

# The Watchman and Southron.

THE SUMTER WATCHMAN, Established April, 1850.

"Be Just and Fear not—Let all the Ends thou Aims't at, be thy Country's, thy God's and Truth's."

THE TRUE SOUTHRON, Established June, 1866

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SUMTER, S. C., WEDNESDAY, APRIL 14, 1897.

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## The Watchman and Southron.

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SUMTER, S. C.

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## CAN'T KEEP LIQUOR

In Your House Unless 'Tis  
Official or Stamped.

By reason of an equally divided court the State supreme court has rendered a decision to the effect that a man cannot keep two and a-half gallons of whiskey in his house for his own personal use, without the commissioner's stamp upon it without laying himself liable to criminal prosecution under the dispensary law.

The decision was rendered in the case of Anderson Chastian, and the judgment of the circuit court below stands affirmed. Chief Justice McIver and Associate Justice Gary have filed very strong opinions against sustaining the finding of the lower court. Mr. Justice Jones filed the opinion on the other side, in which Associate Justice Pope concurs. In the Florence case recently decided, in which the court was equally divided, the appellants have submitted a request that a rehearing be granted before all the judges sitting en banc. No doubt a similar request will be made in this case.

Chief Justice McIver, in his opinion, thus presents the matter in substance:

The defendant was found guilty and sentenced to pay a fine of \$100, or go on the chain gang for three months for having in his possession two and a-half gallons of corn whiskey, which had no State stamp on it. On this judgment an appeal was taken to the supreme court of the State.

The appeal was taken on the following grounds in brief:

First. Because his honor erred in charging the jury as follows: "The question is did he have liquor there, keeping it there without any stamps on it? If so, he must show that either he bought it through the regular channels, the dispensary, or that he obtained it from the State commissioner the proper stamps to be put on it," and should have charged the jury instead that the keeping of a small quantity of liquor in his dwelling house for his own use and not to be bartered does not constitute a crime.

Second. That it is only the storing or keeping in possession of alcoholic liquors for some unlawful use or purpose, which is made an indictable offense by statute, and his honor erred in not so holding.

The chief justice states that from the testimony, the State constables found in the dwelling house, while defendant was absent a three gallon jug containing about two gallons of whiskey, which they seized, because there were no stamps upon it from the State commissioner. There was no testimony to show that the whiskey was for sale or any other unlawful purpose or that the defendant had ever sold whiskey. On the contrary the defendant stated that he had obtained the whiskey about three weeks previous for his own personal use and for no other purpose, because he was in bad health and needed it; that he had never sold any whiskey and could not tell how much of it he had used before it was seized. It was admitted that the whiskey had not been bought from a dispensary, and it had no stamps on it. The charge of the circuit judge was as follows: "The indictment is for storing and keeping in possession alcoholic liquors. If a man undertakes to keep liquor he must have the stamp of the State commissioner. The question is did he have liquor there, keeping it without any stamp, if so he must show that he bought it from the dispensary or that he obtained from the State commissioner the stamps to put on it. The law prevents this storing of liquors, shows how it may be kept safely without any trouble, and if a man is not minded to put himself to that trouble, then he will have to look out for the consequences."

The chief justice goes on to say that the circuit judge proceeded upon the theory that it is an indictable offense for a person to have in his possession alcoholic liquors, even for his own use unless the required stamps are upon it. In the first place the indictment does not charge

any such offense for it does not charge that liquors were found without the requisite stamps. On the contrary the charge is that the defendant unlawfully stored certain contraband liquor. In the second place an examination of the dispensary law of 1896 fails to disclose any provision making it an indictable offense for a person to have liquor in his possession without the stamps of the State on it. There are several provisions in that act making such liquor liable to seizure and forfeiture, but none declaring that the mere fact that a person is found in possession of alcoholic liquors without stamps shall constitute a criminal offense.

The sections of the act, which it is contended sustain this prosecution are the 1st, the 25th, the 26th and 35th, and these sections are considered in the opinion of the chief justice.

