

The Next Adventure of  
"THE SOCIETY WOLF"  
MAKES A SPLENDID STORY WHICH  
WILL BE FOUND IN  
THE SUNDAY CALL

# THE CALL

CALIFORNIA  
STATE  
LIBRARY

THE WEATHER  
YESTERDAY—Clear; westerly wind; maximum temperature, 54; minimum, 42.  
FORECAST FOR TODAY—Fair; light frost in morning; moderate north winds.

VOLUME CVII.—NO. 78.

SAN FRANCISCO, WEDNESDAY, FEBRUARY 16, 1910.

PRICE FIVE CENTS.

## HOLDS VOID SPRECKELS TRUST

Judge Coffey Sustains Demurrer to Petition for Distribution of the Estate

FIVE CHILDREN WILL NOW GET EQUAL SHARES

Court Declares That Claims of Trustees Have No Merit in Law

DECISION REACHES HEART OF CONTROVERSY

### Effect of the Decision Rendered by the Court

Trust provision in the will of Claus Spreckels declared invalid. Trusteeship of Rudolph and Claus A. Spreckels pronounced illegal. Estate made subject to the statute, under which the five children of Claus Spreckels will receive share and share alike. John D. and Adolph Spreckels placed on equal footing with Rudolph and Claus A. Spreckels in the inheritance. Based on court appraisal the four sons and Mrs. Emma Ferris, the daughter, will each receive about \$1,000,000. Legal contentions of John D. and Adolph Spreckels sustained in every particular. Property holdings of Mrs. Christina Spreckels unaffected by the decision.

In an exhaustive opinion rendered yesterday morning, Judge Coffey declared invalid the trust created under the terms of the will of the late Claus Spreckels. The effect is to leave the estate for distribution, according to the California law, share and share alike to the five children. Each will receive \$1,000,000. The widow's portion, amounting to \$5,000,000, was in no way affected by the decision. By a strange coincidence, her death yesterday preceded the ruling by a few hours.

Judge Coffey sustained the demurrer interposed to the petition for a partial distribution. This demurrer was filed on behalf of John D. and Adolph Spreckels. They are upheld on every point of law. The claims of Rudolph and Claus A. Spreckels, who were named as trustees, were overruled. The four sons and Mrs. Emma Ferris, the daughter, have been placed upon an equal footing.

There was some speculation yesterday over the terms of the will that Mrs. Spreckels is known to have left. Its provisions will not be disclosed for several days.

### No Merit in Their Claim

Judge Coffey's decision reviews at great length every legal point presented during the hearing. He cites case after case in support of his ruling. In no particular did he find merit in the contentions of Rudolph and Claus A. Spreckels. It was announced, however, that they would carry the issue to the supreme court.

The will of Claus Spreckels, first of all, declared that all his estate was community property. A half, therefore, amounting to \$5,000,000, went to his wife, Anna Christina Spreckels. On this point there was no contest. It was the trust feature alone that was attacked. This provided that upon the death of the widow Rudolph and Claus A. Spreckels were to receive one-third each, and as trustees were to hold the remaining third in trust for Mrs. Ferris, the income only to go to her. It was set forth further that in case of her death without issue her portion was to be divided between Rudolph and Claus Spreckels. The will made no provision for John D. and Adolph Spreckels. The trustees were to administer the estate as a whole during the life of Mrs. Spreckels.

These were the features about which the contest centered. Under the terms of the trust Rudolph and Claus A. Spreckels would have received \$1,666,666 each and the two other brothers nothing. With the breaking of the trust the sum of \$1,000,000 will go to each.

### Expect to Be Upheld

Adolph and John D. Spreckels chose to bring the issue to a focus on the demurrer, preferring not to indulge in a contest that would involve the intimate affairs of the family. They have gained a sweeping victory, which they attorneys have assured them, will be upheld by the supreme court.

