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### ACTION DISMISSED IN M'CULLERS CASE

#### A SHORT DELAY

##### Technicality Causes Postponement of Hearing of Mandamus Matter On Its Merits

#### COMMISSIONERS WIN A LITTLE MORE TIME

##### Because Members of County Commissioners Were Not Sued as Corporate Body, Judge Peebles Allows Motion to Dismiss the Case—New Papers Being Prepared, However, and Matter Will Come Up Again Soon—Mr. R. N. Simms Gets in Case for Defendant—A Review of the Matter and the Proceedings Today.

"By means of a technicality about the size of a hair the mandamus proceedings instituted by Dr. J. J. L. McCullers against the board of county commissioners was delayed for at least ten more days, when Judge R. B. Peebles, who was to hear the matter at chambers, sustained today the defendants in their motion to dismiss the action. The distinction is so acute that the lay mind has some difficulty in grasping it. In the summons which was served on the members of the board of commissioners, the said members were not designated as a corporate body; the summons referred to them as "comprising the board," when it should have named them "as the board" of county commissioners.

The objection was a part of the game being played by the board of county commissioners or rather certain members of it—to delay the settlement of the question on its merits. Had the defendants consented to an amendment of the summons and complaint the matter could have been threshed out today. It is said, and the issue would have been settled on law rather than delayed.

But the delay will not be for long. Already the attorneys for Dr. McCullers have begun preparing new papers in the case and these will be served at once and the matter brought to a head within the least possible time; ten days must elapse in the case of a mandamus. Since the matter will have to be tried in Wake county, the plaintiff will have to get a superior court judge to come to Raleigh and hear the matter. The present term of Wake superior court will have ended before the necessary time expires between the serving of the summons and the hearing of the matter, and Judge Peebles will be at another court.

#### A Pretty Coup.

It was a pretty coup County Attorney Beckwith and Mr. R. N. Simms, who has been employed to assist in the case, sprang on the plaintiff today, and it took the other side by surprise. Lawyers in the court room appreciated the point more than anybody else; and some of the commissioners more than the

lawyers. The intent of the summons was not sufficient, Judge Peebles held, and dismissed the action.

#### Origin of Case.

The mandamus was on the behalf of Dr. McCullers, elected county superintendent by the county board of health, against the county commissioners, the sheriff and other officers to compel them to admit him to the discharge of his duties and to audit his accounts. Dr. McCullers was elected last spring, but the commissioners declined to pay him his salary, insisted instead of overriding the board of health, fixing the salary at \$600 a year and specifying his duties and prescribing fines, etc. Efforts were made to compromise, and the county board of health submitted a proposition to pay the health officer \$1,200 a year. This was rejected by the commissioners and the action today was the result.

#### Mr. Simms in Case.

Mr. R. N. Simms' name first appeared today in the case, he having been employed. Commissioner Chamberlain stated, to assist County Attorney Beckwith. Mr. W. C. Brewer, another commissioner, said the board had passed no resolution to employ additional counsel, and it seems that Chairman Johnson and his followers secured his services without bringing the matter before the board. Mr. Simms' presence in the case reinforced the defendants and he and County Attorney Beckwith may be depended upon to fight to the end.

#### The Motion to Dismiss.

The motion to dismiss the action, which was signed by Messrs. Beckwith and Simms, is as follows: "The defendants, D. T. Johnson, L. H. Lynn, B. S. Franklin and W. C. Brewer, do hereby move that the action be dismissed on the ground that the summons and complaint are defective in form and substance. (Continued on Page Five.)"

### ROY THEM COMES BACK

#### The Lure of the Newspaper Irresistible

##### Mr. Them Becomes Circulation Manager of the Times, Succeeding Mr. S. M. Burritt, Who Goes to the Charlotte News—Mr. Them an Old Hand in the Times Office.

Coming back to his "first love"—unable to resist the temptations of newspaper work—Mr. LeRoy Them enters upon his duties today as circulation manager of the Times. Mr. Them has been associated with the Times before and is no stranger to the paper or to the people of Raleigh.

Mr. Them succeeds Mr. S. M. Burritt, who becomes circulation manager of the Charlotte News. Mr. Burritt has held his position in Raleigh with ability and has made many friends here, who wish him success in his new field.

