

## WHICH OF THEM DIED FIRST?

From a runaway automobile on Aug. 14, Charles Fair, a California millionaire, and his wife, whom he had made his heiress by will, were hurled against a tree and instantly killed.

The dreadful casualty occurred near Paris, France. The nice legal details as to priority of death, and the battle in the courts, if one should take place, will be fought in California.

Charles Fair had willed his vast estate to his wife. His wife had willed her estate, large or small, to her relatives.

Which died first?

On a gasp, a moan, the flutter of an eyelash, millions of dollars may depend. A French woman from a nearby village ran to the scene.

They were clasped in each other's arms and motionless. A physician would have looked for life. The French woman only wrung her hands, and uttered prayers and composed them decently.

And yet if it can be proved that Charles Fair died first, his estate will go to those who are already burdened with millions. It will go to the Vanderbilts of the Outback.

If in law it can be proved that Mrs. Fair survived her husband by the twitching of a muscle, or of a moan of pain, she has inherited his millions, and through her they will have passed down to her relatives, most of whom are in New Jersey.

The whole thing sits down to a question of simultaneous deaths.

By the tenets of the old Roman law there was no presumption that those who perished in the same disaster died at once. When in battle or shipwreck, or in any other disaster, a father and son died together it was presumed that the father died first.

If all were under fifteen years of age it was deemed that the eldest had lived the longest. As between the sexes in the same class the presumption of survivorship was always in favor of the male.

In France, by the code Napoleon, the same presumptions were adopted, as providing for succession in case of nature. In substance its provisions were afterwards incorporated in the code of Louisiana.

Other courts have provided by statute that where relatives die in the same calamity there is a presumption that all expired at the same moment.

There are many interesting cases in which both the civil and common law have been evoked, and which are published by the Lawyers' Co-operative Publishing Company, of this city.

The earliest known English case occurred in 1586, when George Hitchcock and his son, joint tenants in a certain lot of real estate, were both hanged from the same gallows.

The widow of one of them claimed and established her dower right on the ground that her husband lived longest. Her husband was observed to move his feet and shak his legs after the body of his son was still in death.

The cases of *Netherwood*, and of *Wright vs. Sarnuda*, created a great deal of interest in England during the early part of last century. A will in favor of the wife was drawn up by one John Wright, who remarried after her death, and with her children, his second wife and a child by her, embarked for Jamaica for a voyage on a vessel which was never afterward heard from and which was finally admitted was lost with all on board.

The question involved was "Did the second marriage revoke the will or not?" As there was neither wife nor children at the death of the testator, the question of the inheritance was that of priority of death. After a long legal battle the judge pronounced in favor of the wife, claiming that the husband had died first.

And all of his children, though to all practical intents they had died simultaneously.

The case of *Sclwyn vs. Hogg*, related to the drowning of both husband and wife, who were voyaging from Liverpool to Rangoon in the ship *Rothsay Castle*. There was no proof as to the time that either died. The bodies were found floating near the shore. In this case the judge decided that in the absence of clear evidence it is taken that both died at the same time.

In a similar manner the property of Murray, his wife and child, who were drowned while en route from London to Quebec on the bark *Emerald*, of London, was disposed of.

When the ship struck the reef Murray was on the main deck, and rushed below to his wife and child. As he descended the gangway the vessel struck a second time and went to pieces. Her husband, and all his property to his wife.

The court granted administration to the husband's next of kin, as there was nothing to show that his wife had survived him.

Another case that attracted public attention was that of *Wainwright vs. Swetby*. Mrs. Wainwright, who perished with her husband and child in the *Campanero* massacre, and administration of his estate was awarded on the oath that the deceased was a bachelor without children, and that there was no evidence to show that the wife and children had survived.

In short, the English law plainly provides that you must either prove in cases of the death of wife and husband that she died before him, or that he reduced the property in his possession during his life, or that he did not do. Proof of the facts must be plain in all cases.

The English common law in such cases has always applied in the United States in questions of survivorship, with the exception of Louisiana and California, as before noted.

There have been several hard-fought cases in the courts of this country, none perhaps more interesting than those which came out of the burning of the steamer *Palack*, on June 14, 1888.

The steamer had left Charleston for Baltimore and was destroyed off the coast of South Carolina. Out of that disaster came the celebrated *Wainwright* case in South Carolina, and the *Pell vs. Ball* case in Massachusetts.