The decision goes to the root of the trust provisions permissible in wills amenable to the California law. Fair case is cited at great length. Judge Coffey's analysis deals with each legal question involved with a completeness that is said to make it epochal in California jurisprudence. The judge held that there was no

## THE CALL'S NEWS INDEX

Hereafter will be found on the EDITORIAL PAGE

The Weather Report in brief will be found at the upper right corner of this page, and in full on the last page but one of the paper.

### VANISHED DIAMONDS IN WOMAN'S STOCKING

"Great Robbery" Mystery Is Solved by the "Victim"

KANSAS CITY, Mo., Feb. 15.—The mystery of what became of diamonds valued at \$1,400 belonging to Mrs. Jay P. McDermott, of Fond du Lac, Wis., was solved tonight.

Last Sunday morning just as the Golden State Limited of the Rock Island railway drew into the station Mrs. McDermott, who was in a Pullman car, shrieked that she had lost her diamonds—three rings. They had been in a small chamois bag fastened about her neck with a chain.

The Pullman car was immediately locked. Every passenger was searched. Detectives were sent with the train to watch for suspicious characters, but their work was of no avail. Then, from a little town down in Texas, today came from Mrs. McDermott this message: "Have found diamonds in my stocking."

Mrs. McDermott is on her way to Los Angeles.

### BAREFOOTED PEERES TO DANCE IN AMERICA

Lady Constance Richardson Is Billed for Vaudeville

[Special Cable to The Call]

LONDON, Feb. 15.—Having been ostracized by King Edward and English society on account of her half naked dances, Lady Constance Richardson will sail for America within a few days and will appear in vaudeville in New York. Her husband, Sir Edward Richardson, has suffered financial reverses and needs the money.

Lady Richardson is indignant over the action of King Edward, who decided that her dances and makeup were altogether too liberal.

The king barred her from the court of St. James. He did not mind it so much when she danced before him, but when she took her twinkling feet to the music halls and pranced for money he placed the ban upon her.

### CHRISTIAN DE GUIGNE PAYS RECORD FINE

California Young Blood's Speeding Automobile in Collision

[Special Dispatch to The Call]

BOSTON, Feb. 15.—Christian de Guigne, son of the wealthy mine owner of California and a student at Harvard university, paid a fine of \$125 in the Roxbury police court this morning for reckless automobile driving.

The fine imposed upon the Californian stands as a record for the Boston police court. According to the police De Guigne was on a little joy junket and while in Harvard square the machine collided with a milk wagon.

The wagon was demolished and its driver injured. The police assert that De Guigne and the occupants of the automobile did not stop to see how badly the driver of the wagon had been injured.

### MRS. HARRIMAN HAS WOMAN APPREHENDED

Former Governess Sent Her Many Rambling Letters

NEW YORK, Feb. 15.—Miss Augusta Mallett, formerly a governess in the home of Joseph W. Harriman, a nephew of the late E. H. Harriman, was committed to the psychopathic ward of Bellevue hospital today on the complaint of Mrs. Harriman and others, who testified that she had bombarded them with rambling letters. In court Miss Mallett, who is 27 years of age, told an incoherent story of being persecuted by animal magnetism and hypnotism and of being constantly followed by "a little yellow man."

### DEATH CLAIMS SISTER OF PATRICK CALHOUN

Miss Margie Calhoun Passes Away at Atlanta, Ga.

ATLANTA, Ga., Feb. 15.—Miss Margie Calhoun, granddaughter of South Carolina's famous statesman, John C. Calhoun, and sister of Patrick Calhoun of San Francisco, died today, aged 63 years. Another brother, Captain John C. Calhoun of New York, survives.

