

MOFFETT ESTATE TRUST DEED HELD BINDING BY JUDGE

Attempt to Break Instrument
Made by Mrs. Cartwright
in \$400,000 Estate Matter
Prevented by Court.

Judge Gatens of the circuit court this morning decided the Moffett case involving the Moffett estate amounting to approximately \$400,000, holding that the trust deed for the property given by Mrs. Charlotte Moffett Cartwright in 1908 to her son, James Peter Moffett, is good and binding. The judge particularly held that no fraud or deception had been practiced by the son upon the mother, and that he is the trustee of the Moffett holdings.

The suit was bitterly contested, and to break the trust deed Mrs. Cartwright was represented by Attorney John Logan and A. E. Clark, while the mother was represented by Attorney Martin L. Pipes. The suit was to break the trust deed given by the mother to the son. The court ruled that despite the liberal offer of the son to consent to the naming of a disinterested trustee, the decision of the court would naturally be that the deed was given in trust, and should stand as such.

Old Home Passes.
By the ruling, the old Moffett home at Seventh and Salmon streets will pass by lease to C. K. Henry in which place Mrs. Cartwright will live for the last 60 years. It was the reluctance of Mrs. Cartwright to give up this home that had much to do with precipitating a breach between herself and son.

Throughout the trial many friends of Mrs. Cartwright urged her to oppose the trust deed which they felt led her to believe would absolutely take the Moffett estate out of her hands, leaving it to James Moffett to dispose as he wished. However, by the trust deed, the income on the estate is preserved, and, at her death, the property goes to the two sons. During the three years' controversy over the question of trust deed, many of her old friends sought to influence the disposition of the estate, and charges were made that some of the friends had in mind bequests to church and pioneer societies, it was charged by the defendants.

"Mrs. Cartwright, on cross examination, testified that she understood she was signing a 'trust deed,' and further that she understood that she could break a 'trust deed,'" said Judge Gatens in his decision, "and that a warranty deed could not be broken, and that the trust deed purported to hold the property in trust for herself and her sons, and that was the character of the deed she thought she was giving James."

"It is insisted by the plaintiff that there existed a confidential relationship between Mrs. Cartwright and her son James and that she confided in and relied upon him, and that James while he was in the confidential relation with his mother, requested her to sign and acknowledge the deed in question; that he did not then or at any time inform the plaintiff of the nature of the instrument or that it was a deed or that it purported to convey any of her property to the defendant, but that he informed his mother that the said instrument was a 'trust deed.'"

"The evidence in this case shows that James had not been the confidential adviser of his mother, that the only advice that he had given her was in looking after the household, and that the attempted to see that her property was not excessively assessed. The fact that they were mother and son is no evidence of any special confidential relationship between them."

Thoughts on Trust Deed.
The evidence further shows conclusively to my mind that Mrs. Cartwright thought she was signing a trust deed and intended to sign a trust deed to her property in favor of her two sons, reserving to herself a life estate, and this is shown by the testimony of Frank Watkins, I am of the opinion that the deed was read to Mrs. Cartwright, and I am fully of the opinion that she thought it was a trust deed by reason of the fact that there was in the deed a reservation to her of a life estate. It was her intention, evidently that the property should be held by James, and upon her death, that it should be divided between James and William, and she so expressed herself many times upon the witness stand.

"From the evidence in the case, I am of the opinion that a decree should be entered, decreeing the deed of December 22 a trust deed in force during her life, and upon her death that the legal title vest as follows: An undivided half interest in the defendant, James Peter Moffett and an undivided one-half interest to James B. Cartwright to be held by him in trust for William Henry Moffett. And that the contract of lease entered into by the defendant under authority of Mrs. Cartwright be held to be a valid and binding obligation."

