

UNSETTLED

ESTABLISHED 1868.

ASHEVILLE, N. C., SATURDAY MORNING, JULY 30, 1921.

PRICE FIVE CENTS

HUGHES WILL HEAD OUR DELEGATION IN DISARMING G MEET

Harding Considering, but Has Not Made Actual Choice of Personnel.

PREVIOUS MEETINGS OF GROUPS OPPOSED

Washington Fears Any Such Movement May Defeat Purpose of Session.

WASHINGTON, July 29.—(By the Associated Press.) Proposals for preliminary meetings of the representatives of all the powers of any separate group of them prior to the disarmament conference are receiving no encouragement from the American government.

Although officials decline to comment formally, it is the apparent belief here that all of the various suggestions for preliminary sessions are impracticable and might lead to defeat of the purpose of the conference itself.

This feeling is understood to apply with particular force to any proposal that certain questions be taken up beforehand in separate conferences where only members of the main conference are represented. It is held that such a plan not only would have the undesirable result of creating groups within the main group, but might open such avenues of discussion that it would leave the participants further from solution than they were in the beginning.

It is also increasingly apparent that the United States is doing what it can to discourage suggestions for a preliminary conference among all the nations that are to be represented in the principal conference. No details of the negotiations of that subject have been revealed, but it is generally understood that Great Britain is urging such a conference and this country is holding out against it.

It is also understood that this government holds to its original suggestion that the conference assembled here on Armistice day, November 11, though some of the other invited nations have urged that a later day be selected.

Meantime officials are working steadily in the preparation of details, and although it is said actual choice of the personnel of the American delegation is yet to be made, President Harding is known to have given the question some serious thought. It is expected generally that the president himself will not sit at the conference table, but that Secretary Hughes will sit as head of the American delegation. It has been indicated that serious consideration might be given to suggestions that at least one of the members on the delegation go to a woman.

PRESIDENT HARDING OFF TO MOUNTAINS

Speaks Monday at Plymouth, on Voyage, at Celebration.

WASHINGTON, July 29.—President Harding left Washington late today on the presidential yacht, Mayflower, for an absence of more than a week, most of which will be spent resting in the White mountains of New Hampshire.

The first stop will be made Monday at Plymouth, Mass., where the President is to deliver an address at a dinner at 7 o'clock Monday morning. The President will review a parade before delivering his address late in the afternoon and during the evening will witness a pageant. He will go aboard the Mayflower again late Monday night and reach Portland, Maine, on Tuesday morning. From that point, he will go by automobile to Lancaster, N. H., where he will be the guest of Secretary of War Weeks.

Mrs. Harding, apparently completely recovered from the slight indisposition which she had kept her in the White House for the last few days, accompanied the President and will go with him to Lancaster.

MORGAN ZIMMERMAN FOUND NOT GUILTY

SPARTANBURG, S. C., July 29.—The jury in the case against Morgan Zimmerman, on trial for killing his father, returned a verdict of not guilty at 8:15 tonight.

The jury was out only nine minutes. Zimmerman's defense was that he killed his father to protect his mother, whom the latter was alleged to have been mistreating. Mrs. W. R. Zimmerman, mother of the defendant and wife of the slain man, testified for the defense this afternoon, and so touching were her statements she made about the domestic life at the Zimmerman home, that sobs were heard in every part of the court room which was filled to capacity.

The killing occurred May 4, at the Zimmerman home at Duncan, twelve miles west of Spartanburg. Within five minutes of the court's verdict had been announced, the defendant and his mother were on their way home.

FRANCE REPLIES TO LATE BRITISH NOTES

PARIS, July 29.—(By the Associated Press.) Premier Briand this evening handed to Lord Hardinge, the British ambassador, the reply of France, approved by the cabinet this afternoon to the latest British note dealing with the sending of reinforcements to the Upper Silesian zone which was presented to the foreign office this morning.

The British note protested against the action of France in seeking to send troops to Upper Silesia without acting jointly with her other allies. It reminded France that President Millerand, after the invasion of Frankfurt promised to consult with the Allies in the future.

