

The Falls City Tribune.

Vol. II. No. 7

FALLS CITY, NEBRASKA, FRIDAY, FEBRUARY 17, 1905.

Whole No. 59

Miles Will Case, Supreme Court Decides Against Joseph H. Miles

At its sitting on Thursday of last week the supreme court of this state handed down the long expected opinion in the Miles will case. The opinion is written by Judge Sedgwick and is concurred in by the other two judges, Holcomb and Barnes.

It will be remembered that in the original trial the opponents of Joseph Miles introduced evidence to prove that S. B. Miles made a will in St. Louis after the execution of the Rulo will in which Rulo will Joseph was given practically all of his father's estate. The execution of the St. Louis will was denied by Joseph Miles who contended that the Rulo will was the last will made by his father. A great deal of sensational testimony was introduced by the parties consisting largely of transactions detailed by the detective Harbaugh.

Judge Thompson decided the case in favor of Joseph and the other heirs appealed. Upon the first appeal the supreme court held that a will was made in St. Louis but affirmed the decision of Judge Thompson for the reason that no proof was introduced showing that the St. Louis will contained a clause revoking the Rulo will. Thereafter a petition for a new trial was filed by the opponents of Joseph Miles on the grounds of newly discovered evidence, they claiming to have found the lawyer who wrote the St. Louis will. Evidence was taken in Lincoln on this petition. Paul T. Gadsden of St. Louis testified that he wrote the will and that it contained a clause revoking all other wills. His testimony was corroborated by his stenographer, Thomas Cannon and Judge Wind of St. Louis. Besides this testimony, evidence as to the character of Gadsden was given by the United States attorney and the United States marshal from South Carolina, Gadsden's former home, as well as witnesses from St. Louis. Judge Thompson again found in favor of Joseph and upon appeal to the supreme court the opinion just handed down reverses Judge Thompson and finds against Joseph on every question of law and fact in the case. The

supreme court finds that a later will was made in St. Louis and that it revokes the Rulo will. In reply to the contention that Gadsden could not be believed the court says:

"Mr. Gadsden appears to come from a distinguished family of that name in South Carolina. He is the son of a clergyman. He was a graduate of the Southern University and took a course of legal studies from which he graduated in 1893. * * * His personal honor and honesty are established by many witnesses, whose evidence cannot be doubted * * * We find nothing in the record to indicate that his evidence is corrupt with perjury, or that he as a witness was inspired with a desire to deceive the court."

It was contended that because the St. Louis will was not found, that the court as a matter of law must presume that S. B. Miles had destroyed it and that he did so with the intention to revive the Rulo will. It will be remembered that Joseph Miles claimed to have found the Rulo will in an old unlocked valise when he was alone in his father's room in the Union house. The supreme court in answer to this contention says: We have no hesitancy in saying that no such principle can be involved in a case like this where the one principally benefited by the former will brings that will forward, claiming that he has found it under such extraordinary circumstances, and denying that he has found with it the later will which it would be so much in his interest to suppress."

The court further finds as a matter of law that before Joseph can take his father's estate under the Rulo will he must prove that his father destroyed the St. Louis will and revived the Rulo will. In as much as Joseph and all of his witnesses have testified that there was no St. Louis will, it will readily be seen how difficult the task imposed on him by the supreme court when it requires him to prove that S. B. Miles destroyed a will which he says

never had an existence. As to the difficulty created in proving the next necessary step, to wit: that S. B. Miles revived the Rulo will, it will be remembered that Gillespie one of the attorneys for Joseph has testified that when he asked S. B. Miles shortly before his death where the Rulo will was that Miles replied to him, "I don't know where the d— thing is. I may have lost or destroyed it."

The closing words of the opinion of the supreme court are:

"This evidence showing that the Rulo will was revoked by the subsequent will, there being no evidence from which it can be found that the former (Rulo) will was revived, would require the rejection of the Rulo will."

Altogether the opinion of the supreme court is a sweeping decision against Joseph Miles, and having settled all questions of law in the case will doubtless simplify the litigation.

We are informed that a motion for a rehearing is being prepared.

Gone From Our Midst

MARSHALL THOMAS NAYLOR

No matter where, when or how it comes death always brings the bitter tears of sorrow, but it is not always that the passing of a single person calls forth such heartfelt expressions of regret and sympathy as is expressed by the people of this city over the sudden, unexpected death of Marshall Naylor. Just on the threshold of manhood with only a glimpse of earth's possibilities he passed from the ruffled sea of life and found peace in that quiet Haven of rest. The stormy billows of adversity may toss and roll but he has joined the ranks of God's sailor boys where no storms sweep. The wide circle of friends extend their condolence and sympathize with the sorrowing father, mother, brothers and sisters in their great and sudden bereavement.

Marshall Thomas Naylor son of Thomas and Amanda C. Naylor was born in Holton, Kas., April 17, 1884 and died at Boston, Mass., Feb. 11, 1905 aged 20 years, 9 months, 24 days.

He came with his parents to Falls City in 1898 and grew up to manhood in our midst. He attended our city High School and made a record as a good student.

In 1904 he entered the U. S. Marine service and was in training at Boston at the time of his death. The training ship being

the famous old ship—the Constitution of the war of 1812.

Marshall Naylor looked forward to years of faithful service and expressed a desire to get an honorable discharge. It came soon. A few days of illness and Marshall Naylor was gone. His life's work at an end. May this sad scene teach us to be ready to answer our final summons.

His friends believe he was prepared for death.

The funeral services were held from the M. E. church at 2:30 p. m. Feb. 15 1905, Rev. Frank Campbell led in prayer and Rev. Cline delivered the funeral sermon. Interment took place in Steele cemetery.

MRS. H. C. LAPP

And again some loved one has passed to that dim but vast unknown, from whence there is no return, leaving behind a vacant chair and mourning friends. Mrs. Eleanor Lapp, after suffering for two weeks from pneumonia, passed away early Sunday morning, February 12, 1905. Enjoying for the past thirty-two years close association with the people of this city and by her cheerful, loving, ever ready to help disposition her demise calls forth from all expressions of deepest sorrow and sympathy. In her home where her beautiful traits of character, in her position as helpmeet, companion and comforter the unwelcome guest Death brought desolation and bitter grief from which no matter how bright the rays may be, the dark shadow of their irreparable loss will never be dispelled. As with a beautiful gem, how dearly you love its possessions, and how keenly, when gone from its setting you feel the loss, so it is when a loved one is removed from their earthly home and taken closer to the Master's fold.

Eleanor C. Fikes was born April 9, 1860 in Geneseo, Illinois and when twelve years of age with her parents moved to Richardson county, where they were one of the earliest settlers, owning a large tract of land about twelve miles north of this city. On June 11, 1879 she was married to Henry C. Lapp at the home of her father, John D. Fikes, which union were born two daughters and a son. Mrs. Lapp leaves to mourn their loss a husband, Henry C. Lapp, two daughters, Mrs. Mattie Foster and Miss Odla, a son, Sydney and a brother who resides in California.

The funeral was conducted Tuesday morning, February 14 at the Episcopal church of which denomination she was a faithful conscientious member. The local order of the D. of H. of which the deceased was a valued member attended the services in a body, after which interment took place in Steele cemetery. Their large circle of friends expressed their sympathy to the sorrowing ones.