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### CLEAN VICTORY FOR M'CALLERS

#### Wake County Commissioners Lose in Every Point in Celebrated Contest For Office

### THE OPINION UNANIMOUS

#### Physician Elected Superintendent of Health is Upheld by Supreme Court in Every Contention and Commissioners Are Shown to Have Acted Wrong in the Matter—Secretary of State Board of Health Has Right to Appoint—Commissioners Are to Pass on Accounts and Comply With Statute—Other Opinions.

Dr. J. J. L. McCullers and the Wake county board of health won a sweeping victory against the board of county commissioners in the contest for the possession of the office of county superintendent of health, the supreme court last evening reversing the order of Judge R. B. Peebles, who held that the writ of mandamus was not the proper remedy for Dr. McCullers to pursue. The supreme court also held that Dr. P. S. Stephenson, who was employed by the commissioners to perform the duties of the office, had not even a colorless title to the office or anything to indicate that he was in possession of it.

#### The Act Constitutional.

The effect of the opinion is to declare constitutional Section 9 of the health law as passed by the last legislature. The higher court held that the mayor, chairman of the board of education and chairman of the county commissioners held their offices as members of the health board by reason of their other offices, and that the law merely imposed additional duties on them; but that it did not confer another office. After citing numerous cases in support of this, the court says: "We could multiply authorities in support of these views, but deem it unnecessary."

#### Has Right to Appoint.

The right of the secretary of the state board of health to fill a vacancy when the board of health fails to elect is also settled. The opinion was written by Justice Brown and was concurred in by the entire court.

#### Fight Began Last June.

The Wake county fight began last (Continued on Page Four.)

### DAVIS AT SCOTLAND NECK

#### Will Speak There Next Sunday—Move For Clean-up Day.

(Special to The Times.)

Scotland Neck, Feb. 22.—It is expected that Rev. R. L. Davis, superintendent of the North Carolina Anti-Saloon League, will be here Sunday, the 25th, and deliver three addresses. The question is already being asked if Mr. Davis will pull off his Raleigh and Charlotte stunt, and some say there is plenty of opportunity in these parts for him to obtain something to work upon, it being declared that it is just as easy to get whiskey here now as it was under the old dispensation. It is hardly probable, however, that Mr. Davis will undertake to create any sensation, but there is no telling what will take place.

With the approach of the spring the question of cleaning up the town is becoming prominent. It is suggested that the good women bond themselves together in a society and appoint a day for every one to spend in giving their premises a thorough cleaning up, thereby putting the town in a splendid sanitary condition.

### IMPROVEMENTS AT DUNN

#### Modern City Improvements Will Be Made Including Paved Street.

Dunn, Feb. 22.—The town fathers have been having an interesting time for several nights, consulting with Mr. Gilbert C. White, a civil engineer, in regard to putting in sewerage for the town. The last general assembly gave the town authority to issue bonds for the purpose of sewerage. It has not been definitely decided just when this work will be taken up, but we will soon have many of the modern city improvements, including paved streets.

Mr. J. W. Whitehead purchased the Moses Tripp property on Broad street yesterday, giving \$4,300 for his purchase. There is a wooden store building on this lot now, but Mr. Whitehead will soon begin the erection of a nice brick building.

### PRESIDENT WILL REPLY TO ROOSEVELT

Washington, Feb. 22.—The president has extended his forthcoming trip to Chicago. He will stop at Toledo and speak to the chamber of commerce there on the night of March 8th. This probably will be the first of a series of speeches replying to Roosevelt.

Taft, it is said, felt that Roosevelt gave him the opportunity to make his position clear without indulging in any personal attacks.

The president has speaking engagements in New York, Ohio, Chicago and New England. Others possibly will be made for him.

### Five Steamers Ashore.

Norfolk, Va., Feb. 22.—Five steamers were swept ashore in the outer harbor. It was the worst storm that has swept the coast in many years. The blow began last night and continued unabated. No loss of life is reported.

### MOOREFIELD GOT DAMAGES

#### Trip-Hammer Plaintiff Wins in Suit Against Boiler Company

(Special to The Times.)

