

# Morning Oregonian

PORTLAND, OREGON, TUESDAY, OCTOBER 31, 1911.

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## STATE CONTROL OF ROADS GROWS LESS

### Supreme Court Opinion Foreshadows Doom.

### APPLIANCE ACT IS UPHELD

### Interstate Commission's Absolute Power Foreseen.

### MEMBERS ARE JUBILANT

### All Lines Must Comply With Federal Law and Virtual Elimination of State Commissions Is Looked-For Sequence.

WASHINGTON, Oct. 30.—Complete control of all the railroads of the country by the Interstate Commerce Commission and virtual elimination of the state commissions from such control is foreshadowed in an opinion handed down today by the Supreme Court of the United States.

The court held that hereafter all locomotives, cars or other equipment used on any railroad which is a highway of interstate commerce must comply with the Federal safety appliance act.

In its opinion, the court held that compliance with the Federal law is compulsory on all railroads engaged in the transportation of persons or freight from one state to another.

Opinion is Elaborated. Elaborating this, however, it was held that the cars or equipment of such roads, even if engaged in transportation within the confines of a state, must be considered as part and parcel of the road and therefore completely under the jurisdiction of the Federal Commission.

Members of the Interstate Commerce Commission are jubilant at the ruling of the Supreme Court, which was unanimous. Referring to the court's opinion, Commissioner Lane declared, "It meant, eventually, that there is to be no dual control of interstate carriers."

Federal Act Factor. The determination of this mooted question was laid down in an opinion handed by Justice Vandevanter in a case instituted by the Government against the Southern Railway. The point at issue was whether the Federal act applied in the case of a shipment from one point in Alabama to another point in the same state, the shipment being in an improperly equipped car. The lower courts held that there had been a violation of the law, and their judgment was sustained by the Supreme Court.

Justice Vandevanter held that the law applied to all equipment on a highway of interstate commerce, whether at the time it was carrying interstate or intrastate commerce. He then held—and was sustained by the court's unanimous opinion—that the safety appliance act was constitutional.

Justice Reviews Case. Speaking only of railroads that are highways of both interstate and intrastate commerce, Justice Vandevanter says: "These things are of common knowledge:

"Both classes of traffic are at times carried in the same car, and when this is not the case, the cars in which they are carried are frequently commingled in the same train and in the switching and other movements at terminals.

"Cars are seldom set apart for exclusive use in moving either class of traffic, but generally are used interchangeably in moving both; and the situation is much the same with trains, switchmen and like employees, for they usually, if not necessarily, have to do with both classes of traffic."

Trains Are Interdependent. "Besides, the several trains on the same railroad are not independent in point of movement and safety, but are interdependent; for whatever brings delay or disaster to one, or results in disabling one of its operatives, is calculated to impede the progress and imperil the safety of other trains. And so, the absence of appropriate safety appliances from any part of any train is a menace, not only to that train, but to others."

The decision of the court is regarded as of great significance. It will enable the Interstate Commerce Commission hereafter to enforce practically without question its orders based upon that law.

State's Rights Question. Those who casually examined the opinion were divided as to its bearing on the litigation as to whether a state may regulate freight and passenger rates on interstate traffic when such regulation interferes or might interfere with interstate commerce. The Supreme Court is to consider the question next January, when it hears the so-called Minnesota and Kentucky rate cases. It is the best judgment of those conversant with the situation, however, that today's decision has little if any bearing upon the rate cases.

More or less friction has arisen between the Interstate Commerce Commission and various state railroad commissions.

Upon this point, again to quote Commissioner Lane:

## JOURNALISM FUND IS NOW AVAILABLE

\$1,000,000 FROM PULITZER TO FOUND SCHOOL.

Project for Advancement of Newspaper Profession Long Held in Mind by Great Editor.

