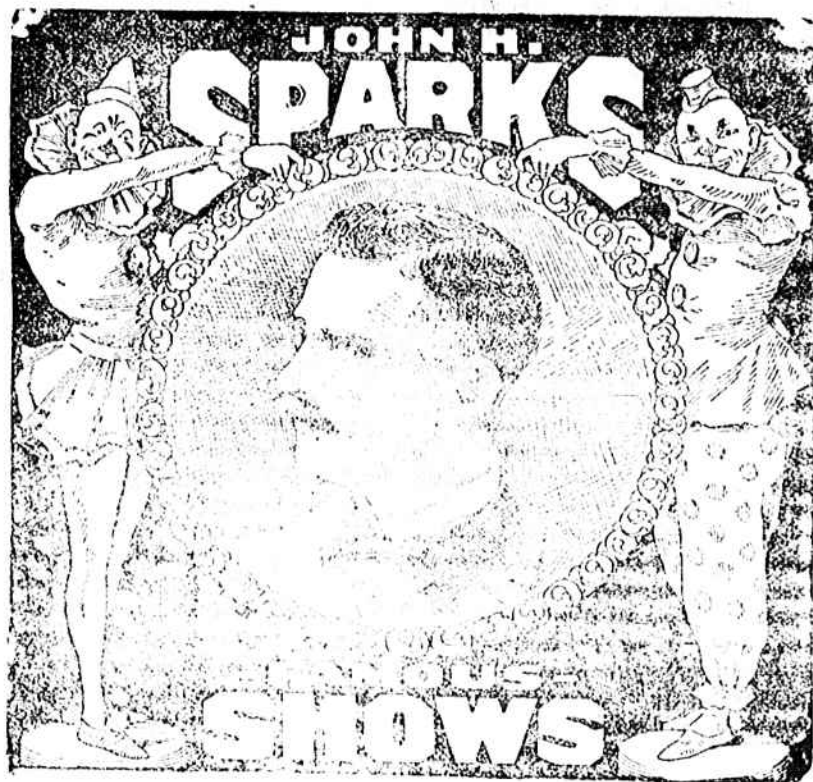
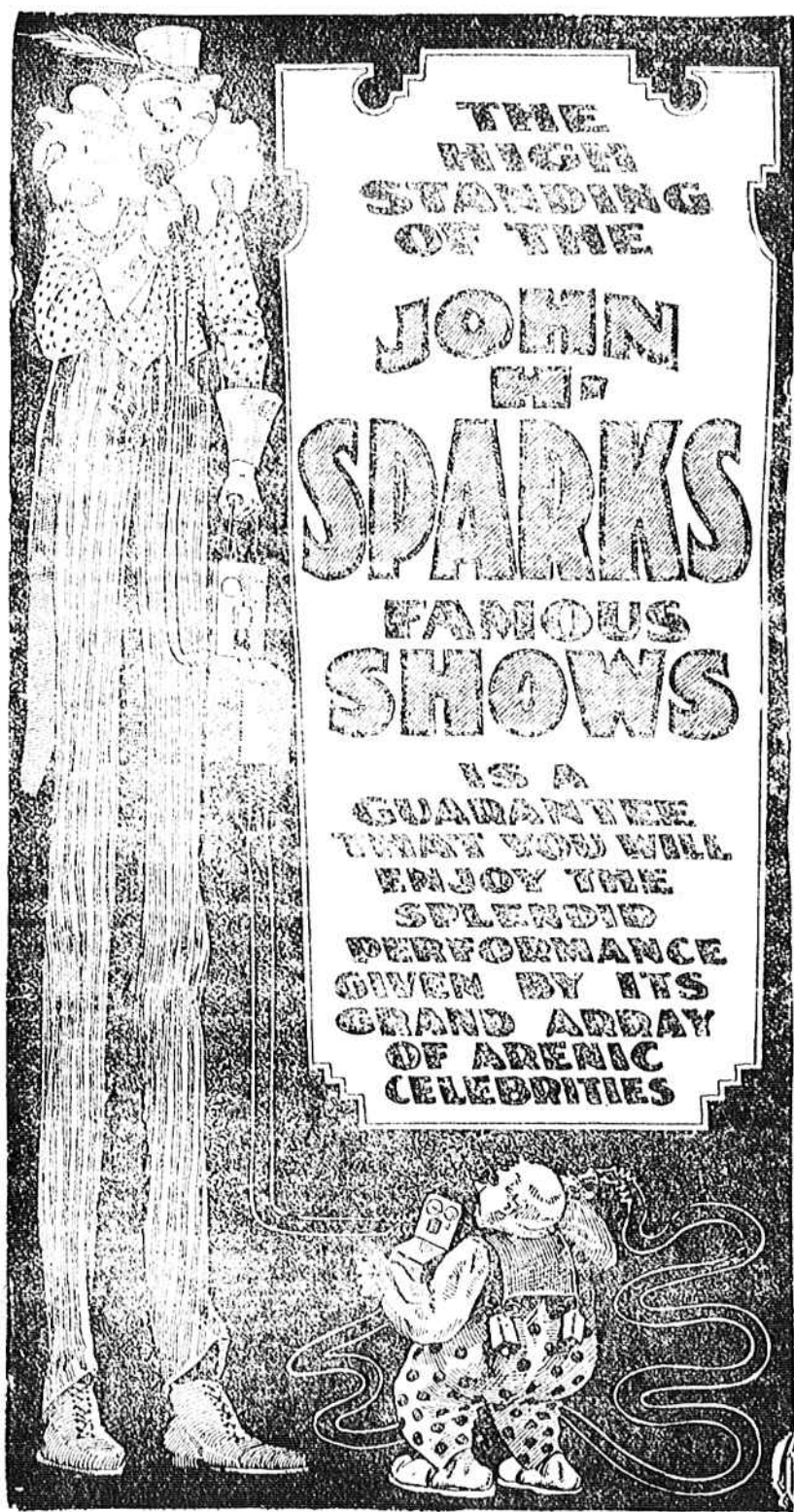


