precluded from shifting such burdens. Thus, a statute may make an initial rail carrier,[215] or the connecting or delivering carrier,[216] liable to the shipper for the nondelivery of goods which results from the fault of another, as long as the carrier has a subrogated right to proceed against the carrier at fault. Similarly, a railroad may be held responsible for damages to the owner of property injured by fire caused by locomotive engines, as the statute also granted the railroad an insurable interest in such property along its route, allowing the railroad to procure insurance against such liability.[217] Equally consistent with the requirements of due process are enactments imposing on all common carriers a penalty for failure to settle claims for freight lost or damaged in shipment within a reasonable specified period.[218]

The Court has, however, established some limits on the imposition of penalties on common carriers. During the *Lochner* era, the Court invalidated an award of $500 in liquidated damages plus reasonable attorney's fees imposed on a carrier that had collected transportation charges in excess of established maximum rates as disproportionate. The Court also noted that the penalty was exacted under conditions not affording the carrier an adequate opportunity to test the constitutionality of the rates before liability attached.[219] Where the carrier did have an opportunity to challenge the reasonableness of the rate, however, the Court indicated that the validity of the penalty imposed need not be determined by comparison with the amount of the overcharge. Inasmuch as a penalty is imposed as punishment for violation of law, the legislature may adjust its amount to the public wrong rather than the private injury, and the only limitation which the Fourteenth Amendment imposes is that the penalty prescribed shall not be "so severe and oppressive as to be wholly disproportionate to the offense and obviously unreasonable." [220]

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[215] Chicago & N.W. Ry. v. Nye Schneider Fowler Co., 260 U.S. 35 (1922). *See also* Yazoo & M.V.R.R. v. Jackson Vinegar Co., 226 U.S. 217 (1912); *cf.* Adams Express Co. v. Croninger, 226 U.S. 491 (1913).

[216] Atlantic Coast Line R.R. v. Glenn, 239 U.S. 388 (1915).

[217] St. Louis & S.F. Ry. v. Mathews, 165 U.S. 1 (1897).

[218] Chicago & N.W. Ry. v. Nye Schneider Fowler Co., 260 U.S. 35 (1922) (penalty imposed if claimant subsequently obtained by suit more than the amount tendered by the railroad). *But see* Kansas City Ry. v. Anderson, 233 U.S. 325 (1914) (levying double damages and an attorney's fee upon a railroad for failure to pay damage claims only where the plaintiff had not demanded more than he recovered in court); St. Louis, I. Mt. & So. Ry. v. Wynne, 224 U.S. 354 (1912) (same); Chicago, M. & St. P. Ry. v. Polt, 232 U.S. 165 (1914) (same).

[219] Missouri Pacific Ry. v. Tucker, 230 U.S. 340 (1913).

[220] In accordance with this standard, a statute granting an aggrieved passenger (who recovered $100 for an overcharge of 60 cents) the right to recover in a civil suit not less than $50 nor more than $300 plus costs and a reasonable attorney's