at the suggestion of Senator Carswell. It is:

"*Resolved*, That the members of the Senate assemble in the Senate lobby promptly at the time appointed for the opening of court at each session and there await the arrival of the members of the Court of Appeals, and that they enter together the court room set aside for the court for the trial of impeachment."

So after luncheon recess the Senators stood in the lobby and the Court of Appeals Judges gravely walked between the lines, led by the crier heralding to an empty court room the approach of the high court. The Senators fell in behind the Judges and thus they entered the still chamber.

It was Presiding Judge Cullen who really determined that the Frawley committee Senators and Senator Wagner were legitimate members of the court. D-Cady Herrick earnestly marshalled his arguments for the right to challenge these men. Admitting that the precedents were against him he said that the precedents were wrong and that this court should set a new one.

Judge Parker, who replied, peered into history as far back as 1388 in recalling impeachment trials wherein challenges had been of no avail. Then Judge Cullen gave his own opinion that challenges were warranted neither by precedent nor principle, and all the other members of the court, whom he addressed as "my brethren," sustained him when the vote was taken.

It was accepted as a clear indication of the influence the Chief Judge of the Court of Appeals is to have over the high court which is trying William Sulzer.

Marshal Got Attention.

Louis Marshall's speech, filled though it was with exhaustive recitations of ancient and modern court decisions, held the attention of the laymen and women in the galleries.

It was a carefully prepared brief whose premise was that the impeachment was unconstitutional, that the Assemblymen were not notified that impeachment was to be considered on August 13 and that twenty-six members, all unnotified, were absent. He demanded that the case be dismissed.

Judge Cullen appointed at the end of session Judge Hogan and Senators Murtha and Walters as a commitee "to maintain order and enforce the proper performance of their duties by all officers and attendants of the court." This committee was provided for in one of the rules adopted by the court this morning.

The Morning Session.

Judge Herrick's earnest fight for the right to challenge Senators Frawley, Ramsperger, Sanner and Wagner was made just after the rules of the court were unanimously adopted at the start of the morning session.

"Our challenge," he said, "is based upon the fundamental principle of justice that every man accused is entitled to be tried by an impartial tribunal, one which has not determined the question of his guilt or innocence in advance."

He did not question their personal integrity, but he insisted that the Frawley committee Senators deliberately formed and expressed an opinion upon Gov. Sulzer's guilt when they prepared the report on which his impeachment was based. Judge Herrick intimated that he was aware that the precedents were against the exclusion of these men, but, he said, that the world had moved since the last impeachment trial, and added:

"This case, the greatest that has been heard in this country since the trial of President Johnson, is arousing the attention of the whole country. What shall be done here and now is a precedent for future time. The court itself is on trial. Like Cæsar's wife it is not sufficient that you should be virtuous, but you must be above suspicion in all your membership."

In citing the case of Dorn, the impeached Canal Commissioner, in which Senator Sanford was challenged because he had participated in the canal investigation Judge Herrick said with emphasis on the "honorable" that "he was an honorable man and asked to be excused from serving. The challenge was not sustained and Mr. Sanford refused to vote upon any of the charges."

"The time has come," Judge Herrick continued, "when the highest court in this State should determine, once and for all, that its members should be composed, and composed only, of those who are free from even a suspicion of bias and partiality, and that a respondent, before it, is to be tried upon the same principles of justice that would be applied to the trial of the meanest criminal for the smallest offence known to the law.

Draws an Analogy.

"Now, will it be contended for a moment that because the Constitution and the code only provide that a Judge shall not sit in review of a decision made by him or by a court of which he was at the time a sitting member, and shall not sit or take part in the decision of any matter to which he is a party, or in which he has been attorney or counsel, or in which he is interested, yet, that if a member of the Court of Appeals, before becoming a member thereof had been appointed referee, not to hear and decide, but simply to take evidence, and report his opinion thereon, and did so, and that a judgment had been rendered upon the evidence so reported, he could sit and review the appeal from that judgment?

"Yet he would be in no different position than is the Senator here challenged, who has engaged in taking testimony and whose business it was to report thereon, and he did so report.