NEW YORK, Oct. 30.—(Special.)—The gift of \$1,000,000 which Joseph Pulitzer offered in 1902 to establish a school of journalism at Columbia University is now available for use. "Mr. Pulitzer's death not only makes this money available," said a principal officer of Columbia this afternoon, "but we are obliged to use it. We shall start in right away."

The project was present in Pulitzer's mind up to the very time of his death. Opposition to the idea when Pulitzer first suggested it delayed action far beyond what he had contemplated, but though he twice modified the terms of his gift, he was far from abandoning it. He undertook personally to keep the matter alive.

One of the staff on the World said today that Pulitzer had consulted with him about the school a short time before he started south. "He wanted to know if I had anybody in mind who could serve as head of the school," he said. "He had it very much in mind and was interested in finding someone who could get it to going properly."

## WOMEN VOTERS HIDE AGE

Chivalrous Goldenrule Clerk Says Exact Statement Unnecessary.

GOLDENDALE, Wash., Oct. 30.—(Special.)—J. H. Putman, the venerable City Clerk of Goldendale, is dispensing with the formality of requiring women to give their exact age when registering to vote.

In explaining his position, Mr. Putman says that he thinks when a woman has taken the statutory oath and swears that she is more than 21 years old, the penalties exacted by the law have been fulfilled. Before Clerk Putman's ruling only about 20 Goldenrule women had registered, but since then more than 100 have done so.

A committee of three women has been appointed to accompany women who are in awe of the proceedings attendant upon registration.

## PUBLIC LANDS ARE OPENED

Southern Oregon Areas Are Made Subject to Settlement.

OREGONIAN NEWS BUREAU, Washington, Oct. 30.—The Secretary of the Interior has ordered that the unappropriated and withdrawn public land areas excluded from Siskiyou and Crater National forests in Southwestern Oregon July 1, 1911, shall become subject to settlement under homestead laws and to selection by the state on and after January 15, and to entry under the public land laws on and after February 14, 1912.

The lands to be restored are in Coos, Jackson and Klamath counties.

## MRS. GATES TO WED AGAIN

Divorced Wife of Financier's Son to Marry Oil Man.

NEW YORK, Oct. 30.—Mrs. Charles G. Gates, who secured a divorce last May from the son and heir of the late financier, John W. Gates, will be married about November 15 to A. C. Milledge, assistant secretary of the Texas Oil Company, one of the Gates' properties.

Mrs. Gates was Miss Mary Martin, of St. Louis. She was married to Charles G. Gates in 1897.

## GREAT FLEET IS AGLOW IN HARBOR

Dreadnought Florida Completes Armada.

BOAT'S CREWS VIE IN RACE

Admiral Pleased by Good Conduct of 30,000 Sailors.

REVIEWS PLANS COMPLETE

Great Group of Sea-Fighters, Riding at Anchor in New York, Will Steam Past President's Yacht.

NEW YORK, Oct. 30.—With search lights flashing and hulls and rigging outlined in myriad of incandescent lights, the vessels of America's great fleet assembled here for Presidential review presented a picture of marvellous beauty tonight.

The Hudson River, where the ships lie, was illuminated as never before. The battleship line was extended to its full length today when the last of the sea fighters assigned to take part in the review—the dreadnought Florida—steamed slowly from her berth at the Brooklyn Navy Yard on her first trip under her own steam.

Crashing salutes from the other ships greeted the new fighter. She loomed high above the smaller fighters of the line, for it was only one-tenth the size, for there was only one—the Utah—to compare with her.

With the Florida's arrival, the fleet was made practically complete—102 ships of all classes with more than 30,000 sailors and marines and 1700 officers. The fleet is ready for the inspection by Secretary Meyer Wednesday and the review by President Taft Thursday.

Arrangements were completed today for the reception of President Taft and for the inspection and review of Wednesday and Thursday. The Mayflower, which will be used by the President, took her place in line yesterday and is ready to receive Mr. Taft, who will reach New York early Thursday morning.