The note, which consisted of a dozen pages, asked France for an explanation of her intentions, considering frankness necessary for a continued Allied co-operation.

AERIAL 'ATTACK' IS MADE ON CAPITAL AND GOT HAM FRIDAY

Seat of Government and Metropolis Said Theoretically "Bombed Off Map."

PHILADELPHIA WILL BE "BOMBED" MONDAY

General Mitchell Leads Three Squadrons of 17 Bombers in Air Raids.

NEW YORK, July 29.—New York and Washington today in theory were bombed off the map, following in the wake of Norfolk, Newport News, and Richmond, which is due for a theoretical bombing Monday.

The fate of the various cities was made known today by Brigadier General William Mitchell, assistant chief of the army air service, when he stepped from his plane after leading three squadrons of seventeen bombers on a simulated attack against New York. A simultaneous attack on Washington by seventy machines had been ordered.

All these air raids are part of a war problem which army aviators are working out after having participated in the recent bombing of former German war craft off the Virginia capes. The planes which made New Yorkers stare about had arrived here after coming up the coast from Langley field, Virginia, and leaving devastation astern. After week-long operations at Minnola air fields, they will start the week right by swooping down on Philadelphia.

Seventy men were assigned to the New York attacking party. Weather conditions were ideal for an air attack. The haze that hung over the land made observation of the planes flying at 8,000 feet virtually impossible, and officers declared the planes could be sent away without fear of successful counter attack from anti-aircraft guns on the ground.

After the raids had been put out of action, the squadrons swooped down to 4,000 feet and flew over Wall street. The sub-treasury was their chief "target."

Although curious New Yorkers never knew it, thousands of them were slain—always theoretically—when a building was left standing in the financial district. The aviators declared they had opened the way for a hostile force to steam into the harbor and seize the city.

POWER COMPANY'S PETITION PRESENTED

Review of Corporation Commission Tax Rate Order Asked.

RALEIGH, July 29.—Petition of the Carolina Power and Light company to the Corporation commission today for a review of its order reducing tax rate was laid before the commission today.

The cities of Durham and Raleigh are involved and the company sets up its average earnings of less than three and a half per cent for five years as the basis of its appeal.

The utility declares that it cannot serve these municipalities on the present rate and that it is not in position to reduce wages to any level when coal was 50% cheaper than now.

The petition sets out that a certified accountant employed by Raleigh went over its books and found that it made a maximum income of three and two-tenths per cent after depreciation charges, the last five years being considered and Raleigh plans being under investigation.

WEBB DESIGNS AS U. S. MARSHAL FOR WESTERN DISTRICT

Notified by Daugherty Administration Would Make Change—Acts at Once.

Charles A. Webb, United States marshal from the western district of North Carolina, was notified by H. M. Daugherty, attorney general, that a change in the office at Asheville is desired. Marshall Webb immediately tendered his resignation to take effect upon the appointment and qualification of his successor, whom it is generally believed will be Brownlow Jackson, of Hendersonville.

Mr. Webb expects to devote most of his time in the future to the interests of The Asheville Citizen, of which he is one of the principal stockholders.

In official circles it is believed Mr. Jackson will be appointed to the office of United States marshal immediately.