EXPOSURE IS BEST CURE
(Continued From Page One.)
cent years have been the initiative and referendum in the field of administration. These measures are supposed to be characteristic of the most radical programs, and they are supposed to be meant to change the very character of our government. They have no such purpose. Their intention is to restore, not to destroy, representative government. It must be remembered by every candid man who discusses these matters that we are contrasting the operations of the initiative and referendum not with the representative government which we possess in theory and which we have long persuaded ourselves that we possessed in fact, but in contrast with the actual state of affairs, in contrast with legislative processes which are carried on in secret, responding to the impulse of sublimated machines and carried through by men whose unhappiness it is to realize that they are not their own masters, but puppets in a game.

Means to End.
"If we felt that we had genuine representative government in our state legislative bodies no one would propose the initiative or referendum in America. They

are being proposed now as a means of bringing our representatives back to the consciousness that what they are bound in duty and in more policy to do is to represent the sovereign people, whom they profess to serve, and not the private interests which creep into their councils by way of machine orders and committee conferences. The most ardent and successful advocates of the initiative and referendum regard them as a sobering means of obtaining genuine representative action on the part of legislative bodies. They do not mean to set anything aside. They mean to restore and influence, rather.

Recall of Judges.
"The recall is a means of administrative control. If properly regulated and devised, it is a means of restoring to administrative officials what the initiative and referendum restores to legislators—namely, a sense of direct responsibility to the people who choose them."

"The recall of judges is another matter. Judges are not administrators. They are not administrators. Their duty is not to determine what the law shall be, but to determine what the law is. Their independence, their sense of dignity and freedom is of the first consequence to the stability of the state. To apply to them the principle of the recall is to set up the idea that determinations of what the law is must respond to popular impulse and to popular judgment."

"It is sufficient that the people should have the power to change the law when they will. It is not necessary that they should directly influence by threat of recall those who merely interpret the law already established."

Corporations Feared.
"The second power we feel is the control of our life through the vast privileges of corporations which use the wealth of the state to the detriment of their enterprise. It is a fundamental mistake to speak of the privileges of these great corporations as if they fell within the class of private right and of private property. Those who administer the affairs of great joint stock companies are really administering the property of communities, the property of the whole mass and miscellaneous of men who have bought the stock or the bonds that sustain the enterprise. The stocks and the bonds are really in the hands of the community. There is no fixed partnership."

"What we need is to come to a common view which will not bring antagonism, but accommodation. The programs of parties must now be programs of enlightenment and reconstruction, not revolutionary, but restorative. What we need in our politics is an instant alignment of all men free and willing to think and to act without fear upon their thought."

San Francisco, Cal., May 6.—State Senator A. Caminetti of Anador county, former congressman and one of the leaders of insurgent Democracy in California, takes sharp issue with Governor Woodrow Wilson of New Jersey, wherein he criticizes the recall of the judiciary.

"Even educators must be educated," said Caminetti today when he heard of the statement in Kansas City by Governor Wilson that he did not believe in the recall of the judiciary because the judiciary does not make the laws.

"It is because of the very fact that there are too many judge-made laws that there has been a revolt which it is hoped will end in placing the power of recall of judges in the hands of the people of California."

Senator Caminetti was in the front of the fight to have a constitutional amendment submitted to the people by the last legislature which provides for the recall of all state officers, including the judiciary.

**GADSBY WILL FIGHT
WIFE'S DIVORCE SUIT**
Walter Gadsby answered his wife's divorce suit yesterday. He wants the decree granted upon the ground of desertion.

The wife, Beatrice Hill Gadsby, who was recently in the courts over the alienation of her husband's affections, filed her divorce more than one year ago. She charged desertion, and failure to provide. The alienation suit was against the father of her husband. The Gadsbys are prominent furniture dealers. The warring couple were married April 2, 1907, in Portland.

Gadsby now blames his wife for their trouble. He charges in his answer that she deserted him September 18, 1908, and has refused to live with him since. He denies all her charges of non-support and desertion. He charged him with keeping a number of her personal effects, among which are rings, dishes, and a marriage service book. He also said he had her cook book, and refused to give it up.

The calendar is full for this year, and unless some special provision is made, the case will not be heard until next fall.

ANOTHER POSTER SOLICITING FUNDS

Woman Is Falsely Collecting
Money to Aid Half Blind
Boy "Teddy."