## DR. BURKE FEARED MISS SMITH WOULD FIGHT FOR ESTATE

Santa Rosa Authorities Declare Motive Established

## WOMAN SOUGHT PROPERTY FOR HER INFANT SON

Planned Legal Battle to Secure Rights of Child in Burke's Estate

Other Arrests in Dynamiting Outrage Expected After the Grand Jury Indictments

[Special Dispatch to The Call]

SANTA ROSA, Feb. 15.—Having charged Dr. W. P. Burke with being responsible for the explosion in the tent occupied by Lou Etta Smith and her infant son, the authorities tonight declared that they have discovered the motive for the crime. They say that fear of a legal contest on behalf of the 11 months old baby boy for a part of the wealth of his reputed father, estimated at \$225,000, will be addressed before the grand jury as the basis of an indictment not only of Dr. Burke, but of others who have taken part in the struggle to prevent an investigation at the sanatorium.

Assistant District Attorney Hoyle returned tonight from San Francisco and Oakland, and Sheriff Smith and District Attorney Lea are expected to return tomorrow from Kanaka Peak, Butte county, where they are taking the depositions of the miners who furnished Dr. Burke with the dynamite.

### More Than One Guilty

Throughout the investigation District Attorney Lea and Miss Smith have expressed their conviction that more than one person had at least guilty knowledge of the crime to end the troublesome existence of herself and baby and that this fact would be established.

The full significance of the question asked a representative of The Call by Miss Smith at the county hospital yesterday was brought out tonight by the official statement issued from the district attorney's office.

"Have any other arrests been made yet?" was the question.

In her original statement to District Attorney Clarence F. Lea Miss Smith declared that she suspected three persons of being implicated in the crime and assigned as the ground for her belief the fact that these people feared she would resort to legal action to establish the paternity of her son and secure for him a portion of the wealth of Dr. Willard P. Burke. She recited in detail the incidents of her requests for money for the support of the babe, the reluctance of the physician to give her funds with which she could get away from the sanatorium, her efforts to retain Attorney Charles S. Wheeler to look after the legal rights of her son, and the bitter hatred engendered by her action among persons who would benefit financially if the claim of the child or its paternity could be refuted.

Miss Smith could make no definite statement regarding the wealth of Doctor Burke, but Mrs. Agnes Burke, sister in law of the accused physician and wife of the manager of the health resort, informed a representative of The Call that his property was valued at \$225,000.

### Woman Makes Deposition

The paternity of the child was also the subject of a deposition by Miss Smith taken by Attorney Charles E. Naylor, who is at present acting as counsel for the woman, and was discussed by him with the prosecuting attorney.

As a result, Assistant District Attorney G. W. Hoyle was directed to make an exhaustive investigation of the declarations of Miss Smith that Doctor Burke was the father of her son and that he had supported her for several years. The latter was proved by the contents of letters published exclusively in The Call, and Hoyle, accompanied by Policeman J. M. Boyes, went to San Francisco today to secure evidence.

In a statement tonight Hoyle said: "Evidence of importance to the prosecution in the investigation of the attempt to murder Miss Smith and her son was secured today. A part of the evidence is new and a part corroborative of what was already in the possession of the district attorney. It all goes to strengthen the case of the people. The authorities consider that the evidence secured today is of much importance and are prepared to prove beyond a reasonable doubt the motive for the crime."

Asked if the arrests of other people

Continued on Page 2, Column 6

## Short Victory Is Won by Tories of the Administration

## OLD SCHOOL BOARD LOSES BATTLE, BUT STILL HOLDS FORT

Ousted by New Commission but Regain Power by Injunction

## TAYLOR BOARD VICTORIOUS IN BITTER FIGHT

Gain Court's Aid After Being Ejected From Headquarters by Police

McCarthy Appointees Forced to Relinquish Newly Acquired Authority

DEFEATED in its first skirmish in court and forcibly ousted yesterday afternoon from the school board headquarters by three new school commissioners named at 4 o'clock by Mayor McCarthy, the old Taylor board of education still holds office and wields absolute power in school affairs.

Judge Sturtevant, who early in the afternoon dissolved the board's preliminary injunction, last night issued a new injunction prohibiting the three McCarthy appointees from interfering in any way with the members of the old board or from exercising any functions as school commissioners, and commanded them to return to the old board the offices and property of the school department which they had seized by force yesterday afternoon.