After quoting the first section he says that it is divided into two distinct parts; the first part makes it a penal offense to do any of the acts therein forbidden, while the second part was intended to render the liquors referred to liable to seizure without a warrant and to forfeit them. In other words the first sentence affects persons only and not property, while the second affects property and not persons. It is clear that the person charged must not only have manufactured, sold, bartered, exchanged, received or accepted, stored or kept in his possession spirituous liquors, but must have done so for some unlawful purpose for that is not only the proper grammatical construction of the language, but also such a construction is necessary to relieve the officers charged with the duty of storing and keeping of spirituous liquors from the penalties prescribed. While the evidence shows that the liquor in question was kept in the defendant's dwelling house there is not evidence tending to show that it was kept for unlawful use. On the contrary, the evidence is that he kept it believing that it was necessary for his bodily health. Unless, therefore, the act contains some provision making it unlawful to drink or otherwise use for his own personal benefit or gratification any spirituous liquors not obtained from the dispensary or not containing the stamps of the State commissioner it is obvious that one essential element of the offense charged is lacking. The act will be searched in vain for any such provision, and hence it cannot be said that keeping and using any spirituous liquors for one's own personal use or gratification constitutes any offense against the criminal laws of the State. The 25th section is quoted and Mr. Justice McIver holds that it does not even purport to create any criminal offense but deals only with the seizure and forfeiture of contraband liquor. Indeed the proviso recognizes the legality of the possession of certain liquors which are not bought from the dispensary.

The 26th section is next quoted, which it is contended was not to create anything criminal offense, but to prevent the courts from entertaining any action for the recovery of the price of any liquor so seized.

So much of the 35th section which is pertinent is quoted. It is difficult to see what light this section throws on the subject. It certainly creates no criminal offense except in the last paragraph, which has nothing to do with the case, in that it provides for a punishment for imitation of stamps.

He concluded by saying: "A very careful consideration of this case in all its aspects leads inevitably to the conclusion that the grounds of appeal must be sustained." Finally he says: "Inasmuch as this opinion was originally prepared before the recent decision of the supreme court of the United States in Donald vs. Scott, 165 U. S., 68, was announced, I desire to avail myself of the opportunity now presented of adding that it seems to me absolutely necessary to adopt the conclusion which I have reached in order to avoid a conflict with the decision of the supreme court of the United States, which it must be conceded is a final arbiter of all questions involving a construction of the Constitution of the United States."

JUSTICE GARY'S VIEW.  
Mr. Justice Gary, in his opinion, concurring with the opinion of the chief justice, after reviewing the facts of the case and quoting several sections of the dispensary law applicable to the case, says:

"When these sections are construed together they show first that the act does not prohibit, but on the contrary in express language permits a person to keep liquor in his possession for his own use. Second, that in order to throw the protection of the law around the liquor in his possession for his own use, it is necessary to furnish an inventory of the quantity and kinds to the State commissioner and apply for certificate to affix thereto.

"Third, that if the liquor in his possession is seized because it has not the necessary certificates and

labels required by the act, and he claims the liquor the burden of proof is upon him to show that it is for his own use.

"The act contemplated that there would necessarily be some time after the liquor came into possession of the person for his own use before he could apply to the State commissioner for the necessary certificates and labels. If it was seized because it did not have the necessary certificates and labels, he was even then not to be deprived of the liquor, provided he could show it was for his own use; but in that case, the burden of proof would be upon him to show it was for such purpose. Any other construction of the act would make a person a violator of the law who simply received as a present a bottle of liquor coming from another State, although it might be his intention forthwith to apply to the State commissioner for the necessary certificates and labels to affix to it.

"A construction contrary to that which we place upon the act would even make a person a violator of the law who took a drink of whiskey unless it came from the dispensary.

"We cannot think this was the intention of the legislature.

"For these reasons we concur in the conclusion announced by Mr. Chief Justice McIver."

### JUSTICE JONES' POSITION.

Justice Jones, in his decision sustaining the lower court, contends that the sole question for determination is whether the dispensary act of 1896 prohibits under penalty the storing or keeping of intoxicating liquors without having on the vessel the stamp of the State commissioner. "The construction contended for by the learned chief justice," he holds, "would practically nullify the dispensary law, for it is not possible to hold that the keeping of intoxicating liquors in possession without the permission of the stamp is not punishable unless it was kept for unlawful use, and not be compelled to hold the same thing in reference to the manufacture and sale of such liquor. Moreover, if a sale of intoxicating liquors is not unlawful, unless made for an unlawful use, then a keeping in possession of contraband liquor for sale for a lawful use is not unlawful. This would make a paradise for blind tigers; I should say, rather, there would be no blind tigers since everybody could sell and keep for sale intoxicating liquors openly and with impunity.