Greensboro, Feb. 22.—Greensboro's famous "trip-hammer" case was finally decided, in so far as damages are concerned, in superior court late yesterday afternoon when the jury returned a verdict after being out nearly 24 hours, finding for the plaintiff and awarding damages in the sum of \$2,500. The case was entitled J. R. Moorefield vs. The Standard Machine and Boiler Company and grew out of the operation by the defendant company of a certain boiler-riveting device known as a trip-hammer. The complainant, who, upon the institution of the case, secured before Judge Allen an injunction restraining the defendant from further operation of the hammer, maintained that the noise made by the trip-hammer was destroying the peace and happiness of his home; that it was having a damaging effect upon the health of members of his family and that his children were being rendered deaf as a result of the noise. The case was begun last week and much evidence for and against the trip-hammer was introduced. The verdict of the jury finding that the defendant company maintained a nuisance through the operation of the trip-hammer does not mean, however, that the case will end in superior court or that the company cannot continue to make use of the hammer in the furtherance of its business. It is a fact, however, that if the supreme court affirms the verdict and award of the lower court that any further use of the trip-hammer would be fraught with financial danger and that an attempt would hardly be made to continue operations with a \$2,500 award and an adverse decision staring the Boiler and Machine company in the face.

It is learned here that Peter Kernan, convicted before Judge Boyd in United States district court at Asheville last year and sentenced to 12 months in the Atlanta prison, has been paroled. Kernan was convicted of violating the law relative to oleomargarine and his case is interesting. He is an old newspaper man and for years did work in New Orleans. In Asheville he manufactured a "butter" that had a wide sale. It was said to be a really delicious product and was sold liberally for "East Tennessee butter." Then the federal authorities got busy and Kernan got in bad. Incidentally the manufacture of "East Tennessee butter" had a prompt termination. And herein lies the interest in the case. The patrons of Kernan's butter insisted upon that and nothing else. The contended it was the best butter made and became angry when deprived of the product.

### Good Doctrine, Says Roosevelt.

New York, Feb. 22.—Theodore Roosevelt returned from his Ohio trip "How'd they treat you?" he was asked. "Bully," the Colonel ejaculated. "I had a first class time." "Your speech aroused considerable comment," was suggested. "Good, sound doctrine," he replied.

### OSPINA RECALLED BY HIS GOVERNMENT

Bogota, Colombia, Feb. 22.—General Padro del Ospina, Colombian minister to the United States, was recalled by the Colombian government this morning. The Colombian government took this action because neither the government nor Colombian people upheld the position taken by Ospina at Washington, in notifying the state department that Secretary Knox's visit to Colombia would be "inopportune," owing to the fact that the Colombia's claims in connection with Panama had not been arbitrated. The government's notification says Ospina is "separated" from his post at Washington and the incident between Colombia and the United States is thus closed. Colombia will continue to maintain her international policy.

### GOSS IS HELD AS A WITNESS

#### Solicitor and Coroner Want Young Man to Appear Before Coroner's Jury Monday Morning

### SOME NEW EVIDENCE

#### Ten Days of Probing by Solicitor and Other Officers Likely to Result in Sensation at Inquest Monday—Belief That Benson Men's Death Due to Foul Play Grows With Each Day's Work—Goss required to Put Up \$1,000 and is in Jail.

Fate W. Goss of Durham was arrested by Constable Byrum this afternoon and held as a witness before the coroner's jury Monday at 10 o'clock in the investigation of the mysterious death of Fred Johnson, Hugh Porter and Anton Johnson, who lost their lives in Frank Wilson's apartments between the nights of February 4 and 5. Goss could not raise a bond of \$1,000 and is in jail.

This action followed a long and thorough examination of Goss by Solicitor H. E. Norris, Coroner Chas. A. Senark, Constable D. R. Byrum and Senator O. A. Barber of Benson, the latter employed by relatives of the young men to assist in the prosecution. Goss was in the office of Solicitor Norris from 11 o'clock to 2 o'clock.

Goss was a witness at the first investigation and testified to going to Frank Wilson's place and making inquiries about the young men. At this time he said he did not detect the odor of gas in the Wilson building. (Continued on Page Seven.)

### DIVISION IN THE OKLAHOMA CONVENTION

Oklahoma City, Feb. 22.—Woodrow Wilson supporters in the democratic state convention held here today proposed to Champ Clark workers that Oklahoma democrats send a divided delegation to the Baltimore convention. No agreement was reached.

