

No. 44.

AN ACT to provide for the appointment of agents to demand fugitives from justice and for issuing search warrants.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin,* That when ^{Search warrants for property stolen, &c.} a complaint shall be made, on oath, to any magistrate authorized to issue warrants in criminal cases, that personal property has been stolen or embezzled or obtained by false tokens or pretences, and that the complainant believes, that it is concealed in any particular house, or place, the magistrate, if he be satisfied, that here is reasonable cause for such belief, shall issue his warrant to search for such property.

SEC. 2. Any such magistrate when satisfied that there is ^{Search warrants.} reasonable cause, may also upon like complaint made on oath, issue search warrants in the following cases to wit:

1st. To search for and seize any counterfeit or spurious coin, ^{For counterfeit coin, notes, &c.} forged bank notes, and other forged instruments, or tools, machines, or materials, prepared or provided for making either of them.

2d. To search for, and seize, any books, pamphlets, ballads, ^{For obscene books and prints.} printed papers, or other things, containing obscene language, or obscene prints, pictures, figures, or descriptions, manifestly tending to corrupt the morals of youth, and intended to be sold, loaned, circulated, or distributed, or to be introduced into any family, school, or place of education.

3d. To search for and seize lottery tickets, or materials for a ^{For lottery tickets, &c.} lottery, unlawfully made, provided, or procured for the purpose of drawing a lottery.

4th. To search for and seize any gaming apparatus, or implements used, or kept and to be used, in unlawful gaming, in any ^{For gaming apparatus.} gaming house, or in any building, apartment or place, resorted to for the purpose of unlawful gaming.

SEC. 3. All such warrants shall be directed to the sheriff of the county, or his deputy, or to any constable of a town, ^{Warrant, how directed.} commanding such officer to search the house, or place where the stolen property or other things, for which he is required to search, are believed to be concealed, which place and property, or things to be searched for, shall be designated and described in the warrant, and to bring such stolen property, or other things, when found, and the person, in whose possession the same shall be

found, before the magistrate who issued the warrant, or before some other magistrate, or court, having cognizance of the case.

How served.

SEC. 4. When any officer, in the execution of a search warrant, shall find any stolen or embezzled property, or shall seize any other things, for which a search is allowed, in this statute, all the property and things, so seized, shall be safely kept by the direction of the court or magistrate, so long as shall be necessary for the purpose of being produced as evidence on any trial, and as soon as may be, afterwards, all such stolen and embezzled property shall be restored to the owner thereof, and all other things seized by virtue of such warrant shall be destroyed, under the direction of the court or magistrate.

Things found
how disposed of.

Fugitives from
justice how de-
manded.

SEC. 5. The Governor of this Territory may, in any case, authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other territory or state, any fugitive from justice, or any person charged with felony or any other crime, in this Territory, and whenever an application shall be made to the Governor for that purpose, the district attorney, or any other prosecuting officer of the Territory, when required by the Governor, shall forthwith investigate the grounds of such application, and report to the Governor all material circumstances which may come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand; but the Governor may, in any case, appoint such agents without requiring the opinion, or any report from the district attorney, and the accounts of the agents, appointed for such purpose, shall, in all cases, be audited by the Governor and paid from the Territorial Treasury.

Proceedings on
such demand
from other Ter-
ritories or States.

SEC. 6. When a demand shall be made upon the Governor of this Territory, by the Executive of any other Territory or State, in any case authorized by the constitution and laws of the United States, for the delivery over of any person charged, in such Territory or State, with treason, felony, or any other crime, the district attorney, or any other prosecuting officer of the Territory, when required by the Governor, shall forthwith investigate the ground of such demand, and report to the Governor all material facts which may come to his knowledge, as to the situation and circumstances of the person so demanded, especially whether he is held in custody, or is under recognizance to answer for any offence against the laws of this Territory or of the United States, or by force of any civil process, and also whether such demand

is made according to law, so that such person ought to be delivered up, and if the Governor is satisfied that such demand is conformable to law, and ought to be complied with, he shall issue his warrant, under the seal of the Territory, authorizing the agents, who make such demand either forthwith, or at such time as shall be designated by the warrant, to take and transport such person to the line of the Territory, at the expense of such agents, and shall also, by such warrant, require the civil officers within this Territory, to afford all needful assistance, in the execution thereof.

SEC. 7. Whenever any person shall be found within this Territory, charged with any offence, committed in any other Territory or State, and liable by the constitution and laws of the United States, to be delivered over upon the demand of the Executive of such other Territory or State, any court or magistrate, authorized to issue warrants in criminal cases, may, upon complaint under oath, setting forth the offence, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same, or some other court or magistrate, within the Territory, to answer to such complaint as in other cases.

Persons from other territories and charged with offences, arrested.

How dealt with.

SEC. 8. If upon examination of the person charged, it shall appear to the court or magistrate, that there is reasonable cause to believe, that the complaint is true, and that such person may be lawfully demanded of the Governor, he shall, if not charged with a capital crime, be required to recognize with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the Executive, and to abide the order of the court or magistrate, and if such person shall not so recognize, he shall be committed to prison, and be there detained until such day, in like manner, as if the offence charged had been committed within this Territory, and if the person so recognizing shall fail to appear, according to the condition of his recognizance, he shall be defaulted, and the like proceedings shall be had as in the case of other recognizances entered into before such court or magistrate, but if such person shall be charged with a capital crime, he shall be committed to prison, and there detained until the day so appointed for his appearance before the court or magistrate.

SEC. 9. If the person so recognized or committed, shall appear before the court or magistrate, upon the day ordered, he

When to be discharged.

shall be discharged, unless he be demanded by some person authorized by the warrant of the Executive to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize, anew, for his appearance at some other day, and if, when ordered, he shall not so recognize, he shall be committed and detained, as before provided, that whether the person so charged shall be recognized, committed, or discharged, any person, authorized by the warrant of the Executive, may, at all times, take him into custody, and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape:

When delivered up.

Expenses to be paid by complainant.

SEC. 10. The complainant, in such case, shall be answerable for all the actual costs and charges, and for the support, in prison, of any person so committed, and shall advance to the jailor one week's board, at the time of commitment, and so from week to week, as long as such person shall remain in jail, and, if he fail so to do, the jailor may forthwith discharge such person from his custody.

Conditional pardons in case, &c.

SEC. 11. In all cases in which the Governor is authorized to grant pardons, he may, upon the petition of the person convicted, grant a pardon upon such conditions, and with such restrictions, and under such limitations as he may think proper, and he may issue his warrant, to all proper officers, to carry into effect such conditional pardon, which warrant shall be obeyed and executed instead of the sentence, if any, which was originally awarded.

Warrant for how served and returned.

SEC. 12. Whenever any convict is pardoned by the Governor, or his punishment is commuted, the officer to whom the warrant for that purpose is issued, after executing the same, shall make return thereof, under his hand, with his doings therein, to the Governor, as soon as may be, and he shall also file with the clerk of the court, in which the offender was convicted, an attested copy of the warrant and return, a brief abstract whereof the clerk shall subjoin to the record of the conviction and sentence.

Approved, January 13th, 1840.