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### RATE LAWS INVALID.

Federal Circuit Courts Upheld in Minnesota and North Carolina Cases.

The supreme court of the United States on Wednesday added another to the series of decisions which have rendered notable the present term of the court by refusing to grant Attorney General Young, of Minnesota, a writ of habeas corpus relieving him from the penalty imposed by the United States circuit court for the district of Minnesota on the charge of contempt of court in instituting a proceeding in a State court for the enforcement of the railroad rate law after the Federal court had prohibited such a course, and in affirming the decision of Judge Pritchard, of the United States circuit court for the western district of North Carolina, discharging from imprisonment James W. Wood, a ticket agent of the Southern Railway at Asheville, after he had been sentenced by the Asheville police court to serve a term on the rock pile on the charge of collecting for a ticket on that road a greater price than was permitted by the State railroad law.

In both cases the right of the State to fix rates for railroad transportation was the issue, and both involved conflicts between the federal and the State courts. The decision in each case was opposed both to the States and their courts.

The opinion of the court in both cases was announced by Justice Peckham, and with the exception of Justice Harlan all the other members of the court stood behind him in the announcements of the court's findings. Justice Harlan read a dissenting opinion in the Young case, in which he expressed the view that the suit was practically a proceeding against the State, and, therefore, not permissible under the eleventh amendment to the constitution. He therefore characterized the opinion as era-making in the history of the court, said it had the effect of closing the courts of a State against the State itself and predicted that the result would be disastrous.

The two cases were so similar that both practically were decided in one opinion. The principal pronouncement was made in the Minnesota case.

#### Justice Peckham's Opinion.

Justice Peckham's opinion as outlined is in part as follows: "The court has decided: That by reason of the enormous penalties provided in the rate laws by way of fines against the companies and imprisonment of their agents and employees, the companies were, in effect, prevented from ever questioning the validity of those laws, as the risk of confiscation of property and imprisonment of agents in case the companies failed in their defence was too much to undertake in order to obtain a judicial decision of the question of validity.

"Such laws are, therefore, held unconstitutional, as they prevented the companies from resorting to the courts, and therefore deprived them of the equal protection of the law.

"The question of the sufficiency of the rates to enable the company to obtain some return to its stockholders for their investment has for many years been held to be one for the courts to decide, as it would be a violation of the constitution of the United States to fix rates so low as to be confiscatory if enforced.

