

Massachusetts Personal Liberty Act

1855

Revised Statutes is hereby declared to be, that every person imprisoned or restrained of his liberty is entitled, as of right and of course, to the writ of habeas corpus, except in the cases mentioned in the second section of that chapter.

- Sec. 3. The writ of habeas corpus may be issued by the supreme judicial court, the court of common pleas, by any justice's court or police court of any town or city, by any court of record, or by any justice of either of said courts, or by any judge of probate; and it may be issued by any justice of the peace, if no magistrate above named is known to said justice of the peace to be within five miles of the place where the party is imprisoned or restrained, and it shall be returnable before the supreme judicial court, or any one of the justices thereof, whether the court may be in session or not, and in term time or vacation...
- Sec. 6. If any claimant shall appear to demand the custody or possession of the person for whose benefit such writ is sued out, such claimant shall state in writing the facts on which he relies, with precision and certainty; and neither the claimant of the alleged fugitive, nor any person interested in his alleged obligation to service or labor, nor the alleged fugitive, shall be permitted to testify at the trial of the issue; and no confessions, admissions or declarations of the alleged fugitive against himself shall be given in evidence. Upon every question of fact involved in the issue, the burden of proof shall be on the claimant, and the facts alleged and necessary to be established, must be proved by the testimony of at least two credible witnesses, or other legal evidence equivalent thereto, and by the rules of evidence known and secured by the common law; and no ex parte deposition or affidavit shall be received in proof in behalf of the claimant, and no presumption shall arise in favor of the claimant from any proof that the alleged fugitive or any of his ancestors had actually been held as a slave, without proof that such holding was legal.
- Sec. 7. If any person shall remove from the limits of this Commonwealth, or shall assist in removing therefrom, or shall come into the Commonwealth with the intention of removing or of assisting in the removing therefrom, or shall procure or assist in procuring to be so removed, any person being in the peace thereof who is not "held to service or labor" by the "party" making "claim," or who has not "escaped" from the "party" making "claim," within the meaning of those words in the constitution of the United States, on the pretence that such person is so held or has so escaped, or that his "service or labor" is so "due," or with the intent to subject him to such "service or labor," he shall be punished by a fine of not less than one thousand, nor more than five thousand dollars, and by imprisonment in the State Prison not less than one, nor more than five years...
- Sec. 9. No person, while holding any office of honor, trust, or emolument, under the laws of this Commonwealth, shall, in any capacity, issue any warrant or other process, or grant any certificate, under or by virtue of an act of congress . . . or shall in any capacity, serve any such warrant or other process.
- Sec. 10. Any person who shall grant any certificate under or by virtue of the acts of congress, mentioned in the preceding section, shall be deemed to have resigned any commission from the Commonwealth which he may possess, his office shall be deemed vacant, and he shall be forever thereafter ineligible to any office of trust, honor or emolument under the laws of this Commonwealth.
- Sec. 11. Any person who shall act as counsel or attorney for any claimant of any alleged fugitive from service or labor, under or by virtue of the acts of congress mentioned in the ninth section of

this act, shall be deemed to have resigned any commission from the Commonwealth that he may possess, and he shall be thereafter incapacitated from appearing as counsel or attorney in the courts of this Commonwealth...

- Sec. 14. Any person holding any judicial office under the constitution or laws of this Commonwealth, who shall continue, for ten days after the passage of this act, to hold the office of United States commissioner, or any office...which qualifies him to issue any warrant or other process...under the [Fugitive Slave Acts] shall be deemed to have violated good behavior, to have given reason for the loss of public confidence, and furnished sufficient ground either for impeachment or for removal by address.
- Sec. 15. Any sheriff, deputy sheriff, jailer, coroner, constable, or other officer of this Commonwealth, or the police of any city or town, or any district, county, city or town officer, or any officer or other member of the volunteer militia of this Commonwealth, who shall hereafter arrest...any person for the reason that he is claimed or adjudged to be a fugitive from service or labor, shall be punished by fine...and by imprisonment...
- Sec. 16. The volunteer militia of the Commonwealth shall not act in any manner in the seizure . . . of any person for the reason that he is claimed or adjudged to be a fugitive from service or labor...
- Sec. 19. No jail, prison, or other place of confinement belonging to, or used by, either the Commonwealth of Massachusetts or any county therein, shall be used for the detention or imprisonment of any person accused or convicted of any offence created by [the Federal Fugitive Slave Acts]...or accused or convicted of obstructing or resisting any process, warrant, or order issued under either of said acts, or of rescuing, or attempting to rescue, any person arrested or detained under any of the provisions of either of the said acts.