

Law Office

of.

D. L. Russell

WILMINGTON, N. C. January 28, 1892

Dear Sir:-

Yours just received. The case you want, I suppose, is
Ex parte Royal, 117 U.S.
They held that wherever an arrest was made in
the state by an agent or officer of the state, acting under ~~the~~ a
state ~~Constitution~~ *statute*, and the petitioner alleges that such statute is
unconstitutional, then the Federal courts will take jurisdiction
by Habeas Corpus, which of course will be heard first by the
Circuit court or a judge thereof and then by appeal to Washington.
It would seem that this was getting very far towards grasping *federal*
jurisdiction. If a state statute violates the Federal Constitu-
tion then all acts under it are void. If the sheriff who makes
the arrest is a trespasser and is guilty of false imprisonment
and assault and battery, why should he differ from any other person
who commits a breach of the peace in the state, and how can the
U. S. Court take jurisdiction of this kind of assault committed
within state lines, and if the imprisonment of the petitioner
may be inquired of by the U. S. court, why should not the crime of

One in U.S. that has not & never had a Party. The other Southern Cir. got one by the Kullback victory of 1874.

Suppose you run down & see us & bring Mrs. J. -
It would help you.

assault and false imprisonment be tried and punished by the same jurisdiction provided Congress enacts it.

For some such reasons as these I suppose, Bond ruled against the jurisdiction, but on appeal they over-ruled it and so settled the question.

Yours truly,

D L Russell

Did you ever doubt that old Brooks flagrantly violated the rights of the States, and when he discharged the Kullback, what right had he to enquire into the kidnapping of old Kern any more than he had to usurp the police power of the States by entertaining indictments for assault and forgery? But don't you above care look a little like justifying the old fool?

I wish you would write Harrison to warn him against appointing a Southern Rep. to Sup. Court. If he is not satisfied that they are indigible he should look at the Constitution. If that does not settle it then let the President's will. This Circuit is the only