WITH CONSENT OF COMMISSION.

HISTORY. 1915 c. 152 s. 20; 1919 c. 183 s. 4; G.S. 1923 s. 5306; M.S. 1927 s. 5306; 1945 c. 143 s. 1.

One telephone company having purchased the property of another telephone company, and the commission having consented, the commission has no power thereafter to revoke such order and has no right or jurisdiction to make an official appeal in proceedings before the interstate commerce commission. 1934 OAG 732, May 10, 1933.

237.24 EXPENSE OF FURNISHING TRANSCRIBED COPY OF RECORD.

HISTORY. 1915 c. 152 s. 21; 1919 c. 183 s. 5; G.S. 1923 s. 5307; M.S. 1927 s. 5307.

237.25 MODE OF PROCEDURE FOR APPEALS FROM DECISIONS OF COMMISSION.

HISTORY. 1915 c. 152 s. 22; G.S. 1923 s. 5308; M.S. 1927 s. 5308.

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See annotations, sections 237.02, 237.06, 237.12, 237.13.

While the attorney general is a "party to an action," in this instance the city of St. Paul has no right to intervene. *State v Tri-State Tel. Co.* 146 M 247, 178 NW 603.

The order of the commission is presumed to be reasonable and is sustained by the record. *In re Application of N. W. Bell Tel. Co.* 164 M 279, 204 NW 873.

237.26 ORDER TO BE FINAL AND CONCLUSIVE.

HISTORY. 1915 c. 152 s. 23; G.S. 1923 s. 5309; M.S. 1927 s. 5309.

Where the commission has issued an order and no appeal has been taken, the order cannot be attacked or reviewed on mandamus. *State ex rel v Four Lakes*, 141 M 124, 169 NW 480.

237.27 ATTORNEY GENERAL TO APPLY FOR WRIT COMPELLING OBEDIENCE.

HISTORY. 1915 c. 152 s. 25; G.S. 1923 s. 5311; M.S. 1927 s. 5311.

Although the general rule is that mandamus does not lie to regulate the affairs of incorporated associations, such rule does not prevent the use of the writ to compel the performance of a duty and is the proper remedy to compel the telephone company to furnish the service directed by the commission. *State ex rel v Four Lakes*, 141 M 124, 169 NW 480.

The right to appeal is purely statutory and if given by the legislature, the legislature may impose such conditions as it deems proper. In this case the attorney general is a "party to the action," while the city of St. Paul may not intervene. *State v Tri-State Tel. Co.* 146 M 247, 178 NW 643; *Goodrich v N. W. Tel. Co.* 148 M 219, 181 NW 333.

237.28 BURDEN OF PROOF TO BE UPON TELEPHONE COMPANY.

HISTORY. 1937 c. 426 s. 1; M. Supp. s. 5311-1.

237.29 TELEPHONE COMPANIES TO PAY EXPENSE OF REVALUATION.

HISTORY. 1937 c. 426 s. 2; 1939 c. 333 s. 1; M. Supp. s. 5311-2.

When making a valuation of telephone properties the commission may pay the expenses in the first instance and assess them against and collect them from the telephone company. OAG Dec. 17, 1937 (98a-15).

237.31 APPLICATION OF SECTION 237.29.

HISTORY. 1939 c. 333 s. 5; M. Supp. s. 5311-2c.

237.32 APPLICATION, TO WHAT COMPANIES.

HISTORY. 1937 c. 426 s. 5; M. Supp. s. 5311-5.

Governmental responsibility for torts. 26 MLR 327.

237.33 TOWN BOARDS MAY CONSTRUCT TELEPHONE SYSTEMS FOR FIRE PROTECTION.

HISTORY. 1921 c. 439 s. 1; G.S. 1923 s. 5312; M.S. 1927 s. 5312.

Where an organized township operates a telephone system under the provisions of section 237.33, furnishing service to private individuals, it is a public utility and is liable for the negligence of its agents. *Storti v Fayal*, 194 M 628, 261 NW 463.

The control exercised by the commissioner of highways in requiring a private corporation, or a political division of the state, to move its telephone poles from the right of way is a function of police power done by the state through its agent in its sovereign capacity and no compensation should be paid to the operator of the telephone system. 1934 OAG 461, Oct. 11, 1933 (229i-4).

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Where a town owns and operates a town telephone line, and the town dissolves and is discontinued, it is within the discretion of the county board to maintain the system or refuse to take it over. 1934 OAG 855, July 28, 1934 (98c-3).

The county board has no authority to aid an unorganized township in the construction and maintenance of a town telephone line within the town limits. OAG April 3, 1939 (125a-55).

237.34 TOWN TELEPHONE LINES MAY EXTEND OUTSIDE CORPORATE LIMITS.

HISTORY. 1921 c. 439 s. 2; G.S. 1923 s. 5313; 1927 c. 193 s. 1; M.S. 1927 s. 5313.

Where an organized township constructs and maintains a town telephone system under the authority conferred by sections 237.33 to 237.37, furnishes service to private residents and charges and collects rentals, the town is engaged in operating the public utility and is liable for the negligence of its officers and agents. The fact that the system is operated in part for protection from forest fires and other governmental purposes, does not except the town from liability. *Storti v Fayal*, 194 M 628, 261 NW 463.

The control exercised by the commissioner of highways in requiring a private corporation or political division to move its telephone poles is a function of police power and no compensation need be paid to the operator of the telephone system. 1934 OAG 461, Oct. 11, 1933 (229i-4).

Control of public utilities in Minnesota. 16 MLR 500.