"The construction we contend for is not only the natural and grammatical construction of the language used, but is consistent with the scheme of the dispensary act, whereas, the other construction is the unnatural, ungrammatical and destructive of the design and operation of the dispensary law. The question is one of construction merely. It is simply our duty to declare the law. We have nothing to do with its wisdom or its severity. The harshness should of its operation, real or supposed, not in the least swerve us from our plain duty. There was no error in the charge of the judge complained of, and the judgment of the circuit court should be affirmed."

## BRYAN INJURED BY AN ACCIDENT.

St Augustine, Fla., April 8.—W. J. Bryan arrived here at 4 50 p. m., and was greeted at the station by several hundred people. At 8 30 he addressed fully 3,000 people from the piazza of the San Marco Hotel.

His theme was good government and the money question, the free coinage of silver being advocated as strongly as ever.

At the close of his speech hundreds of people flocked about him and so great was the strain that one section of the piazza, forty feet square fell through, precipitating four hundred people to the ground below, a distance of twenty feet. No one was seriously hurt, but a score of ladies and gentlemen received bruises and sprains. Mr. Bryan was picked up unconscious and taken to Dr. Worley's office, where he received medical attention. He is not seriously hurt. A reception was planned to take place in the Casino after the speech, but it was abandoned.

Kershaw, April 7.—Lewis Steves, a rather impudent negro, was shot in the back of the shoulder this morning by Mrs. Almetto Key. Nothing of the circumstances are known as Mrs. Key is very reticent. Dr. Beckham was called to see the negro, but has not been able to locate the ball.

City of Mexico, April 8.—A number of tobacco plantations at Mesalantla, State of Vera Cruz, have been invaded by a destructive insect which has devoured the crop. The heat is remarkably intense on the coast below Vera Cruz and the mercury registers already summer temperature.

## Democrats Victorious.

Carter Harrison Elected  
Mayor of Chicago by a  
Vote of Nearly  
Two to One

Chicago, April 6.—With the magic of his famous father's name, aided by the independent split in the regular Republican ranks and the flocking of the discontented laboring class to the standard of silver Democracy, Carter Henry Harrison was elected mayor of Chicago to day and a great Democratic triumph was recorded. The 55,000 plurality of McKinley over Bryan was turned into a Democratic plurality about 85,000 over Judge Nathaniel C. Sears, the machine Republican candidate for mayor. The almost complete mayoralty returns show that Harrison polled a plurality of about 75,000 over the next best man, Alderman John M. Harlan, a Republican who ran on the citizens ticket by himself. The figures also indicate that the next mayor polled a small majority over the three other principal candidates, Sears, Harlan and Hesing, the ex-postmaster and German editor, whose ticket was called business administration of municipal affairs. He is a gold Democrat, but his boasted strength among the independent men of both parties dwindled to about 16,000 total vote. Harrison's total vote is about 140,000, which is less than 5,000 under the vote polled by Wm. J. Bryan.

The total Republican vote is about 57,000 while McKinley polled 200,747 votes in November. The rest of the city ticket, attorney, treasurer and clerk, all the town tickets and a large majority of the common council have gone Democratic on the tidal wave with the possible exception of the Hyde town ticket. Harrison or Harlan carried every ward in the city and the Republican machine was repudiated everywhere. There is really nothing left for the Republican party to console itself with, except a few aldermen whose records were good and who happened to live in wards that are usually Republican. The argument of the Republicans that if Hesing and Harlan, the two Independents, had withdrawn, Judge Sears would have won, does not hold good when it is shown that Harrison has a clear majority over all three. The other city tickets in the field cut no figure at all.

There was a joyful demonstration of Democrats on the streets when the result became assured and thousands gathered in front of newspaper offices to cheer as the news was displayed. There were impromptu parades, fireworks and much cannonading of the atmosphere.

