

SALISBURY, FRIDAY, AUGUST 26, 1870.

## THE HABEAS CORPUS CASES—RELEASE OF THE PRISONERS.

On Thursday last at about four o'clock, P. M., a number of State troops under the command of Col. Kirk, arrived here on the train from Company Shops, having in charge twenty-one citizen prisoners from the counties of Alamance and Caswell. A large number of citizens of this and other counties had assembled to witness their arrival. It is gratifying to us to hearle to state that, though deep feeling pervaded the throng, there were no disorderly demonstrations, but calm solicitude throughout. The prisoners were marched to the Town Hall where a repast had been prepared for them by the good people of Salisbury.

His Honor Judge Brooks, took his seat upon the bench at 5 o'clock, and announced that he was ready to proceed with the cases. Mr. Boyden, one of the counsel for Col. Kirk, asked until the next morning at 10 o'clock to prepare returns to the several writs, proposing that, in the mean time, the prisoners be permitted to go at large on their own recognizances. His Honor stated that though the ten days allowed by the law for making the returns had elapsed, yet he was not disposed to act hastily and would grant the request. His Honor also issued additional writs for a number of other prisoners who had been arrested since the writs now returned were issued.

The Court met at ten o'clock on Friday morning, on motion of Mr. Blackwell, Marshall H. Pinckney, Esq. of Lexington, was admitted to practice as an attorney and counselor in the court. We also observed the following members of the bar in attendance: besides the counsel in the case, Z. B. Vance, J. M. Clement, Jos. H. Wilson, Kerri Crigde, H. C. Jones, Frank C. Robins, R. M. Allison, Charles M. Steadman, Jas. A. Graham, R. Y. M'Aden, Wm. J. Montgomery, F. E. Stoker, W. M. Robbins, Paul Means, Burton Cradge, Benton Withers, John S. Henderson, James E. Kerr, Ralph Gorrell, James T. Morehead, Jas. Col. John A. Gilmer and Col. John M. Long.

For the proceedings on Friday the reader is referred to the report on our first page, which we hereby correct by stating more clearly, that in all the cases except those of Mr. Turner, against whom it was admitted that there was no legal evidence, and W. S. Bradshaw, and two or three others, who had been discharged before the service of the writs, and those who were delivered to Judge Pearson at Raleigh, the counsel for Col. Kirk asked time to produce the evidence, which Col. Kirk claimed to have against the prisoners, and which request his Honor refused on the ground that they had already had sufficient time.

With the discharge of these prisoners we hope and believe that these unlawful military arrests and detentions will cease. Since the foundation of the government no similar spectacle has ever been presented to the view of the people of North Carolina, and it is to be hoped, never will be again. The fact that the people have submitted quietly and peacefully to the depredations and lawless arrest and detention of so many of the most respectable citizens of the State by a rascally soldiery, should forever dispel the charges of lawlessness preferred against them as a people. The people are tired of war and long for peace.

We have not a word to say in justification of the murderers of Outlaw and Stevens, whenever they may be, nor of any secret political organization whatever. But none of these things at all affect the great principles of civil liberty involved in the recent proceedings. The cause of a guilty man may sometimes become the cause of every good citizen and every friend of civil liberty in the State. We do not know that there is a particle of evidence against any of the prisoners that have been unlawfully arrested and detained by Kirk and Burgen. Against a number of them it is admitted that there is none at all. But if there be sufficient evidence to justify the arrest and examination of them, let them now be arrested on a civil warrant and undergo an examination before a civil magistrate. To this no good citizen, not even the accused parties themselves, will object. Indeed, it is what all good citizens desire.

**THE STONE WHICH THE BUILDERS REFUSED IS BECOME THE HEAD STONE OF THE CORNER.**

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With great respect,  
Your ob't servant,  
W. W. HOLDEN,  
Governor.

**REPLY OF CHIEF JUSTICE PEARSON.**  
RALEIGH, August 18, 1870.  
To His Excellency Gov. Holden:

DEAR SIR.—Your communication of the 15th inst., was handed to me by Mr. Neatherly, I will be in the Supreme Court Room at 10 o'clock A. M., inst., to receive the return by Col. Kirk of the bodies of A. G. Moore, and the others (in whose behalf writs of habeas corpus have heretofore been issued by me) together with the cause of their capture and detention.

With great respect,  
Your ob't servant,  
R. M. PEARSON, Ch. J. S. C.

On Thursday, of last week, F. A. Wiley and others were brought before Chief Justice Pearson on the writs of habeas corpus, referred to in the above correspondence. L. P. Olds, Esq., appeared for the State and Messrs. K. P. Battle, R. H. Battle, and Messrs. Watt and Winston for the prisoners.

R. H. Battle, Esq., on behalf of the defence submitted the following motion:

HON. R. M. PEARSON, &c., At Chambers, Ch. J. S. C., Aug. 18, 1870.

In the matter of the several petitions of John Kerr, Samuel P. Hill, N. M. Roan, Robert Roan, F. A. Wiley, and others, for writs of habeas corpus, your Honor having stated in the opinion rendered in the several cases bearing date August 2d, 1870, that your power was exhausted, and said petitioners in consequence thereof, abiding themselves without remedy from the judiciary of the State, having obtained writs of habeas corpus from Hon. G. W. Brooks, Judge of the District Court of the United States for the District of North Carolina, returnable before him at Chandlers in Salibury this day, ascertain the said prisoners, and on behalf of our associate counsel, we respectfully ask leave for the said prisoners respectively, to withdraw their said petitions, and to do hereby abandon further proceedings under the writs, in their several cases.