"Let the court be so composed that not only will it be impartial, but that all men will, from the beginning, know it is impartial, and that this respondent is to be tried before a tribunal no member of which has prejudged his case, and the fair repute of justice for absolute impartiality will be preserved."

Ex-Judge Alton B. Parker replied to Judge Herrick:

"The people of the State of New York, our sovereign, created this court," he began, "and it said from the beginning it shall be composed of the President of the Senate, the Senators, or a majority of them, and the Judge of the Court of Appeals, or a majority of them. That is the mandate of the people, and you are here by virtue of that command, without power to say to any one of your members and of any one of them you shall not sit in this court."

As far back as 1388, ex-Judge Parker said, it was held that no member of the House of Lords, the court of impeachment in England, could be removed, and from that day to this the rule has remained unbroken, although in that country and in this there have been circumstances where there was much feeling and difference of view. He reminded the court that the framers of the American Constitution did not see fit to provide for the challenging of a member of an impeachment court.

Futile Argument.

Judge Herrick's argument, said Judge Parker, has been made vainly many times before in the United States Senate long ago and in the impeachment courts of several States. And in every case wherein a member of an investigating body like the Frawley committee had asked to be excused from sitting in the trial the request had been denied.

As a most recent instance he cited the impeachment of John H. Galveley in the State of Washington in 1909. Sixteen of the forty-two Senators who composed the court were challenged, but not one was expelled. The only sustained challenge in any case that Judge Parker remembered was that of a Senator who was a brother of the accused.

Of Senator Wagner Judge Parker said:

"He is not disqualified by this constitutional provision. He is not the Lieutenant-Governor. He is the President pro tem. of the Senate. The Lieutenant-Governor is in office and is the Lieutenant-Governor. True, for the moment he is discharging the duties of acting Governor, but that is because the Constitution places upon him the responsibility of performing that duty, but he remains in office as the Lieutenant-Governor, and I charge you to remember that the Constitution stating who may be disqualified disqualifies the Lieutenant-Governor and the Lieutenant-Governor only."

Judge Herrick, replying to Judge Parker's argument, said that the constitutional provision that a "major part of the Senate and the Court of Appeals" make up the impeachment court carries "a concession and admission that there may be some members absent, that there may be the same disability as disqualifies a Judge of the Supreme Court or the Court of Appeals from acting."

Judge Cullen's Opinion.

The Herrick-Parker debate being over Judge Cullen deliberately gave his own opinion. He said it was his duty to do so. Mr. Sulzer's partisans in the gallery were discomfited when they heard him say:

"That this challenge cannot be entertained is the uniform current of authority. All the precedents are against it. I equally think it is not sustained by principle. This, as has been well said, is a court. The Constitution declares it so, and it is elementary law to the lawmakers. The distinction between the disqualification of a juror and the disqualification of a Judge is marked.

"It is doubtful whether the statutory disqualifications of members of the court can be extended or in any way changed from those prescribed by the Constitution.

"The only disqualification prescribed by the Constitution is that the Lieutenant-Governor shall not sit on the impeachment of the Governor, but it is unnecessary to consider whether the statutory disqualifications do apply to the membership of this court, for the reason that none of the objections suggested by the counsel for the respondent come within the statutory disqualifications.

"Even in an ordinary court of justice members of a court could not exclude one of their brethren.

"I do not mean to say that if any member of the court feels that such action as he has previously taken in regard to the matters which are now to be tried, or his personal feelings toward the respondent are such as to disqualify him or to impair his ability to render a just and fair verdict, according to the oath which he has taken, that he may not appeal to the court to be excused from sitting, but that appeal must be made by himself, and must be considered solely on his application, and cannot be considered as a challenge to his qualification to sit in the court."

The Vote Taken.

The Court voted down Judge Herrick's motion for a secret session for consultation. Then the members voted unanimously not to entertain the challenge. When Senator Frawley's name was reached, he said, "Mr. President, I ask to be excused from voting on this question." So did Senators Ramsperger, Sanner and Wagner, the other men to whose presence in the court the defence objected.

