THE RALEIGH REGISTER.

J. C. L. HARRIS, Editor.] "Ours are the plans of fair delightful peace—unwarped by party rage to live like brothers." [W. M. BROWN, Publisher.

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THE REGISTER.

R. W. Taylor, First Comptroller of the U. S. Treasury, died suddenly of paralysis on Monday last.

It is proposed to introduce the Moffett Register into the District of Columbia. The matter is now before Congress.

Ex Senator B. F. Wade, of Ohio, is dangerously ill. His recovery is very doubtful.

Gen. Garfield will stump New Hampshire for the Republicans during the campaign now progressing.

Hon. Thoms W. Ferry has been re elected President *protempore* of the U. S. Senate. He is one of the best presiding officers the Senate even had.

Mr. A. W. Beard, has been nominated as Collector of the Port of Boston to succeed Mr. Simmons, whose term has expired. Mr. Beard, was recommended by Senators Hoar and Dawes.

The Collectorship of Customs at New Orleans continues vacant. Williamson's nomination was rejected by the Senate. The President ought to nominate Gov. Packard.

Considering the great hue and cry made over the Electoral fraud, it becomes a matter of importance to consider that the laws of South Carolina, Florida, and Louisiana, which provide a Returning Board, have not been repealed! These States will undoubtedly be counted for the Democrats at the next election without regard to law or evidence.

Illinois Democrats have called a State Convention to be held April 11. A State Treasurer and Superintendent of Public Instruction are to be elected on the general ticket, and a Legislature which will choose a successor to Senator Oglesby. The campaign bids fair to be lively and thorough. There is no reason to doubt a sweeping Republican victory.

Gen. Thomas C. Anderson, one of the Louisiana Returning Board, recently convicted of altering the election return of Vernon Parish, has been sentenced to two years in the penitentiary. The other members of the Board are in jail awaiting for trial. The trial was a farce from beginning to end, and is part of the programme of the White League to stamp out the last vestige of Republicanism in the Pelican State. Appeal will be taken to the United States Supreme Court.

A member of the cabinet expressed the opinion on Monday last, that the President would veto the silver bill, and that Congress would then pass it over his veto. He thought that the President looked for his termination of the matter. He did not believe that the bill would be sent back to Congress for a day or two yet, some time being necessary for the careful preparations of the objections to the bill accompanying the veto.

We are now within five months of the August election at which time three Judges of the Supreme Court, and three Judges of the Superior Court, nine Solicitors, members of the Legislature, and county officers, are to be elected. The campaign will soon open. Republicans throughout the State should use every exertion to increase the circulation of their party papers.

Send one dollar and fifty cents and get THE REGISTER for one year.

RUINOUS ECONOMY.

Recently several genlemen who are eminently qualified for the position of Supreme Court Judge, have written declining to be candidates because they cannot live upon a salary of 2,500 per year. The compensation attached to the highest judicial station in the State, should be sufficiently large to command the best talent in the legal profession. With few exceptions, where appeals are taken to the United States Supreme Court, the lives, liberty, and property of our people are at the disposal of the Supreme Court of this State. We are to have three Judges hereafter instead of five. The smaller the court, the more work for each member. It would be nothing more than right and just if the Legislature would divide the aggregate salary now allowed five Judges, between the three Judges who will constitute the new court. Present expenses would not be increased by so doing, and the salary thus allowed would command the services of the very best lawyers in the State.

VETO!

The message of President Hayes vetoing the silver bill, was read in the House of Representatives on yesterday, (Thursday 28th, ult.)

Although this action of the President is not endorsed by the Representatives of the people in the present Congress, yet we are confident that if the matter should be discussed in all its bearings, President Hayes would be endorsed by a vast majority of the people of the country. The President in his message draws the nice point that the bill fails to protect pre-existing obligations. Such being the case, it is *ex-post facto* in character and would probably be declared, to that extent unconstitutional should the question be taken to our highest tribunal. That such a movement will be resorted to by some of the larger creditors, of the government is asserted in moneyed circles.

