

The Commercial

WINNIPEG, NOVEMBER 27, 1893.

DISCRIMINATION BY CARRIERS.

An interesting and important decision has recently been rendered by the supreme court of the state of Minnesota, which will help very materially to define the rights of the public in that state in respect to facilities afforded by railway companies as common carriers. The suit was brought by the Farwell Farmers' Warehouse Association against the Minneapolis, St. Paul and Sault Ste. Marie Railway Company to recover damages for the refusal of the railway company to run a side track to its warehouse.

It appears that when the Warehouse Association was organized, it made application to the railway company for a site upon which to erect a warehouse upon the company's right of way at the station. The application was unconditionally refused by the railway company. The association then purchased a site fronting upon the company's right of way and erected a grain warehouse. The warehouse was built in such a position that it could be reached by a railway switch built entirely upon the railway company's right of way. When the warehouse was completed, a demand was made upon the railway company for a side track to connect the warehouse with the main line. This was also refused.

The supreme court granted damages, on the ground that the railway company had discriminated against the association by refusing privileges which were accorded to others at the same station. The court affirmed that railway companies are quasi public corporations and enjoy privileges and franchises granted by the State, in consideration of the general benefit which they are to the community. They must therefore be operated so as to reasonably accommodate business and public interests. One of the most important of these interests in an agricultural community is the marketing and transportation of grain; and the price may in any particular case be affected to a greater or less extent by the facilities for transportation afforded, and the opportunity for competition for buyers. It is an essential condition that all the people should have the right to use the road on equal terms; and it is the policy of the law not to permit such corporations to grant special privileges to any persons which are denied to others under like conditions.

It was not claimed by the association that it had an absolute right to occupy the railway company's right of way, or demand a site for a warehouse thereon. What was contended for and what is decided in the case is, that if the railway company granted these privileges to others, it could not refuse the same or substantially similar ones to this particular association; and it cannot complain after having refused this association a site on its right of way, similar to that granted to others, that the association should accept a site adjacent thereto and demand a side track for its accommodation in order to afford substantially similar facilities to the association for handling grain

to those granted others at the same station. Undoubtedly a railway company may impose reasonable conditions and terms upon persons who demand trackage for warehouses for the transportation of grain, but they must be the same for all.

THE MANITOBA AND NORTHWESTERN RAILWAY.

Last week we referred to the position of the Manitoba and Northwestern Railway, showing the lien the bondholders have upon the road, or rather a portion of the road. The present action of the bondholders recalls the fact that they made a close inspection of the railway last summer, through an agent, Edmund Wragge, who is said to be a railway manager and expert, was sent out last summer to investigate and report to the bondholders upon the condition and prospects of the railway. We have Mr. Wragge's report before us at the moment. He reported that the line from Portage la Prairie westward to Birtle, 137 miles, "is practically unballasted," except for short distances here and there. West of Birtle to the end of the line, the track is stated to be in better condition and lightly ballasted. The first 137 miles of the road Mr. Wragge considers has been poorly constructed, and a large renewal of ties is necessary. Fencing will be necessary as settlement extends. Over half the line is fenced between Portage la Prairie and Minnedosa. The station buildings are stated to be suitable to the requirements of the road and in good order. The rolling stock covered by the bondholders is described as about worthless, and would be of little use in operating the road, so that new rolling stock would have to be purchased if the bondholders take over the road.

Mr. Wragge deals at length with the lands owned by the Company. He thinks it a mistake to sell lands in large blocks at \$1 per acre, as has been done. He thinks the lands should be held at \$3 per acre in small blocks and \$2 in large blocks.

Regarding traffic, it is stated that passenger traffic shows a continued increase, which is regarded as a "very hopeful sign." Shipments of oats and cattle from points along the line also show a good increase. Wheat shipments, however, had not increased much since 1887. The outlook for traffic is considered generally satisfactory.

Regarding the future of the road, Mr. Wragge advises that permanent access to Winnipeg is necessary, either by a running arrangement with the Canadian Pacific or the Northern Pacific, or by the purchase of the Portage branch of the latter road, or by building a new line. He thinks that before any further extension is made westward, the line should be given a terminal at Winnipeg. Regarding extension to Prince Albert, a distance of 211 miles beyond the present western terminus, he recommends that the company should go slow. He does not believe that the extension would be self supporting if constructed. He thinks it would be better to develop and improve the present property, rather than build more railway westward. For the reorganization of the company he recommends firstly, after necessary financial arrangements are made,

that the company should secure terminal facilities in Winnipeg; secondly, that the present line be put in good condition; thirdly, that a systematic effort be made to sell the lands of the company; fourthly, that the road be extended westward only as fast as lands can be sold to pay for such extension.

It is understood that the reorganization of the company could only be made in conjunction with the Messrs. Allan, who virtually own the remaining portion of the main line and the branches. In the event of its being impossible to arrange terms with the Messrs. Allan, or should the bondholders of the first 180 miles of road decide not to consider any arrangement of this nature, they may then take possession of the portion of the road (180 miles) mortgaged to them by the trust deed in their favor, and operate it.

The most difficult feature about the position of the railway is practically the double ownership. Default having been made in payments, the bondholders, as pointed out in our article last week, can take possession of the first 180 miles of the road under the terms of a trust deed. This they intend to do, as is evident from their petition to the court. The bondholders for the first 180 miles of main line, however, will have no control over the balance of the road, and unless the two interests can be made to work harmoniously together, the outlook is not favorable for either interest nor for the country served by the road. The bondholders allege that the first 180 miles of the road is a paying property, and that the receiver has been using receipts from this portion of the road to maintain the balance of the line, hence their movement to take possession. Separated, however, from the balance of the road, the portion of the road controlled by the bondholders would lose a considerable portion of its traffic, while the western portion of the main line and the branches would be almost useless without the bondholder's portion. Mr. Wragge's idea of a reorganization, consolidating the two interests, seems to be the best thing for the future of the road. If the two interests cannot be consolidated, or cannot agree to operate the road in conjunction, the outlook is not encouraging either for the road as a whole or for the country served by it.

PROSPECT FOR TARIFF REVISION.

The Finance Minister and Mr. Angers have returned from their trip through Western Canada, and have been giving their opinions to the eastern press upon the condition of the country and the requirements of the people here. As might be expected, the Ministers say very little in a public way about the demands everywhere made upon them while in the West for tariff reform. The most they have said to the eastern press is that the western people desired reduction of the duty in certain directions. This is certainly putting it very mild; though unfortunately it is true that in a number of instances memorials were presented to the Ministers asking only for a removal or reduction of the duty upon certain specified articles. This is a mistake which was made during the visit of the Ministers to the West. The West is most decidedly in favor of tariff reform upon general principles. What we want is a systematic and general reduction of the duties