Louis Marshall for the defence now made a formal motion that the impeachment proceedings be dismissed. He said the impeachment was unconstitutional because Gov. Sulzer did not recommend to the extraordinary session of the Legislature the subject of his impeachment. He argued, moreover, that the Assemblymen were not notified that it was to be considered and that twenty-six of them were absent when the vote was taken.

"The action taken by the Assembly with respect to the impeachment of the respondent," concluded Mr. Marshall, "was without constitutional authority and the articles of impeachment which the Assembly preferred against the respondent to the Senate were null, void and of no effect, and the proceedings which are now before this tribunal for trial do not constitute due process of law and are in violation of the provisions of the Constitution of the State of New York and of the Fourteenth Amendment to the Constitution of the United States, and this court is without jurisdiction to entertain or determine the same.

"Wherefore the respondent prays for a dismissal of the said proceedings."

Senator Pollock moved that the reading of the articles of impeachment be dispensed with, but nobody voted with him. As Clerk McCabe read the new familiar articles some of the Senators seemed to sleep, but their eyes blinked open when some of the more serious charges were rehearsed. The court adjourned at 12:30 o'clock for luncheon.

The Afternoon Session.

When the Senators had followed the Court of Appeals Judges into the trial room at two o'clock and the church choir crier had finished his "hear ye's" an hour and a half of formidable debate began.

The only points conceded by John B. Stanchfield for the prosecution in replying to Mr. Marshall's motion to throw the case out of court was that William Sulzer was elected and took office as Governor and that 26 Assemblymen were absent when impeachment was voted. The other points, he said, the counsel for the impeachment managers would contest. He filed a formal replication.

Mr. Marshall then began reading his brief. He took off his glasses, mounted the lower step of the rostrum, and standing before the witness chair, argued Mr. Sulzer's contention that the extraordinary session of the legislature, which he called for other purposes, had no right to impeach him.

It is universally recognized, said Mr. Marshall, that an impeachment is virtually identical with an indictment. He referred to many decisions whereby indictments have been declared invalid because of improper constitution of court or irregular manner in which Grand Jury was convened. Mr. Marshall continued:

"The question here presented is one of the most important that has ever arisen in the political and judicial history of this State. Upon the determination of it depend the orderly government of this great commonwealth, the sanctity of the Constitution and the continuance of regulated liberty."

"If the contention of the impeachment managers is reduced to its logical results," Mr. Marshall said, raising his voice, "it means that a self-convened fraction of the Assembly or a majority of its members, even though not convened, may lawfully impeach any judicial or executive functionary of the State."

A Shot at Murphy?

Some hearers thought Mr. Marshall was directing this shaft at Charles F. Murphy:

"It occurs to some individual, who may not even occupy an official capacity but who is possessed of powerful influence over a considerable number of the members of the Assembly, that he desires to have one or more of the Judges impeached. There is no way known to the Constitution or to the law by which the Assembly can be convened except automatically on the first Wednesday in January at the regular session or by the proclamation of the Governor to meet in extraordinary session. But the regular session may have adjourned sine die, and the Governor may have refused to call an extraordinary session or may not even have been requested to call such session.

"How can the Assembly be convened under such circumstances? At whose instance? Certainly not at that of the private individual who is interested in bringing about the impeachment of a Judge. Certainly not by any member of the Assembly who should desire to assume authority to convene that body and to usurp the functions vested exclusively in the Executive."

A little later Mr. Marshall said:

"Assuming that by concert of action, by the exercise of potent personal or political influence, a bare majority of the elected members of the Assembly should be brought together, what is there to prevent them, under such circumstances, from meeting in secrecy at a private house, in a hotel, at a political club, in an atmosphere supercharged with prejudice, hatred and malice, without giving notice to the other members of the Assembly, and to concoct under the knout of an absolute despot and under cover of darkness articles of impeachment against a judicial officer who because not subservient has gained the enmity of him who initiated so extraordinary a convocation?

"It is easy to perceive that such a situation is replete with the potentiality of fraud, connivance and collusion."

Marshall's Main Contention.

Mr. Marshall thus phrased his main contention: "The Assembly has no power to impeach at the extraordinary session in the absence of action by the Governor enabling it to deal with that subject."

