

MUST BEGIN IN OMAHA

Supreme Court Throws the Oakland Water Front Case Out of Court.

JUDGES HARLAN AND BREWER DISSENTED Parties at Interest Were Not All Brought Into the Suit and for That Reason It Was Not Considered Fair to Adjudicate the Case.

WASHINGTON, March 18.—Chief Justice Fuller today delivered an opinion dismissing the bill in equity brought by the state of California vs the Southern Pacific Railroad company, involving the ownership of the Oakland water front, for want of original jurisdiction.

This disposition of the case was made necessary by the conclusion reached by the court that as there were parties interested in the disposition of it, such as the town of Oakland and the water front company, who do not appear as parties to the present suit, it was not equitable to finally adjudicate the case unless those interests were represented.

In the suit, Justice Fuller stated that while the rights of the water front case were not to be finally determined, they would be effectively passed upon. With the matter placed in this light the next question to be decided was as to whether the supreme court had original jurisdiction. The decision first was to the effect that it did not have such jurisdiction, and in reaching this conclusion, the opinion dismissed at some length the provisions of the constitution which relate to the subject.

Quoting these provisions the chief justice said that while it is clear that cases between states and citizens of other states, as would be the case with the town of Oakland and the water front company, the Southern Pacific Railroad company being a citizen of Kentucky, became trustees by the suit. While there was some reason to doubt in the opinion that the constitution had meant to be explicit in its confirmation of original jurisdiction, and, as provision was not made for the case of a citizen of the state at interest with those of another state, the inference was that in such cases the supreme court could only exercise appellate, and not original, jurisdiction.

Judges Harlan and Brewer dissented. Referring to the question of the interest of other parties who do not appear in the case, the chief justice, after quoting various provisions of the constitution, said: "Sitting as a court of equity we cannot, in the light of these provisions, and in the absence of any authority to the contrary, hold that the case should not go on in their absence. Can the court proceed to a decree as between the state and the Southern Pacific Railroad company and not affect the rights of other persons not before the court, or leaving the controversy in such a condition that its final termination might be wholly inconsistent with equity and good conscience?"

"We are constrained to conclude that the city of Oakland and the Oakland Water Front company are parties to the suit, and that the jurisdiction of the court in a case where the citizens of a state which is a party to the suit are joined with those of another state, the chief justice said, is not within the jurisdiction of the court. The jurisdiction of the subject matter a case comes within the jurisdiction of the United States it does not follow that it comes within the jurisdiction of the court. The jurisdiction does not obtain simply because a state is a party. It is held at an early day that congress could neither enlarge nor restrict the original jurisdiction of the court, nor attempt to do so is suggested here. What congress may have power to do in relation to the jurisdiction of the courts of the United States is the question, but whether the constitution provides that this court shall have original jurisdiction in cases in which the state is plaintiff and a citizen of another state is defendant, that is, whether the jurisdiction cannot thus be extended to a case of another state and a citizen of another state, is a question which the bill must be dismissed for want of parties who should be joined, but cannot be without prejudice to a future suit.

Chief Justice Harlan, in the dissenting opinion, cited the boundary suit of Florida against Georgia, in which the attorney general was asked to file a bill in equity, and, without making the government a party to the case in a technical sense, and contended that practically the same course had been pursued in this case, and that the court having been allowed to file briefs and documents to illustrate its alleged title and to participate in the taking of evidence, it was not fair to say that the case was not fairly heard upon its merits." He continued, "as they involve the rights of California and the Southern Pacific Railroad company, and as the state of California earnestly desire that we proceed to a final decree on the merits. If any other party is interested in the result of the case we can hold the cause until the parties who are interested can make proof of such interest and its nature, just as the city of Oakland has done. The suggestion that the Oakland Water Front company has such an interest in the suit as to entitle it to be heard comes from the court, not from that company nor from any of the parties to the suit.

The court did not say that a decree, as between California and the Southern Pacific, might legally affect the claims of others, or that it could be set aside by a subsequent suit, therefore, it was difficult for him to understand why the court should not exercise its obligation to decide the case between the state and the corporation, and in conclusion Justice Harlan asked how the state of California was to obtain a judicial determination of the controversy. "The effectiveness of such a decree depends upon the ability of the state to bring the Kentucky corporation into court so that it would be bound by final decree. It is not the duty of the court to intend to subject a state to the indignity of being compelled to submit its controversies with citizens of other states to the jurisdiction of a court of another state. Justice Brown delivered the opinion in the case of Jay T. Stokes, et al, plaintiffs in error, vs the United States from the district court for the western district of Missouri. The indictment was against Stokes and thirteen others for a conspiracy in using the postoffice and the mail for fraudulent purposes, and the case was brought to the supreme court from a distance, certifying the financial standing each of the other and then failing to pay for their bonds, and eight of them were found guilty upon trial and sentenced to imprisonment. This judgment of the court below was affirmed.

