

## MITCHEL NOT TO SPURN HEARST

### Decision Bound to Widen Split in Fusion Ranks.

## WON'T ISSUE STATEMENT

### Says Rejection of League Nomination Was Wrongly Interpreted.

## SOME FUSIONISTS DISMAYED

### Republican Likely to Be Chosen as Manager of Mitchell Campaign.

## The Politics of Yesterday.

John Purroy Mitchell said yesterday that he has not the least intention of repudiating William R. Hearst. His decision was a distinct shock to the anti-Hearst faction of the fusionists, who argue that Mitchell cannot win under the Hearst label. There was no doubt last night that the Hearst issue, if Mr. Mitchell adheres to his resolve, will split the fusion ranks wide open.

The Republicans, meeting in State convention at Carnegie Hall, named William E. Werner of Rochester for Chief Justice of the Court of Appeals and Frank H. Hiscock of Syracuse for the Associate Judgeship. The convention, especially called for the purpose, had only the power of recommendation, and the State committee made the nomination effective immediately after the convention adjourned.

The convention voted as the leaders expected. Edgar Truman Brackett, who was named in opposition to Judge Werner, and Frederick E. Crane of Brooklyn, who opposed Judge Hiscock, each got votes from about one-quarter of the 600-odd delegates.

There were signs that the strength of William Barnes has lessened. Job E. Hedges, an anti-Barnes man, took the place of Mr. Barnes's adjutant in the Assembly. Harold J. Hinman of Albany, as chairman of the committee on resolutions, was subjected to noisy interruptions when he got up to speak.

The convention adopted a resolution requesting the National Committee to call as soon as possible a Republican national convention to revise the plan of representation. Mr. Barnes has strongly opposed the calling of a national convention. Charles D. Hillier, chairman of the National Committee, who sat as a delegate from the Nineteenth Assembly district, said that the committee will meet early in December.

Charles F. Murphy said he was ready to go to Albany to testify if he is called, but he had received no intimation.

## WON'T TURN DOWN HEARST.

### Mitchell's Decision Bound to Widen Split in Fusion Ranks.

John Purroy Mitchell says he won't turn his back on William R. Hearst after all. The effect of his decision is bound to set fusion by the ears, and unless he changes his mind the fusion ranks will break wide open. There were many signs of a split yesterday.

Here is one of a series of questions put to Mr. Mitchell yesterday afternoon just before he left the Custom House for the day:

"Are you contemplating making any speech or issuing any statement in which you will repudiate Hearst?"

"I am not; why should I?" was Mr. Mitchell's reply.

## Schiff Promises Support.

A few hours before Mr. Mitchell said he was not thinking of repudiating Mr. Hearst a letter reached him from Jacob H. Schiff, one of the leaders in the fight for the nomination of Mayor Gaynor, in which Mr. Schiff assured Mr. Mitchell that he could not support him with a whole heart. Mr. Schiff based his letter on the fact that Mr. Mitchell had taken back his aspiration on Mayor Gaynor, which Mr. Schiff characterized as "an unjust slander," only defensible on the ground that it was spoken in the heat of passion.

Heat and the independence League have been irritating the fusion ranks ever since the slate-makers began thinking of candidates. The deciding strike in the nomination of Mitchell was the feeling that he could swing the support of Hearst and the league to the fusion ticket. It was Mr. Hearst himself who showed that this hope was vain. He sent a telegram from California to his political workers here in which he denounced Comptroller Prendergast and Borough President McAneny as betrayers of the city, saying that they had sold the city out in the subway contracts.

The independence League city designating committee, meeting a few days later, designated Mr. Mitchell for Mayor and turned down Mr. McAneny and Mr. Prendergast. Mr. Mitchell sent a letter to William J. Taylor, chairman of the committee, a day or two before the committee met saying that he could not take a nomination from the league unless Mr. McAneny and Mr. Prendergast were named also. He then had his eye on the Gaynor League, which was thinking of naming McAneny and Prendergast for the two other places on the ticket with Mayor Gaynor, and his letter was assumed to be as much by way of advice to the Comptroller and the Borough President to keep free of it as it was of regret that he must decline the independence League designation. Subsequently he made his threat good and formally declined the Hearst nomination.

