

SMITH HAS TO TAKE FALLING CASE TO HIGHEST COURT

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

On Date on Which Testament Executed It Is Found Testatrix Enjoyed Possession of Faculties

Heirs of the late Dr. W. Tyler Smith announced Saturday, following the decision of the Tenth circuit court, that the will of Mrs. Xarifa Jane Faling, which she executed in 1915, is valid, that they would immediately file an appeal which would carry their case to the supreme court. Dr. Smith, who died April 1915, left instructions to his children in his will that they should fight the case to the highest court in the land.

The estate 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, both because of the amount involved and because of the sensational nature of a good deal of the testimony.

Mrs. Faling died July 4, 1917, at the age of 78 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 Mead, a friend, was filed in the probate court.

August 23, 1917, W. Tyler Smith, a physician and surgeon residing at Sheridan, filed a petition alleging that he was a 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 result of undue influence, fraud and coercion exercised upon her by Thomas N. Strong and C. Lewis Mead. He asked that the will be denied probate.

some contestants must prevail. But I do not so understand the term. "Proponents' witnesses almost without exception 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 great weight. That those whose means and ability of judging and understanding human nature might have been limited and superficial; and many of contestants' witnesses were of the class who are 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. Faling she was not competent. Yet Mrs. Faling was sane at the time of the execution of her will. 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 reservation."

"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 a lucid interview with Mrs. Faling, she was well able to transact business and dispose of her estate by last will and testament."

"Upon no other theory can the very conflicting testimony in this contest be harmonized. I find that the will was executed during a lucid interval, that the testatrix knew and understood the nature of the business in which she was engaged and to whom she was making the bequest of her property, that no undue influence was exerted upon her."

"The 1915 will, therefore, will be admitted as the last will and testament of Xarifa J. Faling, deceased."

Delinquency Laid To Eastern Pair
San Francisco, May 24.—(I. N. S.)—Acting on advice from New York city, Nathan Flom of Brooklyn and Mrs. Bertha Rubin of Pittsburg are held here on charges of contributing to the delinquency 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 girl, who was reported her husband in Pittsburg. According to the police, the couple likely will be prosecuted under the Mann white slave act.

JUDGE STAPLETON AGREES IN PART WITH EVANS' VIEW

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 in probate matters, are both invalid and unconstitutional, is sound as regards the first act and unsound as regards the second in the judgment of Presiding Judge Stapleton of the circuit court.

"The 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 it 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 domestic relations specifies that there shall be in every county of 200,000 or more, as shown by the last federal census, a court of domestic relations. The fatal flaw, it is contended, is that by specifying a "county of 200,000 or more," as shown by the last federal census, and by a coordinate reference in the act to the election of 1920, the measure is limited to Multnomah county. It is necessary in classifying cities or counties according to population, the courts have ruled, to make laws applicable to cities and counties which any time afterward attain the prescribed population."

"The opinion says the act as originally presented to the legislature did not contain the words, "last federal census," nor did it contain any provision relative to the election of 1920. A supporting decision of the supreme court of Oregon is cited, which specifically holds that "the last federal census" refers to the last census before enactment. The provisions of the act which give the court of domestic relations the power to try criminal cases and make rules and regulations regarding its procedure brings it under the provision of the constitution which refers to regulating the practice in courts of justice."

PURPORTED MESSAGE FROM HAWKER FOUND IN 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 transatlantic flight, was received today by the navy department. It was transmitted by a coast observer 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 east.—Hawker.'"

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

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 Mattie Lewis. Funeral arrangements are awaiting the arrival of three brothers and a sister from California.

Memorial Arranged For Dead in France
concentrated from 11 small cemeteries in which were buried those who fell when the Americans stopped the German advance in the Chateau-Thierry sector. Juvisy—Graves of men fallen in the offensive north of Soissons on July 18, 1918. Ploisy—1000 graves of men fallen south of Soissons in the same offensive. Bonvillers—289 graves of men of the First division who died in hospitals behind the Cantigny front. Villers-Tourneelle—Graves of men of the First division fallen at the front in the Cantigny operations. Van-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. 31st Graves at Waereghem. Waereghem, Belgium—Graves of men of the 31st 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 taking a photograph of each grave and sending it to the nearest relative in America. The graves registration committee which is supervising the construction of the cemeteries has Lieutenant Colonel Charles C. Pierce, an old army chaplain and more recently a pastor in Philadelphia, Pa., at its head with Major E. E. Davis of Villisca, Iowa, next in command. Many of the requests it has received have been referred to other branches of the service. As the names indicate, it confines itself to recording accurately the graves of the dead.

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RECORD GRAIN CROP IN COAST STATES

OATS WELL STARTED

Oats have just been planted in most sections but the grain has been given an excellent start. Prospects for the crop are encouraging, but it is too early to form any sort of estimate regarding probable production.

Eye area increase is really surprising in view of the generally decreased planting of coarse grains. This increase is probably due most to the fact that rye is being grown in sections where it is impossible to produce wheat on a profitable scale, although some planting is shown in the better land sections.

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 increase.

Babe Born With Six Teeth
Merced, Pa., May 24.—(I. N. S.)—A daughter was born to Mr. and Mrs. Joseph Banana with a complement of six teeth—four in the upper jaw and two in the lower.

PACIFIC NORTHWEST GRAIN AREA

	Wheat	Barley	Oats	Total
Oregon	1,000,000	180,000	350,000	420,000
Washington	2,374,000	137,000	390,000	2,901,000
Idaho	1,020,000	158,000	230,000	1,408,000
Total 1919	5,000,000	475,000	880,000	6,355,000
Total 1918	3,872,000	592,000	1,040,000	5,504,000
Grand total grain area 1919				8,427,000
Grand total grain area 1918				5,504,000
Grain area increase for 1919				868,000

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