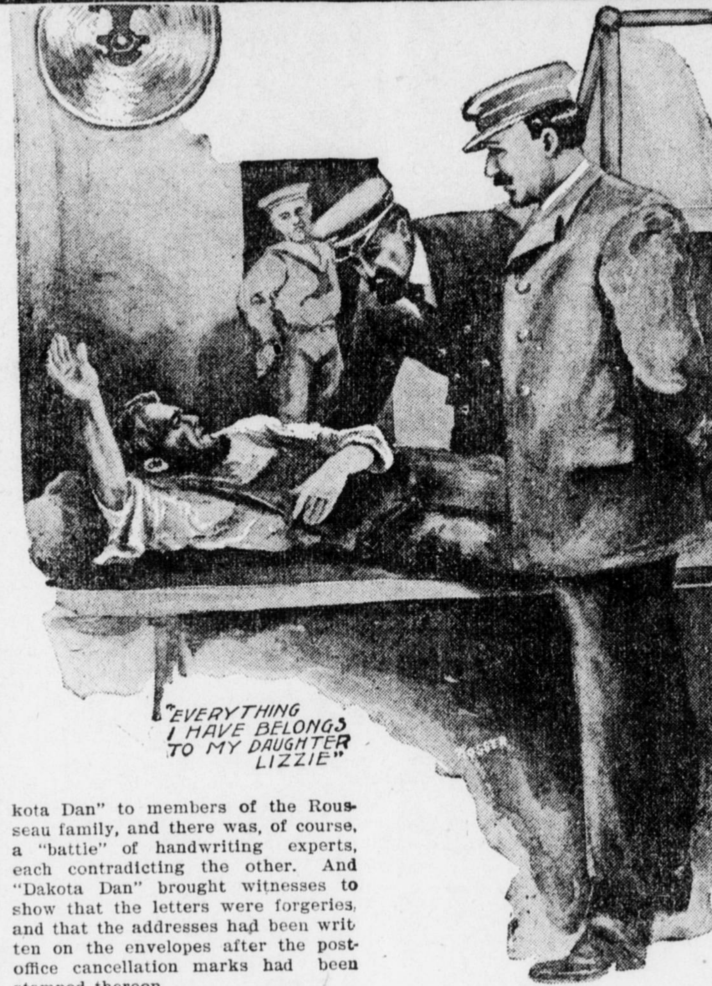
When a Will is Made

OCCASIONALLY you hear of men who, heeding the uncertainties of existence, distribute their property in the life time, instead of directing the manner in which it shall be disposed after they have disappeared forever from the earthly scene. Such a case occurred a few days ago in Chicago when a man of means simply placed an estate valued at $2,000,000 in the care of a trust company for the benefit of his four children. Thus with one stroke he satisfied himself that his property would reach the hands of those for whom it was intended, and no doubt this was a gratifying achievement. For, after all, the will that every sensible man is supposed to make does not always fulfil its object and thus the world sees a contest of claimants which is often less desirable to view than a church quarrel.


"EVERYTHING I HAVE BELONGS TO MY DAUGHTER LIZZIE"

The will, as an instrument of the law, owes its development to the Romans. India did not know of it before the conquest, and it was but a rudimentary affair in Mosaic law and in ancient Athens. The early Roman will was effectual during the lifetime of the person who made it, and it was irrevocable, its object being to secure the perpetuation of the family. Thus the hereditas was vested in a person who could be relied upon to carry on the family name and traditions. Often such wills were made on the eve of battle, and they were published in accordance with the law.

When Constantine the Great caused Christianity to be recognized by the state, this act had its effect upon will-making, inasmuch as the duty of giving bequests to the church was encouraged. Monks and heretics, however, were not allowed to make wills or to take bequests. Then again, wills were deposited in churches; indeed, in England the church exercised jurisdiction in testamentary matters for centuries. Up to 1858 the probate and custody of wills lay with the English ecclesiastical courts, but the carelessness to which the documents were exposed at the hands of lazy and incompetent officials led to vigorous criticism of the system by Charles Dickens and other writers, and, as a consequence, the church lost its ancient privilege.

In modern days, by reason of the prosaic language of legal draftsmen, wills have lost much of their interest as purely human documents; but if one were to set himself to the task of writing the social history of a great city like New York, from its beginning, he could do no better than delve into the records of the surrogates' courts. All wills are probated there; children are adopted under the direction of the surrogates; they appoint guardians and discharge them again when minors reach the age of legal discretion; they settle and distribute the estates of the poor and rich. Thus there is to be found in the probate records the details of social life by generations, and it is possible to trace the evolution of families, old and new, and their rise and fall on the tide of fortune.

