

MR. BECKWITH COMES AGAIN

Replies to Dr. Rankin in the County Supt. of Health Matter

QUESTION OF RIGHTS

Issue No: One of Men But of Rights Older Than the Constitution—County Commissioners Abide by the Law as Interpreted But They Have an Abiding Faith That the Rights of the People to Manage Their Own Affairs Shall Not Be Permanently Abridged—Not Atrid of a Writ of Mandamus.

To the Editor of The Times: In an editorial commenting on the county attorney's communication in the McCullers case, you said he "missed the point". Maybe so. But in shelling the woods he (the county attorney) unmasked and drew the fire of a heavy battery supporting the line of attack against the rights of the people of Wake county to govern themselves and to attend to their own local affairs. But, unless the unmasking of the Dr.'s battery riled him, there was and is no cause for a rise of temperature in the office of the secretary of the state board of health; for "I am not mad, most noble Festus; but speak forth the words of truth and soberness"—appealing to Caesar that the people may know the inwards of this matter. The vital issue in the McCullers matter shall not be clouded by hot vapors blown into the face of the county attorney, or obscured by dust flung at the heads of the county commissioners. The issue is not men but measures. And it is the iniquitous measures contained in the "health act," that the secretary of the state board of health boasts unanimously upheld by the supreme court, to which the people felt constrained to hold that the enactment of chapter 82 of the public laws, of 1911, "was a valid exercise of legislative power", the court did not hold that it was a just exercise of that power. With all due deference that a lawyer owes the opinions of that high court, that act, as interpreted, deprives the people of Wake county of their inalienable right of local self-government, and in great measure takes away their constitutional control of the penal and charitable institutions of the county, and ought to be, if it is not, unconstitutional and void as contravening the spirit of local self-government which underlies the constitution and is inherent in the people, for the people did not

surrender that right when they adopted the constitution. That act as interpreted, places in the hands of the an "Utlander" secretary of a state board the ultimate power of appointing and fixing in fees the compensation of a county officer, who has superior control of large interests of the county, and that too without consulting the wishes of the people as to their choice and contrary to the legally established policy of the county against the vicious and corrupt system county officers. Let us see if it does not, by quoting here from the act itself: "Provided, that if the county board of health of any county shall fail to elect a county superintendent within two months of the time set in this section (which the county board of health, for causes best known to themselves, promptly proceeded to 'fail' to do), the secretary of the state board of health shall appoint a county superintendent of health, and fix his compensation to be paid by the county"—both of which powers the said secretary of the state board of health very promptly exercised without consulting the county commissioners, the ones most interested, although they, through their chairman, asked to be considered as being interested for the county in both the officer and his pay. The choice of the secretary fell upon that one whom the county board of health, having failed to reelect, humbly petitioned the secretary of the state board of health to appoint. Of course! The county board of health having authority under the act, to fill the vacancy occasioned by Dr. McCullers' declination to qualify upon the May election, and after the board of commissioners had recognized his title to the office under that election, but had declined the proposition of the county board of health to approve a salary of \$2500.00 to be paid by the county, but had approved of a salary of \$8000.00 a year—a just and reasonable compensation for the work to be done—the questions naturally arises: Why didn't they reelect Dr. McCullers? or why their delay for two months in electing another, till Dr. Rankin's power of appointing attached and became operative? and why humbly petition, as to a superior, Dr. Rankin to appoint Dr. McCullers, and to fix his fees after McCullers had eliminated himself by declining their May election? 'Tis here the people smell the nigger in the woodpile, and ask: How Cum? Was the county board of health fearful of the people's disapproval of its choice? Was the salary of fees demanded by their chosen one more than they thought the people would stomach? Or fearing to face the people with their choice and his bills for fees, did they deliberately shield themselves from wrath to come behind the secretary of the state board of health? Who does not owe his lucrative office to the favor of the people, and cannot be called to account by them for appointing a man to office and fixing his compensation on an excessive fee basis and on an excessive amount, many times greater than the \$600.00 a year salary that others, just as good, were

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willing to accept as compensation for their services.

That high-handed invasion of and disregard of their constitutional rights forced the commissioners to call a halt and to defend the suit brought against the board of commissioners by Dr. McCullers. The commissioners did not seek to begin the fight. They have acted in self-defense, in the interest of the county.

