

### HARLAN RENEWS ATTORNEY OPINION

#### He Accuses Supreme Court of Exceeding Power in Standard Oil Decision.

#### LITIGATION WILL RESULT

#### No Man Can Tell Whether Contract Is Reasonable or Not Until Decided by Court—Power of Congress Is Usurped.

WASHINGTON, May 25.—Still as opposed to the majority of the Supreme Court of the United States in the Standard Oil case as he was on the day that opinion was announced, Associate Justice Harlan today filed in court his formal dissenting opinion in the suit. His oral attack on the court for holding that only unreasonable or undue restraints of interstate commerce are violations of the law furnished the outline for today's broadside against the opinion.

He went further, however, and criticized the court for modifying the decree of the lower court so as to permit the subsidiary companies to enter into agreements among themselves, and expressed a conviction that instead of the opinion giving quiet to the business of the country it would throw it into confusion and incite widely extended and harassing litigation, the injurious effects of which will be felt for many years to come.

Ever since the case was decided on May 15 Justice Harlan has been preparing his dissenting opinion, and it was not completed until noon today. One of the last changes made, it is said, was to insert a quotation from the decision of Justice Brandeis in the *Adair* case in which Justice Harlan said that according to the decision of the Supreme Court in the *United States*, all restraints, whether reasonable or unreasonable under the common law, were forbidden by the statute.

#### Trust May Combine Again.

In connection with what he terms a "mischievous modification," Justice Harlan quotes the Chief Justice as saying that "it does not necessarily follow that because of an illegal restraint of trade an attempt to monopolize or monopolization would necessarily arise from agreements between two or more of the subsidiary corporations after the transfer of the stock by the New Jersey corporation."

"Taking this language in connection with other parts of the opinion," says Justice Harlan, "the subsidiary companies are thus, in effect, influenced unfavorably. I think that although the New Jersey corporation, being an illegal combination, must go out of existence they may join in an agreement to restrain commerce against the states, if such restraint be not undue."

#### DANES WELCOME FLEET

#### American Warships Reach Copenhagen—King Will Give Dinner.

COPENHAGEN, May 25.—Copenhagen turned out today to greet the second division of the United States Atlantic fleet, under command of Rear-Admiral Bagder, which arrived this morning for a week's visit. Salutes were exchanged by the American squadron and the land batteries.

#### Taft's Decision Quoted.

"Judge Taft said, that according to the decision of this court in the freight association case, the question of interstate transportation were within the states, whether the restraint could be regarded as reasonable in common law or not.

"On reading the opinion just delivered," Justice Harlan adds, "the first inquiry would be that as the court is unanimous in holding that the particular things done by the Standard Oil Company and its subsidiary companies in this case were illegal under the anti-trust act, whether those things were reasonable or unreasonable restraint of interstate commerce, why was it necessary to make an elaborate argument, as is done in the opinion, to show that according to the 'rule of reason' the act passed by Congress should be interpreted as if it contained the word 'unreasonable' or the word 'undue'?"

"The only answer which, in frankness, can be given to this question is that the court intends to decide that its delicate judgment, in regard to the effect of the act, permits no restraint whatever of interstate commerce, whether reasonable or unreasonable, was not in accordance with the 'rule of reason.' In effect, the court says it will now, for the first time, bring the discussion under the 'light of reason' and apply the 'rule of reason' to the question to be decided. I have the authority of the court for saying that such a course of proceeding on its part would be 'judicial legislation.'"

#### AIRSHIPS TO FIGHT IN AIR

#### Taft Will Witness Battle as Test for Military Purposes.

CHICAGO, May 25.—President Taft has advised the promoters of the aviation meet to be held here August 12-20.

