

ROOSEVELT'S ACT PREVENTS JAP WAR

John O'Laughlin Says Former President's Move in Sending the Atlantic Fleet to the Pacific Was the Means of Making Japan Think Twice Before Moving Against Such a Power- ful Nation

WENT ON MISSION TO ORIENT FOR GOVERNMENT

Introduction of Unusual Testimony in the Colonel's Case Against the Michigan Editor Causes Sensation—Witness Says That He Had Never Seen Roosevelt Under the Influence of Liquor—Scores Disreputable Newspaper Men

Marquette, Mich., May 28.—Introduction of further testimony to show the abstemious habits of the plaintiff was resumed today in the libel suit of Theodore Roosevelt against George A. Newett, publisher of the Iron Ore of Ishpeming, Mich., who charged him with drunkenness.

John Callan O'Laughlin, a Washington correspondent, was the first witness.

Colonel Roosevelt entered with George Shiras, his host here, and took his accustomed inconspicuous seat with a row of spectators inside the railing.

Mr. Newett, the defendant, came into court with his counsel. He is a very sick man, but his ruddy countenance hid this from all but those who knew him well.

Although Colonel Roosevelt, on returning to Europe from his African hunt, was obliged to attend banquets and receptions tendered him by monarchs, he never indulged in champagne to an immoderate degree, was the testimony of O'Laughlin, who said he had been associated with Colonel Roosevelt for 20 years. The witness could not meet the former president on a Nile after the African hunt, and accompanied him as far as Paris, acting as secretary to Colonel Roosevelt.

O'Laughlin also accompanied the colonel on various campaign trips in this country.

Not Drunk in 20 Years.

"During your 20 years' experience with Colonel Roosevelt, have you ever seen him in the slightest degree under the influence of liquor?"

"I not only never saw him under the influence of liquor, but it seems absolutely silly to me to have anyone suggest the fact that he ever was," replied O'Laughlin emphatically.

"At banquets have you ever seen him drink any liquor?"

"At banquets he sometimes took a glass of white wine. I never saw him drink more than one glass of champagne."

O'Laughlin described the various dinners, official and otherwise, given at Washington, including dinners at the Gridiron club.

"Will you tell this jury whether Mr. Roosevelt mixed his drinks at all or not?"

Customs of Former Presidents.

"If he took champagne, he never took anything else."

A question involving the custom of former presidents in regard to liquors at banquets caused objection by counsel for the defense. The court held it was competent for the plaintiff to show whether Colonel Roosevelt followed custom in the use of liquor in the White House.

O'Laughlin said his first experience with presidents began with the second Cleveland administration, and Colonel Roosevelt followed the precedent of Presidents Cleveland and McKinley in serving wines at public dinners.

"Are you not in charge of some work of the Progressive party?" O'Laughlin was asked on cross-examination.

"I am not," he answered.

colony's reputation as to liquor, was merely to mitigate damages.

He contended, however, that such evidence should not be admitted unless it first should be proved that the defendant knew of the reports before he published the article and believed them to be true and based his article on them, believing them to be true.

"Under the position of the defense," argued Mr. Van Benschoten, "a man may be as pure as St. Paul and his reputation may be ruined in a moment by a lot of gossip mongers. The two points attempted by the defense are incompatible. You cannot mitigate and deny at the same time."

Various libel suit decisions were cited by Mr. Van Benschoten. In one case a man merely had said "the stole my horse."

Another case was that of a woman who sued for libel because an editor had said she stole a pocketbook which she found on the street.

The argument of attorneys, in the absence of the jury, was still on when court adjourned until 2 o'clock this afternoon.

Bacon Takes the Stand.

Greater crowds than any since the trial of the suit began surrounded the court house this afternoon and lambored for admittance. So great became the jam on the flight of stairs leading to the main entrance that it was necessary for the sheriff to lock the doors, so that the attorneys and others entitled to seats inside were required to enter by a side door. All the balconies in the court room were filled, chiefly with women anxious to get a glimpse of the former president as he sat back of and somewhat isolated from his attorneys, while every seat on the floor of the room including many chairs placed in the aisles were occupied.

When court convened at 2 p. m., the attorneys continued their argument over legal questions, the jurors having been excluded.

Robert Bacon, former secretary of state, and former ambassador to France, scheduled as the plaintiff's witness to follow O'Laughlin, found himself locked out when he returned for the afternoon session. Mr. Bacon went from one door to another seeking entrance without avail, although court was already in session. Eventually Sheriff Maloney observed his efforts and admitted him and he was relieved to find that the lawyers were still arguing points of law.

