Announcement Made Saturday Following Handing Down of Decision Upholding the Will.

INSANITY WAS PERIODICAL

On Date on Which Testament Enjoyed Possession of Faculties to him.

Heirs of the late Dr. W. Tyler Smith announced Saturday, following the decision of Judge Taxwell of the probate court, declaring the will of Xarifa Jane Faling valid, that they would immedistely file an appeal which would carry their case to the supreme court. Dr. Smith, who died April 16, 1919, left instructions to his children in his will that they should fight the case to the highest court in the land.

The esate left by Mrs. Faling is valued at over \$600,000 and the contest of her will has been before the probate court for close to two years. The case has attracted a great deal of attention, toth because of the amount involved and CANNOT BE DISREGARDED because of the sensational nature of a good deal of the testimony. Mrs. Faling died July 5, 1917, at the

age of 76 years. A will dated August 26, 1915, leaving practically the entire estate, with the exception of a few minor bequests to charity, to her attorney, Thomas N. Strong, and C. Lewis Meade, a friend, was filed a short time later. DR. SMITH CLAIMS ESTATE

August 23, 1917, W. Tyler Smith, a physician and surgeon residing at Sheria cousin of Xarifa Jane Faling, and that on August 26, 1915, and for a long time prior Mrs. Faling had been insane and not capable of knowing or understanding her property, and that what purported to be her will was the undue influence, fraud and coercion exercised upon her by Thomas N. Strong and C. Lewis Mead. He asked that the will be denied probate. Later Dr. Smith offered in behalf of

himself and others a will purported to have been made by Mrs. Faling August 25, 1911, in which the bulk of the estate was left to charities and nothing to Strong or Mead.

In his decision Judge Taxwell stated that although he found from the testimony that Mrs. Faling was insane at times, nevertheless the will was executed during a lucid interval. The allegations of fraud, duress and undue influence to the chief beneficiaries, Thomas Strong and C. Lewis Mead, were SANE WHEN WILL MADE not sustained, according to the court, by the evidence adduced during the trial. And, therefore, the petition of the conwas refused. The court said: THEORY OF INSANITY

"The contest was begun on the theory that the deceased before her death for growing slowly weaker. many years had been incompetent to at the argument I disregarded his testi- upon her mony absolutely. When the witnesses who testified to Mrs. Faling's mental weakness prior to 1914 were confronted Xarifa J. Faling, deceased." by a will and a number of codicils there-after executed by the deceased during the years 1911 to 1914, and by a number Delinquency Laid letters written by her to William Metzger in the years 1911 and 1912, they almost without exception admitted their conclusion as to her insanity incorrect.

Only one witness remained unconvinced. "Accordingly, after many months had been consumed in the taking of testi- Acting on advices from New York city, mony, contestant, W. Tyler Smith for himself and others, filed an amended petition in which it is alleged that on August 25, 1911, Xarifa J. Faling executed a will and at various times later up to June 6, 1914, six codicils. That he, Dr. Smith, had become the owner of legacies under that will, and that this 1911 will be admitted to probate as the last will and testament of Mrs. Faling. Contestant Smith, therefore, by his amended petition admits that the deceased was mentally competent to execute the 1911 will and the several codicils thereto. In their answer Strong and Mead denied that Smith was the owner of any of the legacies mentioned in the 1911 will.

EVIDENCE CONTRADICTORY

"A great mass of testimony, most contradictory and conflicting, has been taken in this proceeding, and it has been difficult in arriving at the facts, particularly as to whether Mrs. Faling possessed testamentary capacity on the fif-teenth day of August, 1915; whether she understood the nature of the business in which she was engaged; whether any fraud or undue influence was practiced upon her, and whether she signed the will in question. If these questions are answered in the affirmative, then the will must be sustained.

"The subscribing witnesses to the will

concede contestants must prevail. But I do not so understand the term. "Proponents' witnesses almost without

xception were persons of at least average intelligence. Many of them had the benefit and advantage of higher education and travel and experience in the affairs of life and the testimony of such persons must certainly be afforded greater weight than that of those whose means and ability of judging and understanding human nature aright have been limited and superficial; and many of contestants' witnesses were of this lat-ter class—persons of foreign birth, of little education, understanding little of the English language and knowing little or nothing of the nature of the affliction

with which Mrs. Faling was suffering. "Nor, indeed, are persons of the class just mentioned alone likely to be mis-taken in this respect. Dr. Stearns, a witness for the contestant, testified that a marked case of paralysis agitans would be likely to cause a layman to

think a person was insane. "Dr. Stearns testified that from May 1911, to the last time he saw Mrs. Fail-Executed It Is Found Testatrix Failing wrote a check in full payment of his services and personally gave it

SAW HER THREE TIMES

"Dr. Smith is an osteopathic physician and saw the testatrix three times, but never visited her professionally and from his casual calls nurses he concludes that Mrs. Faling was insane.