#### RIVAL SEATTLE PUBLISHERS WHO HAVE CAUSED EACH OTHER'S ARREST.

Justice Harlan maintains that the court should have replied emphatically to the Standard Oil attorneys when they insisted on a "rule of reason" as the former rulings of the court, as follows:

"That question, according to our practice, is not open for further discussion here. This is clear from the dissenting opinion held (1) that the act, interpreting its words in their ordinary acceptation, prohibits all restraints of interstate commerce, be combinations in whatever form, and whether reasonable or unreasonable; (2) the question relates to matters of public policy in reference to commerce among the states and with foreign nations, and Congress alone can deal with the subject; (3) the parties must go to Congress and obtain an amendment of the anti-trust act if they think that this court was wrong in its former decisions; and (5) this court cannot and will not judicially legislate, since its function is to declare law, while it belongs to the legislative department to make the law."

Then referring to the phrase which Chief Justice White used in his opinion, Justice Harlan adds:

"Such a course, I am sure, would not have offended the 'rule of reason.'"

#### Uncertainty Is Aggravated.

At the conclusion of his opinion, Justice Harlan acknowledged that his brethren had deemed it best to pursue a different course from that which he advocated.

"They have now said," explained the justice, "to those who condemn our former decisions and who object to all legislative prohibitions of contracts, combinations and trusts in restraint of interstate commerce, you may now restrain such commerce, provided you are reasonable in it; only take care that the restraint be not undue."

"The disposition of the case under consideration, according to the views of the defendants, will, it is claimed, quiet and give rest to the business of the country." On the contrary, I have a strong conviction that it will throw the business of the country into confusion and incite widely extended and harassing litigation, the injurious effects of which will be felt for many years to come.

Custom and invite widely extended and harassing litigation, the injurious effects of which will be felt for many years to come. When Congress prohibited every contract, combination or monopoly in restraint of commerce, it prescribed a simple, definite rule that all could understand and which could be easily applied by every one wishing to obey the law and not to conduct their business in violation of the law. But now, it is to be feared, we are to have, in cases without number, the constantly recurring inquiry—difficult to solve by proof—whether the particular contract, combination or trust involved in each case, is or is not an "unreasonable" or "undue" restraint of trade.

#### Congress Alone Can Make Laws.

The justice incorporated in his prepared opinion in effect what he said orally in dissenting in regard to the dangers of judicial legislation.

"The supreme law of the land," he added, "which is binding alike on all Presidents, Congresses, the courts and the people—given to Congress and to Congress alone, the authority to regulate interstate commerce and, when Congress forbids any restraint of such commerce in any form, all must obey the law. To allow the action of Congress merely by judicial construction, that is, by indirection, a blow at the integrity of our governmental system and in the end will prove most dangerous to all."

### 8000 MEN MAY STRIKE

#### VANCOUVER BUILDERS AND EMPLOYEES AT WAR.

#### Labor Unions of Entire City May Go Out in Sympathy and as Test of Strength.

VANCOUVER, B. C., May 25.—A sympathetic strike of 8000 members of labor unions in Vancouver on June 5 is threatened, to compel the Master Builders' Association to make terms with their employees, who have been on strike for a month. The executive committee of the trades and labor council, the building trades council and the business agents' board will meet tonight to consider the questions of ordering a general strike.

The trades and labor council is said to be unanimous for such action. Business Agent Pettipiece, of the council, said today:

"With every union in the city we can tie up all the manufacturing interests here, shut off the light and power, disrupt the telephone service and upset the whole city to such an extent that the Master Builders' Association and the Employers' Association, with which they are allied, will be quite ready to treat with us on the difficult terms they are having with the Building Trades.

"We have nothing to lose and everything to win, and this course has been suggested among the union men as an experiment to test the strength of those who are opposed to the union shop principle."

# Ladies' Man-Tailored Suits



Today and Tomorrow we clip one-fourth from the regular prices

**\$25 Suits, \$18.75      \$45 Suits, \$33.75**  
**\$35 Suits, \$26.75      \$50 Suits, \$37.50**

(Blues, blacks and whites not included in this sale)

It will be advisable to visit our Ladies' Department (on the third floor) as early as possible, in order to have a full choice. These Suits possess the **QUALITY OF FABRIC, the QUALITY OF MAKE and the QUALITY OF STYLE.** They surpass in rich elegance, beauty, fashion and merit, those suits on sale in other Portland stores. They are worth every cent of the regular prices.

