

THE OBSERVER

BRUCE DENNIS
Editor and Owner.

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PIERCE'S GOOD ADVICE

At a banquet last night at Hot Lake Senator Walter L. Pierce remarked: "We need as much as anything else to know each other; we need to get in closer touch in this community wholly as much as we need to reach out for more people. An influx of several thousand means little if we cannot hold them. I am in favor of a better understanding of home people first."

There is a sermon for all community workers in what the senator said. He has lived in the Eastern Oregon country for many, many years, and he probably realizes the marked apathy that is apparent on all sides by a peo-

ple who are permitted by a kind providence to live in a garden the whole year round.

Yes, we need closer association. We need to rub elbows with our neighbors. We need to have every child understand first what is in this valley and to teach the lesson of contentment and appreciation. This idea of the green fields far away means little. If a man cannot make good in the Grande Ronde valley he cannot make good any place on the face of the earth. There is everything here to work with, there is an abundance provided by nature and here man can do as little as any place on earth and make a good living. But if he will do all that he can he is sure to get ahead and become comfortably fixed for old age.

"THIS IS MY 52ND BIRTHDAY."

Gilbert M. Hitchcock.
Gilbert M. Hitchcock, the Omaha editor and former member of congress, was born in Omaha September 18, 1859. He was educated in the public schools of his native city, supplemented by two years' study in Germany and a law course at the University of Michigan from the law department of which he graduated in 1881. For four years after his admission to the bar he engaged in the practice of law in Omaha. In 1885 he established a daily newspaper in that city and ever since has been its editor and publisher. Mr. Hitchcock has been active in politics for many years and has long been one of the leaders of the democratic party in Nebraska. He was elected to the Fifty-eighth congress, defeated for re-election to the Fifty-ninth congress, elected to the Sixtieth congress, and re-elected to the Sixty-first congress, from which he retired last March.

THIS DATE IN HISTORY.

- September 18.
- 1709—Samuel Johnson, famous English writer, born. Died Dec 13, 1874.
 - 1710—Expedition against the French sailed from Boston for Port Royal.
 - 1766—Jonathan Carver, who was the first to explore much of the upper Mississippi country, arrived at Green Bay, Wis.
 - 1851—"The New York Times" made its first appearance.
 - 1861—Gen. Simon B. Buckner and a confederate force, occupied Bowling Green, Ky.
 - 1879—Daniel Drew, who made, and lost, millions in Wall street, Born in Carmel, N. Y., in 1797.
 - 1890—Dion Boucicault, noted actor, died in New York city. Born in Dublin, Dec. 26, 1822.
 - 1893—The Earl of Aberdeen assumed office as governor general of Canada.
 - 1901—Field Marshal Count Von Waldersee, commander in chief of the international forces in China, arrived at Hong Kong.

PRESIDENT TAFT.

(Continued from page one)

united in a partnership, the union in the partnership would be a restraint of interstate trade in violation of the statute. Such a result is really a reductio ad absurdum, and no one who was in favor of making the statute ef-

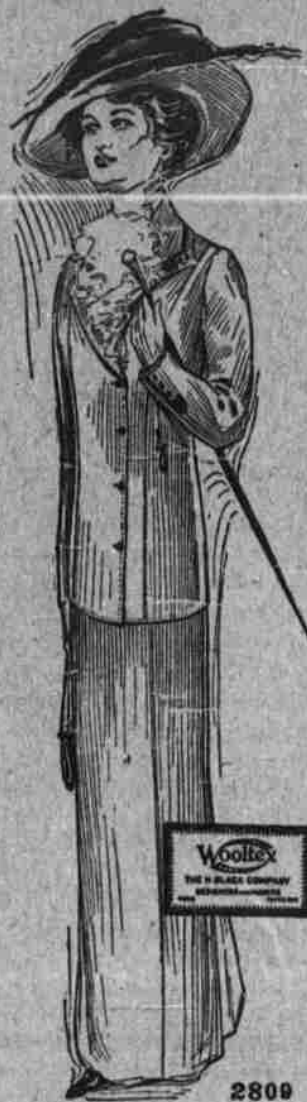
fective for the purposes for which it was passed, and had any intelligent appreciation of what the statute was intended to accomplish and what it meant, would contend for such a construction. It is true that in one of the decisions of the supreme court there was a statement made that the term "reasonable" could not be introduced into the statute because congress had not put it there, but the very same court, and the very same judge, when a case arose presenting a restraint of trade that must be condemned as unlawful if a literal meaning were to be given to the statute, said in so many words that it must be reasonably construed, and that it must not be held to include contracts that were merely incidental restraints of trade and were not made for that purpose. In one of these cases a man owned some steamboats that did an interstate business on the Ohio river. He wished to sell out. He did sell out, and in the sale of the steamboats he wished to sell the good will of the line which he had been running. Accordingly he stipulated that he would not himself engage in that business between those same points for a certain number of years. This was interstate business and his contract was in restraint of trade, but the supreme court held that it was a mere incidental restraint, i. e., incidental to the sale of the good will, and so was not within the statute. This would have been the same at common law, where from time immemorial such a restraint as this has been held to be reasonable because limited to the necessity of preserving the good will which the vendor was selling, and which but for such an agreement would be worth nothing. In other words, the supreme court in this case gave a reasonable construction to the statute and eliminated from its operation those harmless useful incidental restraints growing out of lawful contracts which are made for an entirely different purpose from that of controlling prices or maintaining a monopoly by suppressing competition and which have always been recognized as properly enforceable by courts of both law and equity.

