

ATTORNEY FEES GIVEN BIG CUT

Instead of \$150,000, Portland Lawyers Will Get Only \$21,000

Coy Burnett, Edwin E. Heckbert and Russell E. Sewall lawyers of Portland, will receive only \$21,000 in attorney fees, instead of \$150,000, for their service as counsel for W. Tyler Smith, nearest relation of the late Mrs. Xarifa J. Faling, in a suit contesting her will. This opinion of the state supreme court was handed down yesterday written by Justice Brown. The lawyers demanded a third of the estate.

Mrs. Faling died July 5, 1917, and her estate amounted to about \$500,000. On July 9, says the record, Thomas W. Strong and G. L. Neal filed a purported will, dated August 26, 1915, naming a member of legatees who were to receive \$3,000 each, the rest of the estate, amounting to about \$450,000, to go to Strong and Neal, in equal shares. They were nominated in the will as executors and were so appointed.

Alleging that Mrs. Faling was not of sound mind when this will was made, W. Tyler Smith, as next of kin, instituted suit to have the will declared invalid, and Burnett, Heckbert and Sewall were his attorneys.

In the course of the trial evidence developed that in 1911 Xarifa Faling had made a will to which she later added six codicils, and that in this will the disposition of her property was wholly different from that of the purported will. Petitioners allege that upon learning of the 1911 will assignments of certain bequests made by that will were executed and delivered to W. Tyler Smith, and that on July 2, 1918, and amended petition on behalf of Smith was filed in the contest, also on behalf of all other beneficiaries under the 1911 will.

When this went to court it is said 32 days were consumed in hearing testimony, and the probate court sustained the will of 1915. An appeal was taken to the circuit court where the trial occupied 50 days, and the circuit court upheld the probate court. Appeal was taken to the supreme court, which reversed the lower court.

One of the main beneficiaries was the Children's home in Portland, and Justice Brown's opinion states that if fees are paid from the funds of the estate the Children's home will be the principal payer.

"We have no power," says the opinion, "to recognize contingent contract that was never made by the Children's home. Moreover, a claim such as the claim of petitioners for a contingent fee of one-third of this estate, consecrated to a charitable purpose, has no merit in a court of equity."

In the matter of the estate of Xarifa J. Faling, deceased. On petition of Coy Burnett, Edwin E. Heckbert and Russell E. Sewall, petitioners - appellants, appeal from Multnomah county; petition for allowance or one-third of the estate as attorney fees. Petition allowed in part. Opinion by Justice Brown.

Leslie S. Barnes, appellant, vs. state industrial accident commission; appeal from Washington county; suit for compensation for personal injury. Opinion by Justice Hand. Judge George R. Bagley affirmed.

Wapiniton Irrigation company, appellant, vs. Pacific Power and Light company; appeal from Wasco county; controversy over water rights on White river. Opinion by Justice Burnett. Appeal dismissed.

Stephen Richards, appellant, vs. Page Investment company; appeal from Multnomah county; suit for partition of lands. Opinion by Justice Burnett. Judge Walter H. Evans affirmed.

Judge Percy H. Kelly appointed to take testimony and report findings in the case of the Grievance committee of the State Bar association vs. Walter B. Jones.

William S. Card and C. A. Lesard, Jr., admitted to the bar on certificates from state of California. Caleb Jones admitted to bar on Washington certificate. Sixty applicants recently announced as having passed state bar examination formally admitted to the bar.

Silverton Prune Harvest Is About Completed

SILVERTON, Ore., Sept. 8.—(Special to The Statesman.)—The harvest of the prune crop at Silverton is about completed. The crop is reported very light in the Silverton district this year, most prune dryers being run but one shift against the two and three shifts of former years.

The Silverton Food Products company, a cooperative cannery is handling no other prunes than those of stockholders.

BIG LEAKAGE IN GAS MAIN

Has Endangered the Supply—People Asked to Use Economy

W. M. Hamilton, manager of the Salem Gas plant advises that there has been a very abnormal "out-run" of gas from the Gas Plant yesterday and today. The entire "outside gang" of the gas plant force has been engaged yesterday, most of last night, and this morning, hunting for broken gas mains, as it is thought that the unusual high outrun must be due to some such cause.