### We Make No Charge for Alterations

We quote actual, original prices, and reductions, and make no use of the word "values," a word behind which unscrupulous people sometimes conceal inferior articles. Our reputation, and the honor of our store make us as particular about our words, as we are about our goods.

## BEN SELLING LEADING CLOTHIER

Morrison at Fourth

### RIVALS ARE SEIZED

#### Blethoven Gives Bail, Files Suit for \$100,000 Damages.

CLARENCE B. BLETHEN, Alleges Criminal Defamation and Two Newspaper Men Arrested. Bonds \$5000 Each.

(Continued From First Page.)

Sheriff Hodge arrived at the newspaper office. Apparently they had received information of Sheriff Hodge's visit to the office and they failed to return at their usual hour. When assured that their arrest would be absolutely painless and that they would not be summoned to court, they surrendered to the gentle Sheriff.

No one here has any expectation that the cases against the Blethens will be tried and the suits against the Post-Intelligencer men are regarded in the same light. Colonel Blethoven and his son, Clarence, furnished \$25,000 bond this morning and undoubtedly could have given \$1,000,000 security if called upon.

Prosecuting Attorney John P. Murphy has been placed a trying position by the Blethen cases. It was against his wishes that the Blethen indictments were returned. Being asked to sign them, he was not reluctant to sign information sought by the Blethens today to even things.

It would not be reasonable to say that he is deeply stirred by the new indictments. The developments of the present week have been discussed with keen enjoyment by men about town. The pleasing feature of the whole crusade that began last October has been its freedom from personal violence. Extreme language is used in newspapers and on the stump, but participants in the strife never lose entire control of their temper. General feeling, however, prevails that division of Seattle into two hostile camps is injuring business and is one cause for Seattle falling behind Portland in a business way.

Although the Blethen and Post-Intelligencer men were looked upon as a waste of time and energy, the outlook for a vigorous prosecution of Wappenstein seems excellent. Judge Main is a man of the highest standing and will not shrink from the ordeal of presiding at the trial. Wappenstein, according to well-informed sources, is the person whom the Burns campaign was aimed.

Colonel Blethoven and Mayor Gull, who had always been on the best of terms with Dr. Matthews, were to have been spared, according to the opinion of insiders, but Blethoven refused to abandon his friend, Wappenstein, to his fate and opened his batteries upon Detective Burns. Burns then began to work up a case against Blethoven. The detective said he had failed to get the evidence he hoped for, and until last week it was supposed the idea of indicting Blethoven had been given up. Strong local influences were brought to bear after Burns had left the field, however, and the belated indictments were returned. Gull used discretion and escaped.

The grand jury has practically completed its work, but has not yet dis-

### STEAMER SINKS, 60 LOST

#### Taboga Strikes Rocks Off Coast of Panama Isthmus.

PANAMA, May 25.—The National Steamship Line steamer Taboga struck a rock off Punta Maia on Tuesday and sank a short time afterward. Of the 100 passengers on board only 40 are known to have been saved.

The Taboga had a cargo of cattle and was on her regular coastwise trip. The scene of the accident is about 100 miles from the nearest telegraph station, which makes it difficult to obtain details of the accident. The United States gunboat Yorktown left here today for the scene of the disaster.

### PENNEY BROS.' FRIDAY SPECIAL

We offer our \$1 wines at \$1 a gallon; \$1.50 wines at 75c a gallon; Straight Kentucky Whisky, seven years old, regular \$1.50, at \$1.00 a gallon; Kentucky Whisky, regular \$2.00, at \$1.50 a gallon; \$2 grade whisky, \$2.10 a gallon. Friday only, 375 East Morrison St. Phone East 231, B 2426. Free delivery.

