

# The Watchman and Southron.

THE SUMTER WATCHMAN, Established April, 1886.

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

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## WAR IN NICARAGUA.

### AMERICAN MARINES BATTLE WITH REVOLUTIONISTS.

Details Are Not Known, as News From Nicaragua Has Been of Rather Fragmentary Character.

Washington, Sept. 20.—A delayed cablegram from Rear Admiral Southerland, dated Managua, 11 o'clock p. m., September 17, indicates that a battle has been fought between the American naval forces and the rebels at Barrancas, 14 miles south of Managua, and an equal distance from Granada, which the naval expedition was seeking to relieve. The blue-jackets and marines were fired upon by the rebels. Their leaders refused Admiral Southerland's demand to open the way southward and he sent for reinforcements from Managua.

Severe fighting between American naval forces and Nicaraguan revolutionists is believed to have occurred in the past few days near Barranca, although reports from the scene are so meagre that officials here have no definite idea of what has happened. Rear Admiral Southerland is in the field, probably with upwards of 2,000 men, and if plans have not miscarried, by this time he has cleared the route of the national railway of opposing rebels and relieved the famine threatened city of Granada.

European attention to affairs in Nicaragua at this time is believed to be one of the possibilities of the situation. The Washington government in sending relief to the beleaguered city, Granada, populated by many foreigners, had hopes to avert any pretext for landing European military or naval forces on Central American soil.

The British consul general at Managua and the British consul at Matagalpa have reported two British subjects murdered by the rebels at Achuapa. It is expected, however, that the British government, before taking action upon its own account, will await the results of the American campaign. A delayed cablegram from Rear Admiral Southerland, dated Managua 11 o'clock, September 18, and reporting that American blue-jackets and marines were fired upon as they attempted to open the railway, reached the navy department today.

Delayed reports yesterday said the Granada relief party had been fired upon last Sunday; that the officer in command had halted and sent to Managua for reinforcements, and that Admiral Southerland had gone to the rescue with two companies of marines and a detachment of sailors.

Whether or not there was more firing from the rebels before the additional force arrived is not known, but it is possible that the brush referred to in the dispatches received today was the one that took place Sunday.

Upon his arrival at Barrancas Admiral Southerland sent word to Gen. Zeladon, one of the rebel leaders that he proposed to open the railroad to Granada and keep it open, and that he would give the rebels just 24 hours to clear the front.

While Zeladon hesitated Gen. Mena, the principal leader in the revolution, came northward from Granada with another large force of rebels and joined him. After a consultation they sent a formal announcement to Admiral Southerland, announcing their purpose to oppose his advance.

It is not known exactly how many sailors or marines composed the admiral's force at that time, but it is believed that it did not exceed 300 or 400 men. At any rate, in view of the large number of rebels in his front, and unwilling to run the risk of even temporary defeat, the admiral called for reinforcements from Managua, where it is believed there were still about 1,500 sailors and marines available, so as to make sure of overpowering any opposition that the rebels might offer.

Official reports to the State department rarely include such severe language as those which are now issued, dealing with the conditions in Granada, which it is said "are worse than those which existed in the Congo, and the Putumayo." The rebels with unparalleled ferocity have turned upon women and children, and their warfare is characterized by a return to absolute barbarism.

American Minister Wetzel has a letter from Pedro Rafael Guardia, present minister of finance of President Diaz, and from Carlos Culebra, the Nicaraguan member of the claims commission, in which in the name of humanity and civilization, they beg Minister Wetzel to do all that he can to protect their families who are being ferociously persecuted at Granada. They have learned that

## ELEVENTH HOUR CONVERT.

### TEDDY ENTERED PROGRESSIVE VINEYARD AT QUARTER TO TWELVE.

Bryan Points Out That Third Party is Outcome of Taft-Roosevelt Squabble. Praise for Wilson.

Bozeman, Mont., Sept. 20.—Declaring that "when presidents and ex-presidents fall out honest people come into their own," William J. Bryan here today denounced Col. Roosevelt, saying that the former president had come into the vineyard of progressiveness at "a quarter to 12." He denounced the proposed trust control by a bureau as a method advised by George W. Perkins.

