

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,
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OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1841.

Augusta:
SEVERANCE AND DORR, PRINTERS TO THE STATE.

1841.

TWENTY-FIRST LEGISLATURE.

NO. 25.

SENATE.

REPORT

OF THE

COMMITTEE

ON THE PETITION OF

HIRAM BASS AND OTHERS

IN RELATION TO TRIAL BY JURY.

SEVERANCE & DORR,.....Printers to the State.

REPORT.

The Committee to which was referred the Petition of Hiram Bass and 78 others, legal voters of the County of Franklin ; of 68 inhabitants of Bath ; of Jonathan W. Willard and 124 others, inhabitants of Gardiner ; Joshua Wait and 39 others, inhabitants of Freeport ; Thomas Smith and 54 others, inhabitants of St. Albans ; Joshua Nye and others, John Buller and 54 others, inhabitants of North Yarmouth ; Amasa Bryant and 98 others, Enoch Pond and 25 others, members of the Theological Seminary, Bangor ; Zury Robinson and 100 others, Thomas Smith and 72 others, inhabitants of Strong ; Eben Dole and 32 others, inhabitants of Hallowell ; Hannah Alden and 132 others, ladies of Hallowell ; John Stevens and Louisa Stevens and 79 others, inhabitants of Winslow ; John Blanchard and others, Humphry Knight and 37 others, legal voters of Wayne ; 55 legal voters of the town of Mercer, and John Pease and 90 others, inhabitants of Parsonsfield, praying that the Legislature will pass a law securing to every human being the right of trial by Jury, when his or her liberty is concerned, have had the same under consideration and ask leave to Report, that the petitioners have leave to bring a Bill which is herewith submitted.

HANNIBAL INGALLS, *Chairman.*

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT
HUNDRED AND FORTY-ONE.

An Act to extend the right of trial by Jury.

SEC. 1. *Be it enacted by the Senate and House
2 of Representatives in Legislature assembled, That
3 whenever an alleged fugitive from service or labor,
4 to which he is held under the laws of any other
5 state, shall have escaped into this State, the claim
6 to the services of such alleged fugitive, his identi-
7 ty and the fact of his having escaped from another
8 state of the United States into this State, shall be
9 determined by a Jury.*

SEC. 2. *Be it further enacted, Every writ for
2 the arrest of such fugitive shall be returnable to
3 the county court in the county in which said fugi-
4 tive shall be arrested.*

SEC. 3. *Be it further enacted, The Jury to try
2 the matter aforesaid, shall be drawn in the same
3 manner as for the trial of civil causes from the
4 Jurors summoned and attending such court, and*

5 the same matters shall be tried and determined like
6 any issue of fact in such court.

SEC. 4 *Be it further enacted*, If the finding of
2 the Jury be in favor of the claimant upon all mat-
3 ters submitted, the court before whom such hear-
4 ing shall have been had, shall grant to such claim-
5 ant a certificate stating that it appears from the
6 evidence submitted to the Jury, that such fugitive,
7 who shall be particularly described in such certifi-
8 cate, doth owe service or labor to the person claim-
9 ing the same under the laws of any other state in
10 the Union, naming such person, and the state un-
11 der whose laws such claim is sustained.

SEC. 5. *Be it further enacted*, If the finding of
2 the Jury be against the claimant, or any of the
3 matters submitted to them, the person so claimed
4 as a fugitive, shall be forthwith set at liberty, and
5 shall never hereafter be molested upon the same
6 claim; and any person who shall thereafter arrest,
7 detain, or proceed in any manner to retake such
8 alleged fugitive upon the same claims, or shall, by
9 virtue of this claim remove such alleged fugitive
10 out of this State under any process or proceeding
11 whatever, shall be deemed guilty of kidnapping,
12 and upon conviction shall be punished by impris-
13 onment in the State prison not exceeding ten years.