But the secretary of the state board of health says: "I respectfully submit that this body (meaning the county board of health) compares favorably in ability and devotion to the peoples interests with the Wake county board of commissioners, or even with their learned legal advisor, so zealous in the protection of the peoples interest."

Why throw that handful of dust? Who has questioned their ability or devotion? Let it be granted that they excel in these virtues; yet, if the acts and the words of the secretary of the state board of health be taken, the fact remains that they failed to discharge a legal, official duty, thereby shifting their sacred responsibility for the health of the people, to the hands of the secretary of the state board of health who (and what more could be said) condemns them after this fashion: "Be it observed, that under the law the county authorities (meaning the county board of health) have two months in which to provide an official whose duties are literally vital to the welfare of the public. Failing in this ample time to discharge this important function of their office, the state steps in, overrides official inertia or breaks a deadlock and gives the county a legally responsible official with authority to protect the health and lives of the people. And this is what Mr. Beckwith terms an interference with local self-government."

And Mr. Beckwith is correct; for by contrived negligence, procured concert of action, political cowardice of combinations or fear of responsibility, the ultimate choice of a county health officer in every county and the fixing of his salary or fees is put into the hands of a mere secretary of a state board, and the people are thus deprived of selecting their own officer or of fixing his pay. But they have the inestimable privilege and pleasure of paying the bills. And with this privilege left them by this "health act," the people ought to be content. Are not their backs broad? Surely they ought to be glad to pay fees that will enable their county doctor to ride to this camp and from that institution in

style befitting the appointee of the secretary of a state board. The secretary of the state board of health, in his four column communication, quoted a part of section 9 of the "health act". But he did not quote the following pregnant proviso: "Provided, that the county superintendent of health shall have the right to employ and to fix the compensation of any other regularly registered physician of his county, to perform any or all of the duties pertaining to the jail, county home, or convict camps when in his judgment it is desirable to do so." Read that over; and read it yet again, and then go back and gently and prayerfully, if you can, glide through that provision, word by word, and then wonder at the sublime patience of boards of county commissioners. In the words of the immortal Vance "My God, Abernathy!" Here we have the appointee of an appointee (neither of whom is answerable to the people) given discretionary power to appoint yet another officer and to fix his fees without limit to anything. And yet the county commissioners pay a fee salary of \$25,000.00 or more—plus whatever the county superintendent of health may see fit "to fix" for that other doctor, and be glad his no worse, or go to jail.

They boast that the supreme court has upheld the validity of their act, and gloat over what they alkge is the failure of the board of commissioners to place a barrier between these appointees and the treasury of the people, and threaten with a peremptory writ of mandamus and thus, by implication, with the jail the commissioners of the people if they dare refuse approval of their bills.

To their interpretation of their act and of the opinion of the court the boards of county commissioners has not yielded and will not assent, if they follow the advice of the county attorney, till such time as they shall have exhausted every legal means of resistance at their command.

We believe the people of Wake are willing that their chosen commissioners should spend the public money in defending the peoples right to choose their own local servants, fix their pay, and manage their own domestic affairs. They would justly condemn their servants for failure to defend to the uttermost any attack on the right of the board of commissioners to watch over and safeguard the county treasury against spoliation even under the specious guise of protecting the public health.

Now the county attorney has no personal quarrel with any. The issue is far above mere persons. It involves rights older than our constitution—that were hoary with age before the Boston tea party; rights fought for and won back by ville and town and Mark from King, and baron, and abbot, who had with iron hand or lying tongue, by force or fraud, taken them from the people; rights that our forefathers, even here, thought worthy of being maintained with treasure and blood at Alamance, at Moore's Creek, at Guilford courthouse, at Kings Mountain and made good at Yorktown—the right of local self-government and the control by the people of their own money.

The extorsions of the fee system (again attempted to be fixed on us by this secretary) of paying officials was one of the main grievances that led to the regulator troubles of our fathers.

