

CLAUS SPRECKELS' WILL JUDGED VALID

Supreme Court Overrules Decision Against Executors on Trust Provisions Testament Construed as Direct Devise After Death of Widow

The supreme court of California returned a decision yesterday which, in effect, upholds the will of the late Claus Spreckels, and deprives John D. and Adolph B. Spreckels of any interest in the estate of their father. The decision overruled the judgment of Superior Judge Coffey, who held in favor of the contestants, and opens the way for the distribution of the estate in the manner in which Claus A. Spreckels and Rudolph Spreckels, as executors, have been seeking for an adjustment.

Under the supreme court ruling John D. and Adolph B. Spreckels are deprived of interests in the estate of their father estimated in value at \$1,000,000 for each of them. The contest of the Spreckels will has been before the courts for nearly three years. The decision of the court is final, save for the possibility of a rehearing. A petition for such rehearing will be filed in a short time by the contestants.

TRUST CLAUSES UPHOLD Under the judgment given yesterday Claus A. Spreckels, Rudolph Spreckels and Mrs. Emma C. Ferris, daughter of the late Claus Spreckels, will divide the estate in approximately equal parts. The decision of the court overruling Judge Coffey was written by Justice Sloss and concurred in by Justices Lorian, Shaw, Angellotti and Melvin. No adverse decision was filed, but the judgment of the majority of the court was not concurred in by Chief Justice Healy or Justice Henshaw. It was stated yesterday that the latter was absent from the city and that the chief justice was engaged upon other cases and had not found time to give his personal attention to the Spreckels case.

The result of the decision is to declare that the will of Claus Spreckels created a valid estate in the trustees and that the demurrer of John D. Spreckels and Adolph B. Spreckels should have been overruled. The case was taken in the courts about two years ago, just four months after the death of Claus Spreckels.

ARGUMENT OVER WILL The will omitted any provision for John D. Spreckels and Adolph B. Spreckels, and Rudolph Spreckels and Claus A. Spreckels as executors. A petition for a partial distribution filed by the latter was attacked by John D. and Adolph B. Spreckels, and the court refused to sustain Judge Coffey. An appeal was taken by the executors to the supreme court.

It was contended by the attorneys for John D. Spreckels and Adolph B. Spreckels that the testator had expressed an intent to devise his whole estate to the trustees in fee simple, first, in trust to pay over the income to the widow during her life, and, from and after her death, in trust to divide or segregate the whole estate into three parts equal in value. Two of the parts were to be transferred to Claus A. Spreckels and Rudolph Spreckels, while the third part was to be held by them in trust to pay over the income to the testator's daughter, Mrs. Emma C. Ferris, during her life, and, at her death, the share was to be paid over to her children then living.

CONSTRUED AS DIRECT DEVISE This view of the case was adopted by Judge Coffey in the supreme court, but the supreme court, five of the judges participating, held that the will should be construed as creating, from and after the death of the testator, an estate in equal interests in favor of respectively Claus A. Spreckels as an individual, Rudolph Spreckels as an individual, and Claus A. Spreckels and Rudolph Spreckels as trustees for Mrs. Emma C. Ferris. The further position was taken that, at the death of Mrs. Emma C. Ferris, there was a further direct devise upon the trust of the children of Emma C. Ferris.

Judge Coffey held that the will was invalid as to the trust sought to be created, in that it violated the principle laid down in the famous Fair will contest. The supreme court, however, distinguished the Claus Spreckels will from the Fair will on the ground that Claus Spreckels will the testator did not intend to create a trust, but contemplated direct devises to the beneficiaries named in the will. It was upon this point that the entire case turned. Upon this point, also, the superior and supreme courts differed.

INTENTION OF TESTATOR Referring to the arguments of the contestants, the supreme court said: "Preliminary to an examination of the soundness of these contentions is a construction of the will—a determination of the intention of the testator. The rules of construction are well settled in cases of this character and are well settled in this court. The primary purpose of all such rules is to ascertain the testator's intent upon the subject declared purpose which may be imagined to have been in his mind, but the intention disclosed by the words he has used.

Applying these rules, is the will in question to be so construed as to subject its provisions to the destructive effect of the doctrine declared in the estate of Fair and similar cases? In none of these cases was the trust to convey accompanied or supplemented by words which could be construed as constituting a direct devise of a legal estate to the person or persons to whom the trustees were directed to convey."

RULING AGAINST COFFEY The decision of the supreme court, copies of which are being distributed, contains a close analysis of the provision of the will. In many important respects the supreme court rules in direct opposition to Judge Coffey as to the meaning of certain paragraphs and phrases of the document.