### Firmen Will Vote on Better Working Conditions.

Chicago, Feb. 22.—Representatives of firmen employed on fifty-one railroads in western United States and Canada have decided to take a vote on the demand for better working conditions and shorter hours. Two months will be devoted to the vote, with thirty-five thousand participating. May the first the same representatives meet here to count the ballots. Then the railroad officials will be asked for a joint conference.

### CASH REGISTER OFFICIALS INDICTED

Cincinnati, Feb. 22.—Thirty officials and employees of the National Cash Register Company, Dayton were indicted by the federal grand jury, charged with violation of the Sherman anti-trust law. It is charged nearly all the company's competitors have been bought out or driven out of business.

The Adams Express Company was indicted on eleven counts, charged with attempting to collect more than the established rate. Seven Cincinnati manufacturing firms were indicted charged with attempting to secure transportation lower than the established rates.

### Indictment of Express Company.

Washington, Feb. 22.—Indictment of the Adams Express Company is the first of what probably will be a series of indictments against various express companies for exacting from the shippers more than the published rates. No general campaign against the companies has been instituted by the interstate commerce commission, but the commission purposes, through the department of justice, to make an example of some companies for alleged violations.

### VARNER HOT AFTER STORY

#### Denies Emphatically Story Published This Morning About Underwood Candidacy

(Special to The Times.)

Lexington, N. C., Feb. 22.—When asked about the story published by the Raleigh News and Observer this morning to the effect that the Underwood people are trying to name Mr. E. S. Parker, of Graham, as their candidate for delegate to the national democratic convention, Mr. H. L. Varner said:

"The story that the Underwood people have selected Mr. E. S. Parker as candidate for delegate to the national convention is absolutely false. The matter is not one of any great importance except as it shows the kind of tactics the Wilson people are employing at Washington. Let me call your attention to the wording of the article:

"The story of one of their pet projects looked out today. The Underwood organization, of which Colonel Varner is commander in chief in North Carolina, is planning to run Mr. E. S. Parker, of Graham, as a delegate to the national convention, and they are counting on the strength which they propose to develop in North Carolina to elect Mr. Parker, as the story is told." Now I have never seen Mr. Parker in several years. I have never received a letter from him, nor a telegram, nor a telephone message nor any sort of communication of any kind whatsoever, and the idea of attempting to elect him a delegate to the national convention had never entered my head until I saw it in the News and Observer. I have nothing in the world against Mr. Parker, whom I consider a very estimable gentleman, but I just simply had not thought of him. I do not even know who is his choice for president. If he is indeed an Underwood man I would be glad to see him named as a delegate, for he has the ability to fill the office with credit to the state.

"That pet project" story is bound to have been concocted by the News and Observer correspondent and none other. Of course it is perfectly plain why his name of all others was dragged in. Mr. Parker is a brother to Mr. Julius Parker, who is related to the American Tobacco Company, and the Wilson people hoped later on to delude the people into thinking that Underwood is in some way entangled with the tobacco trust. It is a notorious fact that the Washington correspondent of the News and Observer is a paid employe of the Wilson campaign bureau, and every letter he sends out is Wilson literature, masquerading under the name of news. The fact that he has descended to vilification and plain falsehood is proof plentiful that the Wilson forces in North Carolina are getting seared, and badly seared at that.

"This statement has been called forth by the necessity of nipping their scheme in the bud. The Underwood forces are not going into a campaign of mud-slinging. Our candidate is a democrat, a southern democrat, pure and undefiled, and he needs no questionable tactics to bolster up his campaign. But while we expect to support our candidate with the simple truth alone, others shall not misrepresent him with impunity."

### Blizzard in Ohio.

Cleveland, Feb. 22.—A blizzard has gripped northern Ohio. The wires are down. There is much suffering. Traffic is crippled.

### TARRIFF BILLS WILL BE GIVEN HEARINGS

Washington, Feb. 22.—Democratic tariff revision measures will be assigned for hearing before the senate finance committee, as fast they are sent over from the house. The adoption of this plan by the regular republican leader is the only progress for disposition of the big tariff problems. With the chemical tariff revision bill, passed by the house yesterday, and scheduled for reference to the finance committee by the senate today, there are two measures listed for the senate hearings. The chemical hearings probably will begin March.

### Little Damage.

Telephone inquiries to points in the country brought the information that little damage was done. Trees were uprooted in some instances, but there was no loss of life.