The skeleton in the closet is often revealed by legal procedure, and, though it cannot be avoided, the family quarrel is bound to be aired when will contests are tried before a surrogate. Many elements enter into these contests—dissatisfied heirs, forgery, undue influence on the part of persons who have been associated with the property owner; the existence of more than one will; vague and indefinite language in a man's last testament, for "all things which are so written in a will as to be unintelligible are to be on that account regarded as though they were not written."

Russell Sage, who disposed of a vast estate without indulging in superfluous words, adopted a simple method to prevent litigation over his property. A clause of his will read: "Should any of the beneficiaries under this, my will, other than my said wife, object to the probate thereof, or in any wise directly or indirectly contest or aid in contesting the same or any provision thereof, or the distribution of my estate thereunder, then and in that event I annul any bequest herein made to such beneficiary, and it is my will that such beneficiary shall be absolutely barred and cut off from any share in my estate." There was no contest, although it was said that the beneficiaries grumbled a little bit.

One of the most dramatic will cases in the history of Massachusetts was tried a few weeks ago in the probate court of East Cambridge, where two claimants appeared to fight for a share of Senator Daniel Russell's estate, valued at $750,000. By his will the elder son, William C. Russell, was directed to share the estate equally with his brother, Daniel Blake, who had disappeared in 1885, after a quarrel with his father. The first claimant, who came from Medor, N. D., and was popularly known as "Dakota Dan," did not meet with the approval of William C. Russell and his cousin, Ferdinand B. Almy, who asserted that the man's real name was James D. Rousseau or Russaw and that he had familiarized himself with the history of the Russell family before putting his claim forward. Photographs of Rousseau were introduced in evidence; there were exhibits of letters alleged to have been written by "Dakota Dan" to members of the Rousseau family, and there was, of course, a "battle" of handwriting experts, each contradicting the other. And "Dakota Dan" brought witnesses to show that the letters were forgeries, and that the addresses had been written on the envelopes after the postoffice cancellation marks had been stamped thereon.

To these letters were added an application form for membership in the Woodmen of the World. This contained the family history of Rousseau and said that he had three brothers and two sisters living and that another brother had been killed in a railroad accident. All of which was apparently true. "Dakota Dan's" experts asserted that the answer had not been written by him, but had been filled in by others at a later period, his handwriting having been imitated. Thereupon the Russell lawyers showed that the paper had remained in the archives of the Woodmen of the World until the court ordered its production.

The trial dragged on for several months and as it was nearing the end a second Daniel Blake Russell, who was to be called "Fresno Dan," came out from his fruit ranch in Fresno, Cal. Out there he was known as Henry Johnson, but in Melrose, the home of the Russells, he was recognized as the missing "Dan" by responsible citizens. He seemed to be well informed as to the details of Daniel's early life in Melrose, but "Dakota Dan" declared that his rival had been brought on to cheat him out of his rights. Judge Lawton, before whom the tedious case was tried, finally decided in favor of "Fresno Dan," and that night the judge was burned in effigy by an angry crowd of "Dakota Dan's" supporters. If the case is carried to a higher court little may be left of the estate, for the litigation has already cost a huge sum.

In the many efforts of Albert T. Patrick to free himself from a life sentence for the murder of William Marsh Rice, an aged recluse, people have almost forgotten that Patrick was first charged with forgery in connection with the old man's will. Patrick, a lawyer, had learned of Marsh's wealth and his weak state of mind through a suit in a Texas court, and he gained the confidence of Charles F. Jones, valet to the recluse, Jones becoming the lawyer's tool.

Rice, in fact, never knew Patrick, although the latter posed as the millionaire's attorney, always working through Jones, who confessed that he killed his master at the lawyer's instigation. Motive for the murder was held to be desire on the part of Patrick to obtain control of Rice's fortune by means of a forged will, and the murder was accomplished by Jones at Patrick's command, chloroform being the death medium. Jones was allowed to go free, while Patrick was sentenced to death. This was in 1902. Governor Higgins commuted the sentence to life imprisonment, and since that time Patrick has made 23 unsuccessful attempts to regain his freedom.

Phonographic records of testimony in a will case were taken in Boston for use at another trial, if permitted by the court. This unusual procedure was the result of the illness of one of the principal witnesses, who was obliged to undergo a surgical operation immediately after giving evidence. Should it be necessary to introduce these records, the attitude of the court toward them will be of interest to the legal profession generally, for it might serve to create a precedent.

Nuncupative or oral wills, the right to make which lies only with sailors at sea or soldiers in the field, are somewhat rare, but one was admitted to probate in Kings county last December by Surrogate Ketchham. This will was made by George O'Connor, chief engineer of the steamship Dorothy, while the vessel was in mid-ocean. All that he said was: "Everything that I have belongs to my daughter, Lizzie," and the will was proved with the aid of two witnesses, the captain and first officer of the Dorothy.