### Day of Bitter War

It was a day of bitter war and startling developments in the fight between the administration and the two commissions which have resisted removal. At 2 o'clock Judge Sturtevant handed down decisions dissolving the injunction held by the Taylor school commissioners and refusing an injunction to the old board of health to prevent the McCarthy appointees on the health board from exercising the powers of office.

Shortly before 4 o'clock Mayor McCarthy declared Mrs. Mary W. Kincaid, Thomas R. Bannerman and Henry Payot removed from office and appointed to succeed them Leon S. Clayburgh, Colonel James E. Power and James J. McTiernan. Half an hour later, accompanied by a squad of policemen and deputy sheriffs, the newly appointed commissioners took possession of the school board headquarters and forcibly ejected the old board members who refused to give up the offices.

### New Injunction Issued

The issuance of the new injunction, commanding the new appointees to step aside and returning the control of the department to the old board, came at 8 o'clock last night. It stands as a positive order of court, revocable only after a successful showing on a motion to dissolve or through the medium of quo warranto proceedings.

The defeat administered the old school board early in the afternoon amounted to a short lived victory for the administration. By the injunction secured last night the Taylor members of the board have not only won back all that was lost earlier in the day, but have entrenched themselves in a far stronger legal position than before. The action of Judge Sturtevant practically amounts to a recognition of their claims as de facto officers and throws the burden of proving a right to the office upon the shoulders of the McCarthy appointees.

### Health Board Defeated

On the other hand, the old board of health was decisively defeated. Just as the injunction issued last night amounts to a recognition of the old school board members as de facto officers, so the refusal of an injunction to the old board of health members amounts to a recognition of the new McCarthy appointees on that commission as the de facto officers. The burden of establishing a right to the control of the school board rests on the administration, but the burden of establishing a similar right to the board of health positions lies upon the recently ousted members.

Breathless haste in many quarters followed the announcement under which the Taylor school board members held office had been dissolved. Within an hour of the time the opinion was given out by Judge Sturtevant the three men chosen by Mayor Taylor for the commission appointments had been summoned to his office, handed their commissions and were on their way to the board of education headquarters at Pine and Larkin streets. The attempt to take possession of the offices of the board of education met with a determined resistance. Com-



The men appointed members of the Board of Education yesterday by Mayor McCarthy. From left to right they are: Leon S. Clayburgh, Richard I. Whelan, T. P. O'Brien, secretary, James J. McTiernan and James E. Power.

## CHILDREN SEIZED BY STATE SENATOR

Leroy A. Wright Seeks to Secure Girls for Wife of Booth Tarkington

[Special Dispatch to The Call]

LOS ANGELES, Feb. 15.—In a struggle for the possession of the three children of Mrs. Julia Fletcher Barnard, who died in Pasadena last week, leaving an estate valued at \$500,000, some prominent Californians and other persons well known in the east have become involved.

The children were spirited away from Pasadena in an automobile by State Senator Leroy A. Wright of San Diego, acting, it is said, for the eastern contingent of the family, one of whom is Mrs. Booth Tarkington, wife of the noted Indiana author.

Mrs. Barnard had just returned from Brookline, Mass., where she went to see her husband who was ill, when she was stricken and died in Pasadena. Barnard was informed that Mrs. Tarkington, Miss Hilda Fletcher and her brother, S. J. Fletcher, would endeavor to get possession of the three children, Hilda, aged 8, Julia 6 and Agnes 5.

Barnard immediately telegraphed his brother-in-law, A. G. Wells, general manager of the Santa Fe, asking him to apply at once for letters of guardianship. This Wells did, but owing to the fact that Barnard was absent the court awarded the temporary custody of the children to Miss Helen Barnard, a sister, thus for a time at least defeating the aims of Mrs. Tarkington and her relatives.

When Miss Barnard went to Pasadena today to claim the children she learned that they had been spirited away in an automobile last night by Wright and taken to Riverside. There Miss Barnard found them and she at once brought them to her home in Los Angeles.

