

HUSBAND'S TURN IN BROKAW CASE

SERVANTS TESTIFY THAT MRS. BROKAW SMOKED AND ALSO DRANK.

Insinuated That Mrs. Brokaw Knew of Punishment Administered to Nurse — Butler Says He Served Cocktails and Cigarettes to Plaintiff in Divorce Case.

New York, Dec. 20.—Cocktails and cigarettes, which have figured so prominently in the suit for separation with alimony of \$60,000 a year brought by Mrs. Mary Blair Brokaw, against her husband W. Gould Brokaw, again assumed importance today in the trial at Mineola, L. I.

Sidney Woods, the Brokaw butler, testified for the defense today that he had served cocktails to Mrs. Brokaw in a tea cup, in tumblers and in a shaker when she was up and dressed and when she was in bed. He was positive that he had seen Mrs. Brokaw puffing cigarettes, and he swore that he had served her with them in her room.

During the butler's testimony Mrs. Brokaw, who, in her own testimony, would only own to an experience of four cocktails and an occasional cigarette, sat open-mouthed.

"I carried a cocktail to Mrs. Brokaw in the sun parlor," continued the butler, "and she mentioned to me that she had discharged her nurse, Miss See. I told her that Miss See had asked me for liniment to apply to bruises which she said had been caused by kicks and lashings from a whip."

"Was the name of the person mentioned?" asked counsel. "Who applied the whip, or did the kicking?"

"Mrs. Brokaw knew who did it," replied the butler.

"Was anything said to indicate that she had knowledge of the cuts on Miss See?"

"Mrs. Brokaw was very cross and nobody asked her."

Justice Henry H. Gildersleeve, a friend of Mr. Brokaw, testified that he had spent some time at High Point, N. C., the Brokaw winter country place, and had always found the husband kind and affectionate toward his wife.

NIGHT COURTS BAD FOR WOMEN

MRS. BELMONT SPENDS SIX HOURS WATCHING WORKINGS OF JUSTICE.

Says Women Who Live at Home Under Protection of Husbands and Friends Know Nothing of Conditions in Under World — Women Should Have Some Say.

New York, Dec. 20.—Mrs. O. H. P. Belmont, of Newport and New York, who has recently transferred her interests from society to suffrage, gave out a statement tonight of her impressions of the justice meted out to unfortunate women in the night court.

"In answer to numerous requests from the women who are managing the shirtwaist strike, that some of us who are also trying to assist would be present at the trial of the girls arrested," says Mrs. Belmont, "I went Saturday night to Jefferson market court. I was present from nine o'clock when the night court opened, until three in the morning.

"During the six hours spent in that police court I saw enough to convince me and all who were with me, beyond the smallest doubt, of the absolute necessity for woman suffrage—for the direct influence of women over judges, jury and policemen, over everything and everybody connected with the so-called course of justice. "A hundred fold was it impressed upon me in the cases of women of the streets who were brought before the judge. Every woman who sits complacently amidst the comforts of her home, or who moves with perfect freedom and independence in her own protected social circle and says 'I have all the rights I want,' should spend one night in the Jefferson Market court. She would then know that there are other women who have no rights which man or law or society recognizes."

TRI-STATE WEATHER.

Washington, Dec. 20.—North Dakota — Local snows Tuesday; Wednesday generally fair. South Dakota — Fair Tuesday; local snows at night or Wednesday. Minnesota — Local snows on Tuesday; Wednesday generally fair.

CONGRESS WILL ADJOURN TODAY

DEPEW IS OPTIMISTIC ON OUTLOOK FOR FUTURE OF THE COUNTRY.

Lurton's Nomination is Confirmed—Wyoming Representative Defends Secretary Ballinger — D. C. Appropriation Bill Passed — Hardy in a Denouncing Stunt.

Washington, Dec. 20.—Both the senate and the house concluded their labors by 2 o'clock today. Tomorrow an adjournment for two weeks will be taken for the Christmas holiday.

