

Chap. 8.

Published, February 23, 1857.

AN ACT relating to the writ of Habeas Corpus to persons claimed as Fugitive Slaves, the right of trial by jury, and to prevent kidnapping in this State.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Power of County Courts.

§ 1. The [same] power is hereby given to, and the same duties imposed upon the judges of the County Courts of the several counties in this State which are given to and imposed upon the judges of the Circuit and Supreme Courts by the constitution and laws of this State, for the purposes hereinafter provided

Duty of District Attorneys.

§ 2. It shall be the duty of the district attorneys, within their respective counties, whenever any inhabitant of this State is arrested or claimed as a fugitive slave, on being informed thereof, diligently and faithfully to use all lawful means to protect, defend and procure to be discharged every such person so arrested or claimed as a fugitive slave.

Authority for issuing writ of Habeas Corpus.

§ 3. The application of any District Attorney, in writing, to any one of the Judges of the Supreme Court, or to any Judge of the County or Circuit Courts, signed by said District Attorney in his official capacity, stating, in substance, the name of the person, and the name of the person detaining him or her, if known, and that the person arrested, claimed and imprisoned as a fugitive slave, shall be sufficient authority to authorize the issuing of the writ of habeas corpus, as provided in chapter one hundred and twenty-four of the Revised Statutes of Wisconsin, and said writ may be signed by any one of the said Judges, or by the Clerk of the Supreme or Circuit Court; and said writ shall be made returnable before either the Circuit or County Court, when in session, in the County where such application is made, and in vacation said writ may be made returnable forthwith before either of the Judges aforesaid.

Duty of Judicial and Executive Officers.

§ 4. It shall be the duty of all judicial and executive officers in this State, in their respective counties, who shall know or have good reasons to believe, that any inhabitant of this State is about to be arrested or claimed as a fugitive slave, forthwith to give notice thereof

to the District Attorney of the county in which such person resides.

§ 5. Whenever the writ of habeas corpus is granted in vacation, as provided in this act, or as provided by existing laws, if upon the hearing of the same before any one of the judges aforesaid, the person imprisoned, arrested or claimed as a fugitive slave shall not be discharged, such person shall be entitled to an appeal to the next stated term of the Circuit Court in the County where such hearing was had, on furnishing such bail, and within such time as the judge granting the writ, on hearing the case, shall adjudge to be reasonable and proper.

When granted in vacation.

§ 6. The Court to which such appeal is taken, and any other Court to which a writ of habeas corpus in behalf of any person claimed or arrested as a fugitive slave is made returnable, may and shall, on the application of either party to such proceedings, allow and direct a trial by jury on all questions of fact in issue between the parties in the matter aforesaid; and the taxable cost of such trial shall be chargeable to the State, whenever the same would be otherwise chargeable to the person arrested or claimed as a fugitive slave.

In cases of appeal.

§ 7. Every person who shall falsely and maliciously declare, represent or pretend that any free person within this State is a slave, or owes service or labor to any person or persons, with intent to procure or to aid or assist in procuring the forcible removal of such free person from this State as a slave, shall pay a fine of one thousand dollars, and be imprisoned in the State Prison not more than five nor less than one year; *Provided*, That nothing in this act shall be construed as applying to any claim of service from an apprentice for a fixed time.

Fine for representing that any free person is a slave.

§ 8. No declaration, representation or pretence that any person being or having been in this State is or was a slave, shall be deemed proved, except by the testimony of at least two credible witnesses, testifying to facts directly tending to establish the truth of such declaration, representation or pretence, or by legal evidence equivalent thereto; and any person who, upon any trial arising under this and the foregoing section, shall falsely and willfully represent or pretend, with intent to aid any party accused under this act, that any person was or is a slave, or owes or did owe service or labor to any person or persons, shall pay a fine of one thousand dol-

Two witnesses required to prove that a person is a slave.

lars and be imprisoned in the State prison not less than one year.

Depositions not received.

§ 9. On the trial of any prosecution arising under this act, no deposition shall be received as evidence.

Punishment for obstructing an officer.

§ 10. Every person who shall obstruct any officer in the service of any warrant issued in accordance with this act, or who shall aid in the escape of any person accused under sections seven and eight of this act, or who shall aid in the escape of any person accused under said sections seven and eight, while pursued by such officer, or in his custody, shall be imprisoned in the State Prison not less than one year.

Judgements under Fugitive slave act not a lien.

§ 11. No judgment recovered against any person or persons for any neglect or refusal to obey, or any violations of the act of Congress, commonly termed the Fugitive Slave Act, approved September 18th, 1850, or any of the provisions thereof, shall be a lien on any real estate within this State, nor shall any such judgment be enforceable by sale or execution of any real estate, or personal property within this State, but all such sales shall be absolutely void, and in case of seizure or sale of any personal property by virtue of any execution issued on such judgments, the defendant in said execution may maintain an action of replevin or other action to secure possession thereof in the manner provided by law for such actions on affidavit filed as required by law, and a further statement therein, that said execution issued in a judgment rendered under the provisions of the act of Congress aforesaid, and the provisions of this section shall also apply to judgments heretofore rendered.

§ 12. This act shall be considered a public act, and shall be construed favorably by all Courts, and in all places, and shall take effect and be in force from and after its passage.

Approved, February 19, 1857.