

MINNESOTA STATUTES 1953 ANNOTATIONS

221.381 COMMON CARRIERS, CONTRACT CARRIERS

642

221.381 LIMITATIONS ON 221.18 TO 221.38

HISTORY. 1949 c 233 s 1.

221.39 CONTRACT OR COMMON CARRIER; BUSINESS DECLARED TO BE OF PUBLIC INTEREST

In an action by the interstate commerce commission to enjoin a contract motor carrier and its customers from violation of the federal statutes, the evidence showed that the carrier was operated as a contract carrier by motor vehicle without a certificate of public convenience and necessity or a permit issued by the interstate commerce commission and that the commission was entitled to an injunction against the carrier and the alleged paper company employer. *Interstate Commerce Commission v Cheesebrough*, 77 F Supp 441.

The interstate commerce commission's determination that the transportation of certain commodities by a contract motor carrier was not authorized by its permit was not erroneous; and the carrier cannot complain because the evidence in the proceeding was not limited to transmission of commodities of kinds specifically mentioned in the commission's order instituting the investigation. *Dart Transit Co. v Interstate Commerce Commission*, 110 F Supp 876.

221.42 CERTAIN VEHICLES NOT TO OPERATE NEAR CITIES

HISTORY. 1937 c 431 s 4; Mason's Supp s 5015-48; 1943 c 225; 1953 c 282 s 1.

221.465 Obsolete.

221.54 TRANSPORTATION BY PIPELINES

HISTORY. 1949 c 737 s 1.

221.55 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HISTORY. 1949 c 737 s 2.

CHAPTER 222

RAILWAYS, UTILITIES; GENERAL PROVISIONS

222.03 PLAT; PAYMENT; CONVEYANCE; RESERVATION OF MINERALS; NEW RIGHT-OF-WAY

HISTORY. 1878 c 73 s 3; GS 1878 c 34 s 45; 1879 c 45 s 3; GS 1894 s 2672; RL 1905 s 2892; 1909 c 494 s 1; GS 1913 s 6214; GS 1923 s 7503; MS 1927 s 7503.

222.06 PURCHASE, LEASE, OR CONTROL OF ONE ROAD BY ANOTHER

HISTORY. 1874 c 29 s 1; GS 1878 c 34 s 65; 1881 c 94 s 1, 3; GS 1878 Vol 2 (1888 Supp) c 34 s 68a, 68c; GS 1894 s 2714, 2716, 2717; 1899 c 229; RL 1905 s 2805; 1907 c 395 s 1; GS 1913 s 6217; GS 1923 s 7506; MS 1927 s 7506.

222.18 RECORD; NOTICE

HISTORY. 1867 c 58 s 1; 1868 c 56 s 1-3; GS 1878 c 34 s 73, 74; 1883 c 66 s 1; GS 1894 s 2725, 2726; RL 1905 s 2906; GS 1913 s 6228; GS 1923 s 7517; MS 1927 s 7517; 1945 c 250.

Mortgage covering personal property of a railroad must be recorded with the secretary of state and in the office of the register of deeds of each county through which the railroad runs. OAG Dec. 5, 1949 (418-B-20).

222.26 RIGHT-OF-WAY OVER PUBLIC WAYS

A municipality has the right to cross a railroad right-of-way with water mains and sewers on a public street or highway. The easement may be acquired by purchase or condemnation. Railroad rights are subject to assessment for local improvement. OAG July 26, 1950 (831-D).

222.36 RIGHT OF EMINENT DOMAIN IN CERTAIN CASES

Although lands may not be taken by eminent domain unless such taking appears to be necessary, it is well settled in Minnesota that there need be no showing of absolute or indispensable necessity, but only that the proposed taking is reasonably necessary or convenient for the furtherance of the end in view. This rule of reasonable necessity or convenience is made expressly applicable to a public service corporation, which in the exercise of the right of eminent domain for the furtherance of its corporate public purpose is required by section 117.07, to establish that its proposed taking of the land is necessary. *Northern States Power Co. v Oslund*, 236 M 135, 51 NW(2d) 808.

222.37 PUBLIC ROADS; USE OF; RESTRICTIONS

HISTORY. 1858 c 70 s 14; PS 1858 c 17 s 256; 1860 c 12 s 1; 1865 c 6 s 5; GS 1866 c 34 s 13, 28; GS 1878 c 34 s 13, 42; 1881 c 73 s 1; 1885 c 18 s 1; 1887 c 161 s 2; 1893 c 74 s 1; GS 1894 s 2604, 2641; 1899 c 51 s 1; 1901 c 301 s 1, 2; 1901 c 360 s 1; RL 1905 s 2927; 1911 c 57 s 1; Mason's 1927 s 7536; 1951 c 261 s 1.