He said that no words could be more general and all embracing than those of the Constitution of the State: "No subject shall be acted upon except such as the Governor may recommend for consideration." Mr. Marshall continued:

"Every possible subject on which an executive body or either of its component parts may act is covered, and any possible action on any conceivable subject is prohibited unless the constitutional condition precedent is complied with.

"The prohibition against action was directed not only against the Legislature but against its integral parts, the Assembly as well as the Senate. Nor is it possible to coin a phrase which excludes ambiguity more completely than does that which was so chosen.

"We have already proven that the choice of this language was not accidental; it was intentional and deliberate for the very purpose of obviating what had been recognized as an existing evil.

"The men who chose this language were familiar not only with the history of the State and its jurisprudence but they were men of culture, who understood the meaning of words and who also knew what it was to frame the organic law.

Six Impeachment Cases.

"It is important to remember that just before the meeting of the commission of 1872, which put the words 'no subject' into the Constitution, six impeachment proceedings had been completed in this State.

"It would be presumptuous even to suggest that the important public men who composed the commission of 1872 should have overlooked or forgotten that impeachment or removal from office were subjects with which the Legislature might be called upon to deal.

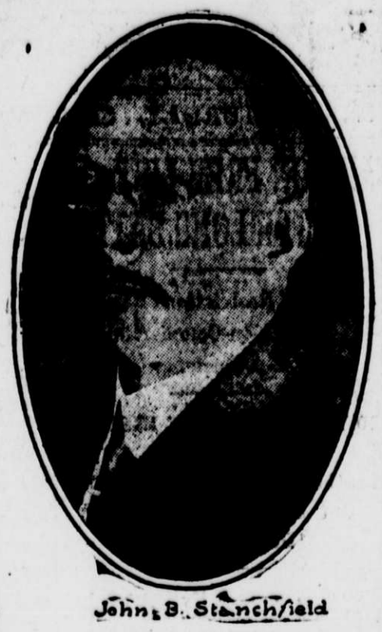
"The fact, therefore, that they chose to limit the power of the Assembly and of the Senate at an extraordinary session in the manner that they did, employing the phraseology which they adopted, makes it evident that they acted with full appreciation that unless the Governor recommended action on the subject of removal from office or of impeachment in a communication to the Legislature these subjects were to be excluded from executive consideration to the same extent that any other business would be excluded the subject of which he did not specifically bring to the attention of the Assembly or of the Senate."

At about this point in Mr. Marshall's argument, which was not finished, time was up and Judge Cullen adjourned the court until 2 o'clock on Monday afternoon.

Men Who Took Leading Part in Sulzer Proceedings Yesterday

Harvey D. Hinman

D.-Cady Herrick



John B. Stanchfield

Alton B. Parker

NEW IMPEACHMENT ARTICLES HELD UP

Assembly Adjourns Without a Vote on Them, Fearing Failure to Pass.

ALBANY, Sept. 19.—Additional articles of impeachment will be submitted to the Assembly next Thursday night for adoption. They will charge Gov. Sulzer with usurping the authority and functions of the Governor of the State since he was impeached on August 13 and with having delivered throughout the State during his direct primary campaign inflammatory speeches "tending to bring the lawmakers of the State into contempt and ridicule."

The Assembly was in session until 2:35 o'clock this morning waiting to get seventy-six members who would vote for the additional articles of impeachment. When the Assembly adjourned the new impeachment articles lacked four votes, and a recess till noon to-day was taken.

The Assembly did not convene, however, until 3:53 P. M., but remained in session unil 7:20 P. M., when in pursuance of a joint resolution adopted earlier in the day by the Senate and Assembly an adjournment was taken until 8:30 P. M. next Thursday.

It has been charged that if the original impeachment articles came up now for a vote in the Assembly the Democratic leaders would not be able to get the seventy-six votes to adopt them, and that the articles of impeachment adopted on August 13 do not permit the bringing before the court of impeachment any evidence bearing on the acts of William Sulzer since he assumed the office of Governor on January 1, except a declaration that he has utilized the power of his office to coerce legislators to vote for his direct primary bill.

Desire of the Managers.

