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ENFORCE MAXIMUM FREIGHT RATE LAW

Adopted by the Legislature in 1893, It Is Still on the Statute Books of Nebraska and Can Be Placed in Full Effect

People of the State should join in a demand that the Attorney General take immediate Action

In Nebraska the time has come to deal justly but firmly with the railways. The time has come to make them subject to the people, by whom they were chartered. The time has come for the rigid enforcement of existing law.

House Roll No. 33, known as the Newberry bill, enacted by the legislature in 1893, is still on the statute books. It was an act to regulate railroads, to classify freights, to fix reasonable maximum rates and to provide penalties for violation.

Throughout the state the status of this law is apparently misunderstood. It is presumed by nine out of every ten men that the maximum freight rate law is dead, that it has been rendered absolutely null and void by a decision of the United States supreme court. Such is not the fact.

Not only is the law on the statute books, but it can and should be enforced.

The constitutionality of the law was tested by the railways. They applied to and received from a United States district judge an injunction preventing the enforcement of the law on the ground that it confiscated property without due process of law, contrary to the Fourteenth amendment. The case was carried to the United States supreme court and this decision was affirmed.

In 1897 Attorney General C. J. Smyth applied for and obtained a modification of the decree. In its syllabus the court said:

"If the circuit court finds that the present condition of the business is such as to admit of the application of the statute to the railroad companies in question without depriving them of just compensation it will be its duty to discharge the injunction herein granted and to make whatever order is necessary to remove any obstruction placed by the decrees in these cases in the way of the enforcement of the law."

From this it is plain that the maximum freight rate law can be enforced. The attorney general of the state, having regard for the fact that industrial conditions have vastly changed since 1893 or 1897, should undertake to place the law in force and effect. What was confiscatory in 1897 is not confiscatory in 1905. If the application of the Newberry schedules took property without due compensation in 1897, it does not follow that its application would not give due compensation in 1905.

As a matter of fact the application of the law at this time is essential to the welfare of the state. In the last issue of The Independent it was shown that the net profits of the Iowa roads in 1903 on their 9,719 miles of road were \$15,076,163.53, whereas the net profits on the 5,697 miles of railway in Nebraska were \$16,425,416.77.

The Newberry law was founded on the Iowa law and the schedule of rates is practically the same. The Iowa law has worked well since 1888 and even in the hard times it was never declared confiscatory by a supreme court decision. The greater population of Iowa per square mile has recently been assigned as the cause of lower rates in Iowa, but the foregoing figures will show that in Nebraska with over 4,000 less miles of road and a much less population per square mile, the railways reaped a greater profit than they did in Iowa. The Iowa roads in 1903 made a net profit per mile of \$1,552.13, while the net profit per mile of road in Nebraska was

\$2,883.17. These figures would indicate that the railways could stand a reduction of from 40 to 50 per cent in freight rates in Nebraska. The Newberry law provides for reductions that would range from 20 to 35 per cent and in some instances a little more.

The enforcement of the maximum rate law would make the proposed special session of the legislature unnecessary. The friends of railway regulation in Nebraska can not regard the proposal as anything but a farce. The personnel of the legislature would be the same. The demand for rate reductions is no greater now than it was during the regular session, and the demand was so great then that the members of the legislature displayed the utmost insolence and temerity in ignoring the wishes of the people. But it was scarcely to be expected that men who obtained their election through the machinations of the railways would enact legislation unfavorable to the railways. Is there any more likelihood that these men will enact the required legislation in a special session? Will these men side to Lincoln on free transportation and dare to pass any measure that would give offense to the railways? Let not the people of this state be so easily hoodwinked.

It has been estimated that a special session would cost about \$15,000. While this is an item the people should take into account, especially as there is so little chance of effective legislation, yet it is inconsiderable as compared with the expense the state must shoulder in the litigation that will follow any railway legislation. One Lincoln newspaper has declared that the talk about an expensive special session and the cost of subsequent litigation is "a railway bluff," which will not frighten the people of Nebraska. That sounds extremely well, but why should the people of Nebraska hold a special session to enact railway legislation when they have on the statute books a law which can be enforced and which will give them the desired relief from the oppressions of the railways in the matter of freight rates. It is true additional legislation is needed to deal with the free pass question and with other features of the railway problem, but there has been no suggestion from any source that the special session do aught but enact a maximum rate law.

The only measure favorably mentioned by the advocates of a special session is the commodity rate bill, which provided for a blanket reduction of 10 per cent on twenty-seven articles. This measure, fostered by the republicans, was introduced by a special committee. Its constitutionality was doubted by men of all parties and the members of the legislature treated the measure as a joke. But this is the bill which those who support the special session demand should be enacted into law. They now assert vehemently that it is constitutional. But even if it were constitutional the railways would test it by tedious and costly litigation.

On the statute books of the state there is a law that has already been in litigation. It has stood the test and can still be applied if the attorney general will take the necessary legal steps. This is his duty and the people of the state should join in a demand that the Newberry law be enforced.

On another page of this issue will be found the text of the maximum freight rate law approved April 12, 1893.

RUINOUS PARTISANSHIP

If the people are to triumph in their contest with the railways they must forget partisanship and abandon petty politics. By skillful appeals to party jealousy and party pride the railroads of Nebraska have frequently succeeded in warding off restrictive legislation. Whenever necessary they