Ships to Pass Mayflower. The fleet will get under way about 7 P. M. and as each ship passes the Mayflower, anchored at a point off Staten Island, on the way to sea, a President's salute of 21 guns will be fired.

The sporting element among the sailors was much interested today in the 12-oared cutter race, for which 16 ships entered crews. A three-mile course, straightaway, from the Fort Lee ferry to West Fifty-seventh street, was selected.

The cutter race was won by the crew of the battleship Georgia, which was three lengths ahead of the battleship Vermont's crew. The crew of the Missouri was third and the Mississippi fourth.

This afternoon the officers of the first and second divisions of the first squadron (Concluded on Page 3.)

## LEG HELD IN VISE, MAN SLOWLY DIES

PENCILLED NOTES TELL TRAGEDY OF LONE PROSPECTOR.

Slide of Quartz in Shaft Crushes Limb and Hunger and Pain Are Companions Until Death.

BRIDGEPORT, Cal., Oct. 30.—His left leg broken and crushed and held immovably by a fall of rock in a prospect hole on his lonely mining claim, 70 miles north of this place, J. J. Miller, recently of Harrisonburg, Va., died a terrible death of hunger and exposure.

Miller, whose other limbs were uninjured by the fall and whose body was found in a standing position, left a diary written on the back of an assay certificate. The first entry was "October 6. The last reading only 'No hope' was dated Friday, October 13. The body was found last Saturday.

Miller had been working on his claim in the Patterson district and had sunk a shaft to a depth of 12 or 14 feet.

The diary, scrawled with a pencil, against the rough wall of the shaft, contained a daily entry. Beginning with a brief account of the disaster which imprisoned him.

Miller set down each day an account of the tortures inflicted by his crushed leg and the increasing gnawings of hunger. Although he realized from the first that the lonely location of the prospect hole, which the accident had transformed into a death cell, practically made outside aid impossible, he maintained a courageous and unbroken spirit even down to the last almost illegible entry.

Miller leaves a widow and a mother.

## DOGS TREE MAN 24 HOURS

Half-Witted Son of Physician Subsists on Raw Owl and Grapes.

CHICO, Cal., Oct. 30.—After a two days' search Laban Perdue, the 26-year-old son of Dr. L. C. Perdue, of this city, was found today in a tree under which lay several vicious dogs. Perdue, who had been treed for more than 24 hours, told his rescuers that during that time he had eaten nothing but wild grapes and an owl, which he had captured and devoured raw.

Perdue is half-witted and has often wandered from home. Saturday, however, he disappeared, and his father, a country doctor, scoured the country unavailingly all day Sunday.

Today Frank Barnes, noticing the absence of his dogs from his ranch house, and hearing their barking in the foothills, investigated and drove the dogs from their human quarry. Perdue was weak from hunger and exposure.

## FRAYED GODDESS IS HAPPY

Fall Suit Promised to Symbol on Oregon City Courthouse.

OREGON CITY, Oct. 30.—(Special.)—The goddess of justice on the Court house is to have a new Fall suit. For more than 30 years this symbol of what law should be has stood arrayed in white and gilt and the tints have suffered severely from the ravages of time and weather. Long ago the scales dropped from the hands of the figure, and factious persons have suggested that Mr. Blackstone's inspector of weights and measures should be summoned.

New scales will be supplied and the goddess will be repainted and regilded. County Judge Beattie is authority for the statement that the work will not cost as much as a complete outfit for a debutante or even a high school girl would cost.

## CHINESE EMPEROR YIELDS TO PEOPLE

Constitution Granted by Imperial Edict.

THRONE HUMBLE IN APOLOGY

Boy Ruler Takes Oath to Carry Out Reforms.

REBELS PROMISED PARDON

Remarkable Document Says Spirits of Ancestors Are Grieved by Unrest in Empire—Palace Not Yet Free From Attack.