He said yesterday that this action had

## BRYAN IS RASPED AGAIN.

### Secretary Nettled by Continued References to His Private Affairs.

WASHINGTON, Sept. 23.—Secretary Bryan indicated to-day that he is weary of inquiries and discussion regarding his personal affairs, arising out of his round of the Chautauque circuit this summer and the criticism that it brought forth. He issued another statement in which he expressed his opinion that certain newspapers felt more curiosity in his private affairs than does the general public.

The statement resulted from a speech in the Senate yesterday by Senator Martineau of New Jersey in defense of Mr. Bryan and his lectures. The Senator ventured the suggestion that as he understood Mr. Bryan was paying for the education of young men in Japan and elsewhere, this might account for the fixed charges which made the salary of \$12,000 a year as Secretary of State inadequate for his needs. Here is Mr. Bryan's statement:

"We are not educating any boys in Japan. A Japanese student lived with us for about five years, but returned to Japan in 1904. Senator Martineau's remarks probably refer to students whom we have assisted in other parts of Asia, but I do not consider it necessary to discuss the matter.

"I have discussed the sources of my income, but I am not yet convinced that the public requires me to discuss each contribution which I see fit to make to a worthy cause.

"I may add that I answer these questions with reluctance and with the feeling that the newspapers represented by those who ask the questions feel more curiosity than the general public does in regard to my private affairs."

## MAYOR GAYNOR'S WILL LEAVES WIDOW LITTLE

### Bulk of Estate of \$2,000,000 Said to Be Divided Among His Children.

Mayor Gaynor's family heard his will read yesterday by Michael Furst, the lawyer to whom he gave it just before he started for his trip abroad. The members of the family refused to talk of the provisions of the document, but it is understood that Mrs. Gaynor gets only a small part of the estate, which is estimated at \$2,000,000.

The will is to be filed to-day. When it is made public it is said that it will show a division of the estate into seven parts. The Mayor's two sons will probably get two parts each and the three younger daughters, Ruth, Marion and Helen, one part each.

Friends of Mr. Gaynor were surprised last night at the report that he had made no provision for his widow other than to leave to her his town house in Brooklyn, Mr. Gaynor had a considerable estate at St. James, L. I. Besides these, it is said that he had large property holdings throughout Brooklyn, in addition to a considerable amount of stocks and bonds.

## BIG FLEET IN MEDITERRANEAN.

### Great Britain to Make Impending Display of Flag.

LONDON, Sept. 24.—Great Britain will send a big fleet to the Mediterranean in November to join the squadron at Malta for the manoeuvres. It will also visit various ports, including Alexandria. The fleet, with the exception of sixteen ships of the Beagle class which will remain in the Mediterranean, will return at Christmas.

The Daily Telegraph deduces from this announcement that the recent concentration of the bulk of the British fighting force in the North Sea is coming to an end and that the Admiralty is taking advantage of the favorable political and naval circumstances to show the flag elsewhere.

## DOCTOR AN X-RAY MARTYR.

### Philadelphia Physician Succumbs to Cancer After Two Operations.

ATLANTIC CITY, Sept. 23.—Dr. Charles Leonard, chief of the Philadelphia Polyclinic Hospital staff and X-ray expert, died at his summer home here last night of cancer caused by the rays.

Dr. Leonard had been affected with the cancerous growths for several years. It became necessary to amputate his right hand, which had been directly exposed to the rays, and early in the summer the arm was removed at the shoulder. These sacrifices, however, did not arrest the spread of the disease. The physician had been confined to his bed in his Atlantic City home all summer.

## FIRE MENACES GIANT SEQUOIAS.

### Flames Nearly Reach Tree in Which Gen. Fremont Camped.

SANTA CRUZ, Cal., Sept. 23.—A forest fire swept to-day within 100 yards of the giant tree of the big basin of the Sequoia Grove in the hot water trunk of one of which Gen. Fremont camped throughout an entire winter before the days of gold.

The flames are spreading over a wide area and heavy property damage has resulted, but no thickly populated districts are threatened. Hundreds of men are working to check the progress of the flames.

## PORFIRIO DIAZ ENDS EXILE; SAILS HOME

### Ex-President and Aged Dictator of Mexico Takes Ship From Spain.

## GONE MORE THAN 2 YEARS

### News Received as Most Important Development in Mexican Affairs.

### Special Cable Dispatch to The Sun.

LONDON, Sept. 23.—A despatch to the Daily Telegraph from Madrid says that Porfirio Diaz, former President of Mexico, sailed to-day on the steamer Espasne for Mexico.