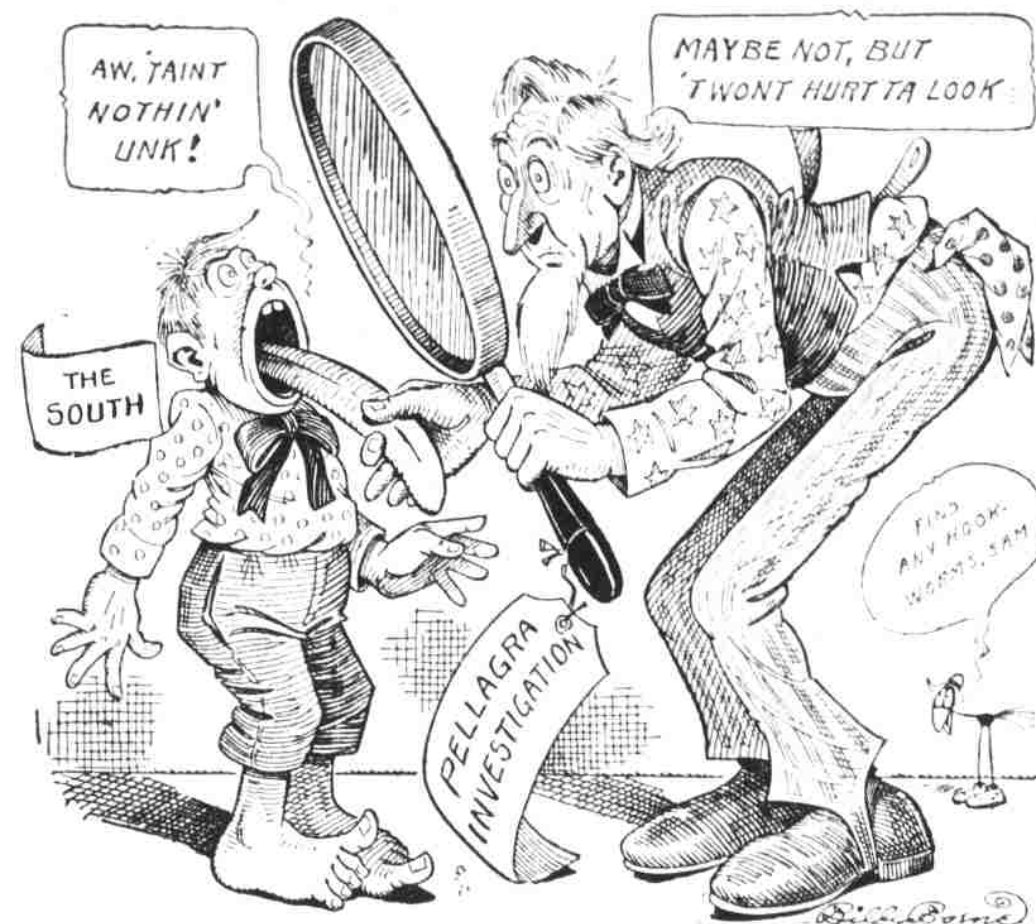
When Marshall Webb goes out of office the following deputies also go: Joseph D. Pool, of Asheville and J. F. Garner, of Randolph county, who are stationed in the office here; Reuben F. Lee, of Asheville and J. B. Holloway, of Morganton; Field Men: R. B. Slaughter, Robbinsville; Charles C. Mason, Dillsboro; J. Rogan Rousseau, Wilkesboro; John L. Milholland, Statesville; H. C. Trott, Salisbury; W. E. Easter, Winton; T. H. Roane, Greensboro, and C. W. Russell, Charlotte.

Marshall Webb was appointed December 29, 1913 and served out his four years' commission. He was reappointed for a term of four years on January 7, 1918 and his present commission would have expired January 7, 1922.

Some time ago the attorney general announced that the appointees would be allowed to serve out their commission and the local office was declared to be in good shape. However, it appears the republican administration desires to make the change in the marshal's office at once.

GIVING HIM THE "ONCE OVER."

BY BILLY BORNE.



BABE BURNETT ON STAND ADMITS HE KILLED J. H. ROSE

Declares He Had Heard Rose Was Dangerous Man—Shot to Save Own Life.

(Special to The Citizen) BRYSON CITY, July 29.—Babe Burnett, on trial for his life here charged with the murder of Prohibition Agent J. H. Rose on the 25th of last October, admitted on the stand today that he fired the shot that killed Rose but set up the plea of self-defense.

"I started to go from the crib to help the boys in building a sledding dog," the defendant said, "and when I got half way between the crib and the barn Rose shot me in the leg. They were both advancing toward me. I ran around the barn and then I came to the straw stack. I felt over some rails. I had left my gun at the stack, and Rose was standing at the end of the barn with his pistol in my face when I fired to save my life."

"So testified the witness in behalf of himself. Referring to the fact that he went with Rose to the basement and helped him in his search and led the officer to the two barrels of apple punce in the back yard and helped Rose pour the punce out and that he directed them to the barrels in the orchard.

