

FREEDOM.

30 Dec. 1824 AN ACT to enable persons held in slavery to sue for their freedom.

Persons held in slavery, how permitted to sue.

SEC. 1. *Be it enacted by the General Assembly of the state of Missouri,* That it shall be lawful for any person held in slavery to petition the circuit court, or the judge thereof in vacation, praying that such person may be permitted to sue as a poor person, and stating the ground upon which his or her claim to freedom is founded; and if, in the opinion of the court or judge, the petition contains sufficient matter to authorize the commencement of a suit, such court or judge may make an order that such person be permitted to sue as a poor person to establish his or her freedom, and assign the petitioner counsel,—which order shall be endorsed on the petition. And the court or judge shall, moreover, make an order that the petitioner have reasonable liberty to attend his or her counsel and the court, when occasion may require; and that the petitioner shall not be taken or removed out of the jurisdiction of the court, nor be subject to any severity because of his or her application for freedom,—which order, if made in vacation, shall be endorsed on the petition, and a copy thereof endorsed on the writ and served on the defendant.

Order to prevent removal or improper restraint of petitioner.

In case of improper restraint, severity, treatment, &c.

Court or judge to issue habeas corpus, and require recognizance of defendant

SEC. 2. *Be it further enacted,* That if the court, or the judge thereof in vacation, shall be satisfied, at the time of the presenting the petition, or at any time during the pendency of any suit instituted under the provisions of this act, that any petitioner hath been or is about to be restrained by any person from reasonable liberty of attending his or her counsel or the court, or that the petitioner is about to be removed out of the jurisdiction of the court, or that he or she hath been or is about to be subjected to any severity because of his or her application for freedom, or that any order made by the court or judge in the premises as aforesaid has been or is about to be violated, then and in every such case, the court, or the judge thereof in vacation, may cause the petitioner to be brought before him or them by a writ of *habeas corpus*; and shall cause the defendant, or the person in whose possession the petitioner may be found, his or their agent, to enter into a recognizance, with a sufficient security, conditioned that the petitioner shall at all times during the pendency of the suit have reasonable liberty of attending his or her counsel, and that such petitioner shall not be removed out of the jurisdiction of the court wherein the action is to be brought or is pending, and that he or she shall not be subjected to any severity because of his or her application for freedom,—which recognizance shall be recorded or filed among the records of the court,

and be deemed and taken to all intents and purposes to be a record of such court. But if the party required to enter into a recognizance as aforesaid shall refuse so to do, the court or judge shall make an order that the sheriff take possession of the petitioner and hire him or her out to the best advantage, from time to time, during the pendency of the suit; and that he take a bond from the person hiring the petitioner, in such penalty as the court shall in such order direct, and with such security as the sheriff shall approve, conditioned as directed in the recognizance of the defendant, and moreover that he will pay the hire to the sheriff at the time stipulated, and return the petitioner at the end of the time for which he or she is hired, or sooner if the action shall sooner be determined; and the sheriff shall proceed accordingly, and pay the money received for hire to the party in whose favor the suit shall be determined.

Deft refusing to enter into recognizance, petitioner to be hired out.

SEC. 3. *Be it further enacted,* That all actions to be commenced and prosecuted under the provisions of this act, shall be in form, trespass, assault and battery, and false imprisonment, in the name of the petitioner, against the person holding him or her in slavery, or claiming him or her as a slave. And whenever any court or judge shall make an order as aforesaid, permitting any such suit to be brought, the clerk shall issue the necessary process, without charge to the petitioner: the declaration shall be in the common form of a declaration for assault and battery and false imprisonment, except that the plaintiff shall aver that before and at the time of the committing the grievances he or she was and still is a free person, and that the defendant held and detained him or her and still holds and detains in slavery,—upon which declaration the plaintiff may give in evidence any special matter; and the defendant may plead as many pleas as he may think is necessary for his defence, or he may plead the general issue, and give the special matters in evidence. And such actions shall be conducted in other respects in the same manner as the like actions between other persons, and the plaintiff may recover damages as in other cases.

Form of the action to be commenced.

Declaration.

Pleas.

Damages.

SEC. 4. *Be it further enacted,* That in all actions instituted under the provisions of this act, the petitioner, if he or she be a negro or mulatto, shall be held and required to prove his or her right to freedom; but regard shall be had not only to the written evidence of his or her claim to freedom, but to such other proofs, either at law or in equity, as the very right and justice of the case may require. And if the issue be determined in favor of the petitioner, the court shall render a judgment of liberation from the

Petitioner to establish his or her freedom.

