

ingly hereby dissolved and declared to be null and void as fully and effectually to all intents and purposes as if the same had never been contracted.

Passed February 17, 1785. Recorded L. B. No. 2, p. 412, etc.

CHAPTER MCXXXII.

AN ACT FOR THE BETTER SECURING PERSONAL LIBERTY AND PREVENTING WRONGFUL IMPRISONMENTS.

(Section I, P. L.) Whereas personal liberty is a principal blessing derived from free constitutions of government and certain methods of proceeding should be prescribed so that all wrongful restraints thereof may be easily and speedily redressed:

[Section I.] Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That if any person shall be or stand committed or detained for any criminal or supposed criminal matter unless for treason or felony the species whereof is plainly and fully set forth in the warrant of commitment in vacation time and out of term it shall and may be lawful to and for the person so committed or detained or any one on his or her behalf to appeal or complain to any judge of the supreme court or to the president of the court of common pleas for the county within which the person is so committed or detained and such judge or justice upon view of the copy or copies of the warrant or warrants of commitment or detainer or otherwise upon oath or affirmation legally made that such copy or copies were denied to be given by the person or persons in whose custody the prisoner is detained is hereby authorized and required upon request made in writing by such prisoner or any person on his or her behalf attested and subscribed by two witnesses who were present at the delivery of the same to award and grant an habeas corpus

under the seal of the court whereof he shall then be a judge or justice to be directed to the person or persons in whose custody the prisoner is detained returnable immediate before the said judge or justice, and to the intent that no officer, sheriff, gaoler, keeper or other person to whom such writ shall be directed may pretend ignorance of the import thereof every such writ shall be made in this manner, by act of assembly, one thousand seven hundred and eighty-five, and [shall] be signed by the judge or justice who awards the same and whenever the said writ shall by any person be served upon the officer, sheriff, gaoler, keeper or other person whatsoever to whom the same shall be directed by being brought to him or by being left with any of his under officers or deputies at the gaol or place where the prisoner is detained he or some of his under officers or deputies shall within three days after the service thereof as aforesaid upon payment or tender of the charges of bringing the said prisoner to be ascertained by the judge or justice who awarded the writ and thereon indorsed not exceeding twelve pence per mile and upon security given by his own bond to pay the charges of carrying him back if he shall be redemanded, and not to escape by the way, make return of such writ and bring or cause to be brought the body of the prisoner unto or before the judge or justice before whom the said writ is made returnable and in case of his absence before any other of the judges or justices aforesaid and shall then likewise specifically and fully certify the true cause or causes of the commitment and detainer of the said prisoner and when he was committed unless the commitment be in any place beyond the distance of twenty miles from the place where such judge or justice shall be residing, and if beyond the distance of twenty miles and not above one hundred miles then within ten days and if beyond the distance of one hundred miles then within twenty days, and thereupon the judge or justice before whom the prisoner shall be so brought shall within two days discharge the prisoner from imprisonment taking his or her recognizance with one or more surety or sureties in any sum according to his discretion, having regard to the circumstances of the prisoner and the nature of the offence for his or her appearance at the next court of

oyer and terminer, general gaol delivery, or general quarter sessions of or for the county, city or place where the offence was committed or in such other court where it may be properly cognizable as the case shall require and then shall certify the said writ with the return thereof and the said recognizances into the court where such appearance is to be made unless it shall appear to the said judge or justice that the party so committed is detained upon legal process, order or warrant for such matter or offences for which by the law the said prisoner is not bailable and that the said judge or justice may according to the intent and meaning of this act be enabled by investigating the truth of the circumstances of the case to determine whether according to law the said prisoner ought to be bailed, remanded or discharged, the return may before or after it is filed by leave of the said judge or justice be amended and also suggestions made against it that thereby material facts may be ascertained.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That in term time it shall and may be lawful for any prisoner as aforesaid in manner aforesaid to move and obtain his or her habeas corpus out of the supreme court or the court of common pleas for the county in which he or she is imprisoned whereupon proceedings shall be had as aforesaid.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That if any person shall be committed for treason or felony and shall not be indicted and tried some time in the next term, session of oyer and terminer, general gaol delivery or other court where the offence is properly cognizable after such commitment it shall and may be lawful for the judges or justices thereof and they are hereby required upon the last day of the term, sessions or court to set at liberty the said prisoner upon bail unless it shall appear to them upon oath or affirmation that the witnesses for the commonwealth mentioning their names could not then be produced and if such prisoner shall not be indicted and tried the second term, sessions, or court, after his or her commitment, unless the delay happen on the application or with the assent of the defendant