Leaving the officers, he stated that he went to the straw stack from the corn field back to the foot of the mountain, and that he came back, ate his dinner and had just finished unloading the sled load of roughness when the officers returned, at the time Rose was killed. He stated that he never showed him a warrant for his arrest, and that he did not demand that he be placed under arrest nor call upon him to halt, but that Rose began firing.

"Heard Rose Was Dangerous" He said that he had heard that Rose was a dangerous and violent man and that he fired to save his own life after he had been shot by Rose. He stated that he had lived in Swain and Macon counties all his life. Upon cross examination the defendant admitted that he knew of the presence of the still furnace upon his premises, and stated that it was there long before he turned it over. That he himself had repaired it for the purpose of making brandy, but that his still was stolen before he got to make out an indictment on his place, and found was for the purpose of making brandy.

The witness stated that he had been indicted a number of times for affrays and for carrying concealed weapons, and that he had been convicted in the Federal courts for having been interested in a distilling operation, but stated that these transactions were 20 years ago. The wife of the defendant took the stand and in a large measure corroborated the evidence of her husband. She also insisted that Rose fired at Burnett before any other shots were fired and that she ran to the barn in time to see Rose fall, and to see her husband running away, with Beck shooting at him.

Evidence All In The evidence was completed by 3 o'clock this afternoon and argument to the jury began. The defense is of course, basing its claims upon the promise that the officers had no warrant for the arrest of Burnett, and that Rose had the reputation of being a dangerous and violent man, and that the officers being themselves engaged in an unlawful assault upon Burnett, and he feeling that his life had a right to shoot. The defense introduced evidence tending to show that Rose was generally considered a dangerous man. The state will insist upon the fact that Burnett is guilty of first degree murder, and in January 7, 1918 and his present commission would have expired January 7, 1922.

Simmons Forecasts Early Passage Of Farmers' Aid Bill

WASHINGTON BUREAU (By R. B. FORTZ) SENATOR SIMMONS predicted today that the substitute for the farmers' relief bill will be passed by the senate early next week. The substitute makes available two and a half billion dollars in cash and securities for the war finance corporation to use in helping take care of agricultural products for export and to allow farmers to secure advances to enable them to hold the exportable part of their crops until markets abroad are ready to buy.

ADMINISTRATION IN STATEMENT TELLS OF 'ACHIEVEMENTS'

Declares Financial Relief Afforded Measure of Largest Importance.

WASHINGTON, July 29.—The accomplishments of the administration toward relief of financial conditions are reviewed at length in a statement issued today from the White House, declaring that the work done in that direction during the last four months constitutes "an achievement of the largest importance to the country."

In support of this assertion the statements point to and discuss at length the recent reduction of discount rates by Federal Reserve banks, steps taken by the treasury towards refunding the national debt, the resumption of active operation by the war finance corporation, efforts toward final settlement of the railroad problem, extension of relief to agriculture and the livestock industry, and various other items of the administration's financial policy.

"It is unsafe," said the statement, "to prophesy concerning conditions in the future, but it may be expected that recognition will be given to further improvements in conditions in accordance with the dictates of sound banking practices."

The statement pointed to successive reductions in rediscount rates by the Federal Reserve banks and added:

English Rate Reduced "It will not have escaped attention that the rate of discount of the Bank of England have also been successively reduced and that these reductions have been substantially coincident with the reduction of the Federal Reserve rates in this country. The fact that it indicates a mutual desire to reopen the international channels of credit upon which international trade depends.

"The treasury on its part has, during the past four months, successfully inaugurated its new policy of refunding the short-dated debt of the government and distributing the early maturities over the period between the maturity of the Victory loan in 1923, and the third liberty loan in 1928. The first offering of treasury notes pursuant to this policy met with a most enthusiastic response, and the further development of the program should bring about a better distribution of the public debt and much improved market conditions for government securities. There has already been a marked improvement in the market prices of liberty bonds and victory notes, and the market for all outstanding issues of short-term government securities is in better shape than at any time since the depression.

"The work of the revived war finance corporation," the statement said, "has been according to many evidences received an inspiring and heartening factor in the whole agricultural situation."