## FRANKLIN K. LANE'S AGED FATHER DIES

Death Occurs at Santa Barbara, Where He Had Retired

[Special Dispatch to The Call]

SANTA BARBARA, Feb. 15.—Dr. C. S. Lane, father of Interstate Commerce Commissioner Franklin K. Lane, died at his home here this morning. For two score years Doctor Lane had been a resident of California, spending the last 14 years of his life in this city.

He was born at Prince Edward Island, Canada, 72 years ago. He came to California in 1873, settling first in Napa. He was for 18 years a practicing dentist in Oakland and three of his children are living there and in San Francisco. They are George Lane, an attorney in San Francisco; Fred Lane, a dentist in Oakland, and Mrs. Anderson, who also lives in Oakland. His other son, Commissioner Lane, has his residence in Washington.

Doctor Lane practiced dentistry here until falling health caused him to give up his practice a few weeks ago. He leaves a widow and a sister, Mrs. McPhail, here. The funeral will be conducted by the Odd Fellows.

SUPPOSED PAUPER WORTH \$35,000—Valparaiso, Ind., Feb. 15.—It was learned today from Linkoping, Sweden, that John Blacumann of Chesterport, who died at the poorhouse last month, left an estate in his native country valued at \$35,000. He has heirs in this country, but their whereabouts are not known.

## FOLLOWS BELOVED HUSBAND TO GRAVE

Mrs. Anna Christina Spreckels Dies, Unable to Bear Loss of Life Mate

[Special Dispatch to The Call]

Mrs. Anna Christina Spreckels, widow of the late Claus Spreckels, died early yesterday morning at the old family home at 2027 Howard street. She had been in failing health since the death of her husband, December 26, 1908. Mrs. Spreckels was 79 years of age. She lacked the physical strength to rally under the burden of her illness and her grief.

There had always been the most tender devotion between Claus Spreckels and his wife. At the time of his demise it was feared that the blow would prove more than she could bear. During the year that has elapsed she has grown feebler and weaker. A week ago it was thought that the end was near, but there was a turn for the better and the aged woman showed signs of returning vitality. Monday night her condition took an alarming turn and the end came early yesterday morning.

Mrs. Spreckels had been under the constant care of a corps of physicians. Dr. Rudolph Baum was in regular attendance upon the patient and had the advice of consulting doctors. In April of last year she suffered from an attack of the grip and its effects lingered long with her.

Mrs. Spreckels was of the home loving type of womanhood that has been held in particular reverence by the American people. She shared her husband's humble lot in the days of his early struggles with the same full sympathy and quiet dignity as in the later days of his greater prosperity. She helped him to build his fortune. Of this he made full recognition in his will. Mrs. Spreckels never cared for the gaiety of society. She preferred the home. She was the mother of 13 children, of whom five survive.

In the 40's she came to America from her home in Germany and was married in New York to Mr. Spreckels. Their romance had begun in their old country. They came to California in 1856 and San Francisco, became their home.

For a number of years Claus Spreckels and his wife occupied the beautiful home at Van Ness avenue and Clay street. After the fire of 1906 they took up their residence once more in the Howard street home, which had been the family abode in the earlier days. The Van Ness avenue home has been recently restored, but Mrs. Spreckels continued to occupy the old homestead.

The estate of Claus Spreckels was appraised at \$10,000,000. One-half of this was allotted to Mrs. Spreckels. The surviving children are John D. Spreckels, Adolph Spreckels, Claus A. Spreckels, Rudolph Spreckels and Mrs. John Ferris.

## TWO CITIES VOTE FOR COMMISSION SYSTEM

SIoux CITY, Ia., Feb. 15.—Sioux City today adopted the commission form of government by a majority of 747 votes out of 5,000.

## Has Large Plurality

EAU CLAIRE, Wis., Feb. 15.—Eau Claire today adopted the commission form of government by a plurality of 900 votes out of a total of 2,000.

Continued on Page 2, Column 3