He said farewell to his daughter at Santander, Spain, and took the boat, which had come from St. Nazaire, France. He refused to discuss the situation in Mexico and said that he had definitely retired from politics.

"Porfirio Diaz will return to his country when it needs him," said Gen. Ferdinand Gonzalez, ex-Governor of the State of Mexico, in March. He said that Diaz would not waste a moment if his country were in peril and he thought he could help her.

## In Exile More Than Two Years.

It is more than two years since the aged dictator of Mexico sailed from the harbor of Vera Cruz on his way to exile in Europe. On May 31, 1911, the steamer Ypiranga carried him on the way to Havana and through the same waters in which he swam forty years ago to escape arrest as a revolutionist.

It was after two days of wild rioting in the capital that Diaz finally decided to escape from the wrath of the people whom he had ruled so long. His goods were packed as the hovels of his country came to his ears in the densest house, and then the party started for the railroad station to take train for Vera Cruz.

In his party were his wife, his son, his son's wife and five children, and Senor Elsaaga and his wife, the latter a sister of Gen. Diaz.

They reached Vera Cruz in safety after a perilous ride, and then the last few moments of Gen. Diaz's stay in his country were made easy. Flowers were strewn in his path and cheers instead of curses marked his passing.

At Havana, where the party stopped for a few hours before taking ship for Europe, Gen. Diaz was greeted with great friendliness. An official delegation of Havana officials bade him farewell.

Don Porfirio arrived in Plymouth, England, on June 20. After a short stay in England he went to France. He spent some time in Paris and Toulon, visited Rome and made a trip up the Nile.

At Rome he said that members of political parties and the army had asked him to return and try to restore tranquility to his country, but he refused and insisted that he was out of politics.

In January of this year a delegation of Mexicans called on him in Paris and again pressed him to return and again he refused.

## Settlement for His Return.

Last March, when it seemed likely that his nephew, Felix Diaz, would be the next President of Mexico, it was said that settlement in favor of having the former dictator return to act as adviser and help the country out of its troubles was strong.

Gen. Felix Diaz went to Paris early in September to visit his uncle and, it is believed, to talk to him on the subject of his return to Mexico. He visited Switzerland with his uncle and was then recalled by Gen. Huerta.

## REPORT SURPRISES CAPITAL.

### State Department Had No Hint of Porfirio Diaz's Return.

WASHINGTON, Sept. 23.—The report that Porfirio Diaz had started back for Mexico was regarded to-night as the most interesting development that could have occurred in the Mexican situation. It is also considered here the more surprising as no information had been received at the State Department indicating any such intention on the part of the exiled ruler to return.

The return of Diaz is interpreted here as meaning that all of the General's influence, and particularly his money, will be thrown into the cause of his nephew, Gen. Felix Diaz, in his candidacy for the Presidency of Mexico in the October election.

Felix Diaz has been in Europe for several weeks and his visits to Biarritz, where his uncle has been living, were understood to be for the purpose of enlisting the aid of his relative.

It is expected that Gen. Huerta will not seek the Presidency in the election next month if Gen. Felix Diaz, whom he is already pledged to support, returns to Mexico bringing his uncle with him. The return of Don Porfirio is also expected to concentrate all of the old Diaz element into support of the candidacy of the nephew, with little doubt of its success.

## FELIX DIAZ NOT RECALLED.

### Gen. Blanquet Says Porfirio's Nephew May Go to Japan.

## BOMB ON LENOX AVENUE.

### Police Blame Disposed Tenant for Outrage in Big Tenement.

A bomb was exploded at half past 12 o'clock this morning in the six story tenement house at 667 Lenox avenue, near 144th street, and the police think that the blame can be laid to a dispossessed tenant, who wanted to get revenge upon the owner, Mrs. Annie Hess of 200 West 131st street.

This is the first time that a bomb has been used in that part of the city. It was a businesslike affair and blew the front doors of the building clear across the street. No one was hurt, but everybody was scared, and some started to jump from windows until the police stopped them.

Joseph Davis and Herman Ritter, who live in the tenement, started to go in, and saw a cigar box on the floor with sparks coming out. They ran for help just as the explosive let go. There were twenty-four families on the floors above.

## INSANITY TEST ASKED FOR LOUIS WINDMULLER

### Family Says Aged Banker, Former and Philanthropist Is Incompetent.

Louis Windmuller, banker and philanthropist, who for many years was conspicuous in the civic life of the city through his activities in the Reform Club and the Legal Aid Society, is to be examined by the court by Dr. Herman Bosh of 25 East Sixty-fifth street.

