

THINKS LAW IS DEAD

Attorney General Brown Favors Passage of Commodity Rate to Take place of Newberry Legislation

Attorney General Norris Brown is of the opinion that it would be a difficult task to enforce the maximum rate lay against the railways. Speaking to a representative of The Independent. Mr. Brown said:

"The supreme court has declared the Newberry law unconstitutional. I consider that the law is practically dead. It is true that in 1898 Mr. Smyth, then attorney general of Nebraska, obtained a modification of the court's judgment. The supreme court ruled that the circuit court, if it found that business conditions warranted the application of the law, should discharge the injunction which prohibited the attorney general from bringing any action to enforce the law. It is true that I could go into court and perhaps secure permission to make a showing as to applicability of the law under present conditions.

"Personally, I favor the passage of a new law to reduce rates. I think that the commodity rate bill, which provides for a reduction in rates on the twenty-seven most important articles of commerce in this state, is just the kind of a law needed at this time. That law would be constitutional. It has been asserted that the law would be unconstitutional because it provides for a blanket reduction of ten per cent on all these goods. The claim is that if one road has a higher rate than another road it will still have a higher rate if the commodity rate law should be placed on the statute books. Some roads, however, have a right to charge more than

others. The courts have ruled that a road, when making a rate, has a right to take into consideration, cost of construction, of maintenance and of operation. Some roads cost more than others and the cost of construction and operation is greater. Therefore, they have a right to charge higher rates.

"It must be remembered, moreover, that the state now has no board of transportation to enforce the maximum rate law."

Former Attorney General C. J. Smyth believes it would be an easy matter for the present attorney general, to obtain the court's permission to show that the maximum freight law ought to be applied at this time.

"I think that the attorney general," said Mr. Smyth "could readily obtain the court's permission by a prima facie showing. The court would then allow him to submit his proofs that present conditions warrant the enforcement of the law. When he had done this the court would set aside its judgment and the law would at once go into effect."

Mr. Smyth did not agree with Mr. Brown that the non-existence of a board of transportation, which is mentioned in two sections of the maximum rate law, would prevent the law's enforcement if the court decided that the law was constitutional.

Mr. Smyth further stated that the maximum rate law would really make a very moderate reduction in rates if applied at this time. In his opinion the reductions would range from about fifteen to twenty per cent.

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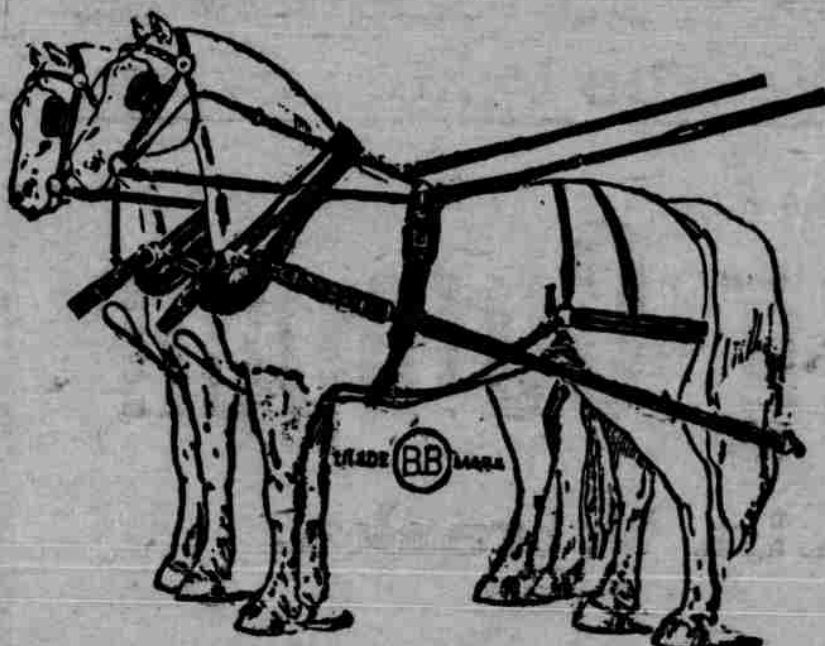
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