

done with them that they will find that they have played at the wrong game throughout.

When we express our indignation in terms scarcely adequate to the outrage, what answer do they make to us? The answer they give this day is, that we are shut out from looking at the truth—that we cannot go behind the papers that they have brought into court, but must remain in jail until discharged by the grand jury. It is useless to cite authority on a question like that. Common sense tells us that it would be a libel on the age and country in which we live to allow such principle to prevail.

At the conclusion of Mr. Horwitz's argument, the court took a recess for one hour and a half. Upon the reassembling of the court, at 3 o'clock, Mr. Schley gave the usual notice to counsel on the other side of several legal authorities he proposed to use in concluding the argument of the case.

ARGUMENT OF MR. ROGERS.

Alexander Rogers, Esq., the deputy State's attorney for Baltimore city, said he felt a grave responsibility in appearing to represent the State, and but that able counsel were associated with him, he should regard it as a fearful responsibility for him to assume. He thought that it was only necessary to show the court that the commitments had been made out properly and emanated from a proper court; that the question would be examined as to the jurisdiction of the judge sitting in habeas corpus. The old law said that if there were errors in the returns, the remedy was by an action for perjury. The rule was afterwards changed, so that when the return was traversed, an examination *ex parte* could be gone into. He maintained that the court could not review a writ of habeas corpus, unless the court had criminal jurisdiction. He denied the power of a judge to go behind a warrant of commitment, and quoted and commented upon a long list of authorities to show that the precedents in Maryland were in conflict with the fixed and established rules of law. The action of a judge cannot be reviewed on a writ of habeas corpus—the discretion of a judge in the case cannot be reviewable. Mr. Rogers expressed his regret at entering upon an almost boundless field of discussion, but it was unavoidable. The counsel on the other side have sufficiently indicated by their manner and unfavorable opinion of the motives of the district attorney and himself in the course they had pursued, but he had no reason to distrust the correctness of the legal opinions which they had given in the matter. He believed that by their action they had saved the country from the horrors of a civil strife, which would have been awful to contemplate. However much their motives may be impugned, they have the