Referring to the President's proposal that the powers of the War Finance corporation be extended to allow it to purchase railroad securities from the railroad administration in order to finance the settlements by that administration, the statement said that it was expected intervention of the finance corporation in railroad finance would be made in the near future.

LORD NORTHCLIFFE DENIES STATEMENT CREDITED TO HIM

Incident Adds Chapter to Bitter British Political Controversy.

WASHINGTON, July 29.—Lord Northcliffe, the most widely known newspaper publisher of the British Isles, left Washington tonight after a two-day visit without having been entertained at the British embassy, and without having received from embassy officials any of the attentions accorded by foreign diplomats to distinguished fellow countrymen.

Both embassy officials and Lord Northcliffe maintained silence today with regard to the withdrawal of invitations extended the publisher to stop at the embassy while in Washington and to attend a dinner in his honor there last night. The viscount, however, was understood still to regard the withdrawal of the invitations as an outgrowth of the controversy now raging in England between the Northcliffe press and Lord Curzon, the British foreign minister.

Despite the withdrawal of the dinner invitation, Lord Northcliffe was understood to have met at a dinner given tonight by Mrs. E. B. McLean, wife of the Washington publisher, at her country home, most of the guests he would have met at the proposed embassy dinner. Sir Auckland Goddes, the British ambassador and a personal friend of the viscount, was understood to have been one of the guests at the McLean dinner and undoubtedly he and the publisher met again. Lord Northcliffe called on Sir Auckland Goddes yesterday to pay his respects.

Many members of the cabinet and of congress were understood to have been among tonight's guests at the McLean home, although the list of those present was withheld.

The single new development here today in the controversy between Lord Northcliffe and Lord Curzon and Premier Lloyd George was a reply by the publisher to the statement read in the house of commons by Premier Lloyd George and authorized by King George. The reply made in the form of a cablegram sent to Lord Stamfordham, private secretary to the king was made public as follows:

"Please convey to his majesty with my humble duty, my desire of ever having ascribed to his majesty the words as stated by the prime minister yesterday, 'I gave no such interview.' Leaving here tonight after the McLean dinner, Lord Northcliffe will arrive early tomorrow in New York and, according to the day there, will depart for Vancouver by way of Toronto. He will board ship Vancouver for his trip to Australia, New Zealand, China, Japan, the Philippines and India.

The viscount spent a busy day in Washington today. He was entertained at luncheon by the Overseas Writers' organization of American newspapermen who have done work abroad, and late in the day joined the regular working newspapermen of the capital at President Harding's semi-weekly conference. The British publisher showed great interest in the President's talk with the newspaper men, but asked no question of Mr. Harding. Later through a heavy rainstorm, he went to the capital and visited the senate press gallery.

The senate had adjourned and he did not call on any senators. He made a brief talk to the correspondents of the gallery, mostly of a "shop" nature.

DENOUNCED OFFICIALLY LONDON, July 29.—(By The Associated Press.)—Prime Minister Lloyd George in the house of commons today read a statement, authorized by King George, denouncing the attitude of the press concerning the government's Irish policy in a reported interview in the United States by Lord Northcliffe who controls the London Times as a "complete fabrication."

Mr. Lloyd George read a statement, which he said the king had authorized him to read on his majesty's behalf. "His majesty," the king, has had his Irish policy set out in a statement reported in an interview with Lord Northcliffe, appearing in the Daily Express and reproduced in the Daily Express and some Irish newspapers. The statements contained in the report are a complete fabrication. No such conversations as those which are alleged took place, nor were any such remarks as those alleged made by his majesty. "His majesty," the king, desires it to be made clear, as the contrary is suggested in the interview, that in his speech to the parliament of northern Ireland he followed the invariably consistent practice relating to speeches from the throne in parliament.

Harding Declares Probe On Pellagra Situation Will Still Go Forward

PRESS ASSOCIATION PRESIDENT WRITES INVITES PRESIDENT BYRNES REPORTS TO CAROLINA FAIR SUSTAIN POSITION

Editors Are Heart and Soul Behind the Program to "Sell" the State.

JOHN B. SHERRILL ELECTED PRESIDENT

Co-operative Marketing and School of Journalism Get Formal Endorsement.