Aside from the confirmation of the nomination of Horace H. Lurton, of Tennessee, to be an associate justice of supreme court, the principal feature of the senate proceedings was a speech laden with optimism and good cheer for the Christmas season by Senator Depew.

The address of the New Yorker was called forth by what he characterized as the pessimistic predictions in Senator La Follette's magazine and in many newspapers and other periodicals to the effect of the tariff law upon the prices of necessities of life as well as in relation to dangers to the people because of a pending exhaustion of national resources.

For the first time since the Fitzgerald rule providing for a unanimous consent, calendar was advanced and that rule was invoked today in the house and one joint resolution making available a small appropriation for the improvement of the Tennessee river and a bill of local interest was passed.

Representative Mondell, of Wyoming, spoke at some length against the proposition giving the federal government control of dams and water power rights in the different states, defending Secretary Ballinger in that connection and vigorously assailed the action of "certain government bureaus in attempting to usurp rights belonging to the people."

The District of Columbia appropriation bill carrying about \$10,275,000 was passed without opposition.

Representative Hardy of Texas denounced the publication of stories charging members of congress with corruption in connection with proposed ship subsidy legislation.

NEW ATTORNEY IS TO LOCATE HERE

THEODORE KOEFFEL HAS RENT OFFICES AND WILL MOVE IN FEBRUARY.

Has Been a Resident of State for a Number of Years and is Senator From Benson County.

State Senator Theodore Koeffel of Esmond, Benson county, has been in the city for a few days and has definitely decided to locate in Bismarck for the practice of law. He has rented a suite of rooms in the City National bank building and will move permanently to the city about the middle of February.

Senator Koeffel has been in North Dakota since 1896 and at Esmond, his present location, since 1903. In 1906 he was elected state senator from Benson county and has been a useful member of that body during the last two sessions.

He will be cordially welcomed to professional and business circles in the Capital City.

The senator did not decide hastily on this move, but only after coming to the conclusion that Bismarck is to be the metropolis of the Slope, did he decide to cast his lot here.

UNCLE SAM'S ATTITUDE WILL REMAIN UNCHANGED.

Washington, Dec. 20.—Secretary of State Knox announced today that the attitude of this government toward Nicaragua would not be changed by the election of Madriz to the presidency as the successor of Zelaya, resigned. Madriz will have to show that he is capable of directing a responsible government which is prepared to make reparation for the wrongs which it is claimed have been done to American citizens.

This country still maintains that until a responsible government is set up and is entire control of the situation so that definite negotiations can be held, diplomatic relations cannot be resumed.

"We are not trying to coerce Nicaragua," said a high state department official this afternoon, after a call at the White House. "We want her to settle her own affairs and we are not dictating what shall be done in Nicaragua or who shall be named as president. All we want is a responsible government that we can do business with."

SENATORIAL CANDIDATES

Must Candidates Declare for Long or Short Term and Force Voters to Choose, or Go on Ballot Without Specification as to Term?

Judge Engerud Holds That the Voters Should Have Free Hand and That the "Term" Should Not Be Designated on the Ballot

Popular Desire of the Voters Might Be Thwarted if Elector Is Obligated to Vote for One Only of Opposing Candidates

An Interesting and Complicated Question Up to the Secretary of State, Attorney General and Probably the Courts

If two men are candidates for the United States senate and the voter is in favor of both of them, shall the primary ballot be so arranged that he cannot vote for but one man that he really desires?

Should a candidate be obliged to declare his candidacy for either the long or short term and thus possibly deprive himself of the support of many voters who are not so particular as to who shall hold the long or short term as they are that those they believe to be the two best men shall be chosen?

If two popular men are running for the long term and two unpopular men are running for the short term—if terms are allowed to be designated on the primary ballot—can the true intent and spirit of the primary law, to allow the selection of the best and most popular candidates, be complied with?