Army history was related in the will of Brig. Gen. Loomis L. Langdon, who died on January 7. One paragraph read:

"I give to my son, Captain Langdon, the silver tea service presented to me by the citizens of Brownsville, Tex., for what they termed my 'disinterestedness and patriotic services,' as they kindly chose to characterize my action during the absence of the Rio Grande garrison in organizing the citizens of Brownsville into an effective force and assisting in defending their lives and property against the attack of the bandit, Juan Curtinas, for which I received the thanks of the citizens."

His saddle also went to his son with this comment:

"The saddle I used during the great Civil war was on the horse that was killed under me in the battle of Olustree, or Ocean Pond, Fla., on February 20, 1864. The horse was hit five times, and one or two shots went through the saddle, but the bullet holes are concealed by a new cover of leather which was put on the saddle."

Not infrequently you hear of people who have been rewarded in wills for a kind act long forgotten, except by the person who experienced it.

In all probability little information about King Edward's will is likely to come to light, for there is no law in England to compel the probating of such a kingly document. British sovereigns are permitted to purchase property with the funds of the privy purse, and they have the right to dispose of their personal estate without publicity. It is related of George II. that, with the consent of his ministers, he burned the will of his father, George I., because it contained certain scandalous bequests to court favorites, and it is not improbable that other old kings adopted similar measures when they were deemed necessary to preserve the reputation of the reigning house.

Dickens tells in "Pickwick Papers" how Sam Weller saved his stepmother's will from destruction at the hands of his father, Tony.

"This here is the dockyment, Sammy," said Mr. Weller. "I found it in the little black teapot, on the top shelf o' the bar closet. She used to keep her banknotes there afore she married, Samivel. I've seen her take the lid off to pay a bill, many and many a time. Poor creetur, she might ha' filled all the teapots in the house with vills, and not have inconvenienced herself neither, for she took wery little of anythin' in that vay lately, 'cept on the temperance night, ven they just laid a foundation o' tea to put the spirits a-top on!"

"What does it say?" inquired Sam.

"Jist vot I told you, my boy," rejoined his parent. "Two hundred pounds vurth o' reduced counsels to my son-in-law, Samivel, and all the rest o' my property, of every kind and description wotsoever to my husband, Mr. Tony Veller, who I appint as my sole eggzekiter."

"That's all, is it?" said Sam.

"That's all," replied Mr. Weller. "And I s'pose as it's all right and satisfactory to you and me as is the only parties interested, ve may as vell put this bit o' paper into the fire."

"Wot are you a-doin' on, you lunatic?" said Sam, snatching the paper away as his parent, in all innocence, stirred the fire preparatory to suiting the action to the word. "You're a nice eggzekiter, you are."

"Vy not?" inquired Mr. Weller, looking sternly round, with the poker in his hand.

"Vy not!" exclaimed Sam. "'Cus it must be proved, and probated, and swore to, and all manner o' formalities."

IN THE LIMELIGHT

VAN VALKENBURG IS JUDGE

Judge Arba S. Van Valkenburgh, recently appointed United States district judge, western division of Missouri, is one of the youngest jurists on the federal bench. He is only 48 years of age, but his friends say this will not prevent him from making an enviable record.

Mr. Van Valkenburgh succeeded Senator Warner as United States district attorney for the western district of Missouri in 1905 and was reappointed by President Taft in December, 1909. He had previously served seven years as assistant to Major Warner in that office. He was born in Syracuse, N. Y., in 1862. When he was seven years old his parents removed to Illinois and later to Michigan. He was graduated from the University of Michigan in 1884, attaining high rank as a scholar.

Mr. Van Valkenburgh went to Kansas City in 1885 and entered the law offices of Dobson, Douglas and Trimble, being admitted to the Jackson county bar in 1888. The same year he formed a law partnership with D. J. Haff. He was married in 1889 to Miss Grace Ingold of Kansas City.

Mr. Van Valkenburgh was appointed assistant district attorney by Major Warner in 1898, succeeding William Draffen. Upon Major Warner's election to the senate in 1905 President Roosevelt appointed him to the place he since has held.

Law came naturally to Mr. Van Valkenburgh. His father, Lawrence Van Valkenburgh, was a justice of the peace back in New York in the early 60's.

Friends of the newly appointed judge say that at the department of justice in Washington Mr. Van Valkenburgh was considered as ranking among the ablest United States district attorneys in the country.

As United States district attorney, Mr. Van Valkenburgh first attracted national attention in the prosecution of all the packing companies to compel them to comply with the interstate commerce laws regarding the shipment of meats for export. He brought the suit in this jurisdiction and won it before Judge McPherson, sitting for Judge Philips.