(Special to The Citizen) MOREHEAD CITY, July 29.—The editors, the publishers and a part of the "lured hounds" this morning caused a ruckus on the Atlantic coast, thus beginning their intensive study of North Carolina. Afterwards they came back, passed resolutions and elected officers of the association for ensuing year.

John B. Sherrill, editor of the Concord Tribune, was elected president of the association without opposition, a motion from the floor nominating Miss Beatrice Cobb, of Morganton, was stopped by previous action of a special committee appointed to select a secretary, Miss Cobb being the choice.

The other officers are: first vice-president, L. T. Wade, editor of the Raleigh News and Observer; second vice-president, Sam Farabee, editor of the Hickory Record; third vice-president, Mrs. W. C. Hammer, editor of the Asheville Courier; treasurer, R. E. Price, editor of the Rutherfordton Sun.

Daniels Next Orator.

Editor Josephus Daniels, of the Raleigh News and Observer, was unanimously chosen as the orator for the next summer meeting, the choice of a place for which was left with the executive committee. Mitchell L. Shipman was again re-elected historian of the association and Jesse Daniel, editor of the Waynesville Mountain Star, is again the poet. His poem, read at last night's meeting, is an offering of a new state song, music for which has been written by an Italian, John L. Braccia.

The resolutions committee, without much debate, killed the most significant and far-reaching piece of business attempted at the meeting, that for reporting of a resolution merging the state press association with the master printers' organization of the state and it precipitated a warm discussion when it was introduced by Editor John Gold, of Wilson. Final action at last night's meeting, too late for reporting, was the reference to the committee composed of Editor Daniels, Clarence Poe and Sam Farabee and several hours of discussion was shut off when it was decided to continue the matter on Monday.

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PUBLIC HEARINGS ON TAX REVISION CONCLUDE FRIDAY

Committee Told Farmers Feel Accumulated Wealth Should Be Taxed.

WASHINGTON, July 29.—Public hearings on tax revision were closed today by the house ways and means committee which will start drafting the new revenue bill after hearing Secretary Mellon, Internal Revenue Commissioner Blair and other treasury officers, in executive session beginning Monday.

Chairman Fordney said today it probably would take three weeks to get the bill before the house. The majority members of the committee have as yet had no conferences to agree upon a revision program and evidence of a difference of opinion among them on certain changes proposed has not been lacking.

All of the republicans have not yet agreed to the treasury proposal to repeal the excess profits tax and substitute an increase in the normal rate on corporations, but leaders generally believe this program ultimately will prevail. A reduction in the surtax brackets to a maximum of at least 40 per cent also is forecast with probably some other changes in the present law.

Like the great majority of those who had gone before, most witnesses before the committee today sought removal of the tax from the particular industries, but as Chairman Fordney repeatedly pointed out, the committee got few suggestions as to how the loss in revenue proposed was to be made up.

William A. Brady, of New York, and other spokesmen for the moving picture industry, including theatres, asked that the theatre and motion picture industries, but as Chairman Fordney repeatedly pointed out, the committee got few suggestions as to how the loss in revenue proposed was to be made up.

James A. Emery, of this city, on behalf of the National Manufacturers association, urged repeal of the excess profits tax and the higher brackets in the surtax, substituting a general turnover or sales tax.

Representative Appleby, republican, New Jersey, argued in favor of his bills to impose a two-cent stamp tax on bank checks, to repeal the soda water tax and to levy a federal tax of 40 cent per horsepower on passenger automobiles and \$10 on trucks with a part of this to go to the states in lieu of the present state taxes.

Opposing repeal of the excess profits tax and higher groups of surtax, Charles A. Lyman, secretary of the National Board of Farm Organizations said there was a feeling on the part of the farmers that some plan should be worked out under which the vast accumulations of wealth should bear a part of the tax burden.

WATCH LABEL ON YOUR PAPER! It Will Tell You When Your Subscription Expires. Renew Five Days Before Expiration, So You Won't Miss An Issue.

Official Statements Do Not Bear Out View Conditions Exaggerated.