There is some danger that the entire reserve supply of gas will be exhausted before the cause for this unexpected outrun can be located, and the employees of the gas plant will be very grateful to any one who knows of any gas leak anywhere in the city if they will call the Gas Plant at Phone 1193, or the office at 85, and notify them of the leak.

Sometimes contractors in excavating for residences, will accidentally break off a gas pipe that was installed for some former residence, and if the pipe is large enough, a great quantity of gas can escape in a short space of time if the pipe is wide open.

Gas being much lighter than air, rises very swiftly, and therefore the odor of the same cannot be detected in the open air unless one is close to the break in the pipe.

Every effort is being and will be made to generate sufficient gas to compensate for the leak until the same is located, but there is a possibility that it will be impossible to do this, which would result in a shortage of gas.

The situation is not considered serious at this time but the cooperation and all of the public, as above mentioned, may prevent its becoming serious.

MY MARRIAGE PROBLEMS

Adele Garrison's New Phase of REVELATIONS OF A WIFE

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CHAPTER 264
HOW HARRY UNDERWOOD GENTLY AIDED MADGE.

"Are you sure you feel able to drive?"

In Harry Underwood's voice, tender and solicitous, there was no betrayal of any chagrin at the rebuff I had just given him. Evidently he meant to accept my silent dictum, and drop the sentimental pose he had adopted, when at his request that I tell him of Grace Draper's connection with Junior's kidnapping I had succumbed to the nervous, blind dizziness which comes over me sometimes at the remembrance of that awful time.

An affirmative response was on my lips, for I would rather drive a car than do almost anything else in the world, and nothing makes me quite so uncomfortable as to sit beside another driver. But it occurred to me that if Harry Underwood drove the car and listened at the same time to the information of Grace Draper for which he had asked he would have neither time nor opportunity for sentiment—a state of affairs for which I earnestly wished.

A Reminder of Dicky.

"I'm not quite myself," I said. "You drive, do you not?" and then, with a remembrance of his ambulance service during the war, I flushed at my own stupidity.

"If I don't get into any thick traffic," he drawled, even as I stammered an embarrassed: "Pardon so ridiculous a question."

"I'll pardon anything if you'll flush like that again," he returned with a look which changed the flush to a flame for a second.

But the chance remark affected me in a way that he could not guess. It pushed his rather hypnotic personality a figurative thousand miles away and brought Dicky as forcibly before my mind's eye as if he had suddenly dropped from the air before me.

For, without knowing it, he had repeated words I often had heard from my husband's lips both before and after my marriage, and the memories which the words brought me made me forget everything else for a poignantly blissful second or two.

"Are You All Right?"

"Well!" Mr. Underwood's drawing voice broke the spell. "When your spirit or your astral body or whatever you call it has returned from the place it winged itself, perhaps you'll inform me if I am to drive. I thought an invitation to tool this chariot trembled upon your dainty lips

but a moment since. However, I've learned in the course of a troubled life never to take anything for granted."

"Of course I'd like you to drive," I returned a bit impatiently. "And please pardon my absence of mind. I was thinking."

"Very dangerous thing to do," he interrupted with a preternaturally grave face. You never know what the consequences may be. Personally, I never indulge myself in the habit. Now, if you'll just move over, Lady Fair, I'll try my luck with this gear shift. Let's see, first, rear, left; second, forward, right; third, rear, right; reverse, forward, left. Is that it?"

He had alighted from the car as he was speaking, and walked around the front of it to the side upon which I was sitting. And I guessed that his seemingly anxious query as to the gear shift was only a subterfuge to give me time to pull myself together. He was too experienced a driver not to have noted the things for which he had asked.

"You have them exactly," I said sedately, moving over in the seat, and for the next five minutes Mr. Underwood gave his exclusive attention to the car.

"There, I've got her number now," he said when he had shifted gears, reversed and experimented with the spark until he had satisfied himself that no emergency would find him unfamiliar with the mechanism. "Now to resume our interrupted journey. Are you sure you're all right?"