The order directing that Mr. Windmuller be brought into court was issued on the strength of an affidavit made by the elderly banker's son, Adolph C. E. Windmuller, who says that his father is incompetent to conduct his affairs.

Mr. Windmuller has been perhaps the most widely known and most generally loved German resident of this city. His efforts as secretary and treasurer of the Legal Aid Society, which furnishes aid gratuitously to the poor, have brought him into close touch with the struggling classes.

As secretary of the Reform Club and a member of its executive committee he has been associated with many movements for civic betterment. Mayor Gaynor honored him by giving into his charge the funds for the inauguration of the first "safe and safe" Fourth of July celebration. Mr. Windmuller was also one of the members of Mayor Gaynor's walking club, which included Joseph H. Charles and Jacob Schiff, and almost every day he might have been seen walking to business in lower Manhattan from his long island home.

Mr. Windmuller was born in Westphalia seventy-eight years ago, and since coming to the United States, which he did in 1853, he has been an active and successful business man as well as a reformer. He took part in the founding of the Title Guarantee and Trust Company, of the Maiden Lane Savings Bank, of which he is still president; of the German-American Insurance Company, Hyde and Leather National Bank, the German Alliance Insurance Company and several other corporations.

He is a member of the Germanistic Society, the Metropolitan Museum of Art, the New York Historical Society, the Arion Society and of the Lotos, Merchants and New York Athletic clubs.

## B'NAI B'RITH REELECTS FRANK

### Make Him President Again Despite Conviction for Murder.

ATLANTA, Sept. 23.—While a prisoner awaiting action by the courts upon his application for a new trial, Leo M. Frank, convicted murderer of Melly Phagan, has been reelected president of the B'Nai B'rith. This is the more remarkable because reelection to the office is not usual, but his friends wished to give unmistakable evidence of their belief in him. The election was unanimous.

Concurrent with his reelection comes the news that he is still conducting, so far as is possible under the circumstances, the business affairs of the National Pencil Company, of which he is still superintendent.

## CLINGS TO HIS MOTHER-IN-LAW.

### Lets Wife Go With Furniture, but Fights for Her Picture.

Albert Guthers of 547 Thirtieth street, West New York, whose wife has left him, taking the furniture along with her, is entitled to retain his mother-in-law's picture, according to the decision of Police Recorder Brewer yesterday.

Mrs. Guthers presented her side of the case with a lengthy statement of the family troubles.

Her husband said to the court, "I have let my wife have all the furniture and everything else in the house, but I'll be damned if she can have my mother-in-law's picture. My mother-in-law gave the picture to me and I think a lot of her."

"Any man who thinks as much of his mother-in-law as this man says he does, certainly ought to be allowed to have her picture," said Recorder Brewer.

He lectured Mrs. Guthers for having her husband arrested.

A pony glass of ANGELOTTA BILIRIS before meal, a delicious appetizer.—Ad.

## GARROS FLIES ACROSS THE MEDITERRANEAN

### French Aviator Goes From St. Raphael to Bizerta in 7 Hours 53 Minutes.

### DISTANCE IS 558 MILES

### Trip Is Longest Oversea Flight and Most Dangerous Ever Attempted.

BIZERTA, Tunis, Sept. 23.—Roland G. Garros, the famous French aviator, made to-day the most perilous and hardest flight he has yet attempted in his succession of remarkable aerial voyages. Without any means provided to insure safety he flew across the Mediterranean Sea from Saint Raphael, France, to this port, a distance of 558 miles, which is the longest overseas flight that has ever been accomplished and the most dangerous.

Garros left Saint Raphael at 5:52 this morning and arrived here at 1:45, the total time being 7 hours and 53 minutes, while his average speed for the whole distance was about 70 miles an hour.

Garros flew across the Mediterranean once before, but it was between points only 160 miles apart. Even that was considered a marvelous performance for an aviator, motor and machine.

He announced his intention of attempting the flight several days ago and when the officers of the army aeroplane corps heard of his plan the Minister of the Navy was induced to offer to lend the aviator several torpedo boat destroyers, the fastest in the French navy, to insure safety.