Mr. Bryan took issue with Col. Roosevelt's reply at Denver to his statements regarding a third term by saying that if no limit were placed upon the holding of nonconsecutive terms a president easily could elect his successor. He declared that the "steam roller" that had run over Col. Roosevelt at Chicago had been constructed in 1908 and stated that Wall Street had failed to carry out the programme at Baltimore that it had put through at Chicago.

Mr. Bryan attacked President Taft's tariff board policy and said the United States has a president who did not trust the people who had elected him.

Mr. Bryan praised Gov. Wilson as the people's candidate, who "has intelligence, moral courage and sympathy with the people."

## TO BAR AEROPLANES.

### Interparliamentary Union Declares for Interdiction of Use of Flying Machines in Battle.

Geneva, Switzerland, Sept. 20.—The question of the use of aeroplanes in time of war was recommended at today's session of the Interparliamentary union as its approval by the conference, as announced last night, apparently was voted under a misapprehension.

After a long discussion today the resolution introduced by the Belgian minister of State, Auguste Beernaete, interdicting the use of aeroplanes in war, was adopted.

Gustav Ador, president of the international committee of the Red Cross, said that numerous protests had been received from Red Cross workers in the field against the Italians throwing explosive from aeroplanes. He added that the Italians had denied the allegations.

The Italian delegates at the conference supported the proposal introduced by Mr. Beernaete, which also was approved by some of the British and German representatives.

## GUILTY OF MANSLAUGHTER.

### Two Convicted in Lexington for Killing of Adam Watts.

Lexington, Sept. 21.—"Guilty of manslaughter as to Jacob and Govan Watts; not guilty as to James Howell." This was the verdict of the jury who heard the case of the three men charged with the murder of Adam Watts, the 72-year-old brother of Jacob Watts on the 7th of August last. Judge Shipp deferred passing sentence until next week.

Gen. Mena and his agents are persecuting their relatives because they themselves are members of the Diaz government. Their brothers, private citizens, they declare, have been inhumanely tortured, deprived of food and obliged to pay large sums of money for a few crumbs when weakened from lack of nourishment. For an uninterrupted period of five days they were confined in a tiny, filthy closet, three days of which time they were allowed no food and water, so that when let out they were near death. Moreover Col. Daniel Mena, in command of Fort San Francisco, overlooking the town, has threatened to shoot the Cuadra brothers, if the government troops attack Granada. It said that Mrs. Guadra, wife of the minister of finance, is being hunted in Granada in order that she may be tortured.

## Release Many Prisoners.

New Orleans, Sept. 20.—Nicaraguan government troops yesterday captured the courtel at Mazaya and liberated 200 prisoners, according to private cablegrams received here today. It is believed here that Gen. Zeladon and the revolutionary forces have retired to Granada, the revolutionists' stronghold on Lake Nicaragua, where a severe battle will be fought within the next few days.

## PITCHED BATTLE IN MARLBORO

### FIRING UPON HOUSE CONTINUES MOST OF NIGHT.

Dorse English Gets Bullet in Leg. Mrs. W. R. Odom Struck in Arm and House Literally Peppered with Shot — Quarrel Between Norman Odom and Dorse English.

Bennettsville, Sept. 19.—There was a war near Antioch Church in Brightsville, Monday night, in which Dorse English received a pistol ball in his leg, the front of Wm. B. Odom's residence was literally filled with shot, Mrs. Odom was struck in the arm, Norman Odom was struck by small shot and one or more negroes were wounded.

Reports which come from that section of the county, which is ten miles north of Bennettsville, say that on Monday afternoon Dorse English, Brooks English and Tilden Quick went to a saw mill which is operated at Harris Peele's gin by Zack Justice. They got into a difficulty with Justice, and some rough language was used.

Monday night Norman Odom went to the home of Dorse English, called English out and asked him about a debt which Odom claimed English owed him. There was a dispute about it, some hot words and then an exchange of pistol shots. A ball from Odom's pistol struck English in the left leg, inflicting a painful wound. Odom then went home to his father's, Wm. B. Odom.

A little later several unknown persons started out on the war path with shotguns. They passed Justice's saw mill and fired into the seed room, where he and his hands slept. The shot struck one or two of the negroes, but did not seriously wound them. They fired at Oscar Odom, who happened to be passing along the road, and was probably mistaken for Norman Odom. Oscar took to his heels, and escaped without injury.