In his message the President says:

It has been his earnest desire to concur with Congress in the adoption of the measure to increase the silver coinage of the country, but so as not to impair the obligation of contracts, either public or private, nor injuriously affect the public credit. It was only on the conviction that this bill did not meet that essential requirement that he felt it his duty to withhold from it his approval. The message further states that the capital defect of the bill is that it contains no provision protecting from its operation pre-existing debts. In case the coinage which it creates shall continue of less value than that which was the sole legal tender when they were created, in the judgment of mankind, it would be an act of bad faith. The standard of value should not be changed without the consent of both parties to the contract. The national promises should be kept with unflinching fidelity. He could not sign a bill which would authorize the violation of sacred obligations. The obligation of the public faith transcend all questions of profit or public advantage. Its unquestionable maintenance was the dictate as well of honesty as of expediency, and should ever be carefully guarded by the Executive, by Congress and by the people.

A BOLD STAND.

The News of this city takes bold ground against abolishing the poll tax. The main argument used by this paper is, that the abolition of the poll tax would undermine free public education. The common school system now in force in North Carolina, is a mockery and a disgrace to the people of the State. Schools are not now kept open more than two months during the year; teachers of learning and experience can not be obtained because the school law limits the pay of teachers of the first grade to forty dollars per month. With this state of affairs so far as education is concerned, *The Observer* of this city asks if "some constitutional change cannot be effected by which this money difficulty may be remedied." So it appears that under Democratic rule from 1870 to the present, the school system has gone from bad to worse, until the present common schools of two months duration during the year, are little better than no schools. Poll tax has been collected every year since 1868, and yet we find "the roots of public education" in an advanced state of rottenness and decay. So much dependence is put upon the poll tax and so little realized therefrom, that it is high time that the people who have sons and daughters to educate, should take their own matters into their own hands, and compel the next Legislature to abolish the poll tax and revise the system of taxation so that the constitutional requirement that the common schools shall be kept open at least four months during each year, in each school district, shall be obeyed and not remain a dead letter in the constitution and be violated every day as it is now, because the Legislature will not provide the necessary amount of money to carry out this all important provision of our State constitution. Taxation in North Carolina is less than in any State of the Union; and yet, there is more demagoging by politicians upon this subject than any other question of State policy. These demagogical gentry have a staunch advocate in *The News* of this city.

Having effectually disposed of the educational argument against the abolition of the poll tax, we now await an answer to the other reasons heretofore given in THE REGISTER in favor of the abolition of the poll tax.

THE LATE CHIEF JUSTICE PEARSON.

Memorial to the General Assembly of 1870-'71—His own answer to the Imputations against Him.

MR. EDITOR:—I feel it to be a duty which I owe to the memory of my Father, to hand you for publication the accompanying sheets, written by himself in answer to the grave imputations that were raised against him by reason of his decisions in the Habeas corpus cases of that year.

You will observe that he expresses a desire "to perpetuate the evidence for consideration in calmer times."

I think that the present is an opportune moment to give to the public his answer to the grave charges that were made and believed by many in 1870-'71; and I allow myself to believe that this vindication of his course and motives will be read with interest by every citizen of North Carolina who regards the good name of the State as closely linked with the good name of her public servants.

I am, sir,
Your obedient Servant,
RICHMOND PEARSON.

To the Honorable the General Assembly of North Carolina:

As Chief Justice of the Supreme Court, I respectfully ask that the following memorial be put upon your journal, and that such further action be had in the premises as may seem to be proper.

An imputation of corruption and venality in my official conduct as Chief Justice has been made. It is without the semblance of foundation, but the public mind is at this time excited, and it may be there is now no adequate relief for the grievance. My purpose is to perpetuate the evidence for consideration in calmer times.