PEKING, Oct. 30.—The demand of the National Assembly for a complete constitutional government has been acceded to by the throne. An imperial edict was issued today, apologizing for the past neglect of the throne and granting an immediate constitution with a cabinet from which nobles shall be excluded.

A second edict grants pardon to political offenders connected with the revolution of 1911 and subsequent revolutions and those compelled to join in the present rebellion.

Throne Admits Mistakes. The imperial edict, which is from the hand of the boy Emperor, Hsuan Tong, says: "I have reigned three years and have always acted conscientiously in the interests of the people. But I have not saved several vicious dogs. Perdue, who had been treed for more than 24 hours, told his rescuers that during that time he had eaten nothing but wild grapes and an owl, which he had captured and devoured raw.

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After referring to uprisings in various places, the edict continues: "The spirits of our nine deceased emperors are unable to enjoy the sacrifices properly, while it is feared that the people will suffer grievously."

Emperor Takes Blame. "All these things, are my own fault, and I hereby announce to the world, and I swear to reform, and, with our soldiers and people to carry out the relation, promoting the interests of the people and abolishing their hardships, all in accordance with their wishes and interests. The old laws that are unsuitable will be abolished. The union of the Manchus and Chinese, mentioned by the late Emperor, I shall carry out now. Finances and diplomacy have reached bedrock.

"Even if all united, I still fear that we may fail. If the empire's subjects (Concluded on Page 3.)

## FATED SPOT IS ELOPERS' ALTAR

TWO ARE WEDDED AT DEAD MAN'S CROSSING.

Bridegroom Takes Parson in Auto to Meet Bride and They Are Tied as Train Whizzes Past.

EUGENE, Or., Oct. 30.—(Special.)—When John Jacoby, of Jasper, and Ada Stitzer, of Pleasant Hill, met yesterday afternoon at Dead Man's Crossing, three miles southeast of here, and were married in the middle of the county road, they succeeded admirably in escaping the routine of more conventional weddings. While the ceremony was in progress a Southern Pacific passenger train thundered past, only a few yards away, and the windows rapidly filled with the faces of amused and puzzled travelers.

By previous arrangement the bridegroom, who is the son of a prominent pioneer, left Eugene in an automobile, accompanied by Rev. J. S. McCallum, pastor of the First Christian Church. At the same time his bride-to-be left her home at Pleasant Hill in a buggy.

They met at Dead Man's Crossing, a narrow pass between the hills and the Willamette River, and the ceremony was performed at once. They then returned to Eugene and will remain here for several days before leaving on their honeymoon.

Mr. Jacoby is the son of Mr. and Mrs. D. Jacoby, pioneers of Jasper, and Mrs. Jacoby is a daughter of Mr. and Mrs. E. C. Stitzer, of Pleasant Hill. They will live at Mr. Jacoby's farm near Jasper.

## COUNTY COURTS URGED

Precinct Boundary Lines Must Be Arranged This Week.

SALM, Or., Oct. 30.—(Special.)—An urgent request for attention is again sent from the Capitol and the office of the Secretary of State in reference to the establishment of precinct boundary lines throughout the state.

The change in the law has caused considerable confusion in the minds of many county courts. Precinct boundary lines to govern the primary election and general election must be made by the County Courts at the November term of the courts this year, or during the present week.

This is necessitated by the new Presidential preference primary nominating law, which during Presidential election years throws the entire election machinery back corresponding number of days, the primaries next year to be held in April.

This precinct boundary lines must be made, during November of the present year, the registration books will open January 1, the primaries will be held in April and the general election in November.

Twohy Scans Way to Coos. Fitzgerald testified that he visited Johnson to obtain some statistical information and later talked to him about the Times explosion. He could not remember what was said, he testified, without referring to his report. Attorney Darrow announced that Fitzgerald probably would testify further tomorrow.

Johnson is the man challenge against whom implied bias on the ground that he is opposed to conviction in cases involving the death penalty, was refused by the court specifically on the ground that the defense had no right to prefer it.