237.35 TAX LEVY FOR CONSTRUCTION.

HISTORY. 1921 c. 439 s. 3; G.S. 1923 s. 5314; M.S. 1927 s. 5314.

Township maintaining telephone lines mainly for fire protection may pay switching charges out of the fire fund. OAG Nov. 30, 1938 (98a-23).

Discussion of the power of the county board to maintain township telephone lines and to levy a special tax for such maintenance. 1934 OAG 855, July 28, 1934 (98c-3).

237.36 TOWN MEETINGS AND TOWN BOARDS TO FIX RENTALS.

HISTORY. 1921 c. 439 s. 4; G.S. 1923 s. 5315; M.S. 1927 s. 5315.

The town clerk or town treasurer is not obliged to handle the collection of rental charges and toll charges of a town telephone company. That duty devolves upon the town board or on someone whom they may appoint. OAG March 25, 1938 (434a-8).

237.37 TOWNS MAY SELL BONDS TO CONSTRUCT.

HISTORY. 1921 c. 439 s. 5; G.S. 1923 s. 5316; M.S. 1927 s. 5316.

237.38 LOCAL EXCHANGES SHALL PERMIT CONNECTION.

HISTORY. 1921 c. 439 s. 6; G.S. 1923 s. 5317; M.S. 1927 s. 5317.

A township may sever connections or may connect its telephone system with exchanges without any order of the commission. OAG April 24, 1936 (434a-8); OAG June 30, 1936 (98a-3).

237.39 PRIVATE OWNERS MAY SELL TELEPHONE LINES TO TOWN; COMMISSION TO FIX VALUE.

HISTORY. 1921 c. 439 s. 7; G.S. 1923 s. 5318; M.S. 1927 s. 5318; 1929 c. 150 s. 1.

237.40 TOWN BOARDS TO MANAGE.

HISTORY. 1921 c. 439 s. 8; G.S. 1923 s. 5319; M.S. 1927 s. 5319; 1939 c. 150 s. 2.

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237.41 TELEGRAPH COMPANIES COMMON CARRIERS.

HISTORY. 1885 c. 208 ss. 1, 2; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 ss. 108a; G.S. 1894 ss. 2635, 2636; R.L. 1905 s. 2928; G.S. 1913 s. 6256; G.S. 1923 s. 7545; M.S. 1927 s. 7545.

A message has and can have no ascertainable value, and for that reason there is no fair basis, as in the case of property for transportation by a common carrier, by which an agreement attempting to limit the liability of a telegraph company may rest. *Tredway v Western Union*, 133 M 252, 158 NW 247.

A telegraph company is a common carrier. *Western Union v Brown*, 294 Fed. 167.

237.42 DELIVERY OF MESSAGE.

HISTORY. 1885 c. 208 s. 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 s. 108c; G.S. 1894 s. 2637; R.L. 1905 s. 2929; G.S. 1913 s. 6257; G.S. 1923 s. 7546; M.S. 1927 s. 7546.

237.43 PRECEDENCE OF MESSAGES.

HISTORY. 1885 c. 208 s. 4; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 s. 108d; G.S. 1894 s. 2638; R.L. 1905 s. 2930; G.S. 1913 s. 6258; G.S. 1923 s. 7547; M.S. 1927 s. 7547.

237.44 LIABILITY FOR DAMAGES.

HISTORY. 1885 c. 208 ss. 5, 6; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 ss. 108e, 108f; G.S. 1894 ss. 2639, 2640; R.L. 1905 s. 2931; G.S. 1913 s. 6259; G.S. 1923 s. 7548; M.S. 1927 s. 7548.

In an action against a telegraph company for failing to transmit and deliver a message, damages for mental suffering cannot be recovered. *Francis v Western Union*, 58 M 252, 59 NW 1078.

Provisions printed on the telegraph company's blanks that the company would not be liable for mistakes or delays, and would not be liable for damages unless a claim was presented within 60 days, are unreasonable and inapplicable conditions in the contract for transmission. *Francis v Western Union*, 58 M 252, 59 NW 1078.

Where a Minnesota resident sent a message relative to the time of his arrival from Glendive, Montana, to his associate in Spokane, and contract was a Montana contract, and the measure of recovery for non-delivery of the message is not governed by the statute law of Minnesota, in the absence of pleading and proof of a Montana statute, the common-law rule governs. Under the common law rule, there being nothing in the language of the message to apprise a telegraph company that a failure to deliver the message might result in damage, its breach of contract was not the proximate cause of plaintiff's loss of time. *Kolliner v Western Union*, 126 M 122, 147 NW 961.

The foreign and interstate business of telegraph and telephone companies comes under the federal law regulating commerce, and is within the jurisdiction of the interstate commerce commission. Where such companies file their tariffs, rules and regulations with the commission, reasonable limitations of liability therein contained become and are valid. *Lind v Western Union*, 173 M 424, 217 NW 486.

Laws not anticipated, or of which defendant has no notice. 13 MLR 160.

Liability to third persons for negligent certification. 15 MLR 356.

Failure to deliver messages; extent of damages where result is the loss of employment. 20 MLR 837.

237.45 WHO MAY CONSTRUCT TELEPHONE AND TELEGRAPH LINES.

HISTORY. 1901 c. 23; R.L. 1905 s. 2932; G.S. 1913 s. 6260; G.S. 1923 s. 7549; M.S. 1927 s. 7549.

237.46 VIOLATION A GROSS MISDEMEANOR.

HISTORY. 1915 c. 152 s. 24; 1919 c. 183 s. 6; G.S. 1923 s. 5310; M.S. 1927 s. 5310.