The Teddy Fund.
Previously acknowledged, \$309.12
Nan Russell..... 5.00
A friend..... 5.00
Mrs. Philip Cairns..... .25
Total..... \$319.37

Mrs. M. H. Bon of 307 Montana avenue telephoned The Journal this morning that an elderly and poorly dressed woman giving her name as "Mrs. Anderson" had called soliciting money for the Teddy education fund and saying that The Journal was paying her 75 cents a day for the service. No such woman has been authorized to collect money for Teddy by The Journal or any other agency. There are no solicitors for the Teddy fund. The only ones authorized to receive money for Teddy are the Journal, the George W. Bates & Co. bank, the trustees of the fund; George W. Bates, Mrs. F. H. Ransom and George H. Long. Mrs. Bon said the Mrs. Anderson had canvassed the length of Killingsworth avenue. Information leading to the apprehension of this woman several years ago when she was charged with collecting for Teddy will be appreciated.

The Teddy fund grew today to the extent of \$10.25 and gave material impetus toward the \$100 mark which is a station on the way toward the goal of a fund big enough to send half blind Teddy of the Baby home to school for several years so that he can learn to be self supporting.

ALL IS READY FOR MEXICAN INVASION BY LAND AND SEA

(Continued From Page One.)
selfishness and patriotism. On my part I stand ready to resign the provisional presidency if that country will restore peace, provided, however, that the peace will bring with it the liberty that will satisfy the people.

"This condition can only be secured by the retirement of General Diaz, who, I am informed, is desirous of retiring, since he is inspired by the same patriotic sentiments that I am."

"If he does so peace will immediately be restored; as I am ready, in order to secure it, to accept Senor Francisco de La Barra, the present foreign minister, as temporary president, because he would be the man entitled to that place under the Mexican constitution."

EXPECTED AMERICAN INVASION OF MEXICO STIRS FILIPINO JUNTA

(United Press Leased Wire.)
Manila, May 6.—Expecting that the United States will eventually occupy Mexico as a result of the anti-Diaz revolution and that such move will result in a new American-Japanese relations, the Filipino revolutionary junta, with headquarters at Hong Kong, today is planning to take advantage of any such development to renew its activities in the Philippines. It is reported here that Japan is encouraging the junta.

Renewal of a warlike attitude among the Moros of the Lake Lanao district has been taken as indicating the junta's activities. Orders were given today that the Moros must be disarmed and serious trouble is expected in the Lanao district when the attempt is made to carry out this plan.

**NIGHT ATTACK ON
TIA JUANA FEARED;
REBELS MUSTERING**
(United Press Leased Wire.)
San Diego, Cal., May 6.—That Tia Juana, Mexico, would be attacked by the rebel band from Tecate tonight was believed to be certain today as the rebels were saddling their horses at 10 a. m. when reports from the front were received. There are 120 men in the band and possibly more, as several parties on the American side are known to have been trying to slip across and join them for several days.

Excitement at Tia Juana was at fever pitch today. None of the women and children intended to remain there tonight and every available man will be on guard.

A man was captured last night at the Santa Fe railroad station here who is suspected of being a spy. Some incriminating papers were found in his possession. Nothing definitely is known as to the destination of the rebel band seen leaving Tecate this morning.

ARMISTICE TO LAST THREE DAYS LONGER, SAYS JUDGE CARBAJAL

(United Press Leased Wire.)
El Paso, Texas, May 6.—Judge Francisco Carbajal, President Diaz's representative in the peace negotiations here, announced unofficially today that the armistice with the Madero forces would be extended three days more to allow further communication with Mexico City. It is believed Madero and his associates will agree.

No resumption of fighting here is expected this afternoon. Carbajal denied he had sent Madero's demand that Diaz resign to the Mexican president, and declared that he expected no reply to such a demand. He said he had credentials to fix his status and that he had been authorized to treat for peace along the lines of certain reforms.

Despite this statement, it is reported here persistently that Diaz this morning telegraphed Carbajal a partial reply to Madero's ultimatum.