The party next went to the home of W. B. Odom and commenced bombarding his house. Norman went out into the yard and, from behind a tree, commenced firing in the direction of the flashes of the gun. His mother, fearing for Norman's safety, cracked open the door and called to him to come in. As she did so a gun fired and she was struck in the arm by some of the shot. Some of the shot from the bombarding guns struck Norman's clothes, but did him no harm.

After Norman went back into the house the firing continued most of the night. The residence of Mr. Odom shows the extent of the bombarding, for the whole front of the house is literally filled with shot, which seems to be about No. 6.

No positive evidence has been brought out as to who did the shooting. Rural Policemen Chavis and Peavy and Deputy Sheriff Hubbard went up Tuesday to investigate the matter. Tilden Quick, David Hubbard, Brooks English and Oscar Odom were arrested and carried before Magistrate J. McB. Harley, who released them on bond.

Norman Odom came down and gave bond to Magistrate J. P. Gibson. The whole matter will be investigated and a hearing had as soon as Dorse English is able to appear in court as a witness.

## DETECTIVE REAPS REWARDS.

### Governor of Virginia Pays Baldwin \$2,300 for Capture of Allen and Edwards.

Richmond, Va., Sept. 20.—Gov. Mann today gave Detective W. G. Baldwin a warrant on the State auditor for \$2,300, the amount of the rewards offered for the capture of Sidna Allen and Wesley Edwards, wanted in connection with the Carroll county court murders at Hillsville, Va. The State now has paid a total of \$12,500 in rewards for the capture of various members of the Allen clan.

Detective Baldwin announced that no part of the \$2,300 would be given to Miss Maude Iroter, the sweetheart of Edwards, who unwittingly led the detective to the hiding place of the last two members of the clan in Des Moines, Ia. He asserted that she had not betrayed the men, but said that her father, Frank Iroter, would be offered \$500 of the reward for information which he gave the detectives.

The Board of Registration Commissioners met in Maxeyville Friday to give certificates to any persons of that section who applied for them. The Board will have only one more meeting before the general election and all who wish to vote in the general election must have their registration certificates at that time.

## BANK EXAMINER DECISION.

### PLEASE WITHHOUT AUTHORITY TO REMOVE B. J. RHAME.

State Bank Examiner B. J. Rhame Wins in Contest to Retain Office, His Removal Having Been Ordered by Governor Please Immediately Following Big Bank Failure in Lexington — Opinion by Justice Woods—Points of Decision Noted.

Columbia, Sept. 21.—The Supreme Court, in a decision rendered today, declared that B. J. Rhame is the legal State bank examiner and that the Governor's attempt to remove him was without authority of law and of no effect. "The Governor as Chief Executive has no prerogative control over offices, such as is held by the King of Great Britain. The power of removal from office, therefore, is not an incident of the Executive office and it exists only where it is conferred by the Constitution or by the statute law, or is implied from conferring the power of appointment," declares the opinion of the Court, which was written by Associate Justice C. A. Woods and filed this morning.

It was following the publication of the report of the condition of the Lexington Savings Bank that Governor Please issued a proclamation removing B. J. Rhame from the office of State bank examiner and appointing H. W. Fraser in his stead. Mr. Rhame refused to recognize the right of the Governor to remove him and declined to surrender the office, whereupon ouster proceedings were brought against him by the Attorney General. Mr. W. F. Stevenson appeared for Rhame, while B. L. Abney and G. R. Rembert represented Fraser and presented the Governor's position. The case was first heard by the Supreme Court and then the Circuit Judges were called in and the case argued before an en banc session of the Court. This was in June, and the decision of the Court sustaining the right of Mr. Rhame to the office settles a long vexed and perplexing question.

The opinion delivered by Associate Justice Woods is concurred in by Chief Justice Eugene B. Gary, Associate Justice D. E. Hydrick and Circuit Judges T. S. Sease, George E. Prince, John S. Wilson, H. F. Rice, Frank B. Gary, T. H. Spain. Chief Justice Gary, concurring in the opinion of Mr. Justice Woods for the reason that the law does not provide for the removal of the State bank examiner by the Governor as it does in the case of magistrates.