HARDING QUOTES BYRNES' OWN LETTER

Editor Hearon of Spartanburg Herald Quoted as Approving Work.

WASHINGTON, July 29.—Replying to charges that the administration had exaggerated pellagra and famine conditions in the south, President Harding, in a letter to Representative Byrnes, of South Carolina, today, that official reports indicated the contrary and that the government's investigation of the situation would go forward.

The President wrote in response to a letter in which Mr. Byrnes had charged that the administration had exaggerated the seriousness of the situation or do anything which would cause undue alarm. The effort is merely to develop the facts in order that a proper course may be determined in view of them.

"You may be assured," the President said, "that the last thing in the administration's mind has been to exaggerate the seriousness of the situation or do anything which would cause undue alarm. The effort is merely to develop the facts in order that a proper course may be determined in view of them."

The President quoted a telegram from Charles O. Hearon, editor of the Spartanburg, S. C., Herald, who declared that although there was nothing alarming in the South Carolina situation, he felt that the public health service was "on the right track" and should continue its investigation.

"The text of the President's letter follows: 'My dear Mr. Byrnes: I have received and have to thank you for your letter of July 27 and its illuminating enclosures. The letter includes a number of telegrams from South Carolina regarding conditions there, as to food supplies and existence of pellagra. Your letter summarizes your conclusion from these communications thus:

"While assuring you that I speak with confidence in the earnest gratitude to you for a generous spirit that prompted you to make this appeal for aid, I am confident that in South Carolina there exists at this time no necessity for any greater operation on the part of the public health service than is being conducted at all other times. And the existence in South Carolina at this time of a plague or famine is an utter absurdity; there is no necessity for the Red Cross furnishing aid. Should the state ever be unfortunate enough to suffer disaster, both the public health service of the state cannot cope, we will gladly welcome aid and ask for it, but I think it would be unfortunate if the Red Cross is called upon to relieve a plague and a famine of which the people of South Carolina are unaware."

"It is gratifying to be assured that South Carolina is so fortunately situated, and we must all hope that full information will show that conditions generally are equally satisfactory.

"Unfortunately, the reports indicate that the famine and plague in Mississippi which is being dealt with by the Red Cross in Mississippi were reported in the state in June about 2,400 and that a further increase over the June figures is expected in July. The reports indicate that a wide territory is affected, and, coming through the public health service, strongly suggests the advisability of thorough investigation as a measure of preparedness against further spread of pellagra another season.

In my impression this is highly desirable and, endorsed by a telegram from Mr. Charles O. Hearon, editor of the Spartanburg Herald, which you have been good enough to forward to me. In part he says: 'I am thoroughly familiar with the pellagra studies that have taken place here from the coming of the Thompson-McGadden commission with Captain Siler, of the United States army, and Captain Garrison, of the United States navy, on that commission, to the final report on the disease by Dr. Goldberger as the result of investigation made in the United States pellagra hospital in this city. That institution was closed last January, I believe, but Dr. Wheeler, representing the public health department, is still located here and is studying the disease. He says there has been some relief in the number of cases. In my judgment there is nothing alarming in the situation, but those of us who have been interested in the study of this disease in this part of the country have felt that the government's study of pellagra stopped just at the time it should have been continued. The disease subsided in the days of abnormal prosperity and the experts predicted at the time it might recur in any period of the depression. 'I do not know what causes pellagra but I think the public health department should continue its investigation just now when they tell us the disease is coming back.'"

"There have been so many reports of precisely the sort which would justify Mr. Hearon's views, and they are so numerous that I am sure that it has seemed to me desirable to take the steps which have been adopted. These do not contemplate any organization of relief measures, or special extension of relief, unless full investigation, covering the entire affected area, shall make it appear that such measures are necessary.

"I can but feel that if these reports have misrepresented conditions in any part of the south to the disadvantage of that section, a full and official refutation of them would be highly desirable, while if such investigation should develop the need for unusual measures of relief, those could be promptly and intelligently applied.

"You may be assured that the last thing in the administration's mind has been to exaggerate the seriousness of the situation or do anything which would cause undue alarm. The effort is merely to develop the facts in order that a proper course may be determined in view of them."

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