POINDEXTER IN LIMELIGHT

Representative Miles Poindexter of Washington, candidate for the United States senate, whose cause has been espoused by Theodore Roosevelt, was born in Memphis, Tenn., fifty-two years ago and has lived in Washington nineteen years. He has served only one term in congress and has been identified with the insurgents, which makes the action of Colonel Roosevelt all the more important to national politics.

Mr. Poindexter has been a political foe of Richard A. Ballinger, secretary of the interior in the Taft cabinet, with whom Gifford Pinchot, former chief forester and friend of Roosevelt, has had a feud for some time.

The Washington congressman visited Colonel Roosevelt at Sagamore Hill a few days ago and came away in jubilant spirits. Roosevelt had promised to aid him in his fight for the senate and he had a right to feel happy, for help from Roosevelt means help of the right kind and Poindexter needed it.

Mr. Poindexter was educated at Fancy Hill academy, Rockbridge county, Va., and at Washington and Lee university, Lexington, Va., in both the academic and law courses. He located at Wallawalla, Wash., in 1891 and began the practise of law. He was elected prosecuting attorney of Wallawalla county in 1892 and in 1897 moved to Spokane. He was assistant prosecuting attorney for Spokane six years and in 1904 was elected judge of the superior court and remained on the bench until nominated for congress in the newly created third district of Washington. He was elected by a majority of 15,000.

When Secretary Ballinger learned that Colonel Roosevelt had promised to lend his influence to the Poindexter cause he expressed the belief that the former president had been misled as to the situation in Washington. The seat in the senate to which Representative Poindexter aspires is now held by Samuel Henry Piles, who is not in the race for re-election.

GIVES MILLIONS FOR BOYS

David J. Ranken, Jr., one of the wealthiest men of St. Louis, has acted literally upon that much-advertised saying of Andrew Carnegie, that "he who dies rich dies disgraced," and has turned over his entire fortune, estimated at a little more than $3,000,000, to the David J. Ranken, Jr., School of Mechanical Trades, which he founded, reserving only $3,000 a year for his own modest uses.

The school was established a year ago with an endowment of $500,000, its purpose being to give boys over fifteen years old a trade education for a nominal sum. The school has prospered and to amplify its usefulness the additional endowment by Mr. Ranken has been made.

Mr. Ranken, who was born in Londonderry, Ireland, in 1835, and who has been a resident of St. Louis since 1862, made his money in real estate and stock transactions. The students at the Ranken school are charged only $30 a year, payable in three installments, and are given a two years' course. All their education is of a practical kind.

Ranken occupies three small rooms over a grocery. When he enters the door and climbs to his rooms he shuts out the world and declines to be seen. Here he has lived for years and worked out the plans and ambition of his life—the founding of the trades school where poor boys can receive a trade education for a nominal fee.

Mr. Ranken visits his school every day and watches the boys at work. He wastes no time in teaching theory in the lecture rooms unless it has some practical application in the shop work. Geometry is taught, but instead of having the boys compute the columns of a cone, they are taught the holding capacity of a funnel of like dimensions. Classroom work in all branches of drawing, carpentry, bricklaying, painting and steam engineering is along similar practical lines.

ASTOUNDS CHOATE'S FRIENDS

Not only the judges and lawyers of the country but all citizens who follow the affairs of the nation were astonished when charges of unprofessional conduct were made against Joseph H. Choate, former ambassador from the United States to Great Britain.

The American Bar association, of which Mr. Choate is a former president, will thoroughly probe the charges at its convention in Chattanooga, Tenn., next month and Mr. Choate's friends say there is no doubt that the verdict will completely exonerate him from all blame.

James R. Watts of Staten island is Mr. Choate's accuser. He alleges that Mr. Choate caused him to lose hundreds of thousands of dollars through "omissions and wrongful acts" while acting as his attorney. Mr. Choate lost no time in demanding a thorough probe of the charges, the first ever made against him in his long and honored career.

Mr. Choate is 78 years old and internationally famous as a lawyer, diplomat, orator and after-dinner speaker. He was ambassador to the court of St. James from 1899 to 1905. His legal career began in 1855, when he was graduated as master of arts at Harvard and admitted to the bar of Massachusetts. He went to New York in 1856 and with the exception of the time he served as ambassador has been practising his profession there. He has been connected with many famous cases and was elected a bencher of the Inner Temple, England, in 1905, an honor conferred only on persons of distinction.

Mr. Choate's many friends say the charges against him are due to some mistake and is confident that the American Bar association will so determine

IT WAS ONCE HIS.

"You don't remember me, do you?"

"No; but that umbrella has a familiar look."

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Their Object.

Banks—The women of my town have formed a secret society.

Rivers—A secret society? Surely, that's a misnomer; women don't know how to keep secrets.

Banks—But they know how to tell them, and that's why they formed the society.

Protected.

Stella—Are you afraid of cows?

Bella—Not with my hatpins.—New York Sun.

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