Challenges Are Denied. Challenges against A. C. Winter and Walter N. Frampton, on the same ground, also were denied, but these met the disapproval of the court as being intended to circumvent a previous ruling that the men were not disqualified because of their expressed opinions that James B. McNamara was guilty of murder.

Both men had contradicted themselves somewhat under examination by opposing counsel, the court pointed out. The court held also that they derived their opinions from common notoriety, public journals and magazines, all of which are excepted by law from disqualifying a witness.

To this Attorney Darrow excepted, declaring that Winter's opinion concerning strikes and strikers was based on personal knowledge, Winter having testified that he, as an employer, had replaced a striker one time and was pelted with bad eggs and other missiles.

Court Scores Defense. Of the main challenges against Winter and Frampton, the court said: "The latter challenge of the defense, which is now under consideration, amounts to an effort on the part of the defense to render ineffective the court's ruling disallowing the previous challenge. This is what prompted the defense to lodge the second challenge. It is not a legitimate proceeding and cannot be permitted. It may well be doubted if the law ever intended to give the defendant in a case such as that before the bar the right to challenge for conscientious opinions which might preclude the finding of a verdict of guilty in a capital case. The review of cases shows no instance of such proceeding, so far as I am informed.

State Only Interested. It is clear that the bias resulting from such an opinion is against the prosecution. It would be an anomalous condition which would allow a challenge by a defendant for such cause, where it is plain that only the prosecution is interested or could be prejudiced by the retention of the juror."

Against this position Attorney LeCompte Davis argued that the Legislature, in making the law in question, did not concern itself with the wishes either of the District Attorney or of the defense, but acted in the interest of public policy, and with the intent that if either side waived the challenge it was "the absolute duty of the court" (Concluded on Page 3.)

## JUDGE BORDWELL ACCUSES DEFENSE

Challengesto Talesmen Are All Rejected.

DARROW TAKES EXCEPTION

Attempt to Circumvent Rulings, Charged by Court.

INVESTIGATOR ON STAND

Jurist in Times Case Decides Lawyers Cannot Object to Jurymen Because of Stand Against Capital Punishment.

LOS ANGELES, Oct. 30.—Judge Walter Bordwell accused the defense in the McNamara murder case today of trying to circumvent his rulings, and rejected two challenges against talesmen which formed the basis of his supposition. He also refused to the defense the privilege of challenging against a juror who said he would not convict of murder on circumstantial evidence alone, holding that this challenge was available only to the state.

Under these rulings, the jury box contained at the close of court tonight three men passed for cause by both sides. In addition to the four so qualified when the day's session opened.

Defense Takes Exception. To both of the court's main rulings today, Attorney Clarence S. Darrow took exception in behalf of his client, James B. McNamara, who is on trial for the murder of Charles J. Haggerty, a victim of the Los Angeles Times explosion a year ago.

For the first time since the trial was begun, the defense brought into court today one of its investigators to confront a talesman. R. H. Fitzgerald, a fledgling attorney, took the stand after George W. Johnson, a retired superintendent of an iron and brass foundry, had said he had not told anyone it was his belief that the Times was blown up by union men, and had not talked to anyone about the case.

Lawyer to Testify Again. Fitzgerald testified that he visited Johnson to obtain some statistical information and later talked to him about the Times explosion. He could not remember what was said, he testified, without referring to his report. Attorney Darrow announced that Fitzgerald probably would testify further tomorrow.