Judgment.

defendant or defendants, and all persons claiming from, through or under him, her or them.

Appeal or writ of error allowed.

Petitioner not required to give recognizance.

SEC. 5. *Be it further enacted*, That if any party to a suit instituted under the provisions of this act, shall feel him or herself aggrieved by the judgment of the circuit court, he or she may have and prosecute an appeal or writ of error to the supreme court, as in other cases: *Provided*, That if the petitioner appeal or prosecute a writ of error, he or she shall not be required to enter into a recognizance, but such appeal or writ of error shall operate as a *supersedeas* without such recognizance.

This act shall take effect and be in force from and after the fourth day of July next.

[Approved, December 30, 1824.]

FUGITIVES FROM JUSTICE.

18 Dec. 1824.

AN ACT concerning Fugitives from Justice.

Upon demand regularly made, governor to issue his warrant.

*Acts 2 sess. 2d congress, chap. 7; see also Cons. U. S. art. 4, sec. 2, ante p. 24

How warrant to be directed, and by whom executed.

Governor to issue warrant for receiving fugitives from this state, when offered to be delivered up.

Expenses to be paid out of state treasury.

Offenders fleeing from

SEC. 1. *Be it enacted by the General Assembly of the state of Missouri*, That whenever the executive of any other state shall demand of the executive of this state, any person as a fugitive from justice, and shall have complied with the requisites of the act of congress in that case made and provided,* it shall be the duty of the executive of this state to issue his warrant, under the seal of the state, to apprehend the said fugitive, directed to any sheriff, coroner, constable, or other person, whom the said executive may think fit to entrust with the execution of the said process; and any of the said persons may execute such warrant any where within the limits of this state, and convey such fugitive to any place within this state, which the executive shall in his said warrant direct.

SEC. 2. *Be it further enacted*, That whenever the executive of this state shall demand a fugitive from justice from the executive of any other state, and shall have received notice that such fugitive will be surrendered, he shall issue his warrant, under the seal of state, to some messenger, commanding him to receive the said fugitive, and convey him to the sheriff of the proper county where the offence was committed.

SEC. 3. *Be it further enacted*, That the expenses which may accrue under the two foregoing sections, being first ascertained to the satisfaction of the executive, shall, on his certificate, be allowed and paid out of the state treasury.

SEC. 4. *Be it further enacted*, That whenever any person within this state shall be charged, upon the oath or affirma-

tion of any credible witnesses, before any judge or justice of the peace, with the commission of a felony in any other state or territory of the United States, and that the said person hath fled from justice, it shall be lawful for the said judge or justice to issue his warrant for the apprehension of said person; and if upon examination it shall appear to the said judge or justice that the said person is guilty of the offence alleged against him, it shall be the duty of the said judge or justice to commit him to the gaol of the county, or if the offence is bailable, to take bail for his appearance at the next circuit court to be holden in that county. And it shall be the duty of the said judge or justice to reduce the examination of the prisoner and those who bring him to writing, and to return the same as in other cases; and shall also send a copy of the examination and proceedings to the executive of this state, so soon thereafter as may be. And if, in the opinion of the executive of this state, the examination so furnished contains sufficient evidence to warrant the finding an indictment against such person, he shall forthwith notify the executive of the state or territory where the crime is alleged to have been committed, of the proceedings which have been had against such person, and that he will deliver such person on demand, without requiring a copy of an indictment to accompany such demand; and when such demand shall be made, the executive of this state shall forthwith issue his warrant, under the seal of the state, to the sheriff of the county where the said person is committed or bailed, commanding him to surrender to such messenger as shall be therein named, to be conveyed out of this state. And if the said person shall be out on bail, it shall be lawful for the said sheriff to arrest him forthwith, any where within the state, and to surrender him agreeably to said warrant.

SEC. 5. *Be it further enacted*, That in cases where the party shall have been admitted to bail, and shall appear at the circuit court according to the condition of his recognizance, and no demand shall have been made of him, it shall be in the power of the said court to discharge the said recognizance, or continue it, according to the circumstances of the case, such as the distance of the place where the offence is alleged to have been committed, the time that hath intervened since the arrest of the party, the strength of the evidence against him, &c.: *Provided, however*, That in no case shall a party be held in prison, or to bail, longer than till the end of the second term of the circuit court after his caption; and if no demand is made upon the sheriff for him within that time, he shall be dis-

other states; may be apprehended on warrant of judge or justice.

May be committed or bailed.

Examination to be reduced to writing, & certified to governor and to the circuit court.

Duty of governor.

Offender to be delivered up, on demand.

Circuit court may discharge or detain accused.