Should the names of all candidates go on the ballot without restriction as to "term" and allow the voters to indicate to the legislature (which body really elects) the two men desired—the two receiving over 40 per cent of the vote, or if only one man receives forty per cent, the second man to be chosen at the November election between the two receiving the greatest number of votes, next to the high man at the June primaries?

There being no law to cover the question, what is the best interpretation to give the greatest latitude and obtain the freest and most accurate verdict of the voter?

These are the questions that arise just now following the unexpected death of Senator Johnson and the emergency of having to vote for two United States senators at the June primary election, instead of one.

The primary law does not contemplate such a condition as now exists and it will be up to the secretary of the state, who is charged with the certifying of the candidates and the arrangement of the ballot, and also possibly up to the attorney general and the courts to decide what shall be the law.

In answer to an inquiry on this matter addressed to Judge Engerud of Fargo, one of the leading lawyers of the state, and former member of the supreme bench, that gentleman replies as follows:

Dear Sir: I have your letter of the 13th inst. with reference to the manner of voting for United States senators at the primary election. My views are as follows:

It is obviously the intent of the law that candidates for U. S. senator shall be selected by the party voters; and this, of course, is true whether a vacancy in that office is to be filled or a regular term senator is to be chosen by the legislature.

The letter of the law also requires a popular vote on the senator to fill a vacancy. Sec. 2 of the Primary Law reads:

"On the last Wednesday of June of every year in which occurs a general election there shall be held, in lieu of party caucuses and conventions, a primary election—for the nomination of candidates for . . ." (Then enumerates the offices to be filled as follows: 1st. Offices elected every general election. 2nd. In years when judges of the supreme and district court, members of the legislature and county commissioners, then candidates for those offices are to be nominated. 3rd. United States senator in the year previous to his election.)

In the present exigency it happens by reason of the death of Johnson that a senator must be elected by the next legislative assembly to fill the vacancy; hence, it is plain that the words of the law require that a candidate for that position be chosen by the voters, because the statute says that the voters shall at the primary election choose a "United States senator in the year previous to his election."

The same is true of the senator for the full term. He is also to be elected by the legislature in 1911, and hence, the candidate must be chosen at the primary in 1910. The accidental circumstance that the two senators must be elected at the same time, cannot change the law.

To illustrate: Suppose Senator Johnson were still living and were to die in 1912 before the primary of that year. You would then have a condition where a United States senator would have to be elected by the next legislature in 1913. Consequently, the candidates for U. S. senator would have to go on the primary ballot because the statute says that the primary election shall include the choice of a candidate "for U. S. senator in the year previous to his election."

If by reason of a vacancy two senators are to be chosen at the same time, then clearly two candidates must be chosen at the preceding primary.

The primary law, however, does not specifically provide for the manner of printing the ballot, etc., in cases where two U. S. senators are to be nominated. It is, therefore, incumbent on the officers charged with the duty of preparing the ballot to proceed in such a way as will conform to the intent of the law. Their action in this respect is, of course, reviewable by the courts.

Assuming that two candidates for U. S. senator for each party must be chosen at the 1910 primary, the question arises as to whether the candidates must in their petitions and on the ballots be designated and voted for as a candidate specifically for the long term or the short term, or shall all the candidates go on the ballot and be voted for without a specific designation of the term?

The statute being silent on this question, it is one which must be settled by construction of the law. In construing the law, that construction must be adopted which will best promote the object of the law and harmonize with its spirit.

The opinion that the candidates for U. S. senator shall be chosen specifically for the long term or the short term is based upon a highly technical view of the situation; is out of harmony with the spirit of the primary law, and tends to defeat the object of the law.

Those holding to this opinion assert that there are two positions or offices to fill—one senator for the long term and one for the short—and hence, insist that the candidates must run and be specifically chosen for one or the other; as in the case of governor, or other similar offices. They do not take into account the dissimilarity between the primary election for U. S. senators and that for other offices.

In the case of other offices the primary election is a specific choice of the candidate for a specific position whose name is to go on the ballot at the fall election. The functions of each of such other offices is different from those of the others.