Consider Victory for Roosevelt.

On the question whether Mr. Newett might show that other newspapers published reports that Colonel Roosevelt was addicted to excessive drinking and whether individuals heard such reports, the court this afternoon ruled that such evidence cannot be admitted. This was considered by Colonel Roosevelt's attorneys as a victory for them, since it will exclude the so-called hearsay evidence as contained in many depositions.

Defense counsel interpreted the ruling of the court to permit witnesses to testify to the "general reputation" of Colonel Roosevelt with reference to his personal habits.

Judge Flannigan's Ruling.

Judge Flannigan's ruling was as follows:

"The Michigan rule is very well settled that the general reputation of the plaintiff is a matter that the defendant made a dispute—that is, his general reputation previous to the publication of the alleged libelous article, and evidence of that nature will be received. The other question as to whether or not the defendant may show that other newspapers published similar charges and may show that it was reported among men that the plaintiff was guilty of similar offenses. The court is very well satisfied that the defendant is not entitled to that testimony and no testimony of that nature will be received. Gilson Gardner, a witness yesterday testified under direct examination to the opinion of certain correspondents in Washington. That testimony will have to be considered drawn out by the plaintiff. I think the defendant will have the right to refute that statement if he is able to do so. Whether or not the defendant will be entitled to show the source of his information for the purpose of establishing good faith on his part and belief in the truth of the matter must turn, it seems to me, on the other question of whether or not the damages may be increased by reason of actual malice in the publication, and the court will not pass on that question now. That question may be properly raised and argued when that testimony is offered. That disposes of all the pending questions. I think." (Excitation taken by Mr. Belden.)

Question by Mr. Belden: "May we not ask newspaper men like Mr. O'Laughlin in reference to this charge published in large papers in the country?"

Judge Flannigan: "Publications of such matters by other newspapers are not accepted in mitigation of damages."

O'Laughlin is Recalled.

Recalled to the stand, with the jury present, O'Laughlin was further examined by the plaintiff.

"Did you ever smell liquor on Mr. Roosevelt's breath?"

"Never."

"What do you say as to his language, was it ever profane?"

"Colonel Roosevelt has one of the cleanest minds of any man I ever knew."

"Was he ever profane?"

"Never profane."

Gilson Gardner, another Washington newspaper man, who testified yesterday was recalled and examined as to the amount asked for should be nominal. He did not want to be vindictive but wanted merely damages for the publication of a falsehood.

It was stated by Mr. Belden that the pecuniary damages in this case under the law might be any sum from six cents to \$50,000, regardless of the amount asked in the suit.

Whether the alleged libel was true or not, Mr. Belden argued, the defendant believed the article to be true and did not publish it out of malice.

What Constitutes a Libel.

Attorney W. H. Van Benschoten, for Colonel Roosevelt, said he would not oppose the attitude of the defense that the admission of so-called hearsay evidence, bearing upon the

appointed secretary of state for the remainder of Mr. Roosevelt's administration. In December, 1903, I was appointed ambassador to France by President Taft, from which position I resigned in May, 1912, to become a Fellow of the Harvard college, which position I now hold. I have known Theodore Roosevelt intimately for about 36 years, having been a classmate of his at Harvard college, where he graduated in 1880. He was one of the cleanest minded, fearless boys that I have ever known. He was always in the best of training physically, one of his chief recreations being wrestling and boxing. He was a good fighter and I think the fastest fighter that I have ever known.

Will Arrest Witness.

New York, May 28.—Assistant District Attorney James Reynolds today confirmed the report that he had asked for the arrest of James Martin Miller, formerly consul at Aix Les Bains, who is charged with libel against the Roosevelt libel suit. Miller is under indictment here on a charge of grand larceny in connection with a check transaction. Mr. Reynolds sent a despatch to Frank Harper, secretary to Colonel Roosevelt, requesting that word be sent here if Miller appeared in Marquette.

Order Miller's Arrest.

Marquette, Mich., May 28.—Frank Harper, secretary to Col. Roosevelt now in this city, last night received a telegram asking him to arrest James Martin Miller if he should appear in Marquette. The gentleman said that Miller was wanted in New York on a charge of grand larceny and was signed "J. P. Reynolds." Miller was one of forty persons who signed depositions for the defendant, George A. Newett, in the Roosevelt libel suit.

Attorney Horace Andrews of the defense said that Miller could not be brought here as a witness as he was beyond the jurisdiction of Judge Flannigan's court and that the defense had by no means settled on what depositions would be introduced in evidence.