It was hoped that the aviator would accept the use of the destroyers and station them along the route of the flight, with the commanders of the vessels under orders to pick up his trail when he came into sight and follow him at full speed until he got within sight of another destroyer, which in turn would follow him ready to pick him up if he fell into the sea.

## Declined All Assistance.

Garros, however, declined the proffered aid. He is his own machinist, and he said that his motor could last for the journey, and he could carry enough petrol for the flight without endangering himself, if he fell, he said, there would probably be some fishing boats near enough to take him to shore, but he scouted the possibility of any mishap.

He even scorned suggestions which were made by his aviating friends that he equip his aeroplane with floats, so that it would not sink if he fell into the sea. All France was aroused to great interest in the flight because of the fame of the aviator and the audacity of the flight.

Garros's former flight over the Mediterranean was accomplished in the fall of 1912. On that occasion he flew from Tunis to Sicily, a distance of 160 miles, and the next day continued his journey to Rome, making the total distance covered 400 miles in two days.

Garros came to this country in 1910 and appeared at the aeroplane meet at the Belmont Park racetrack with an astonishing butterfly of a machine, which hopped about the enclosure a few yards at a time at a tremendous speed. He demonstrated that his light type of machine was better for rough flying than heavier aeroplanes. He landed back in the racetrack from which he had started.

## Held Altitude Record Three Times.

On another occasion, in France, he went up 10,000 feet in a blinding storm to demonstrate that his light type of machine was better for rough flying than heavier aeroplanes. He landed back without mishap.

Garros has held the altitude record of the world three times. He won it the first time for a flight on September 4, 1911, when he ascended 12,234 feet; the second time on September 6, 1912, when he flew 16,400 feet high, and the third time on December 11, 1912, when he ascended 19,322 feet at Tunis. In June, 1912, he won the Grand Prix, worth \$15,000, by beating his competitors in a flight of 292 miles.

## Map of Garros's great flight on Page 3.

## HINT MURDER IN AN ASYLUM.

### Mysterious Death of Patient.

KINGS PARK, L. I., Sept. 23.—Dr. W. A. Macey, superintendent of the State Hospital for the Insane here, and other officials, are working with Dr. William B. Gibson of Huntington, Coroner of Suffolk county, to place the responsibility for the death by violence of Joseph Hallet of Brooklyn, a patient in the institution.

Hallet was found dead in his room Monday night. In his breast was a stab wound said to have been inflicted by another patient, although no patients are permitted to have knives.

Dr. Gibson, following an autopsy, declared that the stab wound was not sufficient of itself to have caused death. He said Hallet succumbed from a blow over the heart. Dr. Macey to-day examined a number of nurses and other employees, as well as some of the patients. In an endeavor to ascertain with whom Hallet had last been seen alive.

## DUKE DE MONTPENSIER HURT.

### Thrown From His Automobile in Bois de Boulogne.

PARIS, Sept. 23.—While the Duke de Montpensier, brother of the Duke d'Orleans, was piloting an automobile through the Bois de Boulogne to-night the car skidded and turned turtle.

The Duke was injured in the legs and abdomen. The car was wrecked.

## 3 DIE OF TYPHOID AT BELLEVUE.

### Six New Cases, Making 100 Now in the Hospital.

There were six new typhoid cases at Bellevue Hospital yesterday and two deaths last night. Three of the new cases are children, and all are from the district on the East Side below Forty-second street. There were 109 cases at the hospital yesterday.

The two who died were Mrs. Susan Mason, 29 years old, of 428 East Twelfth street, and Miss Josephine Meyer, 45 years old, of 352 East Nineteenth street. Mrs. Mason was admitted on September 13 and Miss Meyer on September 10.

## E. L. LUDLOW, 70, MAKES FLIGHT

### Accends in Flying Boat With Two Others at Newport.

NEWPORT, Sept. 23.—E. Livingston Ludlow of New York, who is more than 70 years old, made a flight with William Shaw and Stephen McGordon in the former's Curtiss flying boat here this afternoon.

They ascended 350 feet and after circling around for a few minutes, returned to the landing place at the camp of Capt. H. L. Willoughby.

Shaw and McGordon are planning to leave here on Thursday or Friday to fly to the home of Capt. Thomas Baldwin, 45 Oakwood Heights, Staten Island, a distance of 250 miles.