Sulzer On Intervention.
(United Press Leased Wire.)
Washington, May 6.—That American intervention in Mexican affairs is not imminent and will only come if events so force it, is the belief of Congressman William Sulzer, chairman of the house committee on foreign affairs. "Unless American citizens in Mexico are outraged in such a manner as to necessitate intervention in order to protect our people there is no disposition on the part of America to intervene," Sulzer said. "Members of the various interests, the president and the state department are working together, resolved

to keep hands off as long as possible. I do not see any obligation on our part to pacify Mexico. Intervention would cost us thousands of lives and millions of dollars. In the meantime we would be present opposing factions in Mexico against us. This would result in guerrilla warfare that would keep us in the field for years."

CANDIDATES SEE VICTORY

(Continued From Page One.)
ers to the polls, so they may not suffer by apathy among their followers.

Little Werlein Money.
The betting cards remain inactive, with plenty of Lombard money to be had at odds of 10 to 9 or 10 to 8. Some bets have been placed at even money on Lombard and Rushlight, however. Werlein has not figured in the game, except in one instance, where a Werlein man gained enough courage to put up several dollars for the "red" and "black" third round. At the Democratic primaries, with a contest in only three wards for councilman, interest was stirred at the last by a belated movement favoring Dr. Harry Lane for mayor in preference to Teddy fund. The only ones who alone being printed on the ballot. While the Lane enthusiasts started late in passing the word, it is reported that a strong current in his favor exists, and many Democrats will take the trouble to write in his name with the potential cross in his favor.

Jeffrey for City Attorney.
John A. Jeffrey is likely to be nominated for city attorney by writing his name on the Democratic ballots and Isaac Sweet for municipal judge. J. Wood Smith and Ed Cahalan have been picked by many Democrats for councilmen-at-large. As there are no nominations made for these offices, nominations must be made by use of the pencil at the ballot places.

On the Republican side, the race looks easy for Frank S. Grant for city attorney against H. C. King. Ed M. Lane has been making a vigorous fight for auditor, but the friends of A. B. Byrnes declare he will win another nomination by a large majority.

Taxwell in Lead.
In the five-cornered fight for municipal judge, all the candidates have hopes, but Judge Taxwell and Edward J. Jennings are the favorites. Taxwell, the last named carrying the labor endorsement. A. E. Gebhardt and J. P. Kennedy will each pull a good vote, however, and John D. Mann will not concede that he is out of it.

For city treasurer, Oscar P. Miller, Werlein's chief deputy, and J. Harry Richmond, foreman of the Morrison street bridge, have been looked upon as the best runners until the last few days, when supporters of Harry Hill and William Adams have boosted their men well to the front, the two last named also having the advantage of first place on the ballot.

For councilman-at-large for the three long terms there is an undecipherable scramble.

Baker Hopeful.
George L. Baker, one of the "old bunch," hopes to pull through, but has a hard fight ahead. George B. Cellars, another of the present council, has received much encouragement from good government sources and is picked by many as winner. The same is true of William H. Daly, endorsed by the labor unions, and of Rev. Charles T. McPherson, who has gained a large personal following and is confident of winning.

J. Jennings, J. L. Mills and Sam L. Woodward are being strongly backed in some quarters, but they lack many elements of strength. Dr. W. I. Cotte, former councilman, is expected to poll a good vote, although he has been inconspicuous in the campaign.

John H. Burgard will fight it out with J. Francis Drake for one of the short terms in the council, Ralph C. Clyde and H. J. McGinnis contesting for the other.

In the Sixth ward Councilman H. A. Belding, regarded as one of the big chiefs of the underbriables, has a real fight on his hands to prevent the Republican nomination going to a Democrat.

Has Republican Backing.
John Montag, one of the substantial citizens of the ward, has large Republican backing and the fight against Belding has been organized so well that his opponents hope to humiliate him by giving the nomination of their party to Montag by writing in the name of the latter.

The Fourth ward shows a close contest between Fred S. Wilhelm and W. C. Haseltine. In the First Jordan V. Zan is thought to have the best of it. In the First for the Democratic nomination a hot fight is on between T. J. Concanon, the sitting member and only present Democrat in the council, and T. N. Monks.