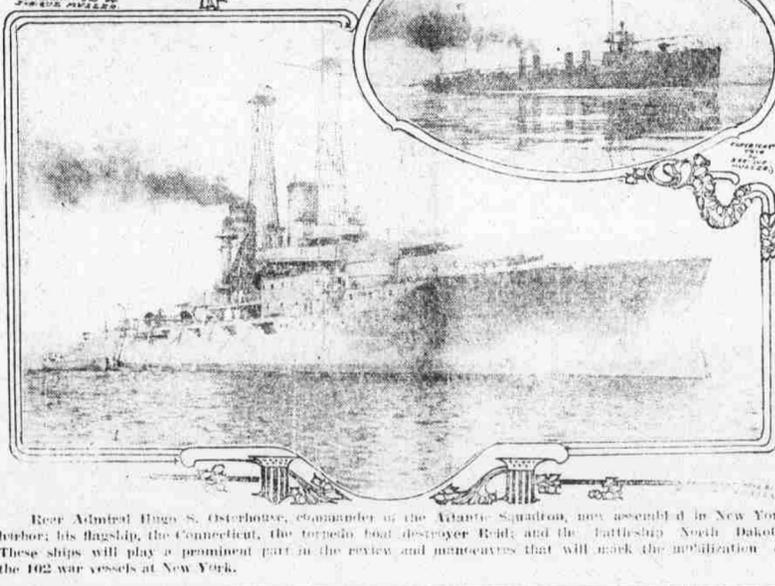
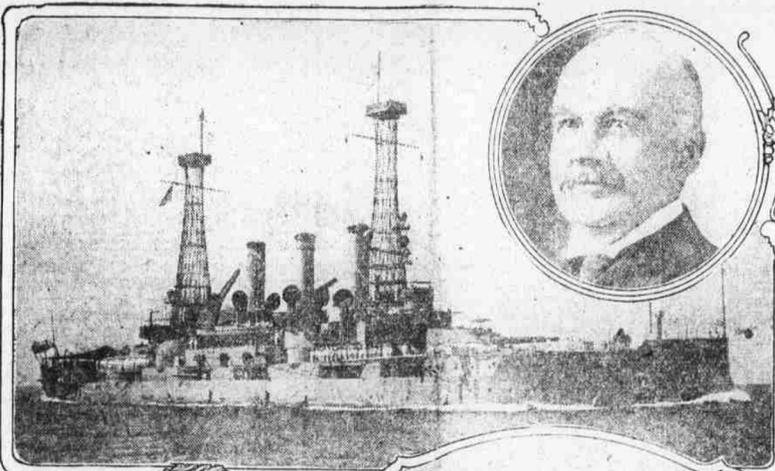
#### SOCIALISM SHOWS STRENGTH.

#### Los Angeles Gives Big Vote in Primary for Socialist Candidate for Mayor.

Los Angeles, Nov. 1.—Socialism showed remarkable strength in the municipal primary yesterday. As a result, Job B. Harriman, socialist candidate, will contest with George Alexander, republican, for mayor for the next two years. Harriman is in the lead by two thousand over Alexander in 189 precincts out of total of 235, where primary votes were cast.

#### Mrs. Mantell Dead.

Atlantic Highland, Nov. 1.—Mrs. Marie Booth Mantell, wife of the famous actor, Robert Mantell, is dead here of heart trouble. Mantell reached here from the west several hours after his wife died.



Rear Admiral Hugo S. Osterhouse, commander of the Atlantic Squadron, met assembled in New York harbor; his flagship, the Connecticut, the torpedo boat destroyer Reid, and the battleship North Dakota. These ships will play a prominent part in the review and maneuvers that will mark the mobilization of the 102 war vessels at New York.

### ROBBERS STOP TRAIN

#### Passenger Held Up Just Outside of Memphis

##### Rock Island Train Victim of Robbers—Engineer Intimidated by Display of Weapons—Express Car Wrecked—Robbers Frightened Away by Search Party.

Memphis, Nov. 1.—Rock Island passenger train No. 12, was held up and robbed between Bridge Junction and Hurlbert, Ark. According to the latest advices the bandits escaped after wrecking the express car in an effort to blow open the safe with nitroglycerine. It is said several registered packages of unknown value was obtained from the mail car.

### THE TURK MAY LOSE MORE TERRITORY

Chiasso, Switzerland, Nov. 1.—To bring the war with Turkey to an end quickly, the Italian cabinet decided that the Porte must either accept immediately or lose more territory. This means that some of Turkey's valuable possessions in the Mediterranean probably will be seized unless she complies.

### BIG NAVAL DISPLAY

#### Ninety-Nine Ships In Line For Inspection

New York, Nov. 1.—Ninety-nine fighting ships, second for the first formal event of grand mobilization in the United States Navy's history, swung at anchor in the Hudson river this morning in a grand line seven miles long.

### MORGAN'S STRONG GRIP

#### How He Holds Industrial and Financial Situation

Washington, D. C., Nov. 1.—The New York financial newspaper, all of which are Wall Street organs, are all complaining about the methods of the democratic investigating committee. They profess to believe that these investigations are being carried on solely for what they call the purpose of making "political thunder" for the approaching campaign. These newspapers regard every move which threatens to disturb the Wall Street barons while they are engaged in their present little occupation of coupon clipping, as little short of treason.

### NEW CHINESE CABINET

#### New Premier Will Reorganize the Cabinet

Peking, Nov. 1.—Yuan Shi Kai has been appointed premier of China, will organize a new cabinet as soon as he assumes the post. Premier Chang Yuan Shi Kai succeeds to the post of premier of the newly formed cabinet and Na Tung and Huo Shih Chang, vice presidents. Wei Huang Tso, formerly viceroy of Kwang Tung province, becomes viceroy of the Pei and Hai Nan provinces, to which office Yuan Shi Kai was elevated when he was recently recalled from official banishment, to restore imperial authority in the southern provinces.