In all probability Morrison, Dunne and Brobeck, the attorneys for John D. Spreckels and Adolph B. Spreckels, will file a petition in the supreme court asking for a rehearing and reconsideration of the case. None of the members of the law firm was in San Francisco yesterday, and further action will wait their return to the city.

REGISTERED PACKAGE, \$25,000, DISAPPEARS CHICAGO, April 10.—Secret service officers began hunt today for a registered package containing \$25,000, said to have been lost somewhere between Chicago and Pasadena. The package was sent by the Continental and Commercial bank in the registered mail last week. It was addressed to the First National bank of Pasadena.

Great Easter Ball Brilliant Success

Three favorites who were conspicuous in the throng of beautiful girls and matrons at the great Easter ball of the Deutscher club.



MRS. GEORGE W. BAUER MISS IRMA ADLER MISS MAY OBERMEYER

The Easter ball of the Deutscher club in Scottish Rite auditorium last evening was the occasion of a mammoth gathering enjoyed by old and young. The merriest continued until long after midnight. The hall was decorated in a scheme of spring coloring. The palms and evergreens, combined with fruit blossoms, formed a rich setting for the exquisite gowns.

The ball opened with a grand march, led by Captain and Mrs. George W. Bauer, followed by Mr. and Mrs. A. J. Becker and other members. Among the pretty girls who attended were Miss Irma Adler and Miss May Obermeyer.

George C. Schneider was floor manager, assisted by Sanford G. Lewald and Alvin H. Eggers. The guests were welcomed by the following officers and directors of the club: George W. Bauer (pres.), J. C. Wundler (sec.), A. J. Becker (vice), H. Eggers (president), J. J. Dalley (president), George C. Schneider (sec.), P. Hauss (retiree), P. A. Bouleau (capt.), F. A. Ober (sec.), McKay (treas.), F. T. Martens (treas.).

THE EMBARCADERO BLAZE OF LIGHTS The Embarcadero, from the ferry building to Vallejo street wharf, is the best lighted thoroughfare in the city. A few years ago it was one of the darkest and dirtiest streets in the world. The dirt disappeared when the last board of harbor commissioners made a contract for cleaning it, in which payment was based on results.

The present board has carried on the good work to the elimination of darkness, and since Monday night, when the new illumination was turned on for the first time, the once happy hunting ground of the holdup man has been a blaze of light from nightfall to daybreak.

The interesting feature of the improvement is that the increased illumination is obtained from lamps aggregating 8,000 candle power, whereas the former state of gloom existed in spite of a 12,000 candle power illumination.

CHANGES IN LAMPS Instead of arc lights that wasted their glow at the top of 40 foot poles there have been installed in nomination, candle power tungsten lamps, suspended about 18 feet from the ground on electrolites. There are 20 of these electrolites and they are spaced about 70 feet apart.

This work was done by the electrical department of the harbor commission, under supervision of Chief Electrician C. P. Stanton, who suggested the improvement, designed the electrolites and carried out the work.

The current for the lamps is carried on underground wires and controlled by switches operated from the board in the ferry building. While this is only the beginning of a brighter Embarcadero, it marks the completion of a revolution in the electrical installation under control of the harbor commissioners.

STANTON DEvised SYSTEM Lack of money made it impossible for former boards to keep pace with the improvements in electrical installation, and as a result the wiring and control of lighting along the water front was in a primitive condition when the sale of the bonds gave the present board the money their predecessors lacked.

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ASSEMBLY HAS DRAFT TO BE INTRODUCED TODAY

Based on Measure Fathored by Gladstone

Compromise Over Control of Ireland's Customs and Excise Is Forecast

LONDON, April 10.—The members of the British cabinet today put the finishing touches to the home rule bill, which Premier Asquith is to introduce in the house of commons tomorrow.

The members of the government and the few nationalist members who have been taken into their confidence have kept secret the details of the measure, but with the exception of the clauses relating to the control of the excise and customs and the number of the Irish representatives to be retained at Westminster, the general outlines of the bill are pretty well known.

The measure is expected to follow closely that which was proposed by William E. Gladstone. Until quite recently the nationalists have shown no opposition to the suggestion that the Irish excise and customs should remain under the control of the imperial parliament, but lately there has been a strong movement in Ireland in favor of obtaining control of this revenue by the Irish parliament. One reason advanced for this is that Ireland desired to make a tariff agreement with the United States.

COMPROMISE LIKELY Among many forecasts, that which suggests that the imperial government retain control of the customs and excise of Ireland for a certain number of years, after which they should pass to the Irish parliament, is accepted generally.