Where plaintiff's intestate was electrocuted when, with a long-handled rake he pulled from the side of his house a burning telephone wire which had become charged with high voltage by the falling of a lightning-struck power line across the telephone line, he was contributorily negligent. The court erred in charging the jury: "but if you find from the evidence that defendant was negligent in designing, maintaining, constructing or operating its transmission lines, then you would go further and determine whether or not the accident in question was due to the negligence of the defendant, or to an act of God. If it was due to an act of God then, of course, the defendant would not be responsible in this action." *Sauer v Rural Cop. Power Assn.*, 225 M 356, 31 NW(2d) 15.

In an action for injuries sustained when plaintiff was brushed off a truck load of baled straw by a sagging telephone wire across the road, evidence authorizes the verdict against the telephone company for failure to comply with a provision requiring that lines be so located as not to interfere with safety and convenience of ordinary travel along or over public roads. *Novotny v Bouley*, 223 M 592, 27 NW(2d) 813.

The crew of a truck crane, engaged from the lessor of the crane by a construction company, were loaned servants, for whose negligence, if any, in the operation of the truck crane the lessor is not liable, an electrical power company transmitting high-tension current on its power lines along or near a highway is bound to anticipate only the ordinary and usual use of that highway in the usual and customary manner, unless it becomes aware of an anticipated unusual use. In the absence of pleading and proof to the contrary, it will be presumed that common law prevails in a sister state and that is the same as in the state of the forum and in the instant case the Statutes of Wisconsin 1945, Section 196.67 apply. *Knutson v Lambert*, 235 M 328, 51 NW(2d) 580.

A distributor of electricity is not an insurer against accidents or injuries. Electric companies, when erecting and maintaining lines for transmission of high voltage current, are held to a high degree of care, which is that care commensurate with the peril reasonably to be apprehended to those who may have occasion to come into proximity of such lines. An inference of negligence based on an inferred fact, of which there is neither evidence nor predominating probability, cannot safely be made. *Anderson v Northern States Power*, 236 M 196, 52 NW(2d) 434.

The danger of electric energy is a matter of common knowledge among persons of ordinary intelligence and experience. Where a well-educated person who had made a study of electric circuits and had had practical experience working with

MINNESOTA STATUTES 1953 ANNOTATIONS

222.42 RAILWAYS, UTILITIES, GENERAL PROVISIONS

644

such circuits, tied a rope to a high-voltage wire so as to change the location of the wire to facilitate the topping of a tree and was electrocuted when he reached with his bare hand to remove the rope from the wire, contributory negligence barred recovery. *Beery v Northern States Power Co.*, M, 57 NW(2d) 838.

Where power lines are situated on private property and are required to be moved in order to widen the highway, the county is liable to the owners of the power lines for damages. The measure of such damages may be the cost of removing the power lines. OAG Sept. 8, 1953 (377-A-13).

The right of the village council to grant or refuse use of streets and alleys by an electric line must be reasonably exercised. OAG Dec. 3, 1947 (396-G-11).

222.42 ACQUISITION OF PROPERTY; EMINENT DOMAIN

Although lands may not be taken by eminent domain unless such taking appears to be necessary, it is well settled in Minnesota that there need be no showing of absolute or indispensable necessity, but only that the proposed taking is reasonably necessary or convenient for the furtherance of the end in view. This rule of reasonable necessity or convenience is made expressly applicable to a public service corporation, which in the exercise of the right of eminent domain for the furtherance of its corporate public purpose is required by section 117.07, to establish that its proposed taking of the land is necessary. *Northern States Power Co. v Oslund*, 236 M 135, 51 NW(2d) 808.

CHAPTER 223

COMMISSION MERCHANTS

223.03 LICENSES, APPLICATIONS; BONDS, CONDITIONS

HISTORY. Amended, 1951 c 368 s 1.

CHAPTER 224

LIVESTOCK DEALERS, EXCHANGES, COMMISSION MERCHANTS

224.01-224.19 Repealed, 1953 c 554 s 1.

CHAPTER 225

PUBLIC STOCKYARDS

225.01-225.13 Repealed, 1953 c 554 s 1.