### COLD WEATHER IS HEADED THIS WAY

Washington, D. C., Nov. 1.—The first cold wave of the season was made its appearance in the north-west with almost zero weather in Montana and North Dakota. Weather bureau experts say there is strong probability it will be carried far southward Thursday and Friday. They expressed the belief it will cause frosts throughout the gulf and south Atlantic states, except southern Florida. Freezing temperatures are indicated in the Ohio valley, lake region and north Atlantic.

### WILL MEET THE SCOUTS

#### Raleigh Autoists Will Greet the Boosters of Good Roads

### ARRIVE TOMORROW NOON

#### Members of Commerce Makes Preparations to Greet the Apostles of Improved Highways Enroute from Atlanta to Richmond—Names of Those Who Will Make the Trip Towards Pinelhurst.

As an escort to the scout car that is blazing the way for an automobile run from Atlanta to Richmond, in the interest of good roads, a large number of Raleigh autoists will go out tomorrow morning to greet the tourists and accompany them to this city.

President Litchford, of the chamber of commerce has invited a number of car owners to meet the scouts between Raleigh and Sanford. Most of the Raleigh enthusiasts will go to Apex and wait, although others will go on further. Several of the Raleigh cars will be decorated with banners and pennants to make the scene a lively one.

### LET CONTRACT FOR BUILDING

#### Many Contractors in Raleigh to Bid On New State Administration Building

### WILL COST NEAR \$190,000

Building Commission Has That Much To Spend, After Buying Site, But Most of Bids Are Said to Be About \$15,000 Less—Messrs. Marrye and Simpson Present—May Be Determined Today

### GOV. COLQUITT ON COTTON.

Says This Year's Crop is Worth at Least 13 Cents a Pound.

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About thirty contractors or their representatives gathered in Raleigh today for the purpose of submitting bids on the erection of the new state administration building authorized by the last legislature. The building will be erected on the site recently purchased on the corner of Fayetteville and Morgan streets at a cost of \$15,000. The structure is not to cost more than \$190,000, and it is understood that it will be about \$15,000 less than this sum.

Mr. P. Thornton Marrye, of Atlanta, and Mr. Frank B. Simpson, the architects are meeting with the state building commission. There appear to be no hitches in the way of awarding the contract and it is expected that the successful bidder will be known late this afternoon. Of the various contractors here several are from North Carolina cities.

#### Who Bidders Are.

The various contracting firms represented here today are: J. A. Jones, Charlotte; Haywood and Moss, Newport News, Va.; J. H. Pierce, Norfolk, Va.; Hatzger and Wells, Philadelphia; Jas. D. Donk and Company, Philadelphia; C. W. Hancock and Sons, Lynchburg, Va.; J. E. and A. L. Pennock and Son, New York; R. H. Richardson and Son, Hampton, Va.; Richardson Construction Company, Norfolk, Va.; W. A. Cheaterman, Richmond, Va.; J. B. Carr, Raleigh; Wise Granite Company, Wise, N. C.; Falls City Construction Company, Louisville, Ky.; A. M. Walkup, Richmond, Va.; Joan T. Wilson Company, Richmond, Va.; King Lumber Company, Charlottesville, Va.; Ambrose H. Stannard, New York; Webb Granite and Construction Company, Philadelphia; R. J. Phipps, Newport News, Va.; Moise De Lean, Atlanta, Ga.; J. A. Apperson, Atlanta, Ga.; Mark P. Wells, Philadelphia; Geo. B. Long, Akron, Ohio; Marrow Brothers, New York; Wayne Construction Company, Philadelphia.

### Oldest Man in North Carolina Dies.

(Special to The Times.) Henderson, N. C., Nov. 1.—Mr. James Journeyman, who is claimed was the oldest man in this state, died Saturday at his home at Epsom in this county. He was 107 years old and was a veteran of the Mexican war and also of the Civil war. He married at the age of forty years and his oldest child is now sixty. The remains were buried Monday in a little cemetery near his home. Several children, grandchildren and a number of great grandchildren survive him. Old age was the principal cause of his death.

### NAVAL REVIEW ON THE PACIFIC COAST

Los Angeles, Oct. 1.—The roar of naval guns announced today the review of the Pacific fleet, the companion piece of the big display of the Atlantic fleet at New York. Twenty-four ships, with two submarines, arrived off the harbor before dawn. Daylight revealed one of the greatest aggregations of warships ever assembled on the Pacific. Sea fighters stretched from the point opposite San Pedro to Long Beach, seven miles away.

### THE FIRST JURY BOX IS NEARLY FULL

Los Angeles, Nov. 1.—Indications in the McNamara murder trial were that before nightfall the first full jurybox of talesmen passed for cause by both sides would be obtained. Yesterday's progress brought the number of talesmen who had qualified to nine. It was hoped to add three more at today's session. While the first lap in the trial will have been run in filling the jury box for the first time, the subsequent exercise of thirty peremptory challenges, twenty by the defense and ten by the state, makes it necessary to have many full panels before the final dozen men is agreed upon.

A woman isn't necessarily a cooking school graduate just because her husband takes his dinner downtown.

Hard luck stories make shy friends.

It usually takes more than one swallow of liquor to make a man feel like a bird.