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to obtain \$3500 from George H. Kendall, president of the New York Bank Note company, for favorable consideration by the senate and assembly committees of a bill to make illegal discrimination against bank note companies by stock exchanges. Kendall refused to pay and, laid his case before Governor Sulzer, who called on Stillwell to resign. This Stillwell declined to do. The senate investigated the charges, heard Kendall and other witnesses and exonerated Stillwell by a vote of 25 to 21 after he had made an emotional plea in his own behalf. Thereafter the case was placed, by Governor Sulzer's instructions, in the hands of District Attorney Whitman. Stillwell appeared before the grand jury after signing a waiver of immunity.

The convicted senator is 48 years old and had been long in politics. His conviction automatically removed him from the senate.

Discredits Jap Cabinet.

Ex-Premier Katsura's New Party Says President Ministry Cannot Be Relied Upon to Settle the California Alien-Land Question.

Tokio, May 28.—The executive committee of ex-Premier Count Katsura's new party today issued a statement declaring that the present cabinet could not be relied on to settle the California alien-land ownership question and adding that after a conference with Count Katsura, who is convalescent from a recent illness, the party had decided to adopt its own propaganda with regard to the dispute.

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SOUTHERN PACIFIC MUST GIVE UP C. P.

Attorney General McReynolds Decides That Line From Ogden to Oakland Shall Be Divorced From the Southern—Will Bring Suit If the Dissolution Plans Do Not Include It

SOLUTION OF HITCH IN UNMERGING PLANS

Union Pacific Will Present Plan For the Disposition of \$126,000,000 of S. P. Stock and Will Leave Question of the Central to Litigation to Be Begun By the Government

Washington, May 28.—Attorney General McReynolds has decided to contend that the Southern Pacific must give up the Central Pacific in the pending dissolution of the Union Pacific merger and will bring a suit under the Sherman law to accomplish that end if the dissolutions plans fail to include it.

It became definitely known today that the attorney general had finally decided that the Central Pacific must be divorced from the Southern. The disposition of the Central Pacific is understood to be the cause of the hitch in the efforts of the Union Pacific and Southern Pacific to reach an agreement.

The plan which the Union Pacific will shortly present to the attorney general contemplates, it is believed here, only the disposition of the \$126,000,000 of Southern Pacific stock held by the question of the status of the Central Pacific to separate litigation to be begun by the government. The supreme court ordered the sale of Union Pacific stock and left open to negotiation or future litigation the disposition of the Central Pacific.

The position of Mr. McReynolds regarding the Central Pacific coincides with that of former Attorney General Wickersham, who threatened an anti-trust suit unless the Southern Pacific disposed of its subsidiary.

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panies, declaring that the \$50,000,000 capitalization of the companies in Colorado was \$30,000,000 water, upon which they paid dividends on the "preferred and watered stock," and that one of the companies had a surplus in excess of \$10,000,000. "At least they did have such a surplus," the senator continued, "before they began this false propaganda against the tariff bill. How much they will spend for that and how much of it hereafter will be treated as cost of production I don't know. These heavily over-capitalized industries want to continue to rob the people to pay a profit on their capital invested and manufactured with printing presses and fountain pens."

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SENSATION AT CALGARY

Crown Prosecutors Secure Re-Arrest of Pelkey and Burns Upon the Charge of Man- slaughter in Connection With McCarty's Death—Pastor Faces Criminal Libel Charge

Calgary, Alberta, May 28.—Representatives of the Crown who have been conducting the investigation into the death of Luther McCarty, claimant to the white heavy-weight championship, who died in the prize ring in the Burns arena Saturday, today are gathering a mass of evidence which will be presented when the cases of Arthur Pelkey and Tommy Burns are called to trial.

That Burns, promoter of the fight in which McCarty met his death, and Pelkey, whose blow in the first few minutes of the initial round resulted in the fatality, will have to face trial on the charge of man-slaughter, was the most startling of the several developments that followed in rapid succession the re-arrest of Pelkey yesterday, after the coroner's jury had failed to make any charges against him. Meanwhile William McCarty and Referee Eddie Smith are out on \$500 bail each, and ordered to appear as witnesses when the cases are tried.

Another development was the filing by Burns of a suit for criminal libel against a minister of the city who is alleged have denounced the promoters of the fight as "murderers who should be deported." Burns said he would also file suit against other ministers who are said to have attacked him in a like manner in their sermons last Sunday.

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