In 1868, after being on the bench thirty-two years, I was re-elected Chief Justice on the nomination of both parties, by an almost unanimous vote of the people. This may be assumed to be a sufficient voucher of the estimation in which my official conduct was held up to that date.

The several opinions deliverd by me in the "Habeas Corpus cases" and my correspondence with the Governor are reported (64 N. C. Repts. Appendix). The opinions speak for themselves.

The imputation being in general terms, can only be met by a separate notice of the several particulars on which it is made.

1. In the fall of 1868 I published "an address" setting out my reasons for intending to vote for Gen. Grant; save this exception, if it be one, I have taken no active part in politics, since I had the honor of being Judge. I have never made a political speech—never attended a political meeting—never written a line for a newspaper. In short, have done and said as little about politics as any man in the State. Yet the charge is made I am a partisan Judge.

2. Upon the refusal of Col. Kirk to obey the writs of *habeas corpus in Moore and others, as he said*, by the order of Gov. Holden, the counsel for the prisoners moved for an attachment against Kirk, and for an order to the Sheriff of some county to take the bodies with power out of his custody; and after much excited discussion at the bar, I addressed a communication to his Excellency asking to be informed, if he avowed the order to Col. Kirk? That night, to prevent a repetition of excited discussion, and to confine the counsel to the points on which I desired to hear argument, on the supposition from what was set ont in the affidavit of service, that the Governor would avow his order to Col. Kirk, I drew up four questions, intending to announce them on the coming in of the Governor's reply—if it should be as I expected. The four points were announced on the next morning. This saved delay—I had no communication with Governor Holden directly or indirectly in regard to the matter. So the particular of my acting in complicity with His Excellency has no foundation in fact.

3. On the argument of the motions and the four points, there were five of counsel for the prisoners and one for the State. Being asked by the prisoner's counsel, if he would allow all to address me—I replied "if it be your wish, but it will cause delay." The argument consumed four days. Mr. Moore occupied one day, Mr. Bragg another. The three other counsel, (with Mr. Badger who appeared for the State and spoke about an hour) two days; and it was closed on Thursday. The opinion was written on Friday, and read in Court on Saturday morning. While the argument was going on it was published, "The Habeas Corpus cases hung fire." After the opinion was filled the greatest abuse was hurled at the Chief Justice for the delay—"such a Judge is a curse to the country."

4. In the opinion referred to, two points are made. I decide the first—which is preliminary—in favor of the Governor, to-wit: that under the statute he was authorized to declare a county to be in a state of insurrection, and to arrest suspected persons. I decide the second—which is the main one—against the position taken on the part of His Excellency, to-wit: I declare the law to be, that the privilege of the writ of Habeas Corpus was not suspended, and that it was the duty of the Governor to allow the prisoner to be delivered up to the civil authorities for trial. This prevented a trial by a military court, and ought to have been followed by an immediate return of the bodies of the prisoners. The motion for an attachment against Col. Kirk was not allowed because he had a reasonable excuse—the order of his commander-in-chief. The motion for an order to the Sheriff of some county to take prisoners out of the custody of Col. Kirk was not allowed, and an order was made to the Marshal to bring the prisoners before me, and he was instructed to exhibit the order, together with a copy of the opinion to His Excellency.

This was done for the reason, that under the Constitution all of the physical power of the State is vested in the Executive, and the Judiciary has not the power to call upon the "posse comitatus," especially of a county declared to be in a state of insurrection, or to "accept volunteers" to come in collision with a military force, called into active service by the Executive. As against Col. Mallett or Col. Napier during the war, it was my duty to enforce the writ—I had the power, because I had the Governor to fall back on. But as against the Governor who is commander-in-chief of all able-bodied men in the State, it was otherwise; that is the point—every man unless he shuts his eyes must see it.

I held full conference with the four associate Justices; we all concurred in the opinion, that the power of the Judiciary as against the Governor was exhausted, by declaring the law and leaving the responsibility of declining to obey it upon him; the law was declared in terms as explicit as I was able to use.

