

FRIENDS UPHOLD JUSTICE BLACK'S LEGAL ABILITY

Development in Indianapolis
Water Case Vindicates
Him, Is Claim.

By HERBERT LITTLE
Times Special Writer

WASHINGTON, May 11.—Justice Hugo L. Black has declined to comment to the press on the newest controversy over his Supreme Court qualifications, but friends came to his defense today.

They denied the report, published in Harper's Magazine in an article by Marquis W. Childs, that opinions prepared by Justice Black have to be rewritten by other justices to bring them into conformity with legal standards.

They said some members of the Supreme Court were decidedly angry at the published assertion that one or two of their colleagues circulated such a report.

As to the suggestion that Justice Black has been slow in producing opinions, they pointed out that the new Justice took one week of a recent two-week recess of the Court to visit his son in Florida. (The Court's recesses are customarily devoted to the writing of opinions.)

Friend of Brandeis

They made it plain, however, that they had no doubt something of a feud exists within the High Court over the new Justice, who took up his "titles" only last October.

Justice Black is on the best of terms with Justices Brandeis and Roberts in particular, they said. Only last night Justice Roberts paid an extended call on Justice Black and Mrs. Black, at their home overlooking Alexandria, Va., and Chief Justice Hughes has called on the Blacks since the widespread publicity regarding Mr. Black's "Gold Passport" in the Ku-Klux Klan.

Lawyers among the Justice's friends pointed out, in discussing Mr. Childs' charge that Justice Black was weak on judicial craftsmanship, that the Court itself recently vindicated an earlier one-man dissent by Mr. Black in which he attacked the important 94-year-old precedent known as "Swift v. Tyson."

It was in a Montana insurance case, two months ago, that Mr. Black filed his solitary dissent from the majority ruling that Federal interpretations of the common law rather than state interpretations shall be controlling. And two weeks ago, in another case involving the same basic issue, the Court majority in a 6-to-2 decision overruled the ancient *Smith vs. Tyson* precedent, holding that hereafter the Federal courts must be governed by state court interpretations of the common law.

Dissent in Indianapolis Case

A lawyer associated with Justice Black years ago recalled in this connection that in his Alabama law practice he often slashed insurance claims for his clients from \$10,000 to \$2999 in order to keep them out of the Federal Courts which have no jurisdiction over suits involving less than \$3000.

Also in connection with "judicial craftsmanship," Mr. Black's friends said that his much-discussed dissent in the Indianapolis Water Co. case has had some unusual after-effects. In that case Justice Black said, in another of his lone-wolf dissents, that the Court should not have returned the rate case to the lower courts for further adjudication. He gave a detailed and scorching review of the company's financial set-up, and made an argument for lower utility rates in general, on the lines of the "prudent investment" theory of rate-fixing.

The late development reported here is that the Indianapolis company has withdrawn its suit to obtain higher rates—a report which, if authentic, is interpreted by Mr. Black's friends here as justifying his "craftsmanship."

A further sidelight on the friction within the Court is the fact that a newspaper article, printed months ago at a time when Justice Black had filed formally only the first of his numerous dissents, said he had "dissented several times." As the divisions of the Court are customarily known only to the Justices themselves, as they are filed publicly, this is taken as Mr. Black's friends as further evidence that the gossiping has come from an unfriendly member of members of the Court itself.

HOOKER RITES SET

PASADENA, Cal., May 11 (U.P.)—Funeral services were to be held in Rochester, N. Y., for Elon Huntington Hooker, 69, wealthy manufacturer and father of Mrs. John D. Rockefeller, III, who died yesterday at his Huntington Hotel bungalow of heart disease.

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