"The laws providing rates for transportation of passengers and freight in the two cases under consideration have been held by the courts below to be so low as to be substantially confiscatory, and should therefore not be enforced until after further trials. The courts had jurisdiction to make such an order."

#### The Minnesota Case.

The proceedings in Young's case grew out of an effort by the Minnesota court on May 31 last to restrain Mr. Young and other State officials from executing or attempting to execute the rate law. Certain stockholders of the Northern Pacific Railway Company filed a suit at that time asking for an injunction to prohibit the State officials from carrying the law into effect.

The injunction was granted on the ground that the law was confiscatory, and its promulgation was immediately followed by the commencement of an action by Attorney General Young in the Ramsey County State District court, in which that court was asked to direct the issuance of a writ of mandamus commanding the Northern Pacific company to comply with the rate law. The State court immediately issued the writ in compliance with Mr. Young's petition.

Mr. Young was summoned before the Federal court to give an account of his defiance of the court's injunction and he was subjected to a fine of \$100 for contempt of court and at

the same time ordered to dismiss the case in the State court.

Refusing either to pay the fine or dismiss the case, Mr. Young brought the case to the supreme court of the United States on a petition for a writ of habeas corpus. He based his petition on the ground that United States circuit court was without jurisdiction in the original proceeding, because there was no diverse citizenship, and that the suit instituted against him as attorney general was in effect a suit against the State and not against him.

#### The North Carolina Case.

The North Carolina case, that of Sheriff Hunter, of Buncombe county, vs. Agent Wood, of the Southern Railway, attracted much attention during the greater part of last summer and was for a time the cause of a very sharp conflict between the courts of the United States and those of North Carolina. Wood was indicted, found guilty and sentenced to serve a term of thirty days on the rock pile at Asheville, on the charge of selling railroad tickets for more than the maximum rate established by the statute. He appealed to Judge Pritchard, sitting in the United States circuit court for the western district of North Carolina, and the latter promptly issued a writ of habeas corpus, ordering Wood's release by Sheriff Hunter.

This action of the court was the culmination of several important steps in the controversy beginning with the issuance of injunctions by Judge Pritchard against the State officials prohibiting the carrying of the rate law into effect. This proceeding was followed by an address by Governor Glenn to the superior court of the State, questioning Pritchard's authority and asking them to see that indictments were found against the agents of the railroad company. In accordance with this address a number of arrests were made, so that Wood's case became a test for many others.

So important did Judge Pritchard consider the action of the State authorities that he said in his opinion, "if the criminal prosecutions against the agents, conductors and employees are permitted to continue the managers of railroads cannot successfully operate their trains, carry the mails or continue their usefulness as common carriers doing an Inter-State business."

Considering the North Carolina case to have been disposed of by the action of the court in the Minnesota case, Justice Peckham did not elaborate his views in the former proceedings. He said: "Being detained in custody by virtue of this conviction by one of the police courts of the State, he had the right to apply for a writ of habeas corpus to the United States circuit judge and the justice had power to issue the writ and discharge the prisoner under the Section 753 of the Revised Statutes of the United States, as he was held in custody for an act done pursuant to an order, process or decree of a court or judge of the United States.

The writ being properly issued, the judge had the right, and it was his duty, to examine into the facts, and he had jurisdiction to discharge the petitioner under the circumstances stated.

#### Justice Harlan Dissents.

Justice Harlan, in a dissenting opinion, took strong ground in spite of the theory that the proceedings in the Young case was a suit against the State, and, therefore, not permissible under the constitution.

#### Tree Cutting in Baltimore.

Baltimore Sun.

The cutting of trees in Harlan park has excited much feeling among residents of the adjacent blocks and not a little solicitude among other lovers of trees who sometimes visit the park. Trees constitute one of the charms of such places, and to destroy a tree which is the product of twenty years of care is a serious matter. Some fifty-three trees, it is stated, have been cut down, and more are marked for destruction. It is explained by the officials engaged in the work that the object of cutting is to "improve the beauty of the park" and to "give sunlight to the grass." Without undertaking to say whether the proper course has been taken in this particular case or not, it is certain that what constitutes the beauty of a park is a question of aesthetics, as is also the question whether grass on the ground is more worth having than an unbroken canopy of green overhead. Not a few persons have a strong sentiment of attachment to trees and feel a personal hurt in their destruction.

#### A Test.

Columbia State.

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