Dissenting opinions were filed by Associate Justice R. C. Watts and Circuit Judge George W. Gage, both of whom held that the Governor had the authority to remove the State bank examiner.

The opinion of Justice Wood sets forth that not only has the Governor no authority to remove the bank examiner under the Constitution and statute laws of the State, but under the common law he is without such authority.

An interesting excerpt of the opinion is as follows:

"The question then comes to this: When a statute creates an office to be filled by appointment of the Governor and fixes the term for which the appointee shall hold, but confers on the Governor no power of removal, does the Governor, nevertheless, have the power of removal under the Constitution or the statute law of the State or under the common law?"

"Laying aside for the moment the Constitution and the statute law of the State, we consider the common law rule as established by judicial expression. Surely, men of common sense, learned and unlearned, would be surprised to find the law to be that when the legislative department has created an office to be filled by appointment of the Governor and extended and limited its term to four years, yet the Governor could at will shorten the term by removal, although no power of removal has been conferred. Such Executive power is denied by both reason and authority.

"The Governor as Chief Executive has no prerogative control over offices such as is held by the King of Great Britain. The power of removal from office, therefore, is not an incident of the Executive office, and it exists only where it is conferred by the Constitution or by the statute law or is implied from the conferring of the power of appointment.

"The statute law of the State by the strongest implication denies the authority to remove here asserted. Public officers are created for the benefit of the Commonwealth, incumbents have no contracts or property rights in them, and, unless otherwise it be

## STANDARD OIL IS LAWFUL MAGISTRATE

### DECREE OF DISSOLUTION MUST BE FULFILLED.

Department of Justice Studying Methods of Disintegrated Parts, and Investigating all Charges — Taft and Wickersham Believe Decree is Working, but will Take Several Years to Show Real Benefits of Dissolution.

Washington, Sept. 22.—The department of justice is closely watching the workings and methods of the disintegrated parts of the Standard Oil Company, and rigidly investigating all charges that the decree of dissolution entered under the mandate of the Supreme Court of the United States is being violated.

While no general attack on the Standard Oil and its former subsidiaries is contemplated at the present time, the Government has received specific complaints relating to conditions in certain communities. The investigation of these allegations is necessarily localized, confined to the situation in the specific districts. The result of one of these inquiries for instance, was the indictment of John D. Archbold and other Standard Oil magnates at Dallas, Texas, on August 29. In that case the charge was that the Standard was endeavoring to control the oil business in Texas. Since then another inquiry has been started in a different part of the country, but still of a similar local character.

In addition to these investigations, the Government is keeping in close touch with all developments in the pending Standard Oil, Waters-Pierce litigation. While the Federal Government is not a party to the suit, a copy of all the testimony is received by the department of justice for a careful study to determine whether there is any indication that the decree of dissolution is not being faithfully fulfilled.

Attorney General Wickersham is giving these important questions his personal consideration. He is directing the investigations and reviewing the testimony in the Waters-Pierce suit.

## EVANS CHARGED WITH FRAUD.

### Member of Bar and Former Candidate for Attorney General Ordered to Show Cause.

Columbia, Sept. 21.—An order, signed by Judge Gage, has been filed with Sheriff Coleman and served by him directing Bernard B. Evans, a candidate for attorney general in the recent State primary, to show cause before the court to be held in Richland county, October 9, or as soon after as counsel can be heard, why he should not be directed to pay to the Murray Drug company of this city \$103 which he is alleged to have collected for this concern.

It is alleged that Evans collected the bill from T. E. Dowling of Saluda, failed to pay the sum or any part of it to the Murray Drug company,

provided by the Constitution, they are subject entirely to legislative control. Hence, subject to the Constitution, the General Assembly may fix the term, provide for removal, abolish the office, reduce the term, and in every respect control the existence, powers, emoluments, and tenure of public officers. In the exercise of this power the General Assembly has with assiduous care, provided that the removal of every minor and local officers should take place only after indictment and conviction of misconduct, as instance the provisions for the removal of all local officers by Paragraph 388 and Paragraph 389 of the Criminal Code only on trial and conviction; or has provided that they should be merely suspended by the Governor, and be removed only on consent of the Senate, as instance the provision made by the suspension and removal of county auditors and treasurers, Civil Code, 1902, Paragraph 349 and Paragraph 393; or has enacted that they should be removed by judicial decree in a civil action as provided in the article of the code of procedure under which this action was brought.