The board of county commissioners while bowing to this act, (for law is, tho of questionable parentage) as interpreted by the supreme court, in recognizing Dr. McCullers' title to office still have an abiding faith that soon again the constitutional "right of the people of the county to manage their own affairs shall not be abridged or denied except under the pressure of a plain and positive requirement and when no alternative in the law is admissible". We devoutly pray that the court may soon return to the sound law of that opinion. And in the words of a learned associate justice of our supreme court, used in *Jones v. Commissioners*, 135 N. C. 223, we pray it may soon again be held to be "without precedent in this state, if the legislature should assume to know the wishes and interests of the people of any county better than the county commissioners". In this case, it is not the legislature only, but a board of health and a secretary of a state board who have assumed to know the wishes and interest of the people of Wake county better than the county commissioners, the duly elected servants of the people and answerable to them for the proper management of the affairs of the county.

In conclusion I want to say that I assume full responsibility for having the board of commissioners not to recognize the authority of the secretary of the state board of health to appoint a county superintendent of health and to fix his compensation on a fee basis, to be paid by the county, contrary to the legally established policy of this county, till they were compelled to do so by the order of the supreme court. I also have advised them not to surrender, without a fight to a finish, the therefore supposed right of the board of commissioners in its sound discretion to disapprove and not allow payment of any disputed claim or demand against the county, until the justness and reasonableness

of the claim or demand had been determined. I shall continue to advise them, so long as they ask my advice. I shall never advise them to tamely surrender the people's right to local self-government—the right to control their purely local affairs—into the hands of any one man or body of men, under any pretext whatsoever. When the courts unquestionably decide that they have not the discretion to approve or disapprove claims against the county, but that the board of commissioners is a mere auditing committee whose only duty is to add up columns of figures; to see that the addition, subtraction or multiplication is correct, then I shall advise them, but not till then, to be afraid of a writ of mandamus. B. C. BECKWITH.

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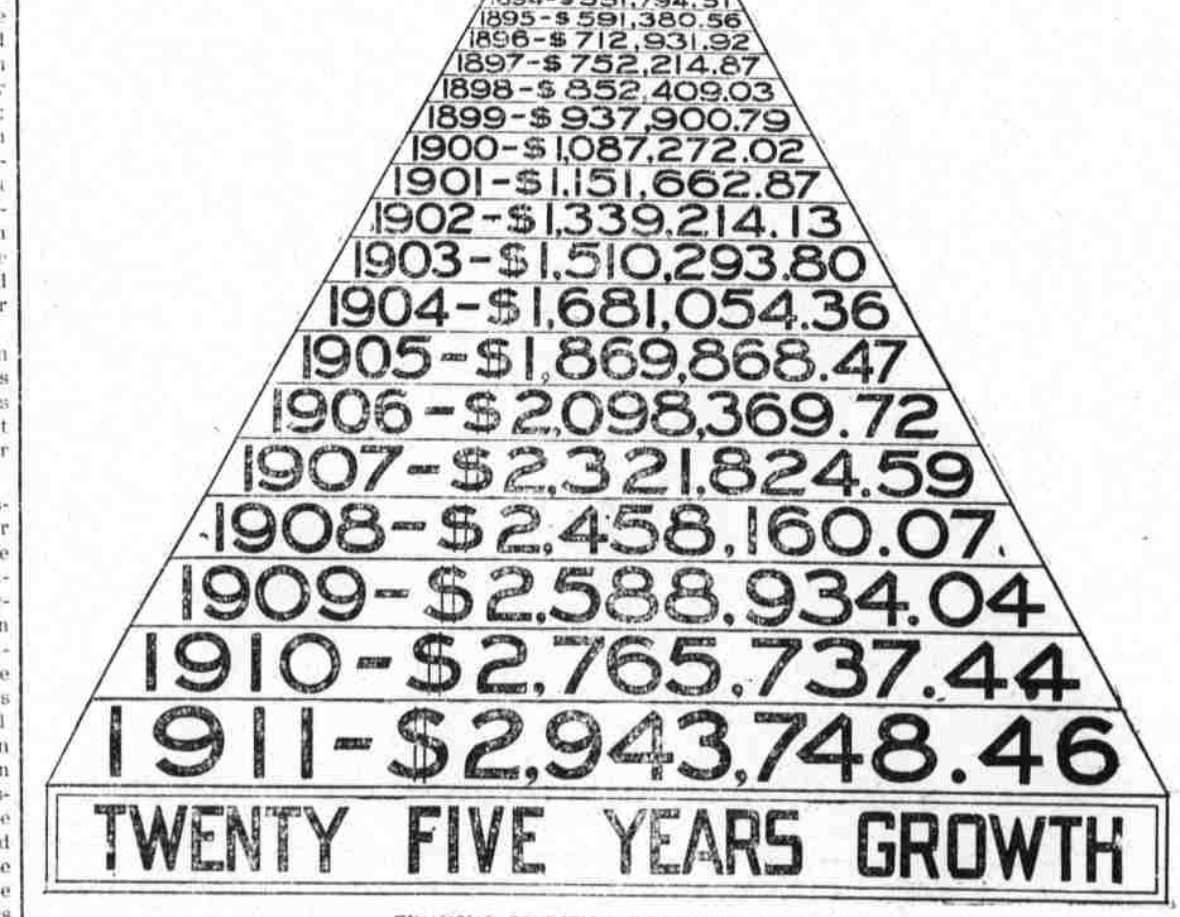
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FINANCIAL CONDITION, DECEMBER 31, 1911