"Some of the witnesses for contenstants, notably Captain Burley, have testhat Mrs. Faling was insane, and that they visited her at frequent in- in probate matters, are both invalid and It is unusual for persons, especially a business man, to visit an insane person more than a few times at most, and it is asking too much of this court to accept such testimony without

"Miss Chattin was one of the chief

witnesses for proponents. An attempt was made to impeach her testimony. I should have regarded her testimony with great favor had she not testified that she never saw anything wrong mentally with Mrs. Faling. But her testimony cannot be wholly disregarded, because too much of it is supported by the evidence of other witnesses. Many other witnesses who testified for proponents were persons who either had dan, filed a petition alleging that he had business dealings with Mrs. Faling since the execution of the 1915 will or were her close personal friends. "Doctor Marsh visited Mrs. Faling

about a year after the 1915 will was signed, and he is very positive as to her sanity at that time and her ability sonally know him many years and know his standing and character in this city to be of the highest. * * *

"The controversy as to her sanity and ability begins after the execution of the last codicil on June 6, 1914.

"A careful analysis of the testimony however, reveals nothing materially different in the general state of health of Mrs. Faling after June 6, 1914. Insane remarks were made by her according to some witnesses, and according to others was well able to transact business and dispose of her estate by last will and testament.

"I have no doubt that there were times when Mrs. Faling was insane and incapable of transacting business of any testants that the will be denied probate kind, and that at others she was perfectly sane and rational and knew well power to try criminal cases and make what she was doing, although her physical condition had for some years been

"Upon no other theory can the very execute a will because of both physical conflicting testimony in this contest be and mental weakness. A large number harmonized. I find that the 1915 will the reason assigned for its invalidity. of contestant's witnesses testified that was executed during a lucid interval;
Mrs. Faling was incapable of making a that the testatrix knew and understood will as early as 1911, and one witness the nature of the business in which she (Shieck) testified that she had been incompetent since about 1900. Shieck is making the objects of her bounty, and so manifestly untruthful that as stated that no undue influence was exerted

"The 1915 will therefore will be admitted as the last will and testament of

To Eastern Pair

San Francisco, May 24 .- (I. N. S.)-Nathan Flom of Brooklyn and Mrs. Bertha Rubin of Pittsburg are held here on charges of contributing to the delin-quency of Gertrude Rubin. 9-year-old daughter of the woman. The police say Flom deserted his family in New York and fled to San Francisco with the Rubin woman, who deserted her husband Pittsburg. According to the police, the couple likely will be prosecuted under the Mann white slave act.



GENTLEMEN - - \$5.00 DE HONEY'S BEAUTIFUL ACADEMY Twenty-Third and

The subscribing witnesses to the will are clear and positive that Mrs. Faling knew and understood the nature of the business in which she was engaged when she signed the instrument in question, and that she was competent to make such instrument. Their testimony is entitled to great weight.

"The law is well settled in this state that if a person is competent and possesses testimentary capacity at the time he executes his last will it is a valid instrument, notwithstanding that a very short time before or after such execution he was insane or otherwise incompetent.

"Contestants' counsel have dweit much on the weight of the testimony. If by weight of testimony is meant the number of witnesses adduced, then I readily

New classes for beginners start Monday and Thursday evenings this week. All Dahees Taught—Ladies \$2.50 to All Joining These Classes This Week. Take one or four lessons a week. Tickets are good until used. The only school teaching from 8 to 11:30. Plenty of practice. No embarrassment. Separate step room and extra teachers for backward pupils. A thorough printed description of all dances free for pupils. We have large and select classes, and the social feature alone is worth double the price, and this is the only school where they guarantee to teach you to dance. Private lessons given all hours. Avoid inferior teachers who dance and teach only a few simple ballroom dances. Learn correctly from professional instructors who can dance and guarantee to teach you to dance. Learn the gingle fox trot and new jazz steps. Call afternoon or evening. Phone Main 7656. Open all summer.—Adv. New classes for beginners start Mon-

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ANYONE who has ever experienced oak or ivy poisoning will be grateful to know that this extremely painful and irritating annoyance need not be feared, or longer remain troublesome. The pain, itching, fever and irritation disappear almost like magic with a few applications of Santiseptic Lotion, and the eruptions and redness of the skin soon foliow. Timely use of Santiseptic will even prevent the poisoning in many cases.