I read between the lines of the query. For fear of the possible effect upon me, he would not ask me again to tell him the story of Grace Draper's crime. But I knew that my father had requested it, so with a mighty effort I braced myself for the telling.

(To be continued)

THREE MINUTE TALES By Ad Schuster

USELESS MONEY

The man who doubts that there are any of his fellows who, in this year and this civilized and educated United States, have yet to learn of the coming of the airplane and—even, of prohibition, has never gone back into the mountains where the old prospectors go their ways with but a single thought. There are many of the crew back there who would have made the same mistake which came to Barney Dodd and they, at least, will see nothing incredible in this story.

Barney with his mule, pick, pan, shovel and blankets followed the stream beds and gullies in search of wealth—and as he hunted he made plans strong, the claim was staked, and a fair price was turned over to the discoverer. A bent and bearded man with the dreamy eyes of the prospectors, there was nothing to indicate his unprosperous ambitions. He talked to his donkey, followed his leads pitched camp and went his way as gently as any old gentleman caring for his garden, and yet the incentive to his labors and loneliness was the chance to hit the big city, his pockets full of money.

"I'll paint her red," he said, "and give the boys something to talk about." And in his mind were memories of old days when the gold strike meant celebration, the lucky man standing treat, an orgy of spending until the sack ran low and the miner returned to the hills. Barney had it all planned until there was nothing to do but find the gold with which he could make his triumphant descent into town.

Some of the men in the hills have struck it rich a dozen times and are as poor today, in everything except memories, as they ever were. Barney was a hero of a half dozen celebrations and he felt the next was due. There came a day when the color ran strong and he followed the traces up the slope to a spot where fortune was promised. He staked his claim, filed upon it, and sought a customer.

On the mail stage Barney rode to the larger city and in his pocket was a roll of greenbacks large enough to choke the proverbial cow. In appearance he was an unkempt man dozing in his seat. In spirit he was a conqueror.



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or but waiting the chance to give to the world a one-man festival and parade of victory.

"I'll show 'em," said Barney Dodd, "Oh Gosh, how I'll show 'em."

He found the city larger than on his previous visits and he missed the familiar places. A millinery store was situated where Tom and Dick used to serve wet goods, raw and biting, over the bar. Barney walked on. There were cigar stores, soft drink places, even candy counters, where once the miners assembled. "It must be," he reflected, "there isn't any money in likker nowadays." Then he approached a clerk in a cigar stand and made inquiry. After a moment of surprise the clerk, with exaggerated indulgence, broke the news and it was then Barney Dodd learned of the Eighteenth Amendment.

"I suppose they call that fair," he exclaimed. "Taking advantage of an old miner who hasn't had a drink in fifteen years," and he went back to the stage and waited for the chance to ride home.

With the greenbacks still in his pocket the prospector returned to the hills. Close to sunset three days later he had his mule and his kit once more and was ready to resume the search. With so much money in his pocket there seemed no incentive and yet it was the only life he knew. Barney looked up the hill and at the golden sky beyond. A stump was silhouetted there as a seat on the top of the world.

A half hour later the old man sat on the stump. He reached into his pocket, drew forth a greenback and held it fluttering in the wind. When the gust grew strong, Barney released his hold and watched the bill swing off down the gully carried away by the mountain breeze. He kept

Flower Show to Be Added to Silverton Exposition

SILVERTON, Ore., Sept. 8.—(Special to The Statesman.)—A new feature will be added to the Silverton Community fair which is to be held at Silverton September 19 and 20. This is a flower show. For weeks past flower lovers at Silverton have endeavored to raise enough interest in a flower exhibition to make a creditable showing. Due to many other events it has seemed impossible to stage a show of this kind. The American legion is now taking the matter up and will conduct one in connection with the community fair. Those in charge are endeavoring to secure judges from Portland. It is hoped

by Silverton flower growers that this will be given a good send off so that it may become an annual event. Rholin Cooley, who has some really beautiful specimens, is in charge of the flower show.

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