Chief Justice Fuller delivered an opinion in the case of the Chicago, Kansas & Western Railroad company vs Clifford R. Pontius, in error from the supreme court of the state of Kansas, and the decision of the court below, which had allotted damages to Pontius for injuries received while employed by the railroad company.

In the case of Anthony F. Seebury, collector, vs the Wright & Lawlor Oil and Lead Manufacturing company in error to the circuit court for the western district of Missouri, the court established the meaning of the word "draught" as applied to importation of articles imported in chests, boxes, cases, etc. In this case the word was held to mean imported and the collector refused to make an allowance for the draught, claiming that the word was a misapprehension of the word "draft," which is defined as water mark. The court affirmed the decision of the court below, deciding the word to mean, when used of such a nature, "an arbitrary deduction from gross weight made by custom to assure the buyer or importer that there is no discrimination against him for difference in scales."

The court dismissed the appeal of the Texas & Pacific Railroad company vs A. McVeery and H. Wilson, brought up on error from the circuit court for the western district of Missouri, in error from the Missouri & Kansas Pacific Railroad company, appellant, against John Delesman and the Atlantic Trust company,

JAPAN MAY ABANDON SILVER

Speculation Started by the Demand for Indemnity Payment in Gold.

SE SENATOR TELLER HAS NO FEARS OF THIS

But Even if the Country Should Forsake Silver He Thinks the Resulting Scramble for Gold Would Be a Valuable Object Lesson.

WASHINGTON, March 18.—Senator Teller does not regard very seriously the possible effect of Japan's demanding a large war indemnity from China in gold and is of the opinion that instead of injuring the cause of silver it will aid it.

"I have no fear," he said today, "that in that event Japan will go to a gold basis. The people there have too long been accustomed to the use of silver and the country is too prosperous and progressive with matters as they are for them to desire a change. Naturally, however, and notwithstanding the popularity of silver for local purposes, they will ask that indemnity be paid in gold because of its greater purchasing power in Europe and America, and with a general election called for the election of a president, Japan will have probably contracted a large war debt. Still, Japan should conclude to go to a gold basis that fact would only increase the scramble for gold and would be another circumstance to show the inadequacy of the gold supply. Leaving out of consideration what the government can do with reference to a monetary basis, the demand upon China for say \$200,000,000 in gold would necessitate a great scurrying about for the metal, which does not collect to exceed \$15,000,000 in gold annually on her import duties, and that is the only way the government has for getting gold in the ordinary course of her trade."

It is necessary that she should go into the market with her bonds and scrape the gold in China and Europe, and that she should take a third of the amount would be taken from this country, and one may easily see what a drain this would be. It would also be a great object lesson, and, I believe, strengthen the silver cause."

Germany and Russia in His Stead.

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Death of Ex-Congressman Townsend.

CLEVELAND, March 18.—Ex-Congressman Amos Townsend, a prominent merchant of this city, died at St. Augustine, Fla., yesterday of heart failure. He was 64 years old and unmarried. He went to Florida a short time ago for his health, which had been impaired by a long illness. He was a member of the Forty-fourth, Forty-fifth and Forty-seventh congresses. He was a member of the city council for ten years, and had been for the past sixteen years a director of the Big Four railway. Mr. Townsend amassed a considerable fortune, and his estate is believed to be worth \$100,000.

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New Fourth Class Postmasters.

INCOME TAX RETURNS COMING IN

WASHINGTON, March 18.—The number of income tax returns are being received at the internal revenue bureau. They show a very satisfactory acquiescence on the part of taxpayers in the collection of the tax. The utmost secrecy as to the amount and character of the returns is being observed.

In perfect harmony and unanimity rises the chorus of praise for Dr. Price's Baking Powder.

Promotions in the Revenue Service.

WASHINGTON, March 18.—First Lieutenant Charles E. Shoemaker has been promoted to be captain in the revenue marine service. This promotion is a preliminary to his appointment as chief of the service, to succeed the late Captain Sheppard.

Given Their Commissions.

WASHINGTON, March 18.—(Special Telegram.)—Postmasters were commissioned today as follows: Nebraska—Julius Kleber, Arago; South Dakota—John T. Larson, Rapid; Texas—Samuel H. Reed, Fort Worth.

Riley Gets the Contract.

WASHINGTON, March 18.—(Special Telegram.)—The postoffice department has awarded to F. B. Riley the contract for carrying mail from Leola to Sutherland, S. D., at his bid of \$57.75.

Wheat, or Flannel Cakes.

One and one-half pints flour, one tablespoon brown sugar, one teaspoonful salt, two heaping teaspoons Royal Baking Powder, two eggs, one and one-half pints milk. Sift together flour, sugar, salt and powder; add beaten eggs and milk; mix into smooth paste; add one heaping teaspoonful of steam from pitcher. Bake on good hot griddle, a rich brown color, in cakes as large as tea saucers. (It is best to good taste to have griddle cakes larger.) Serve with maple syrup.

English Muffins.