I repeat again that in spite of all the denunciations that we have heard of the decisions of the supreme court in the Standard Oil and the Tobacco cases, there is not one who has criticized them that can formulate a contract in restraint of trade that ought to come within the statute that does not come within it under the decision of the supreme court.

It is said that the supreme court has read something into the statute that was not there before; that it has inserted the word "reasonable" before restraints of trade, when the same court had said that this could not be properly done, because congress had evidently not intended to include such a limiting word in the statute. This is not fair to the court. It is true that the court, in the early days of the construction of the statute, had said that it could not limit the statute in effect by excluding from its operation what was deemed reasonable at common law. But as other cases arose it found it necessary to make exception to the literal operation of the words, "restraint of trade," and it did so by excepting what was minor, or incidental, or indirect, and including only those cases where the chief object of the contract or combination was the restraint. In doing so the court said that it must give the statute a reasonable construction and not one leading to absurd or ridiculous results. In the last two cases the court did not change the substance of the reasoning and scope of the previous decisions, but only treated the exceptions previously termed "incidental and indirect," as excluded from the operation of the statute in the light of reason, i. e., in conformity to the evil sought to be reached. Now, in what way has this injured the public weal? What combinations or arrangements can escape under this interpretation that any sensible man would wish to have condemned? Did the court not condemn the Standard Oil company, the father of all trusts, in the history of which every form of criminal illegality was practiced? Did it not, on the other hand, condemn the Tobacco trust, of much later origin and framed under the advice of cunning counsel for the very purposes of evading the condemnation of the statute and at the same time securing and enjoying the monopoly the framers of the statute intended to prevent and punish.

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Let me renew again the invitation to any of the vociferous critics of the decision of the supreme court to use their legal imaginations and state the facts of a case not condemned within the rule of construction put upon the statute by the supreme court, but included within their construction of it, which reasonable men would think it wise or proper to make criminal.

Now, I desire to call attention to a very broad distinction that many persons have failed to draw or perceive between a reasonable construction of the statute which the supreme court has insisted upon and the introduction of the word "reasonable" in the statute so as to lead to a result by which combinations for the purpose of restraining trade with a view to controlling prices and maintaining a monopoly could be held to be reasonable and thus lawful. Until the decision of the supreme court in these last two cases there was a clearly defined hope in the minds of many business men who had reached the conclusion that it was impossible to conduct business on a free competitive basis and that it was necessary to secure monopolistic control of prices and competition in order to make business reasonably profitable, that in some way or other the statute could be construed so as to make it apply only to unreasonable monopolies and unreasonable exclusion of competition and control of prices. They had in their minds the thought that in some way or other a standard could be set by which if those

who enjoyed the monopoly and the restraint of competition and the control of prices did not abuse their power to the point of seeking from the public exorbitant profits, their arrangements could be held to be only reasonable and not within the statute or punishable by law. In my message of January 7, 1910, on the interstate-commerce and anti-trust laws and federal incorporation I used this language:

Many people conducting great businesses have cherished a hope and a belief that in some way or other a line may be drawn between "good trusts" and "bad trusts," and that it is possible by amendment to the anti-trust law to make a distinction under which good combinations may be permitted to organize, suppress competition, control prices, and do all legally if only they do not abuse the power by taking too great profit out of the business. They point with force to certain notorious trusts as having grown into power through criminal methods by the use of illegal rebates and plain cheating, and by various acts utterly violative of business honesty or morality, and urge the establishment of some legal line of separation by which "criminal trusts" of this kind can be punished, and they, on the other hand, are permitted under the law to carry on their business. Now the public, and especially the business public, ought to rid themselves of the idea that such a distinction is practicable or can be introduced into the statute.

Certainly under the present anti-trust law no such distinction exists.

Notice of Impounded Stock.

Notice is hereby given that on the 15th day of September, 1911, I took up while running at large in the city of La Grande, Union county, Oregon, the following described animal, to-wit:

One aged bay horse, fifteen hands and three inches high, weight about 1125 pounds, branded with a W, with no shoes on, had bell on at time of impounding.

That I impounded said animal in the city pound of the city of La Grande, Oregon, under and by virtue of an ordinance thereof, and will, unless the owner claims and pays the costs of keeping and impounding said animal, at the expiration of ten (10) days from this notice, I will advertise and sell said animal as provided by the ordinance of the city of La Grande, Oregon.

Done and dated at La Grande, Union county, Oregon, this 18th day of September, 1911.

J. W. WALDEN.

Chief of Police of the City of La Grande, Oregon.

A NOTRE DAME LADY'S APPEAL

To all knowing sufferers of rheumatism, whether muscular or of the joints, sciatica, lumbago, backache, pains in the kidneys or neuralgia, pains, to write to her for a home treatment which has repeatedly cured all of these troubles. She feels it her duty to send it to all sufferers FREE. You cure yourself at home as thousands will testify—no change of climate being necessary. This simple discovery banishes uric acid from the blood, loosens the stiffened joints, purifies the blood, and brightens the eyes, giving elasticity and tone to the whole system. If the above interests you, for proof address: Mrs. M. Summers, Box B, Notre Dame, Ind.

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La Grande National Bank

LA GRANDE, OREGON.

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SURPLUS . . . 105,000.00
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