It is certain Ireland will continue to be represented in the house of commons at Westminster, but by fewer members. While the interest in Premier Asquith's speech does not compare in any way with that aroused by Gladstone's efforts, there will be a full attendance of members and the public galleries will be filled to capacity. A big contingent has come over from Ireland, including several members of the cabinet who are seated in the distinguished strangers' gallery if the Irish members are successful in the ballot for seats in which members take part.

ONLY TWO NATIONALISTS AWAY With the exception of two members who have taken the nationalist line, the nationalists will be present in full force. The premier is a master of condensation, and in all probability will take less than two hours to state his case to the house. He does not need to fear the defections in the liberal party, from which Gladstone suffered. There are only two liberal members who are known to be opponents of home rule. These are Thomas Charles Reginald Agar-Robartes and Sir Clifford John Cory, members from Cornish constituencies, where the Protestant element is strongest.

At the conclusion of the speeches of the liberal and unionist leaders tomorrow the debate will be adjourned until Monday, when the division of the house will be taken Tuesday.

The second reading will take longer and the committee stage of the bill is expected to occupy at least six weeks. The introduction of the closure will be necessary, however, in order to conclude within that time, as the unionists are determined to obstruct the measure if any possible.

John Redmond, leader of the nationalists, this evening said the demonstration in Ulster yesterday had not shaken the hill in the least and that the nationalists are just as hopeful as ever of obtaining what they so long had fought for.

Every seat in the house of commons has been booked for tomorrow. Hundreds of persons invaded the lobby today appealing to members for permits. Asquith is expected to rise at about 4 o'clock and probably will speak for two hours.

Andrew Bonar Law, the leader of the opposition, will follow, and then John Redmond, the nationalist leader, will speak.

SANTA CRUZ CHANGES WATER CARNIVAL DATES Big Naval Pageant Will Be Held July 20 to 27

Advances of More Than \$150 a Bale Takes Place NEW YORK, April 10.—There was an advance of more than \$150 a bale in the cotton market today on an excited general buying movement with new crop options selling at 11 1/2 cents, making a new high record for the season.

The old crop showed equal strength, July contracts selling at 11.35. Apprehension of a poor start for the new crop, because of unsettled weather in the cotton fields, and the increasing uneasiness over the flood situation, and reports of higher southern markets for old crop supplies, were supposed to account for the big demand today.

TAFT KILLS GAG RULE; EMPLOYEES MAY PETITION Executive Order Supersedes Two by President Roosevelt WASHINGTON, April 10.—President Taft today modified the "gag" rule on civil service employees, which practically forbade them to petition congress except under certain restricted conditions.

LETTERS FROM RICHARD V. DEY READ TO JURY BY COUNSEL FOR ESTATE

Letters From Richard V. Dey Read to Jury by Counsel for Estate

ROMANCE, MYSTERY AND FINANCE MIXED WITH ANNOYANCE OVER ANOTHER MAN

[Special Dispatch to The Call] NEW YORK, April 10.—Romance, mystery and finance, all flavored with a bit of jealousy, held sway in Justice Newburger's part of the supreme court today when counsel for the estate of Countess Stava continued to read to the jury letters received by the countess from Richard V. Dey.

Dey is one of the best known of the older generation in San Francisco. In the days of the bonanza kings he was prominent in financial affairs and was a close personal and business friend of the late John Mackey. He is still a familiar figure in Market street, and is also well known in this city.

All the "Dickie" letters read yesterday afternoon were written while the countess was in France. They show that Dey was anxious to solve the mystery of the identity of a man designated as "Z," who was said to have been seen frequently in the company of the countess.

One missive, written on April 5, 1900, in San Francisco, reads in part as follows: "My dear Charlie, By the last mail I sent you \$4,000 francs. In a few days I will send 4,000 francs more."

I am very much annoyed to think that you would deceive me about that fair lady in which you mentioned the tugboat and Z's voice. There was no use in trying to deceive me about it. But it cut me to the quick to think that you would do with me after the day when you were sick and asked if you could come to me if all the others went back on you, and I told you yes, I would take care of you, but somehow you seem to have lost confidence in me, and why I can not imagine, unless you want to break with me. Your letters are very nice and affectionate, and you know how I feel about you. This little incident shows you how I feel about the husband and I can not understand why you wished to deceive me.

Now be good and don't quarrel with me. Don't try to hurt my feelings, but be good and real nice, and when I see you, I will take care of you. Say, is Z Count Stavra? What a lot of trouble he has taken for you and me. It is the worst mixed up mess I have ever seen. I was asked the question if Z was not the husband and the Greek count who owned all these estates.

Another letter, written from San Francisco April 15, 1900, says: "Do you remember what I told you about the girl? I had had her over to New York to meet him and she fell in love with him and married an English sailor and went on their way to Hongkong and then they reached San Francisco and his money gave out. He was cruel to her—used to beat her up, etc. She wanted to elope with her back, but he refused. Now she will have to leave her lord and find another fellow."