In the Seventh and Eighth wards the outcome cannot be predicted, even as between two or three candidates. In the Seventh there are 10 contestants in free-for-all and in the Eighth there are five, with the prospect of a close race among them.

BOOSTER CLUB SENDS LETTER INDORSING KUBLI FOR COUNCIL

Letters in the interest of Councilman K. K. Kubli from the Eighth Ward Boosters' club were received this morning by voters of that district, signed by J. W. Travers and Harry G. Allen, president and secretary of the club. The letter calls attention to the endorsement of Kubli by the club, the chief argument being the fight made by the councilman to prevent the vacation of the East Side streets and waterfront. The letter includes a printed slip containing a letter from A. H. Devers to Kubli, in which the latter is thanked for his services in fighting the waterfront grab.

Royal Neighbors Organize.
(Special Dispatch to The Journal.)
Forest Grove, Or., May 6.—The Royal Neighbors of America have organized a camp at Banks, eight miles north of this city, on the P. & N. railway. The newly organized camp, known as the Rose Camp, and the initial meeting will be Monday evening.

Foley Kidney Pills

Tonic in Action. Quick in Results.
Give prompt relief from BACKACHE, KIDNEY and BLADDER TROUBLE, RHEUMATISM, CONGESTION of the KIDNEYS, INFLAMMATION of the BLADDER and all annoying URINARY IRREGULARITIES. A positive boon to MIDDLE AGED and ELDERLY PEOPLE and for WOMEN.

F. S. Rexford, 615 New York Life Bldg., Kansas City, Mo., says: "I had a severe attack of cold which settled in my back and kidneys and I was in great pain from my trouble. A friend recommended Foley Kidney Pills and I used two bottles of them and they have done me a world of good. I can recommend Foley Kidney Pills to anyone who suffers as I did."

Skidmore Drug Co., two stores. Main store 151 3d st. Branch store, Morrison and West Park. Woodward & Clarke Drug Co.

O. A. C. BAYONETS HIDDEN IN A BARN

Persons Who Marred Drill Not
Caught; Company H
Wins Cup.

(Special Dispatch to The Journal.)
Oregon Agricultural College, Corvallis, Or., May 6.—No clue has yet been found to the persons who broke into the Oregon Agricultural College armory early yesterday morning and stole a large part of the equipment which was to have been used in the annual military inspection day and tournament, but the equipment was found in an old barn half a mile from the college today. The city police force and a number of special men are at work on the case. Someone did not realize the extremely serious consequences of breaking into a state building and stealing government property. As Major MacAlexander, the commandant, is very popular with the O. A. C. boys, the students here are not suspected.

Until after midnight Major MacAlexander was at work in the armory and everything was in its proper place when he left, after looking up very carefully himself. At six o'clock next morning he returned to his office in the armory to find a window in the northeast corner broken and a large part of the bayonets, with many belts and sabers gone from the racks. In most cases the bayonets had been removed from the sheaths, which were left behind.

Report May Be Affected.
Captain H. L. Laubach of the U. S. general staff conducted his annual inspection of the troops in spite of the handicap of lacking equipment, which, it is feared, may affect seriously his report to the war department. The inspection went off smoothly on the lower campus before a large assemblage of relatives and friends of the "rookies" and officers. The cadets were in fine form, and Major MacAlexander was complimented by Governor West after his official review for the evident careful training and interest shown by the students in their military work.

The competitive company drills resulted in the award of the Brodie banner and the Chambers cup to company H, after keen rivalry with the 15 other companies. The winners were captained by Captain H. J. Eberly of North Yakima, Wash., and the other officers were First Lieutenant C. W. Allen of Lost Pine, Or., and Second Lieutenant J. O. Adams of Sheboygan, Wis.