But it is said, "I should not have disclosed my want of power!" That is I ought to have tried a hand at bluff, in support of the sacred writ of Habeas Corpus!!!

Such manœuvering is not tolerated by the plain dealing of the law. It was my duty to set out the matter squarely and let his Excellency see that the whole responsibility of refusing to revoke his orders must be assumed by him. This he does in his communication on the receipt of a copy of the opinion. This communication recites that his authority to declare a county to be in a state of insurrection, and to arrest suspected persons, was conceded by me, but it omits to refer to the fact that I *had decided the main point against him*, and thus the action of His Excellency is made to be *in appearance* less at variance with the law as declared by me, than it was in *fact*. Indeed, many persons, upon superficial reading, took up the impression that I had to some extent concurred in the refusal to revoke his orders, and in the delay consequent thereon. To correct this false impression, I take occasion in my communication, fixing the time when I would receive the returns, to say that I had not in any way concurred in the delay, and the whole responsibility rested on His Excellency; yet this false impression is persisted in to bolster up the groundless charge of complicity.

Had I, contrary to my own judgment, and that of the Associate Justices, as to the extent of my power under the constitution, yielding to the popular clamor, usurped power which I knew did not belong to me, made the order and caused a collision, I should have felt that blood was on my hands for the want of moral courage to refuse to make an *illegal* order. Firmness was required to resist the clamor. It could have been yielded to without a very great exhibition of that virtue: receptions and ovations awaited those who sided with men accused of secret murder and other known felonies. I was told, "grant the order and ten thousand volunteers will rush to execute it." Thank God, I had the firmness to stop when I had gone to the extent of my power. I believe some day or other, after prejudice passes away, every one will give me credit for doing my duty without fear or favor. By its proper discharge, trial by military court was prevented. A secret organization, dangerous to the very existence of all government, and making the arm of the civil law powerless, has been exposed, and (I trust) extinguished, and all danger of civil war has been avoided. The delay of a few weeks was a matter of which the responsibility in no wise attaches to me. This is the main particular on which the imputation is put; the others seem to be thrown in as makeweights.

His Excellency in avowing his orders to Col. Kirk, takes the ground, that the public safety did not allow him at that time to allow the writs to be obeyed. Mr. Badger on the argument took the same ground; the prisoner's counsel reiterated "fiat justitia ruat coelum." In the opinion referring to this matter, I express the hope that as evil as times are it was not necessary to resort to that extreme principle, 'salus populi suprema lex." It is charged that the Chief Justice suggested to the Governor to occupy this position. He had already taken it and the object was to induce him to revoke his orders and permit the marshal to execute mine.

When it was known that Mr. Barringer intended to resign his place on the code commission, the Associate Justices informed me it was their wish, and that of many members of the bar, that I should accept the place. After a conversation with the other commissioners I concluded to have nothing to do with it. This was paraded before the public as my motive. This reward I was to receive for complicity with the Governor in refusing to call out an illegal force and for refusing to usurp power which did not belong to me under the provisions of the constitution.

Writs were issued by me in *Wiley and others*, to which the same reply was made. I left Raleigh under the impression, but without any communication with the Governor, that he would at a future day allow the bodies to be returned and the Associate Justices were requested by me to attend when notified of the time, and aid in the examination of the question of probable cause. Accordingly upon an official notice that his Excellency was ready to allow the return to be made, I repaired to Raleigh, as did Justices Dick and Settle, and the return was made. In this I am charged with being a "tool of the Governor!" The responsibility of the delay did not rest upon me. I received the returns because it was my duty to do so. His Honor, Judge Brooks put a rule for an attachment on Colonel Kirk for not making the return to him, but after argument be came satisfied that it was made properly to me, and could not agreeable to law have been made to him, and the rule was discharged. Judge Bond of the Circuit Court, U. S., takes the same view as I did, and overrules His Honor, Judge Brooks, in the matter of jurisdiction. (See opinion in the matter of Bergen.)