The Assembly board of managers, who are prosecuting Gov. Sulzer feel that it would be just as well if it could be demonstrated to the people of the State that the seventy-nine votes in the Assembly which adopted the original articles of impeachment were not the result of a fluke. They consequently wish the additional articles adopted.

While the managers do not feel that it is necessary in order to have Mr. Sulzer convicted by the court of impeachment to specify acts of commission since he became Governor, yet in view of the suggestions from different quarters that there was a possibility that the court of impeachment would not convict Mr. Sulzer for acts committed before he was sworn in as Governor unless in conjunction with acts committed as Governor, the managers believe that it may be just as well to add to the articles of impeachment three new articles covering usurpation and inflammatory utterances by the Governor since he assumed office.

It was almost decided two or three times at this afternoon's session to put the additional articles of impeachment to a vote, but in view of the fact that some democratic Assemblymen were absent and that there were only seventy-six Assemblymen present, just the number required to adopt the articles, it was finally thought best not to take the chance of failing to get the necessary votes, especially as the additional articles could not be presented to the Senate, which had adjourned, until next Thursday night.

Speaker Smith and Majority Leader Levy thanked the Assemblymen for their attendance.

Mr. Levy's Statement.

"The managers for this house in the matter of the impeachment of the Governor," said Mr. Levy, "have been seriously considering for some time the matter of serving additional articles of impeachment upon the Senate of this State.

"The managers have just met and concluded, in view first of the gravity of the situation and secondly because of information which has reached them that the Senate has adjourned until next Thursday and that the Senators have left this city and that, therefore, it would be impossible in the event that these additional articles were adopted by the House to-night to accomplish the service and presentation of such articles at the bar of the Senate before next Thursday, that the question of these additional articles and the wisdom of modifying the existing articles in the form and not substance had better be deferred until this House reconvenes upon its adjourned day.

"I desire to convey my deepest gratitude to the members of this House for the patience manifested by them in the long and tedious hours of waiting in our recent sittings."

The Assembly managers believe that Mrs. Sulzer will be placed on the stand to defend her husband in the stock transaction allegations. Chairman Levy asserted that the board is prepared to meet her testimony.

"While the managers were in New York investigating the various features of the case," said Mr. Levy, "there was developed some extremely important proof regarding handwriting and written matter. This will have a great bearing upon the alleged defence that Mrs. Sulzer purchased stocks in her husband's name."

RULES OF THE COURT.

Witnesses May Be Questioned by Any of the Members.

ALBANY, Sept. 19.—The rules of the impeachment court adopted to-day are in brief as follows:

1. Daily sessions will begin at 10 A. M. and close at 5 P. M., with a recess for luncheon from 12:30 P. M. to 2 P. M., except that on Mondays the session will be from 2 to 4 P. M. and on Fridays the court will adjourn at 3:30 P. M.

2. Both sides may subpœna witnesses.

3. All motions shall be addressed to the president of the court, who, after hearing the counsel, shall decide without debate, or if he so chooses or any member so requests, the motion shall be submitted to the court. The court may consider in closed session, by majority vote to that effect, any question arising in the course of the trial, the decision to be publicly announced by the president.

4. The introduction of evidence, examination of witnesses and conduct of the trial shall be governed by State Supreme Court rules. Witnesses may be questioned by any member of the court.

5. All questions as to the number of counsel to be heard in addressing the court or examination of witnesses and the time to be allowed them shall be left to the president unless otherwise ordered by the court.

6. The final vote shall be taken upon the impeachment articles separately. Each member of the court, questioned in alphabetical order as to Gov. Sulzer's guilt or innocence, shall rise and answer "guilty" or "not guilty." If two-thirds vote "guilty" on one or more of the articles the president shall put these questions:

"Shall William Sulzer be removed from his office of Governor of this State, for the cause stated in the article (or articles) of the charges preferred against him upon which you have found him guilty?

"Shall William Sulzer be disqualified to hold any office of honor, trust or profit under this State?"

Rules 7, 8 and 9 relate to the keeping of the records and to the appointment, if necessary, of a committee of three "to maintain order and enforce the proper performance of their duties by all officers and attendants of the court."