Carter Harrison said of the result: "It has been a victory of a united and not a divided Democracy. Gold as well as silver men cast their ballots for me and registered protest against Republican misrule. The workmen were with me."

The late returns indicate that the Democrats will have 39 aldermen out of 68 in the council. Twenty-eight of the Democratic candidates are probably elected out of 34 and with 11 Democratic hold-over aldermen will give that party a majority in the legislative body.

## DEMOCRATIC OHIO.

Enormous Gains in That State.

Chicago, April 6.—A special to The Record from Cincinnati, says: The result of the municipal elections in Ohio yesterday shows Democratic gains. The large cities which gave McKinley such enormous pluralities last November have gone Democratic. McKinley had only 50,000 in the State and all of this plurality came from the cities which to-day went Democratic. Outside of these cities, the State was carried by Bryan last November on the silver issue and the friends of John R. McLean, who is the Democratic candidate for senator, have made much comment on this fact. They claim that McLean will carry the legislature and possibly the State ticket next November on the free silver issue.

In Cincinnati, the home of Senator Foraker, a Republican plurality last year of 20,000 is displaced by a Democratic plurality of over 7,000. In Cleveland, the home of Senator Hanna, the Democrats made large gains, and even the home of President McKinley at Capton, went Democratic. The home of Governor Bushnell at Springfield is strongly Republican, and that city elected a Democratic mayor by over 400.

While the result in Ohio is due largely to the opposition to Geo. B. Cox who had become offensive as a boss the result in the State generally is accredited to dissatisfactions.

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## THE RAGING SALUDA.

THRILLING DESCRIPTION  
OF THE DROWNING OF  
THREE MEN SIX MILES  
FROM GREENVILLE.

Greenville, April 6.—The Saluda River is within its banks again, after being on a boom Monday night and this morning, during which three men were drowned and one mule and two horses perished. Three more men miraculously escaped death after being considerably bruised, and thousands of dollars' worth of bridges were swept away. The dead are John Freeman, white, of Pickens County; Jackson Byrd, colored, of Pickens County; Babe Gillespie, colored, of Greenville County. The wounded are: Claude Hood, William Green and Mr. McDade, all white, of Pelzer. This river has a decided reputation for turbulence and violence, and many drownings and hairbreadth escapes are related of its former sprees. It was fifteen feet above normal at midnight before the last and was out of its banks hundreds of yards on both sides, surging and sweeping by at a terrific speed and frowning and threatening with eddies everywhere. Rising as it does in the mountains, the Saluda, above all other streams hereabouts, is particularly violent after heavy rains. The great incline of its bed and the hilly character of its banks give it remarkable speed and volume. It came within three inches yesterday of smashing all previous records.

The drowning scene was at the Cox Bridge, within six miles of this city. One of the victims was John Freeman, a well-to-do Pickens farmer and a man of family. He perished in the presence of about fifty persons gathered on the Pickens and Greenville banks. The bridge is a large covered wooden structure and its floor is thirteen feet above the normal height of the river. The two abutments are substantially constructed of granite, filled in to the banks with earth. The men who perished were driving from Greenville. The water was rushing over both earthen abutments, about two feet on the Pickens side. The water was about a foot and a half above the floor and six inches more would have sent the whole structure whirling down the river.

The party crossed the bridge in safety. Jeff Davis, colored, in the two-horse wagon with Mr. Freeman, and Bryan was in a cart in front. Bryan crossed the overflowed abutment with ease, but as the wagon reached the Pickens end of the bridge, the mule, the left-hand animal of the team, doubted the propriety of going over the abutment and backed. The lash was applied and then the horse, which was on the left, stepped into a hole about eight inches deep. The mule shied and carried the horse with him a few feet down the embankment of the abutment on his side which was down stream. The negro jumped out and fled to the bank. Mr. Freeman got out into water about waist deep and went to his team and attempted to lead them back on the embankment. But the animals were excited and rearing up, struck Mr. Freeman in the face and sent him under the water and down the stream into water about ten feet deep. The team was swept after him. About fifty feet from the scene of the first trouble Mr. Freeman seized a tree and grabbed his horse's bridle again, and in the struggle went under the second time. The horse got away, and Mr. Freeman went under for the last time. In a few minutes Jackson Byrd and Babe Gillespie were drowned in the same way as Freeman, their teams going off the bridge. Heroic efforts to save them were futile.