You say I am a darling. It is you who is the darling, and you are my darling. How do you like the shade of this paper? It is "our blue," the shade of the "our blue" and "our blue" you brought me from Paris. As ever, DICKIE.

Now, my dear Charlie, brace up and get well for my sake, and remember that you are not alone in the world as long as you D. D. I love and remember he is always glad to see you and have you live with him.

I go up to the house every day and up to our room, and it is awful long to wait for the light to be turned on. I will look after me, my darling, as ever yours, DICKIE.

PRESENT SUGAR TARIFF WILL LOWER THE PRICE WASHINGTON, April 10.—If the present sugar tariff is allowed to stand the production of sugar will increase locally so rapidly that it will establish competition which will set the question of lowering the price of sugar to the consumer, declared Platt Rogers of Denver before the senate finance committee today. He opposed the free sugar bill, which will set the question of lowering the price of sugar to the consumer, declared Platt Rogers of Denver before the senate finance committee today.

EXPERT FAVORS TOLLS ADJUSTABLE TO TRAFFIC Commissioner States Views to Senate Committee WASHINGTON, April 10.—Prof. Emory R. Johnson, the special commissioner named by President Taft to investigate the establishment of tolls for the Panama canal, told the senate committee on interoceanic canals today that the canal should support itself without burdening traffic with unnecessary high tolls. He said the tolls should be adjustable to meet fluctuating traffic and predicted that the volume of business would rise from 10,000,000 tons estimated for 1915, the first year of operation, to 17,000,000 tons by the end of the decade.

VETERAN MAINE LAWYER PASSES AT SEATTLE SEATTLE, Wash., April 10.—John O. Robinson, 80 years old, a lawyer and former Maine politician, died at his home yesterday of paralysis. One of his college friends at Bowdoin was the late Chief Justice Fuller. A son, John Robinson Jr., lives at San Francisco.

Santa Cruz, May 30-June 2 Four days' tournament on Casa del Rey links.

ROYAL BAKING POWDER Absolutely Pure The only Baking Powder made from Royal Grape Cream of Tartar NO ALUM, NO LIME PHOSPHATE

HENEY LAUNCHES ROOSEVELT BOOM

Attorney Addresses Big Audience in Behalf of "Colonel" at San Jose

[Special Dispatch to The Call] SAN JOSE, April 10.—Francis J. Heney opened Theodore Roosevelt's campaign in this county tonight at a meeting in Turnverein hall. He spoke for two hours and was frequently interrupted by bursts of applause, in which women joined with the men.

Heney was introduced by Judge Brown of this city. Heney's address was, in the main, an argument for progressivism. He said that people were beginning to realize that laws are formulated for special interests and that they have not been governing themselves.

There were a number of other speakers and the meeting did not break up until midnight. Among those seated on the platform were Percival R. Milnes, president of the Roosevelt organization in this county; Judge F. B. Brown, Ed M. Rea, Colonel Philo Herby and Colonel D. H. Bryant.

JOHN CROTHER DIES AT HOME IN SAN JOSE Capitalist Was Brother in Law of James G. Fair SAN JOSE, April 10.—John Crothers, capitalist and brother in law of the late James G. Fair, died suddenly at his home here tonight. Death was due to heart disease.

Crothers came to California from Ohio in 1857. He is survived by five children. Three of the boys are prominent here and in San Francisco. George E. is a lawyer and Thomas G. is a physician in San Francisco. Charles F. is an attorney and real estate man here.

Crothers married Margaret Jane Fair, sister of James G. Fair. GERMAN EMPEROR GUEST OF ALLISON V. ARMOUR CORFU, April 10.—The German emperor was the guest at luncheon today of Allison V. Armour on board the steam yacht Utowana. In the morning the emperor showed Armour and Prof. Richard Norton over the extensive excavations being made at Garitza.

SPEEDING CHAUFFEUR FINED—Bernard was fined \$10 by Judge Shortall yesterday for speeding his automobile in Market street.

"ROOS Man-Made" Suits and Riding Habits \$25 "ROOS Man-Made" Suits are shown in two distinct models, one of the semi-fitting type, the other conforming to the present style tendency in men's suits—the full box back. Skirts of the high waist line design. As homespun are in great demand for Spring wear, our selection thereof is very complete, including numberless grays in all shades from dark oxford to the lightest tones. Also homespun—cream flannels, black and white shepherd's check worsteds, striped tan chevots and striped diagonals complete the assortment of these stylish, well tailored suits at the lowest price compatible with satisfaction, \$25.

Roos Bros MARKET AND STOCKTON SAN FRANCISCO