SULZER IMPEACHER DEFEATED.

Another in Suffolk County Narrowly Escapes Same Fate.

RIVERHEAD, L. I., Sept. 19.—John J. Robinson, an Assemblyman from the Second district of Suffolk county, who voted for the impeachment of Gov. Sulzer, was turned down at the primaries held here last Tuesday. The vote was so close between him and James W. Eaton, candidate of the Sulzer faction in the Democratic party, that the tally has just been completed.

Assemblyman Stephen A. Fallon from the First district, who also voted for the impeachment of the Governor, was nominated by the narrowest of majorities. Robinson lost by 175 votes. Fallon won by 50. Both ran on the regular organization slate.

Herman P. Hawkins, regular Democratic organization candidate for Sheriff, defeated E. W. Lane, the candidate of the Sulzer faction, by about 100 majority.

The feeling among Democrats in Suffolk has been very bitter over the impeachment of the Governor and has split the organization.

Hennessy Goes to Buffalo.

BUFFALO, Sept. 19.—John A. Hennessy arrived in Buffalo this evening to file an answer to a libel suit brought against him by Norman E. Mack and to take up with District Attorney Dudley cases of alleged highway graft in Erie county.

SARECKY ARRIVES IN BUFFALO.

Denies Levy's Assertion He Ran Away From Jurisdiction.

BUFFALO, Sept. 19.—Louis A. Sarecky arrived here this evening on business, the nature of which he refused to disclose. He left Albany this morning at 11:31 o'clock and expects to be in Albany again on Monday. Sarecky said:

"I have seen Aaron J. Levy's statement that I have run away from the jurisdiction of the Legislature. This of course is not true. I have been constantly in Albany under subpœna from the Frawley committee for a period of more than six weeks.

"In this time I never have been more than four hours travelling time from Albany until to-day. I have always been ready to respond to any notice, and Senator Frawley, I believe, would admit this cheerfully. Assemblyman Levy never requested my presence at any time before any committee or any body.

"Mr. Levy's statement is on a par with his recent statements about the testimony alleged to have been taken secretly by one of his lawyers against the Governor. There is no truth in his statement that he has sought me, nor in his statement that I am attempting to escape the jurisdiction of the Legislature.

ALBANY, Sept. 19.—When Louis A. Sarecky was adjudged in contempt and his arrest was ordered the Assembly sergeant-at-arms announced that he would not arrest Sarecky except on a day the Assembly was in session, and he expected to take Sarecky before the bar of Assembly last night.

If the Assembly could get hold of Sarecky before he is called as a witness for the defence before the court of impeachment it could have him locked up in the Albany county penitentiary, as it did with James C. Garrison, should he continue to refuse to answer pertinent questions when arraigned.

SULZER, ISOLATED, WON'T SEE FRIENDS

Decides on Seclusion, So as to Do or Say Nothing Hurtful to Case.

ALBANY, Sept. 19.—Shutting himself off from every one except the immediate members of his household and his counsel, Gov. Sulzer has begun a period of seclusion in the Executive Mansion.

His doings are shielded by those who are near to him. The attendant at the mansion who answers the phone and the door bell has been silenced by Gov. Sulzer himself. He cannot even say whether or not the Governor is in or out of town, in the mansion or out, or talk in any way about his movements or plans.

Gov. Sulzer insists on this policy of silence by his household, while he himself is adhering closely to the rule of silence imposed upon him by Judge D-Cady Herrick, his chief counsel.

After spending yesterday in conference Mr. Sulzer reached the decision to throw up the reins of State government and recognize the claims of acting Governor Glynn. His counsel advised him to do this at the conference in the mansion on Thursday. The Governor was reluctant to relinquish his hold on the office, but his counsel pointed out to him the danger of persisting in his claims.

The mood of the Assembly to adopt additional articles of impeachment, embracing usurpation of office, was the thing which above everything else prompted Mr. Sulzer to drop his hold on the privileges of the office and agree to turn everything over to acting Governor Glynn.

After Mr. Sulzer consented to do this, early this morning, he locked himself up in the People's House. He believes it better now not to see even his friends, for fear he might say something that would hurt his case.