SEC. 6. *Be it further enacted*, The County
2 Attorney of the county in which any alleged fugi-

3 tive from service or labor from another state, shall
4 be proceeded against by any person claiming such
5 fugitive, shall upon notice of such proceedings,
6 render his advice and professional services to such
7 alleged fugitive, and shall attend in his behalf on
8 the trial of such claim, and shall receive such com-
9 pensation therefor as shall be certified to be just
10 and reasonable by the court before whom the pro-
11 ceedings shall be conducted: and in case of the
12 omission of such County Attorney to attend or to
13 render his professional services, the court, before
14 whom the proceedings shall be had, shall assign
15 some attorney of said court to conduct the defence
16 of such alleged fugitive, and render him the usual
17 services of counsel, for which he shall receive a
18 compensation, to be certified by the court, and paid
19 as hereinafter provided.

SEC. 7. *Be it further enacted*, Every person so
2 claimed as a fugitive, shall be entitled to subpœnas
3 for his witnesses, from the court before whom the
4 habeas corpus may be returnable, without any
5 fee or charge therefor; and every constable or
6 sheriff to whom any such subpœnas shall be de-
7 livered to be served, shall serve the same, and
8 shall be paid the same fees as for serving a sub-
9 pœna in the court aforesaid, to be paid as herein-
10 after provided.

SEC. 8. *Be it further enacted*, No person shall

2 be entitled to a writ to arrest a fugitive from labor
3 or service, until he shall have delivered to the
4 court to whom application for such writ shall be
5 made, a bond to the Treasurer of this State, in
6 the penal sum of one thousand dollars, with two
7 sufficient sureties, inhabitants and freeholders of
8 this State, to be approved by such court, condi-
9 tioned to pay all cost and expenses that may ac-
10 crue in the prosecution of said writ, legally charge-
11 able to such claimant, and also to pay weekly the
12 sum of two dollars to the person having such
13 alleged fugitive in his custody, for the support of
14 such alleged fugitive, so long as he shall remain
15 in custody under such writ, or be detained by the
16 proceedings thereon; and also, if any jury em-
17 panneded under this Act shall render a verdict
18 against such claim, then that such claimant shall
19 pay all the cost and expenses of the proceedings,
20 including those to which such alleged fugitive shall
21 have been subjected. The said bond shall be
22 filed in the office of the clerk of the county, and
23 may be prosecuted by any person claiming any
24 benefit from its provisions, in the name of the
25 Treasurer of this State, but the State shall not be
26 liable for any cost in such suit on said bond.

SEC. 9. *Be it further enacted*, No Judge, or
2 other officer of this State, shall grant or issue any
3 certificate, or other process, for the removal from

4 this State of any fugitive, or of any person claimed
5 as a fugitive from service or labor, otherwise than
6 in pursuance of the provisions of this Act; and
7 every such Judge, or other officer, who shall grant
8 or issue any such certificate, or other process, ex-
9 cept in the manner prescribed in and by this Act,
10 shall be deemed guilty of a misdemeanor, and
11 liable to punishment therefor.

SECT. 10. *Be it further enacted,* That every
2 person who shall, without the authority of law,
3 forcibly remove, or attempt to remove from this
4 State, any fugitive from service or labor, or any
5 person who is claimed as such fugitive, shall
6 forfeit the sum of five hundred dollars, to the party
7 aggrieved, and shall be deemed guilty of the crime
8 of kidnapping, and upon conviction of such offence
9 shall be punished by imprisonment in the State
10 prison for a period not exceeding ten years.

SECT. 11. *Be it further enacted,* That any
2 County Attorney, or other Attorney, who the
3 court shall assign to conduct the defence of any
4 alleged fugitive, as provided for in this Act, such
5 counsel shall be allowed a reasonable compensa-
6 tion, to be certified by the court and paid out of
7 the Treasury of the State, and any Constable or
8 Sheriff who shall serve any subphœna as directed
9 by this Act, shall present his account, verified by
10 oath, to the Legislature for allowance.

SECT. 12. *Be it further enacted,* This Act
2 shall not be so construed as to apply to the
3 relation of master and apprentice which may exist
4 in any other State.

STATE OF MAINE.

IN SENATE, April 9, 1841.

ORDERED, That the foregoing Report and Bill be laid
on the table, and 500 copies be printed for the use of the
Legislature.

[Extract from the Journal.]

ATTEST,

DANIEL SANBORN, *Secretary.*