

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF EUREKA.

In the Matter of the Estate of)
John E. Sexton, deceased.)

No. 442, Probate.

DECREE SETTLING FINAL ACCOUNT AND
FOR FINAL DISTRIBUTION.

The petition of Frances Sexton and W. W. McNair, executors of the will of John E. Sexton, the above-named decedent, for settlement of their final account and for a final distribution of the estate of said decedent, came on regularly to be heard this 12th day of December 1930, satisfactory proof having been made that notice of the time and place of this hearing has been duly given according to law.

W. W. McNair appeared as attorney for the executors, and John V. Copren Esq. as attorney for Frances Sexton individually, and M. D. L. Fuller Esq. of the firm of Pillsbury, Madison & Sutro, attorneys for The Bank of California, N. A., Trustee.

And it appearing to the satisfaction of this Court from the records and files herein, and by the evidence adduced at this hearing:

That by decrees of this Court the administration of said estate by said executors has heretofore been approved, and their first and second accounts allowed and settled, to and including the 30th day of September 1928, at which time cash on hand amounted to \$25,744.82.

That the aforesaid final account of said executors shows cash receipts since said

30th day of September 1928, including the aforesaid balance then on hand, and to and including the 9th day of October 1930, amounting to \$49,983.89, and disbursements of \$34,365.67, leaving a balance of \$15,618.22.

That said executors have now filed a supplemental account showing additional receipts of \$1,135. and additional expenditures of \$2,092.56 which leaves a balance of \$14,660.66 on hand at the present time.

The said final account and said supplemental account are both true and correct, and contain full and true reports of all cash receipts and expenditures of the executors, during the periods respectively covered thereby, and should be approved and allowed.

That there is no estate tax due to the United States, and no inheritance tax due to any state, from the estate of said decedent.

That all expenses of administration of said estate have been paid, except the cost of closing which is hereby estimated at \$100. and the commissions and fees due to the executrix, and the balance due to the attorney for executors.

That under section 5040 of the Revised Laws of Nevada, the commissions due executors for ordinary services in this matter amount to \$5,704.34. That said executor, W. W. McNair, has waived all commissions and fees as such executor, on account of having acted as attorney for the executors. The said executrix, Frances Sexton, is entitled to receive one-half of said commissions, or \$2852.17, for her ordinary services herein; and that \$5000 is a reasonable sum to be allowed to her for her additional services herein, as provided by said statute.

That under section #6126 of said Revised Laws, \$10,000 is a reasonable fee, and said amount is hereby fixed, to be allowed to W. W. McNair as compensation for his services as attorney for the executors herein. That by orders of this Court, \$7,000 has heretofore been paid to him on account of said fee, and that the balance due thereon out of said estate is now \$3,000.

That the payment and deduction of said sums still due from the estate will leave a balance of \$3,808.49 cash on hand, subject to distribution herein.

That all debts and liabilities of said decedent and all expenses of his last illness and funeral, and all taxes due on the property of said estate, have been fully paid and discharged; that all proceedings required by law have been taken and had herein; and no exceptions having been filed, or objection made, to the final account of said executors or to their petition for final distribution of the estate of said decedent, the said estate is now in a condition to be closed.

That due notice to creditors was given by said executors according to law, and that the time within which claims could be presented expired December 17, 1927; that on January 12, 1928, and within the time allowed by law therefor, said executors presented and filed herein a statement of all claims filed against the estate giving the names of creditors, the character of each claim, the date when due, and whether allowed or rejected; and that all claims presented have been fully satisfied and discharged either by payment in full or by compromise authorized by this Court.

That on the 24th day of September 1927, and within the time allowed by law, said executors made and returned to this Court a true inventory and appraisement of all of the estate of said decedent which has come to their possession or knowledge, all of which was the community property of decedent and his wife, Frances Sexton, and the total appraised value of which was \$243,385.86.

That since the filing of said inventory, the following changes have occurred in the property held by said executors:

All of the real property described in said inventory located in El Dorado County and Colusa County in the State of California has been distributed by the Superior Court of the State

of California, in and for the County of El Dorado, in ancillary proceedings No. 1760, probate, conducted by said executors; and that a certified copy of the final decree of distribution therein, dated March 1, 1929, is on file herein.

The promissory note of John D. and Edith Nagle for the sum of \$12,500. has been converted into a certificate of sale to said executors of sections 18 & 20, T 16 S, R 16 E, M. D.M., by foreclosure proceedings conducted by them in the Superior Court of the State of California, in and for the County of Fresno, action No. 43478.

The face value of the Public Improvement 7% bonds of the City of Sacramento has been reduced to \$2,953.10, by payments made on account of the principal of said bonds.

Said executors have sold 200 shares of stock of the Texas Gulf Sulphur Company, 250 shares of the common stock of Sinclair Consolidated Oil Corporation, and 300 shares of the capital stock of Kennecott Copper Corporation; and all of said sales have been heretofore approved and confirmed by this Court. Thereafter the Kennecott Copper Corporation changed its existing shares into twice the number of shares of the same class; and issued to said executors 250 additional shares of its common stock, and the estate now owns 500 shares of such new stock.