Gov. Sulzer did take an automobile ride to-day when Mrs. Sulzer insisted on his getting in the open air. The Governor preferred to stay at the People's House, studying his case and reviewing the progress of the court of impeachment, stenographic copies of which were delivered to him, but Mrs. Sulzer was insistent that he take the ride. The Governor did not go very far on the ride.

Judge D-Cady Herrick went to the People's House early in the day and held another conference with Mr. Sulzer. It was then that the Governor agreed to throw up the executive reins and steps were immediately taken to have Chester C. Platt write the letter to Mr. Glynn at the direction of counsel.

On his return to the People's House late in the afternoon Gov. Sulzer fairly bounded from the car and lost no time in getting into the mansion. After that he was not seen.

Mr. Sulzer was advised not to go near the Executive Chamber, lest he should give the Assembly more evidence on which to base the additional articles of impeachment, the principal one of which will embrace the charge of usurpation of office.

Alone in the room with Judge Herrick, Gov. Sulzer was warned of the peril to his case in going to the Executive Chamber.

Judge Herrick refused again to-night to say when the Governor or Mrs. Sulzer will be called before the Court of Impeachment. He was just as reticent on other phases of the trial.

STEEL MAN SUED FOR $215,866.

Former President of Carbon Steel Co. Charged With Misusing Funds.

Frank B. Robinson, formerly president of the Carbon Steel Company, a West Virginia corporation doing business in New York, was sued in the Supreme Court by the company yesterday to recover $215,866. The complaint charges that while Robinson was president of the company he "acquired to himself moneys of the plaintiff at various times and in various amounts over and above his lawful salary as president" amounting to the sum demanded. The papers were served on Robinson in Columbus Circle on Thursday night.

Robinson was also sued yesterday by the Western National Bank of Pittsburg for $9,999 on allegations that he made a promissory note for $10,000 on March 21, 1911, secured by 2,000 shares of Carbon Steel Company stock. The note was not paid when due and the stock was sold on February 25 last for $1, leaving due the amount sued for.

The complaint of the Carbon Steel Company alleges that Robinson was president of the corporation from 1906 to 1911 and was a director before and after he was president.

SALOON MAN ACCUSES PIDGEON.

State Official May Face Trial and Disbarment Case.

NYACK, Sept. 19.—Deputy Secretary of State Jose E. Pidgeon, who was brought into a Nyack liquor case as attorney, may be brought before the Appellate Division as a defendant. William Hegner, a Nyack saloon keeper, who is charged with violating the liquor law, told Justice Tompkins here to-day that he had paid Pidgeon $150 to take the case under the belief that he could keep it from being brought to trial.

Agitation by temperance workers forced action and now Hegner wants his $150 back. Justice Tompkins granted Hegner's request for adjournment to-day, as his attorney was not in court, and said that Hegner was entitled to the return of his money.

Justice Tompkins said also that the matter should be presented to the Appellate Division of the Supreme Court and that action should be taken for Pidgeon's disbarment. The Justice says he will decide Hegner's case wholly on its merits.

SULZER RECOGNIZES GLYNN AS GOVERNOR

Offers to Turn Over All of Executive Staff to His Successor.

GLYNN WON'T TAKE THEM

Impeached Governor's Action Taken on the Advice of His Counsel.

ALBANY, Sept. 19.—Gov. Sulzer, through Chester C. Platt, his secretary, acknowledged to-day for the first time since he was impeached on August 13 Martin H. Glynn as acting Governor. The acknowledgment was made in a letter sent by Secretary Platt to the acting Governor.

This letter was delivered personally at 3 P. M. to Frank A. Tierney, the secretary to the acting Governor, by Valentine C. Taylor, counsel to Gov. Sulzer.

Mr. Taylor notified Mr. Tierney that the services of all of the members of the executive chamber staff, as well as the counsel to Gov. Sulzer, were at the command of acting Governor Glynn. This, of course, means the use of the original privy seal of the State, which Gov. Sulzer had locked up in his safe from the day of the impeachment.

Judge Herrick's Advice.

