# CANNOT BAR FROM FEDERAL COURTS

Supreme Court Annuls State Rate Laws.

## RAILROADS' RIGHT TO APPEAL

State Can't Forbid Resort to United States Court.

#### ONLY ONE JUDGE DISSENTS

Epoch-Making Decision on State Railroad Legislation Against Both Minnesota and North Carolina in Favor of Railroads.

## POINTS DECIDED BY COURT.

- Excessive penalting prevent rail-
- Sufficiency of rates fixed by law
- Such against a state officer pre-venting him from enforcing state law which fixes conflicatory rates is not sult against state
- Where state law is alleged to be in violation of Federal constitution, Federal courts may take jurisdiction and do not commit osurpation in so
- When a Federal court has taken jurisdiction. It has power to enjoin from proceeding in state courts until

WASHINGTON, March 23.-In refusing grant to Attorney-General Young, o leasing him from the penalty impos by the United States District Court for District of Minnesota on the charge of contempt of court in instituting ceding in a state court for enforce ment of the rallroad rate law after the Federal Court had prohibited such tourse, and in affirming the decision of Judge Pritchard, of the United States il Court for the Western District of North Curolina, discharging from im ent James H. Wood, a ticke agent of the Southern Railway at Asheville, after he had been sentenced by the Asheville Police Court to serve a term on the rockpile on the charge of collect ing for a ticket on that road a greater price than was permitted by the state allroad law the Supreme Court of the United States today added another to dered notable the present term of that

## Era-Making Decision.

In both cases the right of states to fly rates for railroad transportation was the issue and both involved conflicts between the Federal and the state courts both to the states and to their courts The opinion of the court in both cases was announced by Justice Peckham and, with the exception of Justice Harian, all the other members of the court stood behind him in the announcement of the court's finding.

ion in the Young case, in which he took the view that the suit was practically a proceeding against the state, therefore permissible under the 11th amendment to the Constitution. He therefore char acterized the opinion as era-making h the history of the court, said it had the effect of closing the courts of a state that the result would be disastrous. The two cases were so similar that both practically were decided in one opin The pronouncement was made in the Minnesota case. Justice Peckham's nion was authoritatively outlined as

## Railroads Deprived of Rights.

The court decided that by reason of the mous penalties provided in the rate laws by way of fines against the com and employes, the companies are in of validity of those laws, as the risk of concation of property and imprison of agents in case the companies failed their defense was too much to undertake in order to obtain a judicial de rision of the question of such suldity, Such laws are therefore held unconstitu tional, as they prevented the companies from resorting to the courts and the deprived them of equal protection of laws,

The question of sufficiency of the rates to enable the company to obtain some return to its stockholders for their vestments 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 transpor tation of passengers and freight in the two cases under consideration have been substantially confiscatory, and

#### diction to make such an order. Laws Violate Constitution.

It has also, for many years, been held that a suit is not one against the state, although it prevents a state officer from bringing suits for the enforcement of a state enactment which fixed rates so low

therefore, a violation of the Constitution of the United States, and this principle is reiterated and again decided in these

The jurisdiction of the Federal Courts in such cases is only exercised where the state enactment is alleged o be a violation of the Constitution of the United States, and in such cases it s proper for those courts to take ju risdiction equally with the State United States is, by its own provisions the supreme law of the land, snything in state legislation or law to the cor trary notwithstanding, and there is no usurpation of jurisdiction in suc

The name duties rest upon the State Source, and the party had his choice of forum without any invidious dis inction against the State Courts, and in favor of the Federal Courts because of his choice of the latter

Must Let Federal Court Decide. When a Federal Court has takes urisdiction of cases before any pro-



anese Council in Cores, Fatally Wounded by Vengeful Coreans at

enced, the former court has authority to decide the case and to enjoin any person from proceeding in a State Court until the Federal Court has proceeded to judgment. This is also a wellestablished right of a court of equity and no new ground is taken in this

The opinion turned almost entirely upon the penalty provisions of the that point were stated in the following extract from the opinion:

## Penalty Is Too Great.

Femility is Too Great.