On the doomed steamer there was a family consisting of Mr. and Mrs. Pell and their adopted daughter, Mr. Ball had left a will under which it became material to determine whether or not Mrs. Ball had survived him.

Mrs. Ball was seen and heard calling for him some time after the explosion. The husband had neither been seen nor heard of since. It was practically analogous to that of Mr. and Mrs. Charles Fair in Paris.

Another queer case which occurred in this country was that of *Moehring*, Mitchell, Mr. Moehring, with his wife and child, sailed to Europe on the steamer *President*, which was never heard of again. The wife had

procured a policy on her husband's life, which she attempted to dispose of by will.

The surrogate refused to admit this will to probate, being unable to determine whether or not the husband had died before the wife. The question came up on appeal from his decision, which was affirmed. The case resulted in awarding the insurance money to the representatives of the husband, without proof that he had died first.

Harry C. Yokum, a wealthy St. Louis man, and his daughter Florence were cruising in the borrowed yacht *Paul Jones* on the Gulf of Mexico, in January, 1896. The yacht was lost at sea and all the party must have perished.

Both father and daughter carried \$5,000 life insurance, each naming the other as beneficiary. The will of Mr. Yokum left all to his daughter Florence. Several intricate questions in the disposition of the estate were involved and the insurance company refused payment on both policies.

Out of the wreck of the steamship *Schiller*, on the voyage to Europe, in 1896, there came a great deal of litigation in this city. When the *Schiller* was wrecked, off the Selly Islands it was wrecked, and Mrs. Ridgeway and two young children, together with their father, perished.

The brother and sisters of the deceased father applied to the surrogate to administer the estate on behalf of the children. The surrogate held that in the absence of any testimony there was no legal presumption that the father had died before the children, and that therefore he could compel no administration of the estate.

The exceptions to these rulings in common law in cases of simultaneous deaths have occurred, as far as the United States is concerned, only in Louisiana and California.

The most notable case in California was that of *Stauders vs. Smeich*. The testator, with his wife and two children, perished in a fire which destroyed their home. The jury found that the wife survived. The effect of this, according to the California statutes, was to work a revocation of the will, which was in favor of the children.

The only evidence admitted by the court on the point of survivorship was a recital in the probate order appointing the wife as administratrix, and that she was the surviving wife of the testator.

In revising the judgment, the court pointed out that as this order was the only evidence before the jury upon which, by the rulings of the court, the verdict was founded, there was no evidence to sustain the finding, and that it was against the law. For where two persons perished in the same calamity, and it is not shown by the evidence that one died prior to the other, the presumption is that they both died simultaneously.

The fact of death being underdetermined, property involved descends as if death were simultaneous. When there is a presumption of any kind it is created by the statutes.

A more recent case in this city was somewhat similar to the *Fair* disaster was the burning to death of Wallace C. Andrews, a millionaire of this city, and his wife, Margaret St. John Andrews, and Mrs. George Boyden St. John, Mrs. Andrews' sister.

Andrews died before his wife. It is claimed that his bequest for charitable purposes is valid only to the extent of one-half of his estate, and that the other half should go to his heirs.

The question as to whether Mr. Andrews or his wife died first has not yet been judicially determined. —New York World.

**THE AGE OF SKYSCRAPERS**

Experts Confess Themselves at Sea Regarding This Latest Problem.

What is the probable lifetime of the New York skyscraper?

That depends entirely upon its genesis.

Just before Mr. Andrew Carnegie last went abroad he led a Pittsburgh friend to Madison Square and confronted him with the huge, wedge-shaped structure which, like a colossal whip, thrusts its white nose into the junction of Broadway and Twenty-third street and Fifth avenue.

"It's a daisy," said Mr. Carnegie's friend.

"A mountain daisy," said Mr. Carnegie. Then he quoted aptly from Burns:

"Stern Ruin's ploughshare drives elate Full on this bloom."

That at least, is one of the stories heard by a writer for the *Sunday World Magazine* while conversing with an eminent consulting civil engineer. The talk was about the longevity of the up-to-date, up-to-the-minute skyscraper now building or built in New York city.

"How long will they stand?" said the engineer. "Who can say? In an earthquake, probably about as long as the *Rockefeller* building."