or upon trial shall be acquitted he or she shall be discharged from imprisonment.

(Section IV, P. L.) Provided always, That nothing in this act shall extend to discharge out of prison any person guilty of or charged with treason, felony, or other high misdemeanor in any other state and who by the confederation [ought] to be delivered up to the executive power of such state nor any person guilty of or charged with a breach or violation of the laws of nations.

(Section V, P. L.) Provided also, That nothing in this act shall extend to discharge out of prison any person charged with debt or other action or with process in any civil cause but that after discharge for such criminal or supposed criminal matter he or she shall be kept in custody according to law for such other suit.

(Section VI, P. L.) And that no person may avoid his or her trial by procuring a removal so that he or she cannot be brought back in time:

[Section IV.] Be it enacted by the authority aforesaid, That no person shall be removed upon any habeas corpus granted in pursuance of this act within fifteen days next preceding the term, sessions of oyer and terminer, general gaol delivery, or other court, where the offence with which he or she stands charged is properly cognizable; but upon such habeas corpus shall be brought before the judges or justices thereof who are thereupon to do what to justice shall appertain.

(Section VII, P. L.) Provided nevertheless, That after such court the person detained may have his or her habeas corpus according to this act.

[Section V.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any judge or justice aforesaid being appealed or complained to as aforesaid upon view of the copy or copies of the warrant or warrants of the commitment or detainer or upon oath or affirmation made that such copy or copies were denied as aforesaid shall refuse or neglect to award any writ of habeas corpus by this act required to be granted he shall forfeit to the prisoner or party grieved the sum of three hundred pounds to be recovered by the said pris-

oner or party grieved, his or her executors or administrators against such offender, his executors or administrators by action of debt, suit, bill, plaint or information in any court of record wherein no ession, protection, privilege, injunction, wager of law, or stay of prosecution shall be allowed or any more than one imparlance.

[Section VI.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any officer, sheriff, gaoler, keeper or other person to whom any such writ shall be directed as aforesaid, or any of his under officers or deputies, shall refuse or neglect to make the returns aforesaid or to bring the body of the prisoner according to the command of the said writ within the respective times aforesaid, all and every such officer, sheriff, gaoler, keeper or other person, under officer or deputy shall be guilty of a contempt of the court under the seal of which the said writ shall have issued and shall also for the first offence forfeit to the prisoner or party grieved one hundred pounds and for the second offence two hundred pounds and shall be and is hereby incapable to hold or execute his said office the said forfeitures to be recovered by the prisoner or party grieved in manner aforesaid.

[Section VII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That if any officer, sheriff, gaoler, keeper or other person to whom such writ shall be directed as aforesaid or any of his under officers or deputies upon demand by the prisoner or some person in his or her behalf shall refuse to deliver, or within six hours after demand, shall not deliver to the prisoner or person so demanding a true copy or copies of the warrant or warrants of commitment and detainer of such prisoner which are hereby required to be delivered all and every such officer, sheriff, gaoler, keeper or other person, under officer or deputy so offending shall for the first offence forfeit to the prisoner or party grieved one hundred pounds and for the second offence two hundred pounds, and shall also be and is hereby made incapable to hold or execute his said office; the said forfeiture to be recovered by the prisoner or party grieved in manner aforesaid.

