Eye-openers on Epoch Making Decision

News item in Washington (D. C.) Herald, on occasion of supreme court's Standard Oil trust decision: Among the interested listeners to the opinion was Senator Bailey, of Texas, who is generally conceded to be one of the ablest lawyers in the senate. He declared that the opinion was all that the government could have hoped for, and that it was the proper construction of the Sherman law.

Senator La Follette, of Wisconsin, who was also in the court room, was not so well satisfied. On leaving the court room Senator La Follette declared that the American people had been "handed a lemon," and that the court had amend the Sherman law by writing into it the word "unreasonable" as qualifying restraints of trade that contravene the Sherman law.

Washington dispatch to Philadelphia North American: Senator Culberson, of Texas, declared his absolute agreement with the views expressed by Justice Harlan.

GOOD AND BAD TRUSTS

Washington dispatch to Philadelphia North American: So far as the decision is against the Standard Oil company it is unanimous. But the assumption of power by the court to interpret the law otherwise than it is written meets with the strong disapproval of Justice Harlan, whose dissenting opinion is one of the most forceful presentations that even he has accomplished in the course of his vigorous career.

The court has obviously attempted to point out to the combinations how they may continue to do business without violating the law, as the law is viewed by the court, and in doing this, the court assumes the right to determine what are reasonable and what are unreasonable restraints of trade, and, in effect, what are good and what are bad trusts. Inasmuch as the trusts themselves have contended that the courts should be given this power, and the administration, represented by Attorney General Wickersham, has urged amendment of the anti-trust law so as to confer this power upon the courts, the public has been perfectly justified in assuming that no such power existed.

If there is concern, therefore, when the court assumes the power without waiting for any authorization by legislation, the feeling will be intensified by the strong utterances of Justice Harlan, in criticism of the court for assuming authority which he says it does not rightfully possess. He declared that the reasoning of the court was in effect legislation, which belongs to congress and not to the courts.

There can be no question that the decision has started a controversy which bids fair to become as intense and as far-reaching as the fight for and against special privilege.

It is a controversy in which the courts and their power will be involved, and in which the demand for legislation to define clearly the restraints of trade which are illegal and the processes of monopolization which must not be permitted is certain to be strong and insistent.

What is likely to cause most astonishment to the general public is the fact that while all the representatives of great combinations have been insisting that the anti-trust law should be amended, the necessity for such amendments as have been urged is absolutely removed by the court's opinion of what the law really means and what are the limits of its effect.

No more dramatic scene was ever witnessed in the United States supreme court than was presented when Justice Harlan arraigned his associates of the great tribunal and charged them with overstepping the proper limits of their authority in doing this.

It was with a voice that sometimes trembled, so intense were the feelings of the great jurist, that he told the court the most dangerous tendency of the times is that which makes itself manifest in the assumption of power by the courts to read into a statute what does not exist in the law itself, or to take from a law that which had been carefully placed there by the legislative branch.

He insisted that the safety of the government depends upon maintenance, unimpaired, of the powers conferred upon each co-ordinate branch of the government by legislation, and regarded as a visible breaking down of the system an effort by the courts to encroach upon the functions and prerogatives of the law-making branch.

From the public view-point, this opinion of Justice Harlan will serve as a rallying ground from which to make a fight for definite legislation to control great interstate corporations in the interest of the public.

The Harlan decision has already gained the approval of public-spirited men in both houses of congress, which means that there is general dissent outside the court from the majority opinion concerning the court's wide power of interpretation. Fortunately, in this great decision by a great court there is no constitutional question involved, and if the decision is, as is feared, one which takes the heart out of the anti-trust law, then the law can be strengthened by legislation beyond the power of the court to seriously affect it.

In the controversy already started there is, of course, the beginning of a great referendum of this ruling by the supreme court to the people of the United States. If it be found upon careful examination that the court has weakened the law itself, then there will be effort to strengthen it, just as there would have been immediate effort to frame a new and effective law against monopoly had the court decided the legislative statute to be inoperative.

NOT "UNDUE" VIOLATORS

Chicago dispatch via United Press: Indicted packers have been given one week in which to file a motion for a rehearing, on the ground that the supreme court's ruling in the Standard Oil case overrules Judge Carpenter.

The matter hinges on the question what is unreasonable and what reasonable restraint of trade.

The fact that the supreme court read the word "unreasonable" into the Sherman anti-trust law gives the packers ground for asking that their cases be reopened.

The packers declare that the supreme court's Standard Oil decision completely covers their case and grants them immunity from prosecution.

Attorneys for the packers interpret the highest court's ruling to mean that combinations in restraint of trade are not in themselves unlawful. It must be shown, they contended, that the restraint was unreasonable, and they declare that no such showing has been made in the case of the indicted millionaire packers.

