

The Sentinel.

JOHN TURNER, Jr., Editor.
JOHN SPILMAN, Associate & Local Editor.
SATURDAY, MARCH 25, 1871.

OFFICIAL MISCONDUCT OF JUDGE PEARSON.

It remains to be seen what notice the Legislature will take of the unparalleled conduct of Chief Justice Pearson last winter, in reference to the writ of *habeas corpus* issued by him to George W. Kirk, at the instance of many of the citizens of Alamance and Caswell counties, whom Kirk had arrested without any lawful authority, and in express violation of the Constitution of the State. We think that Judge Pearson is as guilty of high crimes against the Constitution and the liberties of the people as Holden. Indeed Holden could not have done what he did if Pearson had faithfully discharged his duty as Chief Justice. Holden has been justly deposed from office for his crimes, and shall Pearson go unwhipped of justice? We trust not. We insist that it is necessary to the safety of public liberty as well as due to common fairness, that Pearson shall be called to account as well as Holden. If he is not, then we have to say that no satisfactory or reasonable apology can be made to an outraged people for such neglect and unjust discrimination.

The chief grounds of complaint against Judge Pearson, in reference to the matter of *habeas corpus*, are these: On application the writ of *habeas corpus* was issued by him at the instance of Adolphus G. Moore, and directed to George W. Kirk, commanding Kirk to produce before him the body of Moore; the writ was served on Kirk and he made no return of the writ, but, on the contrary, declared he would not, and sent the Chief Justice a most insulting message, declaring that "such papers had played out." Application was then made to the Chief Justice for the writ of *habeas corpus*.

The Chief Justice refused to grant this writ unless Kirk would make some lawful excuse. He made no excuse he did not return the writ, yet Judge Pearson refused to grant the writ of *habeas corpus* at his instance, and on his own motion, and against the protest of counsel of Moore, upon a correspondence with Gov. Holden, asking him if he would sign Kirk's return as his own. This Holden did, and then Judge Pearson said that *habeas corpus* had been granted. This Judge Pearson did in violation of the statute. (See acts of Assembly, 1868-'69, chapter 116, section 15, page 296.) We go further and say that, no precedent to sustain such action can be found in the judicial decisions of England or this country, nor any law like it, and what is more and worse, such a course of action left the citizen in prison and peril of his life without remedy.

The seventeenth section of the same act prescribes a return, either in person, commanding him forthwith to bring before him the party detained; and in the eighteenth section of the same act provides, that the sheriff or other person charged with such process, may take the whole power of the county to enable him to execute the process. In Moore's case, application was made to Judge Pearson for such a process, it was granted, and directed to the marshal of the Supreme Court—but he made no return in the precept that the marshal should show the precept to Gov. Holden, and that he should not do it; and thus again, he deprived the citizen of the means provided by law for the enforcement of the great writ of liberty.

In the opinion of Judge Pearson, in the case of Moore above mentioned, he, by the strongest implication, suggested to Holden that he need not obey the writ of *habeas corpus*, if he thought he ought to detain Moore and others. This, the plainest insult will perceive on reading the opinion. Holden said publicly and repeatedly at the time, through official documents, through the press, and in private correspondence and to the President, that Judge Pearson sustained him in his lawless course. This Judge Pearson will know. Indeed, one of the counsel called the matter specially to his attention, and implored him for the sake of liberty and the judiciary, to correct the impression made on the mind of the Governor and the public. This he refused to do, but on the contrary, he told the correspondents of the New York Tribune, that he and Gov. Holden understood each other and were in perfect harmony. Gov. Holden insisted in the answer to the articles of impeachment against him, that Judge Pearson sustained him, and his counsel so insisted in their argument before the Senate.

These facts cannot be successfully denied, indeed, the records in the *habeas corpus* case show most of them to be true almost to the letter.

Now we undertake to say, that this judicial conduct was not only extraordinary, but unparalleled, and wholly without the sanction of law, and without a single precedent in this country or England to sustain it. It was contrary to the course of the law and manifestly subversive of personal liberty. It shocked the legal profession here and everywhere, and we have reason to know, almost every intelligent lawyer in this State openly condemned it as monstrous and shocking.

Judge Pearson pretended to say that his action was sustained by that of Chief Justice Taney in 1841, in *Merriman's case*. What a shameful perversion of authority in that case, Chief Justice Taney directed the writ to the Commanding General at Fort Mifflin near Baltimore. The General returned the writ with the most deplorable neglect, suggesting that the President had suspended the writ of *habeas corpus*. Then what did Chief Justice Taney do? Did he write to the President and ask him if he would sign the General's return as his own? Did Judge Pearson?

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