For disobedience of the freight act the officers, directors, agents and employes of the company are made guilty and upon conviction each may be punished by imprisonment in the county jail for a period not exceeding 30 days. Each violation would be a separate offense and therefore might result in imprisonment for the various agents of the cumpany who would dare disobey for a term of 90 days each for each offense. Disobedience to the passenger rate act renders the party guilty of a falony and subject to a fine not exceeding \$5000 or imprisonment in the Mate prison for & period not exceeding five years or both fine and imprisonment. The sale of each ticket above the price permitted by the act would be a violation thereof. It would be difficult, if not impossible, for the company to and imprisonment. The sale of each ticket above the price permitted by the act would be a volation thereof. It would be difficult, if not impossible, for the company to obtain officers, agents or employee willing to carry on these affairs except in obedience to the act and orders in question. The company itself would also, in case of disobedience, be liable to immense fines provided for in violating orders of the company. The company in order to test the validity of the acts must find some agent or employe to disobey them at the risk stated. The necessary effect and result of such legislation inust be to preclude a resort to the courts—either state or Federal—for the purpose of testing its validity. The officers and employes could not be expected to disobey any of the provisions of the acts or orders at the risk of such fines and penalities being impossed upon them, in case the court should decide that the law was valid. The result would be a denial of any hearing to the company.

A law which indirectly achieves a like result by imposing such conditions upon the right to appeal for judicial relief as work an abandonment of the right, rather than face the conditions upon which it is officer to appeal for judicial relief as work an abandonment of the right, rather than face the conditions upon which it is officers as the intimidate the company and its officers from resorting to the courts to test the validity of the legislation, the result is the same as if the law in turn pro-nibited the company from seeking judicial construction of laws which deeply affect is rights.

ion of laws which deeply affect

## How Young Tested Law.

The proceeding in Mr. Young's case grew out of an effort by the Minnesota Federal Court on May II last to restrain Mr. Young and other state officials from executing or attempting to execute the rate law. Certain stockholders of the Northern Pacific Rallway Company filed a suit asking for an injunction to prohibit the state officials from carrying feet prevented from ever questioning the the law into effect, on the ground that the rate fixed was so low as to make impossible returns to the company on its avestment.

The injunction was granted on September 23, on the ground that the law was confiscatory, and its promulgation was immediately followed by the commence ment of an action by Mr. 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, and this proceeding precipitated a sharp conflict between the Federal and the

state courts. Mr. Young was summoned before the former to give an account of his defiance held by the courts below to be so low as of the court's injunction, and, failing to make a satisfactory explanation, he was should, therefore, not be enforced until subjected to a fine of \$100 for contempt after further trials. The courts had juris- of court, and at the same time ordered dismiss the case in the state court Refusing either to pay the fine or to dismiss the case. Mr. Young immediately brought the case to the Supreme Court of the United States, on a petition for a writ of habeas corpus. He based his pe

(Concluded on Page 2)

Authorizes Statement of Position.

## MADE NO DEAL WITH BRYAN

Decides to Kill Rumors and Become Candidate.

## FAVORITE SON OF STATE

Wellman Ends Governor's Doubts and Commits Him to Enter Contest at Denver-Will Not Lecture Yet.

By Walter Wellman, to Chicago Record-Herald. ST. PAUL, March 23.-(Special.)-Gov erner John A. Johnson is a candidate for the Presidential nomination of the Democratic party. He authorized me to

make this statement in his behalf.

He is something less than an aggressive andidate, in that he is making and wil make no organized, systematic effort t secure the nomination. He is something more than a receptive candidate, because in a quiet and dignified way he and his friends are looking after his interests, and because the Governor and his friends will ontrol the delegation from this state to the Denver convention and Minnesota, with substantially unanimous voice, will present her candidate, "the man who can win at the polls," to the National De-

## Silences Many Rumors.

Governor Johnson authorized this an suncement to be made, because I inted out to him that almost every where in the country great uncertainty exists at to his present attitude and future course. So many rumors and con flicting statements concerning him have been in circulation that the people do no know what to believe. It has been said that he not only would not be a candi date, but that he would soon formally forbid the use of his name as a candi date against Mr. Bryan; that he had an understanding with Mr. Bryan, by which he was not to oppose the Nebraskan, but to throw his strength to Mr. Johnson; that the Governor was afraid to come out as a candidate on account of the that he has made a contract with the Slayton Lyceum Bureau for platform work of a very profitable character and another four years before entering the National political field.

## No Agreement With Bryan.

Governor Johnson and I talked of all these matters with the greatest frankness on his part. He said he had no understanding of any sort with Mr. It is true, he said, that there was warrant for some of the rumors that he contemplated issuing a statement that under no circumstances would he be a candidate, because it is only within the come to trial

past few hours that he has definitely de termined what his course was to be.

WINNER OF BOURNE'S \$1000

Judge Norcross, of Nevada, Writes Best Essay on Third Term.

WASHINGTON, March 22. - Senator Bourne today announced that he has awarded Frank H. Norcross, Associate Justice of the Supreme Court of Nevada, the \$1000 prize for the best essay on a second elective term.