It says Sonething

for a new article when it becomes immediately popular. The most successful of these are the first box of

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the seismic shock itself. They'd all come down like a pack of cards. But under normal conditions the age of the skyscraper is the age of an old maid—we can only guess at it. We must wait until one of them dies."

It was pointed out that the lifetime of brick and granite, of the Chinese wall and of the Pyramids was not at all problematical.

But that's a different thing entirely. What are they but foundations, anyway? And bear in mind that in this climate there is no building stone which is imperishable. The question is simply this: Will the inner structure of the skyscraper last as long as a solid building of granite or kaolin brick? The question was brought to issue by the late Mr. Sooy Smith at a recent banquet of real estate men in Chicago. The general is a West Pointer and a thoroughly competent authority in engineering matters. He has disclaimed any intention of posing as a prophet of evil, or of being regarded as an alarmist in the profession. But he did and does declare point blank that a great danger of instability and early decay exists in the careless or ignorant manner of erecting many of our finest examples of tall office or apartment buildings. There is always, of course, a serious menace in the weather to improperly protected steel.

The writer saw Edward L. Abbott about the matter. Mr. Abbott, an associated member of the American Society of Civil Engineers, has an office with Mr. Charles Scoy Smith, son of the general (who divides the name in two), and he discussed the skyscraper's decay with an air of dispassionate conviction.

"I think," said he, "that I can put the matter in a nutshell for the readers of the *Sunday World*. It is this way: There are skyscrapers of two kinds, a strain per unit of section of one-fourth or one-fifth of the ultimate strength of the steel used in a building; that depends upon a given factor. Say that is five. It means that at every point the structure is built to sustain five times the strain to which it is actually subjected; and it is a rule of construction that no building should be weighted beyond one-half of its elastic limit. Now, suppose the foundation of a huge twenty-story steel structure is slowly but surely weakened by corrosion, what results? What must result? Why its decay at the roots, of course, but not of necessity its instant collapse. It must go into repair. That's about what Gen. Sooy Smith said."

The simple fact is that while too little care and precaution actually are, too much cannot be taken with the skyscraper, which forms the skeleton of the city.

The foundation steel must not only be securely imbedded in a cement impervious to the subtle action of ever-present moisture, but it must be protected by a coating of paint, and it must be effective must come into a state of adhesion, not mere general contact with the steel. Elsewhere and upward the steel must be covered with asphalt or other preservative paint.

"Well, I should like very much to have a peep 40 years from now at the steel which forms the foundation of some of our big buildings."

A majority of the city's consulting engineers visited by the writer agreed in the main with Mr. Abbott's views.

**HOG CHOLERA AND ITS CURE**

Expensive Disease Which Is Extremely Contagious.

Breeders Should Arrange His Premises So That He Can Divide Them Into Isolated Piggeries.

In a bulletin just issued by the Department of Agriculture, Ottawa, are the following reference to hog cholera:

Hog cholera is extremely contagious and infectious. No other disease is more so; it can be conveyed to healthy swine in an endless number of ways, and it is extremely contagious.

Improvements can be made in the manner of feeding corn to hogs. Too often the surplus is rooted out of the trough, if such is used, and is undergones fermentative changes and when afterwards eaten produces gastric and intestinal disturbance. This could be prevented by placing the trough on a platform, and what is a size as would admit of their being moved easily, when necessary for sanitary or other reasons.

Every breeder of hogs ought to arrange his premises so that he can divide them into perfectly isolated piggeries, so that if, by some misfortune, it is introduced to one lot, the others may be preserved through isolation. Breeders and owners would greatly serve their own interests by providing a separate pen as a quarantine for hogs, and by making all new purchases, in which they would be kept for a few weeks to make sure that they are free from disease.

When a disease has been discovered and discovered in a herd, immediate notice should be given to the Minister of Agriculture, who will cause an investigation to be made, and if the disease is found to be hog cholera, quarantine will be established, the actually diseased pigs immediately slaughtered and the carcasses burned, and the healthy pigs, if at all fat enough, will be immediately slaughtered and if, on post mortem examination, they are found free from disease, they will be sold for pork, and the balance fattened as quickly as possible and disposed of, or on examination after death, the flesh is considered fit for food; indemnity being paid for those actually diseased, to the extent of one-third of their value before they became diseased. The animals in the herd are all to be kept in the contact of the diseased pigs, and the minister will order the removal of the quarantine.