### Toil Lines Down.

The long distance lines of the Capital City Telephone Company were rendered helpless, but the lines within the city were not damaged much. Linemen were dispatched to the seat of the trouble and the difficulty in transmission was soon removed. The Raleigh Telephone (Continued on Page Two.)

### VELOCITY OF WIND BREAKS ALL RECORDS

New York, Feb. 22.—The gale from the southwest which swept the east last night this morning attained a maximum velocity here of ninety-six miles an hour. This breaks all records, the previous high wind velocity being eighty-three miles, four years ago. The telegraph companies' officials say it was one of the hardest nights on the wires in the country's history. Wire service is generally demoralized east of the Mississippi. Snow is falling. Wireless reports state three barges are adrift between Montauk Point and Block Island. One barge was sunk. A revenue cutter was summoned to the other's assistance.

### HARMON URGES ECONOMY

#### Federal and Local Governments, He Says, Are Too Costly.

Frankfort, Ky., Feb. 22.—Governor Judson Harmon, of Ohio, today warned the Kentucky legislature and all public office-holders to analyze their own records to see just how much they were responsible for the arrest that, he said, was making a demand for innovation in government in general. Governor Harmon spoke briefly at today's session in answer to a recent invitation of the legislators. He said, in part:

"I believe the reform most sorely needed now is in administration—better results at less expense.

"It ought not to cost a billion dollars a year, or more than \$11 for each man, woman and child in the country, to maintain the federal government, with its limited functions.

"Those of the state, county, and city, which are much more numerous and expensive, cost together but little more per head, and that is far too much.

"We need other reforms, but that would bring quicker, greater, and more general relief than any other. And reduction of the tariff taxes, with care and economy in public expenditures, which go hand in hand, are the ready means to secure it."

### CONCESSSED TO CRIME

#### Brakeman Confessed to Attempt to Rob Passenger Train

Keyser, W. Va., Feb. 22.—Eud A. Becker, the freight brakeman, who confessed he was the man, who Monday night, held up the New York and St. Louis express on the Baltimore and Ohio, says he had no accomplice. Becker's age is twenty. He said he was confined in the government hospital for the insane at Washington and should have been kept there. He explained his mental weakness to intense heat experienced while a fireman in the navy. Becker is now lodged in Oakland, Maryland, jail.

### Large Trees Fell Sprawling.

Hillsboro street, just east of West street, a large tree broke a the ground and caught hold of a fellow tree. Had it fallen in a southern direction a two-story house would have been splintered in the center. A few large limbs tumbled in the capitol square; several wooden sheds came down as if in response to a recent city ordinance; the shed over the sub-station at Method was lifted off; window panes were smashed in several places in Raleigh.

### Mercury Tumbles Twenty Degrees in Mountain Metropolis and Snow is Falling There—Big Drop in Temperature in Raleigh—Telephone and Telegraph People Had Work Today—Trees and Sheds and Window Panes Demolished in Some Cases.

Sweeping over the city at the rate of 48 miles an hour, in some cases leveling sheds, fences and trees and beating a hard rain to the ground, a regular gale of a wind last night left much to be done by the telegraph, telephone and electric light people today. The wind drove straight from the west. It moaned and creaked like a wounded ship in a storm, and hundreds of people slept little during a night of anxiety.

The rainfall yesterday and last night amounted to .66 of an inch, and the mercury, as in sympathy, tumbled from its high estate to freezing. The day dawned bright and clear, but with a slight gale. The telephone, electric light and telegraph people had men on the job bright and early and it was promised that all wires would be in operation in a few hours.

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JUDGE MABEL BELL.

Covington, Ky., Feb. 22.—Mrs. Mabel Van Dyke Bell, Kentucky's new United States commissioner, has entered into her new judicial office with a dignity that has gained the respect of the people of the state. Already Judge Bell has passed upon the cases of numerous offenders against the United States government, and so far all the offenders brought before her have been adjudged guilty by their fair judge. Thirty-five years of age, pretty and the proud mother of two little boys, the Mrs. Judge Bell at home is vastly different from the Judge Bell in the court room. Her hearing on the bench does not inspire one with a desire to commit contempt of court.



NEW UNITED STATES JUDGE.

The Honorable Mahlon Pitney, Chancellor of the state of New Jersey, who has been appointed by President Taft to the supreme court of the United States to fill the vacancy caused by the death of Associate Justice John M. Harlan.