### Many Want Bryan's Scat.

PENSACOLA, Fla, March 22.—Speculation is rife here as to whom Governor Broward will name as the successor to United States Senator William J. Bryan, who died yesterday. The Florida campaign is now in full blast, with three candidates for United States Senator—Congressman William B. Lamar, of Monticello: John C. Bard, of Pensacola, and Albert Gilchrist, of Jacksonville. It is not believed the Governor will name any of these, and the selection may be State Senator Thomas West, of Santa Rosa. Ex-Senator Samuel Pasco, of Mon-



United States Supreme Court, Who Rendered Decision Against State Railroad Bate Laws.

was an applicant for the position when Mr. Bryan was named, and it is believed he will again apply.

MME. ELLEN COURSEN ROECKEL WEDS PUPIL.

Singer Slips Away With Young Englishman and Ceremony Is Performed.

SAN FRANCISCO, March 21.-(Special)-Friends of Madame Ellen Courses Rocckel, the well-known singer, learned today of her secret marriage last month to Phillip Davis, a young Englishman and one of her pupils. Madame Rocck-el's first husband, the late Joseph and one of her pupils. Madame F el's first husband, the late J Roeckel, was a composer of songs One day last month Madame Rocckel and Davis went quietly to San Mateo and were married in the Episcopal Church. Madame Rocckel-Davis has three children, all singers. Mrs. Welter

## Reed, a well-known church singer of Portland, is a sister. Dynamite for Prohl Paper.

ROCK ISLAND, Ill., March 2.—The Daily News office was dynamited early today and the pressroom was badly damaged. The paper has been attacking the gamblers and those advocating local license. No one was injured.

cense. No one was injured.

The News was founded 39 years age by
John Looney, a lawyer and politician.

Looney was indicted last June on numerous counts for alleged conspiracy, extortion and criminal libel, but has not been convicted on counts that have so far

SIGNS OF SPRING

PRING

# COREAN SHOOTS STEVENS THRIGE

Attempt to Slay American Diplomat.

## HATRED OF JAPAN THE CAUSE

Interview Arouses Fury of Young Students.

## RECOVERY IS PROBABLE

Would-Be Assassin in Excitement Mortally Wounds Compatriot. Glories in Deed and Tells

## WHAT STEVENS SAID.

"The Corean people have been greatly benefited by Japanese pro

America is doing for the Philip-

condition before the war from the statement that the government was spending 3,000,000 yen annually on a standing army and 60,000 yen on public education. The people are divided into two classes, the peas antry and the official classes. not, but even the officials are be ginning to see that the only hope for the country lies in a reorganination of the old institutions."

SAN FRANCISCO, March 23.-With the revolver of the would-be assassin con-cealed in a handkerchief, D. W. Stevens, formerly Counsellor to the Japanese Embassy at Washington, but for several years Diplomatic Adviser to the Corean government at Seoul, was shot and ser ously wounded this morning as he was about to leave for Washington.

Three shots were fired at Mr. Stevens

from a 22-caliber revolver by I. W. Chang, a diminutive Corean. The first bullet missed the Diplomat and accidentally struck and perhaps fatally wounded M. W. Chun, one of the three or four Coreans who were lying in wait for Mr. Steyens with the intention of killing him, and who, a moment before, had struck him a vicious blow in the face. The other two shots took effect in Mr. Stevens' back, one bullet striking him under the right shoulder blade near the spinal column and the second a few inches lower. While the wounds are serious, it is said that the chances for Mr. Stevens' recovery are

## Plans Carefully Laid.

The attempted assassination, which evidently had been well planned, took place at the Ferry Station at 9:30 o'clock this morning just as Mr. Stevens, accompanied Chozo Koike, the Japane sul-General, was about to take the ferry connecting with the overland train for the East, where he expected to spend an Washington and Atlantic City.

The motive for the murderous attack apparently arises out of the resentment of a small group of local Coreans to the Japanese protectorate over Corea, who

## important part played in the reorganiza tion of its government by Mr. Stevens. Mr. Stevens arrived from the Orient last Friday on the Japanese steamer Nippon Maru. Last night he was attacked at the Fairmount Hotel by a delegation o four or five Coreans who had called to see him with reference to an interview in which he had praised the work of the

#### Three Bullets Hit Stevens.

This morning as he and Mr. Kolk stepped from an auto-bus at the Ferry station, three or four Toreans were waiting for him. As the Consul-General stepped to the front of the bus to lo after some baggage, one of the Coreans later identified as Chun, stepped up an struck Mr. Stevens a victous blow in the face. The diplomatist immediately started in pursuit of his assailant, when Chang drew from his pocket what to several witnesses appeared to be merel a handkerchief, but they were quickly undeceived as three shots in rapid suc-



re-Elected President of Mothers Congress.