Said executors have also received 13 additional shares of the stock of Standard Oil Company of California, as a 2 % stock dividend; and now hold 663 shares.

All of the stock of Argyle Mining Company listed in said inventory was lost before the death of decedent by non-payment of assessments thereon, and was included in the inventory by mistake.

The promissory note of F. H. Zumwalt for the sum of \$7000 was, by order of Court, cancelled and returned to the maker in the settlement of his suit against the executors, based upon his claim for \$10,000.

The note of Arthur Nicolson for \$73 had been paid to the decedent, and was included in the inventory by mistake.

The note of C. H. McCormick for \$500 has been collected in full by the executors.

Leaving in the estate the property hereinafter described and distributed as the residue.

That at the death of said decedent, which occurred August 9, 1927, one-half of all of his estate passed by law to his wife the aforesaid Frances Sexton, as her community interest therein, subject to debts, family allowance, and expenses of administration.

That out of the other half of his estate, said decedent, by his last will which was admitted to probate herein September 12, 1927, made certain general bequests amounting to a total of \$11,750, all of which were by order of this Court paid in full on the 22nd day of December 1928, out of the general funds of the estate, and gave all of the remainder thereof to the Bank of California, National Association, of San Francisco, California, in trust for the benefit of his wife, Frances Sexton, during her life; and after the termination of said trust the said testator gave \$54,000 to "The President and Board of Trustees of Santa Clara College", a corporation, commonly known as the University of Santa Clara, to establish three perpetual scholarships upon certain terms in said will specified; and gave all of the remainder and residue of his estate in equal shares to the following named eight persons, or to the survivors of them living at that time: Mary Heryford, sister of the testator, Charles B. Sexton, Frank Sexton and Eugene C. Sexton, brothers of the testator, and L. H. Clar, Dr. F. H. Zumwalt, Alice M. Warren, and W. W. McNair.

That after the death of said decedent and on or about the 7th day of February 1930, Dr. F. H. Zumwalt, one of the abovenamed remaindermen and residuary legatees, for a valuable consideration, transferred, assigned and conveyed to said Frances Sexton and her heirs and assigns, all of his rights under the said will and all of his right, title and interest, present and

future, in the property of said estate and the corpus of said trust; and upon the survival of said Zumwalt at the termination of the aforesaid trust, the heirs or assigns of Frances Sexton will be entitled to all of his said interest.

That Frances Sexton is entitled to have the sum of \$11,750 distributed to her before actual division of the residue hereinafter described; but in order to avoid the sale of any of the property of the estate at this time, she and said trustee have agreed upon a settlement and division to be made between them after distribution, by which she will be fully reimbursed on account of the payment of the general legacies out of general funds of the estate as aforesaid; and they have filed a joint petition herein praying for a decree herein distributing the estate to them, subject to such adjustment between them.

That said Frances Sexton and said trustee have also filed herein their joint petition under section #6081, requesting that their shares be distributed to them in common and undivided.

NOW THEREFORE, IT IS HEREBY ORDERED AND DECREED:

That the aforesaid final account and report of said executors be, and they are hereby, approved, allowed and settled; and their said supplemental account is also allowed and settled.

That out of the funds of said estate, the executors pay to Frances Sexton \$2,852.17 as commissions allowed by law for her services as executrix of said will, and the further sum of \$5000 as a just and reasonable allowance made to her under authority of said statute, as additional compensation for her services as such executrix; and to W. W. McNair the sum of \$3000 as the balance due him on account of his fee of \$10,000 heretofore fixed and allowed as a just and reasonable compensation for his legal services for the estate in acting as attorney for executors.

And that the balance of cash remaining in the hands of the executors, to wit \$3808.49 and all of the rest residue and remainder of said estate hereinafter particularly described, and any and all other property belonging to said decedent or acquired or that may hereafter be acquired for his estate, and all accrued and accruing interest, profits and accumulations thereon, be, and are hereby, distributed, subject to the payment to Frances Sexton of the sum of \$11,750 to offset the payment of that amount out of the funds of the estate to satisfy the general legacies provided for in said will, and undivided one-half thereof to Frances Sexton in fee, and an undivided one-half thereof to the Bank of California, National Association, as Trustee Under the Will of John E. Sexton, to hold the same during the life and for the benefit of said Frances Sexton; to receive all dividends, rents and income therefrom, and pay the net income to Frances Sexton on demand; and with full power given to said trustee to sell any or all of the property subject to said trust and to reinvest the proceeds of such sales and other funds of said trust in any securities in which said trustee may at the time invest its own funds.

Upon the death of said Frances Sexton, the said trust shall terminate; and thereupon the said trustee is authorized and directed to pay the aforesaid sum of \$54,000, bequeathed by the will of decedent, to The President and Board of Trustees of Santa Clara College, a corporation, commonly known as the University of Santa Clara, for the establishment and foundation of three perpetual scholarships of \$18,000 each, for resident students at said University, such students to be selected and such scholarships to be named and administered in accordance with the directions of the testator set forth in his said will.