(Section XI, P. L.) And for preventing unjust vexation by reiterated commitments for the same offence:

[Section VIII.] Be it further enacted by the authority aforesaid, That no person who shall be delivered or set at large upon an habeas corpus shall at any time thereafter be again committed or imprisoned for the same offence by any person or persons whatsoever other than by the legal order and process of such court wherein he or she shall be bound by recognizance to appear or other court having jurisdiction of the cause and if any other person or persons shall knowingly contrary to this act re-commit or imprison or knowingly procure or cause to be re-committed or imprisoned for the same offence or supposed offence any person delivered or set at large as aforesaid or be knowingly aiding or assisting therein then he or they shall forfeit to the prisoner or party grieved any pretence of variation in the warrant or warrants of commitment notwithstanding the sum of five hundred pounds to be recovered by the prisoner or party grieved in manner aforesaid.

[Section IX.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That any person being committed to any prison or in custody of any officer, sheriff, gaoler, keeper or other person, or his under officer or deputy for any criminal or supposed criminal matter shall not be removed from the said prison or custody into any other prison or custody unless it be by habeas corpus or some other legal writ or where the prisoner is delivered to the constable or other inferior officer to be carried to some common gaol or where any person is sent by any judge or justice having proper authority to some common work-house or house of correction or where the prisoner is removed from one place to another within the same county in order to his or her trial or discharge in due course of law or in case of sudden fire or infection or other necessity; and if any person or persons shall after such commitment as aforesaid, make out, sign, counter-sign, and issue any warrant or warrants for such removal except as before excepted then he or they shall forfeit to the prisoner or party grieved two hundred pounds to be recovered by the prisoner or party grieved in manner aforesaid.

[Section X.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all the provisions herein before made for the awarding and granting writs of habeas corpus and proceeding thereon in case of commitment or detainer for any criminal or supposed criminal matter shall in like manner extend to all cases where any person not being committed or detained for any criminal or supposed matter shall be confined or restrained of his or her liberty under any color or pretence whatsoever and that upon oath or affirmation made by such person so confined or restrained or by any other in his or her behalf of any actual confinement or restraint and that such confinement or restraint to the best of the knowledge and belief of the person so applying is not by virtue of any commitment or detainer for any criminal or supposed criminal matter an habeas corpus directed to the person or persons so confining or restraining the party as aforesaid shall be awarded and granted in the same manner and under the same penalties to be recovered from the same persons as is herein before directed and the court, judge or justice before whom the party so confined or restrained shall be brought shall after the return made proceed in the same manner as is herein before prescribed to examine into the facts relating to the case and into the cause of such confinement or restraint and thereupon either bail, remand or discharge the party so brought as to justice shall appertain.

[Section XI.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That whensoever any writ of habeas corpus awarded and granted either in term or vacation time for any person so confined or restrained without a commitment for any criminal or supposed criminal matter shall be served upon the person or persons so confining or restraining such party by being brought to such person or persons or by being left at the place where the party shall be so confined or restrained, the person or persons so confining such party shall make return of such writ and bring or cause to be brought the body of such party according to the command thereof within the respective times limited and under the provisions herein before prescribed and every such person refusing or neglecting so to make

return of such writ or to bring or cause to be brought the body of the party according to the command thereof within the times respectively limited and under the provisions herein before prescribed shall be guilty of a contempt of the court under the seal of which the said writ shall have issued and shall also forfeit for the first offence to the party grieved one hundred pounds and for the second offence two hundred pounds to be recovered by him or her, his or her executors or administrators against the offender, his or her executors or administrators in manner aforesaid.

[Section XII.] (Section XV, P. L.) Provided always and be it further enacted by the authority aforesaid, That no person shall be sued, impleaded, molested or troubled for any offence against this act unless such person be sued or impleaded for the same within two years after the time wherein the said offence shall have been committed in case the party grieved shall not be then in prison or confined or restrained as aforesaid and if the said party shall be then in prison or so confined or restrained then within two years after the decease of the person imprisoned or so confined or restrained or his or her delivery out of prison or from such confinement or restraint.

[Section XIII.] (Section XVI, P. L.) And be it also enacted by the authority aforesaid, That in or upon any action, suit, bill, plaint or information for any offence against this act the defendant or defendants may plead the general issue and give the special matter in evidence.

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