Stevens. The would-be assassin, in the excitement of the moment, apparently forgot that one of his companions was in line with the aim he was taking. The first shot missed the diplomatist and brought Chun down with a bullet through the right lung. The other two were better directed and struck Mr. Stevens. Mr. Kolke immediately went to the latter's assistance and helped him to an automobile, which rushed him to the Harber Emergency Hospital, only block away

## Assassin Promptly Caught.

Dropping his revolver, with the handkerchief still wrapped around it. Chang and his third companion started to flee The other Corean escaped, but the would-be murderer was quickly surrounded by a mob of more than 500 peo ple and taken in charge by police offi-

Chun, the wounded Corean, picked up by the police and also taken to the Harbor Hospital, where' his wounds and those of Mr. Stevens were temporarily dressed by Dr. Reben Hill, The diplomatist and the wounded Colance and hurried to the Central Emer-

## Stevens Will Recover.

After an examination, the surgeons stated that there were no indication that .Mr. Stevens' lungs were pene trated or that the lower bullet entered the abdomen. He declared his chances for recovery to be good. In the afternoon Mr. Stevens was removed to the St. Francis Hospital.

Chun, the wounded Corean, is at the Central Emergency Hospital, and his recovery is not expected. He denied that he knew Chang, and declared that Stevens fired the shot wounded him. As the latter was not (Concluded on Page 3.)

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# **COUNTESS PROVES** BURGLARS' QUEEN

## Charming Woman Robs Many Hotels.

## SHOWS WEALTH AND JEWELS

Leads Band of Male Robbers Through France.

## LOOT IS OF GREAT VALUE

Countess of Monteil and Male Confederates Captured-Waiter Proin France.

PARIS, March 23 .- A series of mys terious hotel robberies on the Riviera, explained by the arrest of the charm ing but masquerading Countess Montell. For years the Counters of Montell has entertained lavishly both at Paris and the Riviera. Her wealth and jewels have drawn comment and admiration from far and near.

Now she is declared one of the mos hotel thieves that has ever troubled the hotel proprietors of France. Her arrest at Nice reveals her not as the captivating, brilliant Countess, but as a thoroughly up-to-date burglar, car-rying concealed in her bewitching garments an array of burglars' implements of intricate workmanship, which opened to her any hotel room on the Riviera which she knew to contain the

coveted wealth of money and valuables. The detectives will seek to prove that the masquerading Countess was in fact the active director of a band of hotel robbers, mostly men, some of whom have been arrested, and whose aggregate of loot is of great value,

## GETS \$12,000,000 BY SWINDLES

French Waiter Develops Into Giant Bogus Company Promoter.

PARIS, March 23 .- A sensution has en caused by the arrest here this afternoon of a man named Henri Rochette on the charge of conducting successful swindles on an enermous scale. Rochette was at one time a waiter in an obscure French town. He came to Paris to seek his fortune, in which he was eminently successful, so long as he could keep clutches of the law. He founded the Franco-Spanish Bank, and floated not ess than a dozen in which he was a director and in which stock was eagerly purchased by French investors.

It now develops that his methods were fraudulent, and the complaint against him alleges that he has stolen over \$12,000,000, through the medium of his various companies and societies.

CHINA VERY BITTER AGAINST JAPANESE.

Posters Stuck Up in Hongkong Also

Incite People Against Government-Blood Prophesied.

HONGKONG, March 23.-The boycott crusade is growing. Envelopes are stuck on all the walls reading: "The Japanese are a barbarous hum-

"The Chinese government does not love the people, who are now weeping." "The Chinese will cause a bloody boycott of the Japanese immediately and can see the annihilation which is expected

within a few years."

## TATSU INCIDENT AS A CLUB

## Chinese Reform Element Using It Against Government.

PEKIN, March 21.-Japan has asked China to take such steps as may be necessary to prevent a boycott on Japanese goods in China and to put an end to the anti-Japanese agitation growing out of was manifested last week at Conton where there were several large meetings, at which resolutions declaring that the anniversary of the release of the steamer

anniversary of the rejones of the steamer. Tatsu Maru be observed as a day of mourning, and proclaiming a boycott on Japanese goods were adopted.

The native guilds and the press are giving prominence to sensational reports of the Canton demonstrations against Japan, indicating a widespread attempt to use the Tatsu Maru case against the Pakis senserators. Pekin government as well as against

the men recently taken into custody on the charge of agitating for reform have been executed, the particular allegation against them being that they had traf-ficked in governmental secrets.

## Denies Japanese-Spanish Entente.

MADRID, March 3.-Premier Maura today denied the report current here last week that Prince Kinoyoshi Kuni has come to Spain with the object of arranging a Japanese-Spanish entente.