The men wounded were hurt by the falling of the Pelzer bridge. The new \$12,000 iron bridge over the Saluda River at Pelzer was swept from its piers on Monday night. The bridge was to have been accepted by the county supervisor on Saturday. The loss falls upon Contractor J. H. Whitner, of Tennessee.

The three white men named above, who were trying to save the bridge, were swept overboard by the flood of water as the bridge went down and narrowly escaped being crushed in the wreckage. The fall of the bridge was due to the undermining of the masonry pier on the Anderson side, within a few hundred feet of the main building of the Pelzer Cotton Mills, and about fifty feet below their dam. This bridge has been the subject of much controversy as to whether Greenville should pay one half the cost of its construction. It was claimed that Greenville was helping to divert trade from her own machines toward those in Pelzer. A new span and pier will have to be built.

Wm Berry was nearly drowned in Saluda River last night, at Easy

Bridge, below Cox's Bridge. His team ran off the abutment and he fell in the water. He managed to get to a tree and sat on a limb all night. A white man named Robert Petty made a heroic effort to save him this morning, and the Knights of Pythias, at a meeting to-night, voted him a medal. Berry was not hurt, but very cold.—News and Courier.

Greenville, S. C., April 7.—The damage by high water in this County is more serious than at first reported. Information received to-day is that the lowest estimates of losses will exceed \$6,000, not including the Pelzer bridge.

Nearly every bridge on the Middle, North and South Saluda Rivers was swept away and hundreds of acres of the richest and most valuable bottom lands in the upper part of the County have been washed barren. The mill dam of Captain Jennings at River View is practically ruined. This was one of the most substantial dams in the State. The water rose twenty feet over the dam, backing ten feet deep over a 100-acre field.

## A Sensation in Darlington.

Darlington, April 8.—Chief Dargan and his assistants have just completed another fine piece of work. Several robberies and some burglaries have recently occurred here, and this morning four men and two women were lodged in jail with indisputable evidence against them. All are colored, and quite a lively scene transpired at the depot to-day when one of the men was captured. He was wearing some stolen clothes and fled when he was approached. Constable Clanton pursued him, though the negro had a long start. As he fled he fired seven shots at Mr. Clanton and the constable returned the fire. No one was hit at first, but the negro got in a ditch and fired his last shot inflicting a painful but not dangerous wound in Mr. Clanton's thigh. Another shot from Clanton struck the negro on the right side of the frontal bone and glanced off, which saved his life.

The negro was captured with the others and all are in jail. The robberies were committed in Florence and Darlington, principally on the trains. Among the articles recovered is a valise marked the Rev. A. S. Willeford, Charleston, S. C.

Richmond, Va., April 7.—Consul General Fitzhugh Lee has written a friend here that he will be unable to leave Cuba April 15, as he expected, and that he will be detained in Havana until the latter part of May or early in June.

General Lee was forced to decline an invitation to deliver an address on Cuba before the United Confederate Memorial Society on April 28.

Washington, April 7.—Secretary Sherman stated to-night that he had assurances that General Rivera, the insurgent leader, would not be executed as a prisoner of war. General Rivera was captured after being wounded in a recent battle, and it was feared for a time that he would be executed by the Spanish authorities for his participation in the rebellion.

There is nothing so good as Dr. King's New Discovery for Consumption, Coughs and Colds, so demand it and do not permit the dealer to sell you some substitute. He will not claim there is anything better, but in order to make more profit he may claim something else to be just as good. You want Dr. King's New Discovery because you know it to be safe and reliable, and guaranteed to do good or money refunded. For Coughs, Colds, Consumption and for all affections of Throat, Chest and Lungs, there is nothing so good as Dr. King's New Discovery. Trial bottles free at Dr. J. E. W. DeLorm's Drug Store. Regular size 50 cents and 1.

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The Best Salve in the world for Cuts, Sores, Ulcers, Salt Rheum, Fever Sores, Chapped Hands, Chilblains, Corns, Sore Eruptions, and positively cures no pay required. It is guaranteed to give satisfaction, or money refunded. 25 cents per box. For sale by Dr. DeLorme.

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