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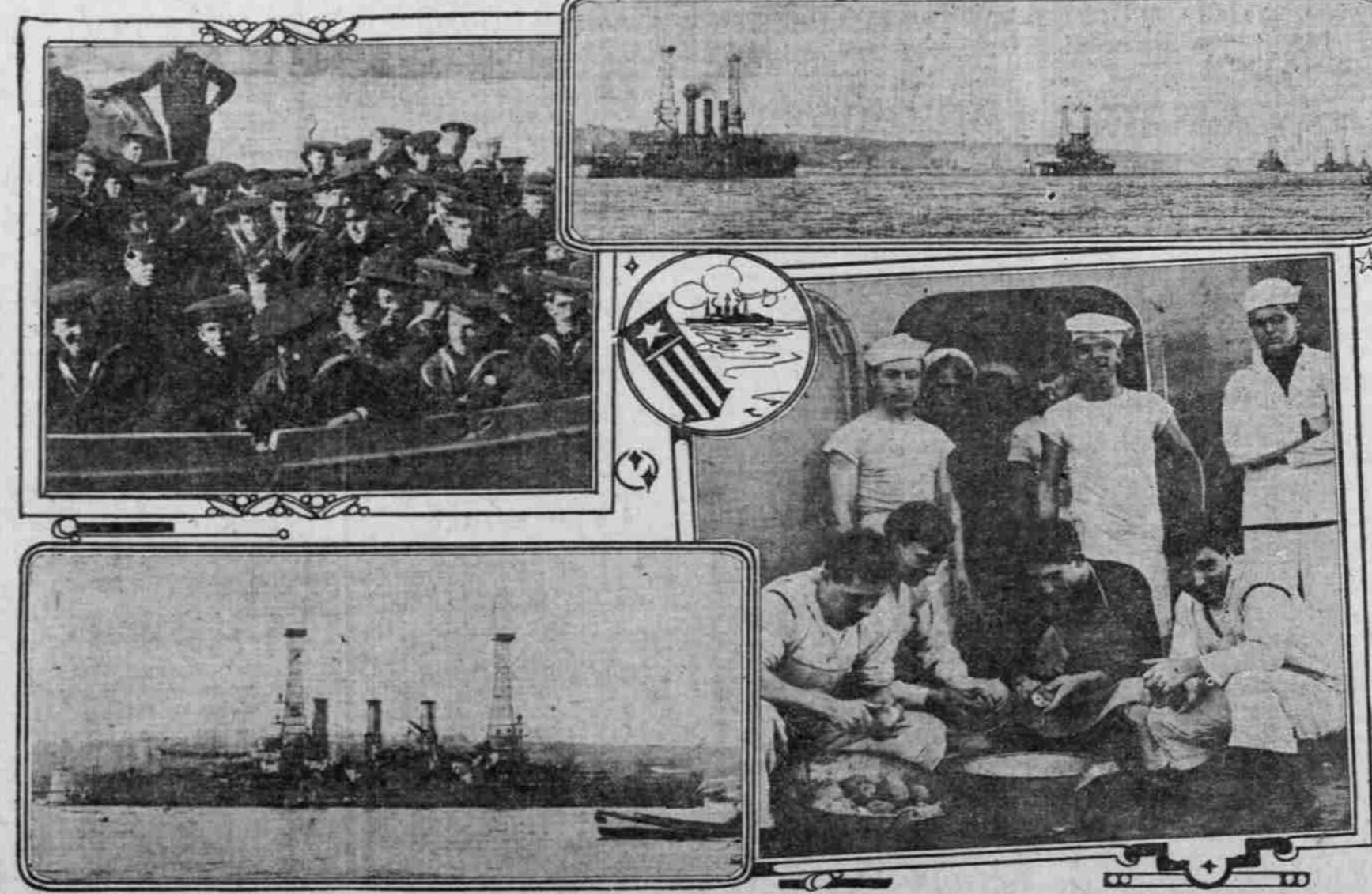
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PICTURES FROM ASSEMBLING WARSHIPS OF GREAT FLEET ASSEMBLED AT NEW YORK.



ABOVE, SAILORS FROM LOUISIANA ON SHORE LEAVE; SHIPS ARRIVING IN HUDSON FOR REVIEW—BELOW, FLAGSHIP CONNECTICUT OF THE ATLANTIC FLEET; BLUEJACKETS ON CONNECTICUT PEELING POTATOES.