And all of the residue and remainder of said estate and of the said trust property and trust funds are hereby distributed, to take effect upon the termination of said trust, in fee and in equal shares, to the survivors of the aforesaid eight remaindermen and residuary beneficiaries named in said will, who may be living at the termination of said trust, or to their respective assigns, the heirs or assigns of Frances Sexton to take all of the share given by said will to the aforesaid Dr. F. H. Zumwalt.

The residue of the estate of said decedent now in the possession of the executors, and

distributed by this decree, consists of \$3808.49 balance of cash on hand, and the following described real and personal property:

That certain group of patented mining claims, situated in the County of Eureka, State of Nevada, and commonly known as the Windfall Mine, containing 128.532 acres, designated by the Surveyor General as Survey No. 3705, and comprising the following-named lode mining claims: Jim Crow, Jim Crow Fraction, Southern Cross, Elmer, Elmer Fraction, Windfall, Windfall Fraction, 2G, May, and May Fraction, each of which is particularly described by courses and distances in the deed from the Alkali Mines Company to J. E. Sexton, recorded March 30 1918 in liber 18 of deeds at page 292, Records of Eureka County, Nevada; together with all easements and appurtenances belonging thereto or connected therewith, and all improvements and fixtures and personalty thereon.

Certificate of sale of sections 18 and 20 in township 16 south of range 16 east, M.D.M., dated October 30, 1928, and recorded on the same day in Official Records of Fresno County, California, issued to Frances Sexton and W. W. McNair, as executors of the will of John E. Sexton, deceased, by Chas. S. Rankin, Commissioner appointed by the Superior Court of said Fresno County in the foreclosure action No. 43,478 in said Court.

250 shares of the capital stock of The Bank of California, N. A. , consisting of certificates #6109 for 100 shares, #6110 for 100 shares, and #6128 for 50 shares.

500 shares of the capital stock of Kennecott Copper Corporation, consisting of certificates of #A.143567 for 100 shares, #A.146309 for 100 shares, #0.30803 for 100 shares, #0.30804 for 100 shares, #B.183343 for 50 shares, and #0. 20059 for 50 shares.

100 shares of the common stock of The American Metal Company Ltd, certificate #0.5984.

150 shares of the capital stock of the California Packing Corporation, consisting of certificates #SFO.42544 for 75 shares, and #SFO.45793 for 75 shares.

663 shares of the capital stock of Standard Oil Company of California, consisting of certificates #SFD.2604, for 100 shares, #SFD.5009 for 100 shares, #SFD.5054 for 100 shares, #SFD.5055 for 100 shares, #SFC.3026 for 100 shares, #SFC.22420 for 50 shares, #SFC.22524 for 50 shares, #SFC.17297 for 25 shares, #SFC.17578 for 25 shares, and #SFC.82914 for 13 shares.

145 shares of the common stock of Pacific Gas & Electric Company, consisting of certificates #C.4373 for 100 shares, #F.5856 for 32 shares, and #F.10432 for 13 shares.

275 shares of preferred stock of Los Angeles Gas & Electric Corporation, consisting of certificates #LAB.4055 for 100 shares, #12013 for 100 shares, #13466 for 50 shares, and #13486 for 25 shares.

250 shares of the capital stock of Dumbarton Bridge Company, certificates #1539 for 100 shares, #1540 for 100 shares, and #1722 for 50 shares.

5000 shares of the common stock of Holly Consolidated Mines Company, certificates #926 to 930, inclusive, for 1000 shares each.

City of Sacramento Public Improvement 7% bonds #1 and #2, series #6 to 10 inclusive, of the total remaining face value of \$2,953.10, with coupons due Jan. 2, 1931, and subsequent, attached.

And said executors are hereby authorized and directed to convey, assign, transfer and deliver all of said residue of said estate to Frances Sexton and The Bank of California, National Association, of San Francisco, California, in equal undivided shares.

Done in open Court this 12th day of December, 1930.

E. P. Carville
Judge of the District Court.

STATE OF NEVADA,)
) ss.
 COUNTY OF EUREKA.)

I, Ed. Delaney County Clerk and ex-officio Clerk of The Third Judicial District Court of the State of Nevada, Eureka County, do hereby certify that the annexed is a full, true and correct copy of Decree Settling Final Account and for Final Distribution. In John E. Sexton. Estate as appears as of record and on file in my office.

(SEAL OF COURT)

IN TESTIMONY WHEREOF, I have hereunto set my hand officially
 and affixed the Seal of said Court, at office int the town
 of Eureka, this 12th day of December, A. D. 1930.

Ed Delaney , County Clerk.
 An ex-officio Clerk of the District Court,
 Eureka County.

Recorded at the Request of W. W. McNair December 12, A.D. 1930. At 55 minutes past 2 P. M.

Peter Merialdo----Recorder.