The bodies of the prisoners were returned by Col. Kirk, and put into the custody of the Sheriff of Wake at ten o'clock a. m. Mr. Badger had written a general return on one piece of paper. I suggested to him that separate entries should be made on every writ, forty-nine I believe. The entries were not written out, until that evening or the next day—it is charged that the Chief Justice allowed the entries to be *antedated*.

On the examination of the question of probable cause before Justices Dick, Settle and myself in Supreme Court room, the crowd was so dense that the counsel suggested an adjournment to the Senate Chamber or Court house; we adjourned to meet at the Court-house. On Tuesday, finding the room suffocating, the window shashes were removed; on Wednesday, there was a further source of annoyance, workmen were hammering upon a structure some fifty yards from the Court-house, and the witnesses could not be heard; the Marshal was sent to request them to stop; reply: "they were pressed for time and could not stop." The Justices, upon consulation, were of opinion sitting at Chambers, that they had no power to enforce obedience. It was then announced that the next meeting would be at the Supreme Court room to avoid the noise, and that the Marshal would only admit a limited number besides attorneys, parties and witnesses, to avoid suffocation. No objection was made. The examination of *the witnesses on the part of the State* was resumed in the court room. Upon this state of facts, it is published to the country that the Chief Justice was guilty of corruption in office, in this: having heard the evidence against the prisoners in a crowded room; when the prisoner's witnesses were to be heard, he adjourned to the court room and excluded all save a limited number.

I was compelled to go home, and on leaving the Bench, announced that the Justices had concluded there was probable cause developed by the evidence to make the prisoner Tarply liable for the murder of Outlaw, on the principle stated by Mr. Boyden, "When a conspiracy is proved, each individual is liable for the acts of the others done in faith and of a common purpose." Here it had been proved that Tarply was a member of "the order," and at a meeting of two camps had moved the "death sentence" on Caswell Holt. This showed death as well as scourging was a purpose of the order, and would make out his guilt, although it could not be proved that he was present when Outlaw was hung. But as the witnesses had, been examined on a charge of misdemeanor the prisoner had a right to have the evidence all heard *de novo*. If the objection was made, I would adjourn the matter to be heard at my residence, and Tarply must enter into recognizance for his appearance.

Judge Battle thereupon remarked, he had advised his client that according to that principle of law there was probable cause, and it was of no use to go to Richmond Hill to hear the evidence over again. The prisoner entered into recognizance to answer the charge of murder. On these facts it is charged the Chief Justice acted oppressively to one in his power and intended to take him away from his friends where he could not give security.

These are the ten particulars upon which the general imputation of corruption and venality in my official capacity is put.

I submit they do not, taken separately or collectively, make out the semblance of a foundation to justify or excuse the imputation. With high respect,

R. M. PEARSON,
Chief Justice Supreme Court.

Our Humorous Governor.

The following was clipped from a Philadelphia paper of February 26:

A few days since Colonel Bradley T. Johnson, of Richmond, Va., requested permission from Governor Vance for the Walker Light Guard to pass through the State of North Carolina, on their way to Charleston. Governor Vance responded as follows: "Permission granted to pass through North Carolina with your command. Be virtuous and you'll be happy—but you won't have much fun."

Mr. James H. Harris.

This gentleman will, in discharge of the duty devolved upon him by the late State Convention of colored men, held in this city, and by invitation, address the people of New Hanover, Pender, Onslow and other counties, during the second week of March, upon the moral, material and educational interests of the colored people of this State. Notice of time and place will appear hereafter.

U. S. Attorney.

Hon. James W. Albertson has been nominated by the President to the Senate to succeed Hon. R. C. Badger as U. S. Attorney. This is a good appointment and will give general satisfaction. The Senate will undoubtedly confirm the nomination.