ASSETS	LIABILITIES
Bonds and Mortgage Loans on Real Estate..... \$5,792,778.49	Reserve, Actuarial 4 per cent., American 3 and 3 per cent., and Standard Industrial 3 per cent..... \$5,631,554.00
Railroad and Street Railway Bonds (Market Value)..... 202,483.00	All other Liabilities..... 243,721.33
State Bonds (Market Value)..... 147,799.32	Total Liabilities..... \$5,875,275.33
Municipal Bonds (Market Value)..... 161,669.91	Capital Stock..... \$ 400,000.00
Miscellaneous Bonds (Market Value)..... 75,473.40	Surplus..... 1,003,681.91
Real Estate (Market Value)..... 206,129.59	Surplus of Assets over Liabilities..... \$1,403,681.91
Bank Stocks (Market Value)..... 64,770.00	
Miscellaneous Stocks (Market Value)..... 4,000.50	
Loans on Collateral..... 21,380.00	
Loans on Company's Policies..... 197,675.00	
Cash in Banks on Interest..... 279,212.60	
Cash in Offices and in Banks not on Interest..... 17,968.87	
Interest and Rents Due and Accrued..... 95,945.22	
Not Uncollected and Deferred Premiums and Premium Notes and all other Assets..... 98,248.44	
TOTAL ADMITTED ASSETS..... \$7,378,967.24	TOTAL..... \$7,378,967.24

We have examined the books and records of the LIFE INSURANCE COMPANY OF VIRGINIA for the year ending December 31, 1911, and have certified therefrom the above statement of Assets and Liabilities at the close of business at the Home Office as of that date. We have examined and verified the Bonds and Mortgages, Railroad, State, Municipal and other Bonds, Stocks and all other investments owned by the Company or held as Collateral, and have proved that the Bonds and Stocks are valued at market prices on December 31, 1911, and that the Loans on Collateral are fully secured. We have also proved the Cash on hand, and have verified the balances deposited with Banks. We have tested the clerical secretary of the Reserve on Policies in force, as certified by the Actuary of the Company, and have satisfied ourselves that all other Liabilities are duly provided for, and WE CERTIFY that the above statement of Assets and Liabilities correctly sets forth the true financial condition of the Company on December 31, 1911. Richmond, Va., January 6, 1912. H. B. BOUDAR & SON, Certified Public Accountants.

STATEMENT OF OPERATIONS DURING 1911

Premium Income..... \$2,943,748.46	Insurance in Force..... \$78,499,874.00
Increase in Premium Income..... \$ 178,011.02	Increase in Insurance in Force..... \$ 6,059,500.00
Gross Income..... \$3,304,874.56	Total Number of Policies in Force..... 568,462
Increase in Gross Income..... \$ 242,728.48	Increase in Number of Policies in Force..... 26,169
Increase in Assets..... \$1,040,393.42	Death Claims, Etc., Paid to Policyholders..... \$ 1,072,301.17

Total Payments to Policyholders Since Organization \$11,859,251.74

A. R. Goodwyn, Supt., 239 Fayetteville St. Raleigh, N. C.
G. F. Hall, Gen. Agt., 619 Realty Bldg, Charlotte, N.C.

New York, March 7, 1912.
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