

Board of Police. I think I have shown sufficient cause why this writ of *habas corpus* should be quashed, and I will not dwell upon this point.

#### ARGUMENT OF MR. SCHLEY.

Mr. Schley, Esq., said, "before I proceed to discuss the respective cases now under examination, I propose very briefly to discuss the duties and powers of local judges in respect to the writ of *habas corpus*. It is perfectly unimportant to consider what were the duties of judges in England in early times: which have been so elaborately discussed on the other side. It was the duty of your Honor to grant the writs in the cases before you, otherwise you would have been liable in a penalty of \$500, at suit of the parties making application. The parties are before you, and we are to consider what *now* are your duties, and powers under the law. Mr. Schley then read the state law of Maryland on the subject, which requires that a judge shall immediately inquire into the cause of the caption and detention of the parties imprisoned, and that he shall discharge them upon insufficient cause. Also, that a party may controvert the return, or plead any matter, and summon witnesses to testify in relation to it. The argument on the other side, although, under the law, you may hear the evidence of witnesses, that their testimony is to be disregarded, and you must remand the prisoners into custody.

Is that the meaning of the law? That you cannot go behind the return to show that the charges are false. Such a narrow construction of the law was never designed and never claimed. If this could be done, the writ of *habas corpus* would be undeserving of the eulogies which have ever been pronounced upon it as the safeguard of every citizen to his freedom and liberty.

Mr. Schley hoped that political feeling or bias will never enter into any court or influence its decision. He would retire from practice in any case where he had reason to believe that political feeling would bias the result.

The Governor's opinion of his power to remove the Police Commissioners is concurred in almost unanimously by the legal profession and by a large preponderance of the voters of the city.

He next referred to the case of Sheriff Thompson. The Judge of the Criminal Court had no right to issue the warrant for his arrest without oath or affirmation except upon view. Did Judge Bond act upon view? Could he see through the walls of the court house? It is absurd to say he acted "upon view." The grand jury were in session, and could have indicted the parties had there been *ex parte* testimony to justify their action.

Every man, before commitment, must hear the charges