### CLOAKS

SALE OF \$7.50 Silk Petticoats at \$3.95  
SALE OF \$5.00 Silk Waists at \$2.75

SPECIAL SALE OF MILLINERY

## FRIDAY AND SATURDAY



### Continuation of Our Second Extraordinary May Suit Sale

Pronounced by many satisfied customers the most unusual Suit event to their knowledge. Have you participated in this bargain feast?

#### Do It Now!

Come and see these beautiful Tailored Suits in every wanted style and material, that formerly sold at \$30 to \$47.50, now on sale at

## \$24.75



Spoken to him more than four times in the last year. The result of today's proceedings is that Wappenstein will go to trial on the bribery charge tomorrow morning. It is expected a sembling of jury will occupy a long time. The prosecution will not be conducted by Prosecuting Attorney John F. Murphy personally, but by two of his assistants.

## Round Trips East ALL SUMMER

CHICAGO.....	\$ 72.50	ST. PAUL.....	
MILWAUKEE....	\$ 72.50	MINNEAPOLIS..	
ST. LOUIS.....	\$ 70.00	DULUTH.....	\$ 60.00
NEW YORK.....	\$108.50	OMAHA.....	
PHILADELPHIA..	\$108.50	KANSAS CITY...	
BOSTON.....	\$110.00	WINNIPEG.....	
WASHINGTON...	\$107.50	DENVER.....	\$ 55.00
BALTIMORE.....		COLORADO SPGS..	

### Direct Train Service

To St. Paul, Chicago, Omaha, Kansas City, St. Louis and Denver.

Tickets sold May 27 to 29; June 5, 7, 9, 10, 12, 15, 17, 21, 22, 28, 29, 30, and certain dates in July, August and September. Return limit October 31.

Inland Empire Express Leaves 9:55 A. M.

North Bank Limited Leaves 7:00 P. M.

CITY TICKET OFFICE, FIFTH AND STARK STREETS NORTH BANK STATION, ELEVENTH AND HOYT STS.

## LOW RATES TO CALIFORNIA

San Francisco, \$5, \$10, \$12 and \$15.

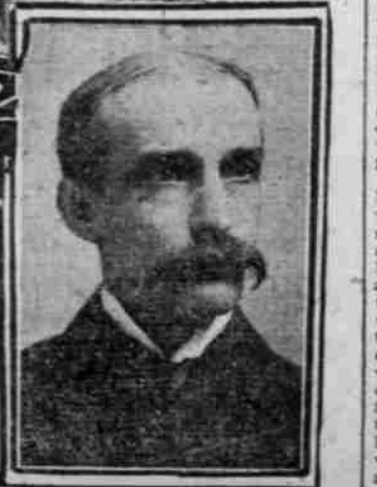
Los Angeles—1st Class \$21.50, \$23.50, \$26.50; 2d Class, \$10.35.  
Round Trips at Reduced Rates. All B rates include Meals and Berth.

SS. "Beaver" Sails 9:00 A. M., Sunday, May 28.

H. G. Smith, C. T. A., 143 Third St. J. W. Ransom, Agent, Alsworth Dock, Main 442; A 1402. —PHONES— Main 348; A 1234.



Aiden J. Blithen, of the Times.



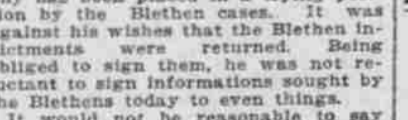
John L. Wilson, of the Post-Intelligencer.

that he will be in Chicago June 4, and will meet the committee in charge to agree on how extensively the Army and Navy will join in the military features of the meet. It has been announced that the President will be given full opportunity to test out the aeroplane as a war factor in any manner he wishes.

The managers of the meet hope to have the United States Government bring about here the first battle in the air. The plan is to have an aeroplane attack on Chicago from Lake Michigan, the defense to be also by aeroplanes, in

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