"When a different policy was intended the tenure has been expressly stated to the subject to removal; as in the case of the dispensary directors and the election commissioners, whose tenure was made subject to removal by the Governor, Criminal Code, 1902, Paragraph 556; Civil Code, Paragraph 206. There is no escape from the conclusion that the Governor has no power to remove the State bank examiner.

## IS LAWFUL MAGISTRATE

### SUPREME COURT RULES GOV.'S ACTION CONTRARY TO LAW.

Greenwood Magistrate, Removed by Governor Please, Wins Before Supreme Court, Being Declared the Lawful Magistrate — How the Judges Voted in Matter—J. N. Canfield was Please's Appointee.

Columbia, Sept. 21.—"Our conclusion is that the attempted removal of Kerr from the office of magistrate was without effect and that he is now, and has been since his confirmation by the State, a lawful magistrate of Greenwood County, and that he, and not McDowell, is entitled to the salary."

This decision has been given by the Supreme Court in the case of B. L. McDowell, against T. C. Burnett, county supervisor, and F. Graham Payne, county treasurer of Greenwood County, and W. H. Kerr, who was confirmed as magistrate by the Senate. The important question presented in this case was whether the Governor of the State has the power, at his discretion, to remove from office a magistrate whose appointment has been confirmed by the Senate. In deciding in the negative the Court says that the duty of the Court to pass on the limitations of the power of the General Assembly or the chief executive of the State is one of great delicacy, to be entered upon with the greatest deliberation and with care to find in the law support for the legislative action or the action of the Chief Executive, if it be possible.

The case arises under a petition filed by B. L. McDowell asking the Court to issue a writ of mandamus, requiring the supervisor of Greenwood County to issue and the county treasurer to pay, a check for his salary as magistrate. An order was made requiring the defendant to show why the writ should not be issued. Afterwards W. H. Kerr was made a party to the action. The case was heard before an en banc session of the Supreme Court.

The opinion in the case was written by Associate Justice Woods. The majority opinion was concurred in by Associate Justice Hydrick, Associate Justice Fraser, and Circuit Judges Prince, Gage, Wilson, DeVore, and Rice.

A dissenting opinion was filed by Associate Justice Watts and concurred in by Chief Justice Gary. There was also a separate dissenting opinion by Chief Justice Gary. Frank B. Gary, Circuit Judge, also wrote a dissenting opinion.

W. G. Austin, whose term of office as magistrate began in 1909, in Greenwood county died during the session of the General Assembly of 1910. W. H. Kerr was appointed and his appointment was confirmed by the Senate at the same session. On March 21, 1911 the Governor wrote Kerr a notice of removal. J. W. Canfield had previously been appointed to Kerr's place by the Governor. In May of 1911 Canfield sent his letter of resignation and B. L. McDowell was appointed. The county officers refused to pay McDowell's salary and an appeal was taken to the Supreme Court with the result that W. H. Kerr was declared to be the legal official.

## ROBBER VISITED Y. M. C. A.

### Pages of Magazine Substituted for \$55,000 Stamped "Y. M. C. A."

Pensacola, Fla., Sept. 21.—The fact that some of the magazine pages substituted for the \$55,000 stolen in transit between this city and Flomaton last Wednesday were stamped "Y. M. C. A." was the only additional information vouchsafed in connection with the robbery today. Whether the magazine was taken from the local Y. M. C. A. or in some other city was not learned. With the arrival of more detectives and special agents today, the investigation shifted from Pensacola to the surrounding country in the hope of obtaining some clue to the thief and the missing money.

An official of the Southern Express Company expressed the belief tonight that an arrest will be made within the next twelve hours.

The County Auditor has almost completed making out tax list for the year and is now putting on the finishing touches. Everything will be in readiness by October 15th when the books are turned over to the County Treasurer and he opens his office for the receipt of taxes.

The cotton compress has been put in repair and is now about ready to open for business.