As to U. S. senators, however, the situation is different. Each of the two senators has the same duties to perform and each is equal to the other in dignity and authority. They are joint representatives of the state in the U. S. senate. It is comparatively immaterial to the voters and to the state as a whole, which holds the long term and which the short. The important consideration

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RACE WAR IN ALABAMA FATAL

WHITE MAN AND NEGRO KILLED AND FOUR WHITE MEN WOUNDED.

Large Number of Negroes Placed Under Arrest — Trouble Started Over Murder of White Man — Troops are Called to Prevent Spread of Race War.

Magnolia, Ala., Dec. 20.—After four white men had been shot and one negro burned to death, with his body riddled with bullets, Magnolia is quiet tonight awaiting the coming of a company of troops dispatched by Governor Comer to prevent a general race riot. Nearly every negro has fled from Magnolia.

The trouble grew out of the murder on Saturday night of Algernon Lewis, a young white man. A posse sought day and night for four negro brothers named Montgomery, believed guilty of the crime.

This afternoon Clint Montgomery and several other negroes were found barricaded in a house, which was soon surrounded by white men. Fearing for their lives, Montgomery's companions deserted and surrendered. Montgomery fastened the door after defying the men to get him. One of his companions was then forced to set fire to the house and when the building was enveloped in smoke, Montgomery threw open a window and opened fire with telling effect upon the posse with a magazine shot gun. Ernest Slade fell mortally wounded, his face and body filled with shot. N. G. Carlton, Tom Shields and William Lindsey were also wounded, though not seriously.

A fusillade of shots struck Montgomery as he was attempting to leave the house, his body being riddled and then allowed to be consumed in the burning building.

A report late tonight is to the effect that Brister and Shell Montgomery, brothers of Clint, were placed in jail at Linden this evening after narrowly escaping being lynched.

Albert Watkins, another negro, suspected of harboring the Montgomery brothers, is under arrest.

Baroness Vaughan has departed for Belgium.

MADRIZ IS PRES. OF NICARAGUA

ZALAYA'S FAVORITE IS SUCCESSOR TO THE DEPOSED PRES.

People Will Be Pleased at New Order of Things — Estrada Is Not Out of the Race as Yet — New President Promises Better Order of Things Under New Regime.

Managua, Dec. 20.—Dr. Jose Madriz, American court of justice at Cartago, and Zelaya's candidate was today elected president of Nicaragua by the unanimous vote of congress.

The session was a stormy one but there seemed to be unanimity weighed to the election of Madriz and when the official announcement was made there was much cheering and cries of "viva Madriz," "viva Leon," "Down with monopolies," "Down with tyranny," "Long live the constitution."

Dr. Madriz will assume the presidency at 10 o'clock tomorrow morning. He was escorted to the balcony of his hotel, where he greeted great crowds and made a brief speech, urging in harmony and co-operation. He pledged that he would uphold the rights of the citizens, granting free elections, and establishing a policy of equal opportunities for all.

The election of Dr. Madriz has been expected. Zelaya still exercised a strong power here and while it has been brought to his notice that Madriz, is not looked upon with favor by the government of the United States, he still urges Madriz to the front as his successor in office. On his arrival here the president-elect, said that he had been in conference with ex-president Cardenas, who is now in Costa Rica, the leader of the conservatives and head of a strong force, which it has been reported was against Managua.

It is known to both Zelaya and Madriz, that Estrada, the leader of the revolutionists, who are ready to do battle with the government forces at Rama, is strongly opposed to the new president, for it is well understood that Estrada himself has ambitions to fill the presidency. The hope is cherished, however, that Dr. Madriz will be able to bring about such an amicable condition among the people themselves that he will not be compelled to withdraw from office.

What Zelaya and his supporters most feared was a rising in the departments around Managua, for in the last two weeks, the widespread denunciations of the president and his administration were threatening to the verge of revolution.

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