"Santiseptic Lotion is the greatest remedy on earth for poison oak." says Carl Larson of Canyonville, Or. "I have lad it in all forms—on my face, arms and body. Nothing gave me relief until

District Attorney Holds Acts Establishing Domestic Relations Court, Abolishing Probate, Null

SPECIAL LEGISLATION FAULT

Contention Is Also That Constitution Forbids the Legislature From Regulating Courts.

The opinion rendered Saturday by District Attorney Walter Evans, holding that the act of the legislature creating a court of domestic relations and the act which provides for the abolishment of the county court and creation of an additional department of the circuit court with exclusive jurisdiction unconstitutional, is sound as regards the second in the judgment of Presiding

Judge Stapleton of the circuit court. contention that both acts are special legislation local in their effect and designed to regulate the practice in courts of justice was set forth in a lengthy opinion prepared by Mr. Evans, with the assistance of Deputy District

Attorney George Mowrey,
After reviewing the opinion Judge
Stapleton stated that he believes all the contentions are tenable in regard to the act creating the court of domestic relations, but he doubts whether they were in point as regards the probate court act. The provision of the constitution which

is held has been violated is one which

forbids legislative regulation of the practice in courts of justice. The act providing for the court of shall be in every county of 200,000 or sending it to the nearest relative in more, as shown by the last federal cen- America. The graves registration comsus, a court of domestic relations. The mittee which is supervising the confatal flaw, it is contended, is that by struction of the cemeteries has Lieuspecifying a "county of 200,000 or more" as shown by "the last federal census" time army chaptain and more recently and by a coordinate reference in the a pastor act to the election of 1920, the measure head with Major E. E. Davis of Villisca. is limited to Multnomah county. It is lowa, next in command. Many of the necessary in classifying cities or counties according to population, the courts ferred to other branches of the service. have ruled, to make laws applicable to As the names indicate, it confines itcities and counties which any time after- self to recording accurately the graves ward attain the prescribed population. of the dead.

presented to the legislature did not contain the words, "last federal census," nor did it contain any provision rela ive to the election of 1920. A supporting decision of the supreme court of Oregon is cited, which spec-ifically holds that "the last federal cen-

The opinion says the act as originally

enactment The provisions of the act which give the court of domestic relations the rules and regulations regarding its pro-cedure brings it under the provision of the constitution which refers to regulating the practice in courts of justice

Portions of the act are held by Mr. Evans and Mr. Mowrey to be valid. were sustained the effect of the act by the probate judge in connection with | tion.

all his other duties at a salary of only \$2000.

It is stated as doubtful whether the few provisions which are valid will be upheld because of the invalidity of the

greater part of the act.

The probate court act abolishing the county court and creating a new department of the circuit court with probate jurisdiction is attacked on similar grounds, namely, that it regulates the practice in courts of justice and that by reason of its wording it is local and, therefore, 'unconstitutional and void. lowever, there is some doubt expressed as to the validity or invalidity of the latter act, as the wording of the act which it is claimed makes it local is not so evident as in the case of the domestic relations court act.

MEMORIAL ARRANGED FOR DEAD IN FRANCE

(Continued From Page One)

concentrated from 11 small cemeteries in which were buried those who fell when the Americans stopped the German high tide in the Chateau-Thierry sector. Juvigny-Graves of men fallen in the ffensive north of Soissons on July 18,

Ploisy-1000 graves of men fallen south of Solssons in the same offensive. Bonvilliers-259 graves of men of the First division who died in hospitals behind the Cantigny front.

Villers-Tournelle-Graves of men of the First division fallen at the front in the Cantigny operations.

Vaux-sur-Somme-Graves of men of the 33d division fallen in the Hamel and Corbie attacks and buried in various British cemeteries. Body-Graves of men of the 27th and

30th divisions fallen in the Hindenburg line operations. St. Souplet-Graves of men of the same division fallen in subsequent operations.

91ST GRAVES AT WAEREGHEM Waereghem, Belglum-Graves of men of the 91st and 37th divisions fallen in the last days of the war. Others are

buried in other parts of Belgium. After the American battlefield cemeteries advance beyond their present rough state the Red Cross intends takomestic relations specifies that there ing a photograph of each grave and tenant Colonel Charles C. Pierce, an old in Philadelphia, Pa., at its requests it has received have been re-

Six Months Pay for Veterans Contained In Bill Introduced

Washington, May 24.-Representative Gallivan, Democrat, of Massachusetts, reintroduced in the house today his bill which failed at the last session, providing for a bonus equal to six months' pay for honorably discharged soldiers, sailand this, taken with its local nature, is ors and marines. The bill provides also for a suitable medal emblematic and commemorative of their services to be awarded to the enlisted men. An appro-These are the powers to act as juvenile priation of \$200,000,000 for this purpose judges, but it is pointed out if these is proposed.

would be to create a judgeship at \$4000 officers on their return to civil life the a year with jurisdiction over those cases next higher rank to that which they had nly which had been formerly handled at the time of their discharge or resigna-

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FROM HAWKER FOUND DRIFTING BOTTLE

Navy Officials Place Little Credence in Authenticity Because of the Location Given.