The military ball in the gymnasium, which closed the day's events, proved one of the most brilliant social affairs of the college year. The decorations were elaborate and a large number of guests were present from out of town. Governor West, with the first lady of the state, led the grand march. In the individual and team competitions and drills, the long list of prizes given by Corvallis merchants was awarded as follows:

**PATRICK, THINKING HE
IS LEARNING TO WRITE,
IN FACT SIGNS NOTES**
(United Press Leased Wire.)
Stille, May 5.—Thinking he was learning how to write, under the tutelage of Captain H. W. Fisher, formerly of the U. S. volunteer army, Patrick Barker was instead signing his name at the bottom of blank notes and money orders in 1909. Now he has discovered there is a mortgage on his home for \$3000, and he has no money in the bank.

Captain Fisher, whom he adored, has vanished, and the police say he is generally sought after. Hanks is suing Barker.

FREE ON HABEAS CORPUS

(Continued From Page One.)
could enjoy "press made popularity." Judge Pett said the real question was whether the senate was empowered to summon Tilden and others by a subpoena duces tecum. He said that the senate was only empowered to judge of the proper election of its own members, and that this was his principal reason for issuing the writ.

Need Not Show Books.
Pett further justified his decision by declaring that Tilden had carried out the subpoena by appearing personally before the investigating committee and that he could not be forced to produce his books. Judge Pett also attacked the subpoena as too general in that it did not specify in detail just what books were wanted. He cited authorities showing that the subpoena should have described the desired books in detail and finally held that Tilden was not in contempt.

Attorney J. J. Hesley, who acted for the senate, is allowed ten days to file a bill of exceptions.

HATPIN HURTS VOLUNTEER

(Continued From Page One.)
he couldn't yell if he wanted to. He said the pain was terrible.

The criminal charge against "Alburtus" is that of violation of the state law prohibiting the employment of a minor in a stage performance. In addition the young man says he will bring a civil suit, demanding \$50 for each pin thrust.

GOUGH MINISTER FACES FRAUD CHARGE

(United Press Leased Wire.)
Victoria, B. C., May 6.—Rev. Newell Dwight Gough of Brooklyn, N. Y., is charged with fraud in a suit involving coal lands worth \$20,000,000, situated in Queen Charlotte islands. The case is brought by Z. M. Hamilton and associates of Victoria against Rev. Mr. Gough with James A. Moore of Seattle and the Western Coal & Iron company as parties to the suit.

H. W. R. Moore, solicitor for Mr. Z. M. Hamilton, was granted leave by Justice Clement in chambers to serve a writ out of the jurisdiction of the court on Rev. Mr. Gough at Brooklyn, and the writ went forward today for service.

Excursion to the Roseburg Strawberry Festival
You will miss a treat if you fail to attend the Roseburg Strawberry Festival and Rose Carnival, for which a special electric lighted train has been secured via the Southern Pacific, leaving Union depot Wednesday, May 10. Round trip fare, including Pullman both ways, \$9.50.

HIGH TAXES ROUSE PACIFIC COUNTY

South Bend and Raymond
Business Men to Name
Inquiry Body.

(Special Dispatch to The Journal.)
South Bend, Wash., May 6.—A reorganization of the South Bend Commercial club was effected at a meeting held Thursday night when the following new officers were elected: President, T. E. Pearson; vice president, S. W. Sturdevant; secretary, F. G. McIntosh; treasurer, H. L. Gerwig. The enormous increase in taxes for 1910 over those of 1909 has greatly exercised the taxpayers of this county and one of the first matters to be taken up by the new club will be the appointment by the commercial clubs of this city and Raymond of a joint committee whose duty it shall be to ascertain the cause for this increase and if there is any remedy. A \$250,000 bond issue during 1910 is believed to have been amply sufficient to cover all unusual expenses and the taxpayers are determined to know, if possible, what they are paying for.

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WHAT is more pitiable than a woman, without warning, thrown upon her own resources, with a family of little ones to clothe and educate?

A life insurance policy guards against such possibilities in your family.

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Everett, Bellingham, New
Westminster and Vancouver,
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International Limited,
The daylight train, 10 a. m.
For busy business men,
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All trains from North
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Tickets, sleeping and parlor car reservations at city ticket office, 122 Third st., and at depot.

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