A parrot may be taught to talk by placing it in a darkened room and repeating the words or phrase five or six hundred times.

IMPURITIES IN THE BLOOD.—When the action of the kidneys becomes impaired, impurities in the blood are almost sure to follow, and general degeneration of the system results. Vegetable Pills will regulate the kidneys, so that they will maintain healthy action, and prevent the danger of these delicate organs. As restorative these Pills are in the first rank.

## THE GREAT ROWAN COUNTY WAR

A FAMOUS KENTUCKY FEUD.

Kentucky feuds have long been celebrated in song and story, but no feud has ever been so expensive to the State, so demoralizing to the people, and so disastrous to life and property as the terrible "Rowan County War," which had its beginning and its end in the little town of Morehead. Blood flowed almost as freely as water, and both the county and State officials were powerless to prevent the great loss of life.

Many are the thrilling narratives that have been written concerning this feud, but the greatest tragedy of the conflict, and doubtless the most serious, was enacted on Kentucky soil, has for years been locked securely in the bosom of the writer. All participants having now gone to their rest, however, and secrecy being no longer necessary, I have decided to give it to the public in all its strange and terrible detail.

On the 10th day of August, 1882, the county election was held in Rowan county, at Morehead, the county seat. A large number of citizens were gathered in the district. Excitement ran high, for everybody realized that the election meant more than the passing of the year. It was a battle, and a division of party spoils, but that to the winning party it would mean great loss of life. While the more law-abiding citizens were discussing the merits of the candidates, a pistol shot rang out, and answering ones promptly resounded through the air, proclaiming to the anxious throng who had collected to see the election, that a fight was on. The crowd, which was composed of the Republican party—two prominent partisans, while the other was an innocent bystander, who had committed no offense save to cast his vote for the party of his choice. While the excitement over the shooting was at its height, the result of the election was announced, giving victory to the Republican party. This infuriated the Democratic party, who were certain that their murdered men had been the victims of partisan feeling, and they clamored for the detection and punishment of the guilty parties.

The entire county was soon in a commotion. The women and children trembled with fear and apprehension. The men, who were expected to be in every place throughout the county and discussed the result of the election, the crime and the possible apprehension of the murderer. Suspicion was kindled in the minds of the people, and the town of Morehead, eight miles from the county seat, but this suspicion was based solely upon the well-known party prejudices and the fact that the Republican party had been the victors in the election.

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up" the train while the others shot Martin. Shephard still presented himself at the Winchester jail on the Saturday night following, and delivered the forged order to the jailer, who had no suspicion of the real state of affairs. Shephard waited for his prisoner at the eastern station, and when he was exchanged between them, and after parting from the jailer Shephard, accompanied by the prisoner, walked rapidly to the railway station, reaching it just as the eastbound train came puffing in.

They boarded the train and were whirled away through the fast "blue-grass" country. Darkness enveloped everything, and an occasional twinkling light from a distant farm house was the only thing that he saw. Shephard was taciturn, and seemed wrapped in gloomy meditation; he was apparently very careless of his prisoner, but as a matter of fact his eye never once wandered or relaxed its vigilance. When they reached the town of Mount Sterling, some twenty miles from Farmers, he rose with a nonchalant air, and with a voice of studied carelessness said, "Come, Martin, let us go into the smoker and take a puff."

It was at the hour of 11 that Shephard and his prisoner entered the smoking-car and seated themselves. Shephard placing himself on the side next the aisle.

JOHN MARTIN'S FATE.

Just at this hour I was hastening from my home in Farmers to the bedside of a dying friend. In order to do so I had to pass through the deserted streets of the town. I was hurrying along about a mile from the village I had just left sounds of galloping hoofs and the clatter of wheels reached me. I was almost paralyzed with fear, thinking that my presence would be discovered, but I soon found that they were only the couriers of some party. I recognized each voice, and in a few moments was made acquainted with all the details of the terrible deed to which I had just been summoned. They discussed the location of Shephard and his prisoner in the car. There were six of them, and I gathered that three would "hold up" the engineer while the others would locate the prisoner, shoot the lights out, and then attack Shephard. Shephard was to dodge beneath the seat to avoid injury to himself. After repeated instructions and careful cautions they remounted, and, hearing the clatter of the train in the distance,