

CHAPTER 233

PUBLIC TERMINAL WAREHOUSES

233.01 DEFINITIONS.

Under the general rule that the operation of statutory law is limited to the state of its enactment, the grain and warehouse statutes of Minnesota have no force or effect upon transactions had in a sister state; and receipts covering grain in the "system of elevators" of the grain company, without specifying particular elevators in which it was stored, cover grain stored in Minnesota elevators only. *Swedish-American Bank v First Nat'l Bank*, 89 M 100, 94 NW 218.

233.02 COMMISSION TO MAKE RULES.

Where variable quantities of grain were deposited by different persons with a warehouseman and commingled and a part thereof converted until there was insufficient amount remaining to satisfy the amount covered by the warehouse receipts, upon the warehousemen's assignment one person may not recover more than another and all depositors of grain must recover a pro rata share. *Weiland v Sunwall*, 63 M 325, 65 NW 628.

233.03 DUTIES OF WAREHOUSEMEN.

A scrap of paper giving the gross and net weight of a load of grain delivered at a public grain warehouse, handed to the person delivering the load, by the warehouseman, and not intended to evidence a storage contract, but merely as a temporary check until proper storage tickets were made out, does not come within the provision prohibiting the reception in evidence in a civil action of any slips, memoranda or any other form of receipts embracing a storage contract different from that prescribed by the statute. The paper in the instant case does not purport to evidence any contract whatever and may be introduced in evidence. *Piper v Monarch Elevator Co.* 150 M 468, 185 NW 511.

Where plaintiff stored flax in defendant's elevator to be kept in a bin by itself and received from the agent in charge a statement of the dockage when delivered at the elevator, such statement was admissible in evidence in an action for negligently mixing wheat and other seeds with the flax while in storage. *O'Laughlin v St. Anthony & Dakota Elevator Co.* 155 M 88, 192 NW 356.

233.04 GRAIN TO BE REDELIVERED ON SURRENDER OF WAREHOUSE RECEIPT.

A provision in a storage receipt that the stored property may be mingled with other property of the same kind, or transferred to other elevators or warehouses, does not confer authority on the warehouseman to sell the property described therein. The contract is a bailment and not a sale. *State v Cowdery*, 79 M 94, 81 NW 746.

The laws providing for a recovery of one cent per bushel for the withholding of wheat from any person having a storage receipt, after demand, is penal in character and strict compliance with its terms and conditions is necessary to set the statute in motion. *Ferch v Victoria Elevator Co.* 79 M 416, 82 NW 678.

A person holding a receipt for storage of oats is preferred over persons who have stored other grain without a receipt. OAG Sept. 16, 1943 (215-C-9).

233.05 WAREHOUSEMAN NOT TO SELL WITHOUT AUTHORITY FROM OWNER.

While the terms of warehouse receipts do not preclude the holder from consenting to the sale of the grain by the warehouseman, consent is not to be inferred

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from the fact that a receipt holder is familiar with a prevailing custom among warehousemen of shipping and selling grain held in storage. *Nieter v McCaull*, 159 M 395, 199 NW 85.

233.07 INSPECTION AT TERMINAL WAREHOUSE.

Grain must be inspected and graded by state or federal inspectors at the time it is offered for storage in a terminal warehouse and the receipt given. Inspection and grading at some prior time at a point beyond the borders of the state do not comply with the statute. OAG July 27, 1943 (215-C-1).

233.08 OWNER OR OPERATOR OF TERMINAL WAREHOUSE MUST BE LICENSED.

In addition to a license under section 233.08, if the public terminal warehouse provides grain in truck load lots or in less than minimum carload lots it is further required to take out a license under the provisions of section 232.02. OAG Sept. 10, 1946 (215-c-8).

233.135 BOARD OF GRAIN APPEALS.

The board of grain appeals was created by L. 1943, c. 84. The grain inspection and weighing system, operated as a division of the railroad and warehouse commission, is subject to the reorganization act of 1939 which conferred certain powers upon the commissioner of administration and gave him certain authority over state agencies. OAG July 29, 1939 (371-A-3).

233.136 TERMS; BOND.

The surety on the bond of a terminal grain warehouseman is not liable under the provisions of this chapter in the event of fire, heating, or the elements. OAG March 27, 1946 (645-B-2).

233.20 DUTY OF INSPECTORS.

When flax is redelivered by the elevator to the plaintiff, the certificate of the state inspectors is prima facie evidence of the dockage. *O'Laughlin v St. Anthony & Dak.* 155 M 188, 192 NW 356.

233.32 INSPECTORS TO EXAMINE CARS.

A state grain inspector was injured while assisting in opening the door of a freight car. He was awarded compensation by the industrial commission and in this action his employer, the state, seeks to recover from the railroad company damages for his injuries. As the instrumentality causing the harm was not under the exclusive management and control of the railroad company, the doctrine of *res ipsa loquitur* does not apply. The state cannot recover. *State v Sprague*, 201 M 415, 276 NW 744.