## NEW YORKER ENDS LIFE AT SEA.

### Campania Passenger Thought to Have Been Devoured by Sharks.

QUERENTOWN, Sept. 23.—Capt. Rostrom of the Cunarder Campania, which arrived here from New York to-day, reports that when the vessel was two days out from New York, John Fagan, a third class passenger, who is supposed to have been insane, jumped overboard and was lost. A boat was lowered, but no sign of the man was seen after he struck the water.

There were many sharks in the vicinity at the time and it is thought that he may have been devoured by them.

## VINE PRODUCES 500 PUMPKINS.

### Covers Eighth of Acre; One Pile Filler Weighing 100 Pounds.

CONWAY, N. C., Sept. 23.—If Peter, Peter, Pumpkin Eater had run across an enormous pumpkin vine growing on the property of Dr. R. G. Sloan on Little River, this county, he could have kept 500 vines.

The vine, which was of voluntary growth, is believed to be the largest in the world. It covers more than an eighth of an acre and has produced about 500 pumpkins, the largest of which weighs nearly 100 pounds.

If it is feasible to remove it the vine will be exhibited at the State fair at Columbia.

## GUNNER GUARD LEGISLATORS.

### Mountaineers and Detectives Prevent Rival Forces in Tennessee.

NASHVILLE, Sept. 23.—Armed men from the Tennessee State prison and from Nashville's police department stood on each side of the House of Representatives to-day ready to shoot at the word.

Eighteen strong men from the mountains of eastern Tennessee, employed at the penitentiary as guards, stood behind the legislative friends of Gov. Hooper, the first Republican Executive of Tennessee for thirty years. Looking angrily at these mountaineers were eighteen detectives armed heavily.

The cause of the array of gunmen was the threat of the Democrats to unseat eight fusion members for alleged complicity in a graft case while they were serving as members of the Legislature and the threat of the fusion gunmen to take the lives of three members of the House.

## WILL RAISE RATES THIS FALL.

### Eastern Railroads Notify the Commerce Commission.

WASHINGTON, Sept. 23.—Information has reached the Interstate Commerce Commission that tariffs will be filed from October 5 to 14 by every railroad in the United States east of the Mississippi and north of the Ohio and Potomac rivers to the Atlantic seaboard, showing an increase in all freight rates of 5 per cent.

The tariffs are to become effective November 15, unless annulled by the commission pending investigation. This will be the real opening of the advance rate case, the commission having declined to reopen the case upon mere application and without the formal filing of the tariffs.

## "BOOMERANG" CAN'T COME BACK

### Bill Nye's Old Paper Passes Away Under Foreclosure.

LARAMIE, Wyo., Sept. 23.—The Laramie Boomerang, which was founded in 1881 by Bill Nye, the humorist, and edited by him for years until its fame was worldwide, has gone to the journalistic graveyard. Its spirit was wuffed out last night to join its creator beyond the Great Divide.

The Boomerang, like all other papers, could not exist or subsist without money, and when interest on its bonded indebtedness was defaulted and long overdue the First National Bank, the holder of the mortgage, decided that there was nothing to do but foreclose.

## SCHIFF TO TELL OF CHECK TO-DAY

### Impeachment Court to Vote First on Articles 1, 2 and 6.

## GOV. SULZER SUBMITS

### Counsel Announces He Has Abandoned Executive Functions.

## WHOLE DAY OF ARGUMENT

### Sixty Witnesses for Assembly Managers Will Take Week in Testifying.

ALBANY, Sept. 23.—Unless the impeachment court sustains to-day's contention of William Sulzer's impassioned defenders that he cannot be tried for offenses that took place before he was Governor Jacob H. Schiff of New York will take the stand to-morrow afternoon as the first witness for the prosecution.

He will testify that on October 14, 1912, he gave Mr. Sulzer a campaign check for \$2,500 which the candidate did not mention in his sworn statement.

As to whether or not the court will vote to quash the most important accusations of the impeachment managers by striking out the three articles relating to campaign money and falsifying a campaign statement as demanded by Gov. Sulzer's lawyers to-day, no one can predict.

The situation is peculiar, for as Ethel Root, Jr., pointed out in a memorandum submitted for Gov. Sulzer to-day there has never been an attempt in this country to impeach an officer for acts done by him while he held no office. There is therefore no authority on this point arising in a case of impeachment.

The case of Judge Barnard, who was impeached in his second term on the bench for misconduct in his first term, is the nearest approach to a precedent that anybody has found. So as to precedent the court has no light of experience to guide it in to-morrow's solemn decision.