Washington, May 24. - A message found in a bottle at sea purporting to be from Harry Hawker, the daring Australian aviator who attempted the transstlantic flight, was received today by the navy department. It was transmit-ted by a coast officer at the Narragansett station and is as follows:

"Bottle was found three miles south of Narragansett pier containing following message: 'May 19, 9:34 a. m. Accident to plane, and am drifting in a collapsed boat Lat. 51 degrees 30 minutes north, longitude 15 degrees 30 minutes

Although navy department officials re skeptical regarding the authenticity the message it was decided to have t flashed to all ships by radio.

An official statement issued by the de-artment was as follows: "In view of the fact that the position as given in the message is somewhere in Europe and even if the longitude were west instead of east the position would be off the coast of Ireland, which would mean that the bottle had traveled practically across the Atlantic, little credence

is placed in the report." Navy officials base their conclusions on the belief that if Hawker had sent such a message he would have used Greenwich meridian.

If he used the Washington meridian, the objections still would hold as Hawker in that case would have been somewhere to the northeast of Canada,

where the bottle was dropped. The main element of doubt in the ninds of department officials, however. probable production. is the impossibility of the bottle drifting across the Atlantic in the time elapsed.

Prominent Lebanon Farmer Drops Dead

Lebanon, May 24.-Peter Lewis, a prominent farmer, dropped dead in his yard Friday evening from heart trouble. He was born in Sweden, November 25, 1849. He lived here on the same place for 35 years. He leaves two daughters, Rose and Mattle Lewis. Funeral arrangements are awaiting the arrival of three brothers and a sister from Cali-

acreage' was greater and crop prospects

somewhat less bright OATS WELL STARTED

Oats have just been planted in most sections but the grain has been given an as liberal as a few years ago be excellent start. Prospects for the crop of the guaranteed high price for the guara are encouraging, but it is too early to form any sort of estimate regarding

being grown in sections where it is two in the lower.

LOOK FOR BIG CORN PLANTING While it is too early to state with any degree of accuracy what the corn planting will amount to in the Pacific Northwest, interest in this branch of the industry is gaining in the three states and, weather conditions permitting, the area will likely show an in-

impossible to produce wheat on a pro-able scale, although some planting shown in the better land sections.

The condition of the hay crop is ilar to that shown by wheat, and while the area cut for hay will not likely be

still the outlook is hopeful. Babe Born With Six Teeth

Rye area increase is really surprising in view of the generally decreased planting of coarse grains. This increase is Joseph Banana with a complement of probably due most to the fact of probably due most to the fact that rye six teeth—four in the upper jaw and

PACIFIC NORTHWEST GRAIN AREA 42,000 14,000 16,000 72,000 475,000

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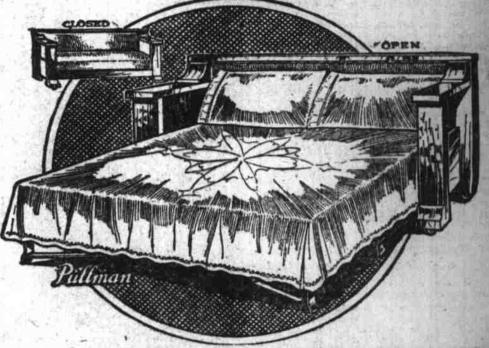
Table and Chairs \$46.70

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Chairs are of the very rigid type, being securely fitted, glued and braced. Your dining-room will radiate cheer and brightness un-

expected the moment you install this suite. See it yourself and



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A Much Appreciated Servant -White enamel upper interior. -Top flour bin with sifter. -Glass sugar, coffee, tea and spice jars with aluminum screw caps.

num screw caps.

—Aluminum top extension work table.

—Metal-lined cake and bread drawer.

—Two spacious linen and silver drawers.

-Cooking utensil compartment with center shelf, -Oh, yes; roll open front and metal door and drawer grips.
Stands 58 inches high and 40 inches wide.

Solid Oak Rocker With Genuine Leather Covered Auto The Rocker on sale is very similar to illustration, has three-slat back and well proportioned arms; and is finished in "Hand-Rubbed" Golden Wax.

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