Since the high court of impeachment has convened in the Capitol Gov. Sulzer has not been near the executive chamber, and it may be that in a day or two Mr. Sulzer, through his secretary, will invite acting Governor Glynn to occupy the executive suite on the second floor of the Capitol. D-Cady Herrick has advised Gov. Sulzer since the day of his impeachment not to exercise any of the functions of Governor, but Sulzer was like a headstrong child and on several accasions refused to follow Judge Herrick's advice, especially in pardoning Joseph A. Robin, in honoring extradition papers and in performing many minor acts as the Chief Executive of the State.

The practically all night session of the Assembly last night, held for the purpose of adding an article of impeachment charging Mr. Sulzer with usurpation of the duties of the office of Governor since his impeachment, apparently received the deep consideration of his counsel, which caused them to compel Mr. Sulzer to recognize acting Gov. Glynn as Governor.

It is suggested that this recognition by Gov. Sulzer would be utilized by his counsel in the impeachment trial as an evidence of Mr. Sulzer's real attitude on the question as to who was Governor and to offset in a manner the charge that Mr. Sulzer was usurping the functions of the office of Governor.

This is indicated by the tone of Secretary Platt's letter to acting Gov. Glynn, which reads as follows:

The Letter to Glynn.

STATE OF NEW YORK, EXECUTIVE CHAMBER.

ALBANY, September 19, 1913.

Hon. Martin H. Glynn, Lieutenant-Governor, Capitol, Albany, N. Y.

DEAR SIR: The judicial department of this State having at the present time decided that Executive functions should be performed by yourself as acting Governor, under advice of counsel I transmit herewith for your attention a letter from the District Attorney of the county of New York, dated September 18, 1913, with enclosures relating to the extradition of one Moses Gutman.

"I also transmit herewith certain commutation sheets concerning certain prisoners whose terms are about to expire by commutation, pursuant to statute, which I am informed under the present circumstances require your attention and signature."

Alleged Acts of Usurpation.

Evidence accumulates of Gov. Sulzer's alleged usurpation of the functions of the office of Governor. Secretary of State Mitchell May made public to-day a letter which he sent to E. H. Bohles, general solicitor of the Lehigh Valley Railroad, in which the Secretary said:

"I return herewith oaths and State railway commissions of Joseph A. Lane, of Eugene B. Rebhan, of David A. Thomas, of John Zienski, of Daniel M. Reardon, of James Magwood, of Frank G. Bell and of Charlie P. Huff, mailed by you to me on September 12, 1913, for filing pursuant to the provisions of Chapter 817, Laws of 1911, on the ground that on the 4th day of September, 1913, the date on which the certificates of their appointment were signed by William Sulzer as Governor of New York State, the power of William Sulzer as Governor to make such appointments was suspended by certain articles of impeachment, which had theretofore been handed down by the Assembly of the State of New York, and that such certificates of appointment do not in this sense conform or comply with the law and cannot be, therefore, filed in this office."

Nothing has come to light, however, showing that Gov. Sulzer has performed any of the functions of Governor since Justice Hasbrouck's decision declaring that Gov. Sulzer had been legally impeached and that Lieut.-Gov. Martin H. Glynn automatically became Governor. A strong point is to be made of this fact by Mr. Sulzer's counsel before the court of impeachment.

Mr. Glynn was asked to-night if he intended to take over Gov. Sulzer's executive force.

"No," replied the acting Governor. "Frank Tierney, my secretary, is worth fifteen men to me and we will continue working here."

Mr. Glynn announced that he had signed the direct tax bill, which will raise $7,000,000 to help pay the expenses of government next year; the bills making appropriations to pay State bonds and interest, as well as appropriations of $75,000 to pay the expense of the court of impeachment, $75,000 to pay the expenses of the Frawley investigating committee and other legislative expenses, $225,000 to pay the claims of up-State farmers for tubercular cows killed by State Agricultural Department agents and the bill abolishing canal toll bridges.

CELESTINS
(FRENCH REPUBLIC PROPERTY)
Natural Alkaline Water
Bottled directly at the famous spring at
VICHY
FRANCE
A delightful table water with highly medicinal qualities
Ask your Physician
Not Genuine without the word
CELESTINS