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ALL TENDING TOWARD ANNECATION

Sentiment in Hawaii Growing in Favor of This Policy, Says Dixon.

BUTTE, Mont., March 18.—A Congressman W. W. Dixon, who is understood to be sent to Honolulu by Chairman McCreary of the foreign relations committee to make an investigation of recent events on the islands, has returned to Butte. He says he made an investigation of affairs in Hawaii, even to events as far removed as the overthrow of the queen, and the entire trend of his remarks in his report to President Doan and his government. He found the annexation sentiment growing among the natives and half-breeds, who recognized the hopelessness of the cause of royalty, and believed annexation would give Hawaii sugar free entry into the United States, and would, therefore, boom the islands. Judge Dixon found that the sentiment in favor of annexation was spreading, and that the government is very conservative in the treatment of the revolutionists, and not at all vindictive toward the supporters of the queen. The stories of torture, he says, were unfounded entirely, and no one was forced to leave the country, but many were given the option of leaving voluntarily. He found the islands until such time as they were given permission to return. He also found that the United States had fair hearing and will receive fair treatment. The legislature will be convened in the spring, and a general election called for the election of a president. Judge Dixon thinks annexation is inevitable, and says the only people opposed to it are the English residents of the islands.

GENERAL VON WERDER CALLED HOME.

Story that Count Herbert Bismarck Will Go to Russia in His Stead.

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WASHINGTON, March 18.—(Special Telegram.)—Postmasters were appointed today as follows: Nebraska—Horace, Greeley county; E. B. Welsh, vice E. W. Jeffrey, resigning; South Dakota—Anderson, Shannon county; Frank E. Coffey, vice F. W. Young, resigning; Wabash, Headin county; A. W. Snyder, vice Henry Newton, resigning; Iowa—Loring, Monona county; C. S. Scoles, vice John Crowley, resigning.

Income Tax Returns Coming In.

REFEREE CALLED IN A DRAW

Kilrain Generally Conceded to Have the Best End of the Fight.

KILRAIN STOCK TAKES AN UPWARD TURN

Sullivan on Hand and Declared Himself Ready to Challenge the Winner if the Referee Would Name One. Kilrain Showed Lack of Training.

BOSTON, March 18.—In the presence of 2,000 people at the Suffolk Athletic club tonight, Jake Kilrain of Baltimore and Steve O'Donnell of Australia, Corbett's sparring partner, fought a round and a half fight. Both men were in excellent condition, and the fight was a close one. Kilrain was generally conceded to have the best end of the fight. The referee called in a draw, and Sullivan on hand and declared himself ready to challenge the winner if the referee would name one. Kilrain showed lack of training.

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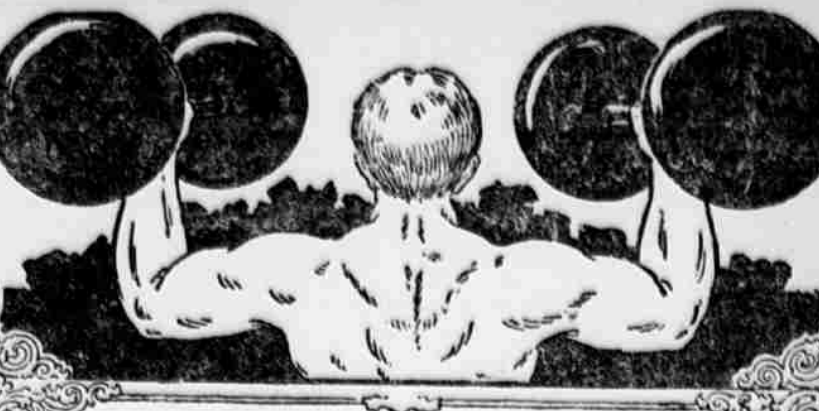
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Great Physical Strength

It is not necessary to the enjoyment of perfect health, yet life is incomplete without the possession of strong, healthy organs and faculties, for these give rise to the most delightful sensations of existence. Health is essential to the accomplishment of every purpose; while sickness thwarts the best intentions and loftiest aims.

Exercise common sense and ordinary precaution and you need never be very sick. When you find your stomach troublesome, your bowels inactive, your nerves sensitive—look out! When your weight is decreasing, when your energy is waning, when exertion seems impossible and sleep does not give rest—look out!

Serious illness has its beginnings in neglected little things. Even dread consumption comes on by degrees, and may begin with a very slight derangement. Taken in time, 98 per cent. of all cases of consumption can be cured. Taken in time, no disease need be really serious. The best safeguard against disease is an active, healthy liver. That means good blood and good blood means good, solid healthy flesh.

The terms of disease seek out the weak spots in the body. Don't have any weak spots. If you have them now, clear them out, tone them up, make them strong. Dr. Pierce's Golden Medical Discovery will do it. It searches out all poisonous matter and disease-germs of whatever character. It regulates the action of the organs of the whole body. It forces out impure matter, makes the blood rich and puts new life into every fiber. It makes