WM. H. BATTLE & SONS.

Counsel for Petitioners.

The case was then adjourned till Friday, the prisoner Wiley being remanded to the custody of the civil law.

Yesterday morning the case was resumed and Chief Justice Pearson allowed the application for the withdrawal of the writs.

The Attorney General then renewed his motion to go into an examination of the testimony against the prisoners on the charge of the homicide of John W. Stevens.

Chief Justice Pearson read his decision as follows:

STATE OF NORTH CAROLINA, &c., AT CHAMBERS, Aug. 19, 1870.

STATE ESQ. WILEY.

The motion on the part of the prisoner to enter a nolle prosequi, or retract, was allowed. The proceeding has taken a turn for which my experience and the labor of the learned counsel furnish no precedent.

Upon a "common sense" view of the question, I can see no reason why the prisoner, if so advised, should not be allowed to withdraw his application.

The Attorney General, anticipating the course that would be taken on the part of the prisoner, has applied for and obtained a bench warrant. This cuts off all collateral questions and reduces the matter to this. If probable cause can be made out on the part of the State, I shall commit the prisoner for trial in the due course of law; if probable cause can not be shown, I shall discharge him.

I hope it is not necessary, but from what I see in the newspapers, I think proper to say, "Enter upon this investigation of the question of probable cause" with a single eye to truth and justice."

It was said by Mr. Battle of counsel for the prisoner, that upon information I was obliged to take notice of the fact that the prisoner had made application to his Honor, Judge Brooks,

for a writ of habeas corpus, which his Honor had granted. That is true, but I am so entirely satisfied that his Honor has no jurisdiction to pass upon a charge of murder and to bind prisoners over for a trial before the State Courts, that I take the responsibility of proceeding on this bench warrant without fear of any conflict of jurisdiction. The prisoner is now out of the hands of the military and in the hands of the civil authority, and will be dealt with according to law.

Now we have plain sailing; if there be "probable cause" against the prisoner, let the State prove it.

No more need be said about the manner in which the military was organized, or a traversal of the fact declared by his Excellency, that the County of Caswell was in a state of insurrection. PEASON, C. J.

On Saturday the counsel for the State moved for bench warrants against A. G. Moore, J. T. Mitchell, Joseph R. Fowler, S. P. Hill, F. A. Wiley, Felix Roan, and L. M. Totten charged, on the affidavit of Col. George W. Kirk, of being guilty of the murder of John W. Stephens, and of conspiracy, &c. The counsel for the prisoners resisted the application on the ground of insufficient evidence, and asked for a postponement of the matter till Monday. Chief Justice Pearson accordingly postponed the matter till Monday.

Robert Roan, John Kerr, J. C. Griffith, Yaney Jones, A. G. Yancey, Peter H. Williamson, B. Graves, W. B. Bowe, and J. M. Neal were discharged for want of evidence.

On Monday the objections urged by Judge Merriman against the sufficiency of the affidavit on which the bench warrants were granted was withdrawn, and the preliminary examination of Wiley commenced. Dr. Roome and several other witnesses were examined on Monday and Tuesday. Their testimony is reported at length in the Raleigh papers, but is entirely too long for our columns. Nothing was elicited against the prisoner on Monday and Tuesday beyond a single circumstance, which, unconnected with other circumstances, proves nothing. The circumstance proved is, that about 4 o'clock in the evening, while Mr. Brown was speaking, the prisoner, Mr. Wiley, went to Mr. Stevens, touched him with his hand and said, "Let's go down." The two, according to the evidence of W. H. Stevens, and a colored man, went down stairs together, and about two minutes thereafter were followed by two other men, named Fowler and Hubbard. This is merely a circumstance which, by itself, proves nothing at all. Whether the State will succeed in connecting it with other circumstances so as to form a chain of evidence that will fasten conviction upon the mind remains to be seen.

P. S.—Just as we are going to press we learn that Judge Pearson has released Mr. Wiley.

**THE SITUATION IN EUROPE.**

Commencing on the 14th inst., there has been a series of engagements between the armies of the European belligerents. For several days it was doubtful, from the conflicting telegraphic reports, which party was victorious. But all doubts have at length been dispelled. That the Prussians have brilliantly executed a plan conceived by splendid military genius, and gained a series of brilliant victories is now certain. The French have abandoned Chalons, and, crossing the Marne, have so posted themselves as to prevent, if possible, the passage of that river by the Prussian army. They have made a series of continued retreats that would be sufficient to paralyze the energies and dampen the spirits of the best army in the world. The Prussians, if they intend to press on to Paris, as they probably do, will, of course, flank the positions occupied by the French on the banks of the Marne, and compel another retrograde movement by Napoleon.

John A. Moore, being duly sworn, deposes and says: I joined an organization known as the White Brotherhood, at Company Shops, sometime in the Spring of 1866. The obligations were administered to me near my house about 9 o'clock in the night. The obligations were administered partly by \_\_\_\_\_, and others who are not remembered. I was requested on the night in which I joined the organization to meet the Klan in \_\_\_\_\_ place thick on a certain night, at which time I would be further admitted into the secrets of the order. I was called to a so-called meeting on that night and did not go. In place of meeting until they were breaking up, I never attended any other meetings or had anything to do with the council or proceedings of the Klan. I do not know of the individuals who hung Outlaw or those who have committed the other outrages in Alamance. I know this much in regard to the attempt to assassinate Senator Shoffner. On the 6th day of January, 1870, I saw J. E. 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