The packers further declare that the Sherman anti-trust law is so hazy that they do not know whether they are engaged in "unreasonable" restraint of trade, and that this very haziness nullifies the criminal section of the law.

The packers demurred to the indictment on this very ground that has been covered by the supreme court's ruling, they alleged, and their demurrer was overruled a few days ago by Judge Carpenter. They now demand a rehearing on arguments on the demurrer, that they may cite the supreme court's decision as a precedent for escaping prosecution.

THEY ALL LIKE IT

Associated Press dispatch: New York, May 16.—Andrew Carnegie said today that the Standard Oil decision was one of the most important events of the times. He declared that it was a good decision and would cause no disturbance of commerce or capital.

"We will," he continued, "establish a new commercial system. We will have a new commercial life. We will have a court of commerce which will be to industry what the supreme court is generally to our nation and laws. It must be seen that combinations being allowed, regulation must follow. We have discarded a worn out system and adopted a new system, adaptable to our times. I am a happy man at the reading of that decision."

W. C. Brown, president of the New York Central lines, said of the oil case decision: "It emancipates the commercial interests of the country while at the same time it fully safeguards every interest which needs protection from the law.

"The industries of the United States will now have a way open to them to compete successfully in the markets of the world. The court has transformed the Sherman anti-trust law from an all but impossible into a practicable and constructive measure. If the tariff question were also out of the way the commercial outlook would be entirely clear."

George Gould said: "Now the public should be satisfied to permit the courts to decide what may be considered reasonable or unreasonable business combination. One such court decision will establish definitely what is a reasonable combination and business interests will doubtless be only too willing to conform to the law when its limitations have been definitely established. Elimination of this uncertainty would prove a stimulus to business."

WILL HASTEN THE RECALL

Washington dispatch via United Press: Declaring that the interpretation of the Sherman anti-trust law by the supreme court, in the decision dissolving the Standard Oil company, appears to "give the law to the people and immunity to the trusts," Representative Henry George, jr., (dem., N. Y.), son of the famous single taxer, issued the following statement:

"I regard the decision as in much the same category with a decision of the same court just prior to the civil war, in the case of the slave, Dred Scott. That decision has been properly described as giving 'the law to the north and the nigger to the south.' The supreme court now appears to give the law to the people and immunity to the trusts.

"The supreme court now, through a majority of its members, arrogates to itself the function of legislating, as shown by the biting sarcasm of Justice Harlan in his dissenting opinion.

"The Standard Oil company can now go through the form of reorganizing; and then, on the plea that it is only reasonably in restraint of trade, continue its course of piracy.

"The 400 trust combinations similarly in restraint of trade and similarly hanging on this interpretation, can now by a shuffle, do what the Standard Oil company can do—make themselves appear to be 'reasonably' in restrant of trade, and so escape the immediate indignation of the people.

"But they will answer before long, nevertheless. For either the law itself will be quickly amended or else the people will seek to destroy the privileges enjoyed by the trusts.

"I am confident also that this decision will so widely weaken confidence in courts as to quicken the movement for the recall of judges."

THE PRIVILEGE OF GREATNESS

Dubuque (Iowa) Telegraph-Herald: "Great men change their minds, fools never."

If there be nothing else on which to base a claim of greatness of the supreme court of the United States, there is the evidence in proof that it changes its mind.

Judge Carpenter, who last week ordered the cases of the packers to trial, heard the claim of the packers' attorney that the indictments should not stand because the packers were guilty of no "unreasonable" restraint of trade. But this point did not impress Judge Carpenter. He knew the court decisions—100 of them—upholding the validity of the Sherman act, and so he knew that the supreme court of the United States in 1897, when it reversed a decision of the circuit court of appeals of the Eighth district, stated, in the course of its decision:

"Section 1 of the Sherman law applies to all combinations in restraint of interstate or foreign trade or commerce, without exception or limitation; and the prohibitions of that section are not confined to unreasonable restraints of such trade or commerce."

Judge Carpenter did not know, of course, that the supreme court of the United States, in a few days, would reverse itself in the Standard Oil case and hold that the restraint had to be "unreasonable" to be illegal. In other words, Judge Carpenter did not know that the language of the brief of the attorneys for the beef trust was to greet him in a decision of the highest court in the land.

EVEN THE STANDARD LIKES IT

Special dispatch to Chicago Record-Herald: New York, May 16.—At 26 Broadway, Standard Oil headquarters, officials of the company today seemed to be in anything but a gloomy mood over the supreme court decision. Their attitude showed clearly that they had expected such an opinion for some time and were ready for it.

Two points are clear. First, that there will be no contumacy by the company—it proposes to obey the decree; and, second, that it will be some time before any plans of reorganization are given out. The company has insisted throughout that no plans had been formulated in advance of the decree, and the statement made today by Mortimer F. Elliott, general solicitor for the company, takes the same attitude.

"Having only before us the press reports of Chief Justice White's oral opinion and the re-