

Article 5.

Enforcement of Writ.

§ 17-16. Attachment for failure to obey.

If the person or officer on whom any writ of habeas corpus has been duly served refuses or neglects to obey the same, by producing the body of the party named or described therein, and by making a full and explicit return thereto, within the time required, and no sufficient excuse is shown for such refusal or neglect, it is the duty of the court or judge before whom the writ has been made returnable, upon due proof of the service thereof, forthwith to issue an attachment against such person or officer, directed to the sheriff of any county within this State, and commanding him forthwith to apprehend such person or officer and bring him immediately before such court or judge. On being so brought such person or officer shall be committed to close custody in the jail of the county where such court or judge may be, without being allowed the liberties thereof, until such person or officer make return to such writ and comply with any order that may be made by such court or judge in relation to the party for whose relief the writ has been issued. (1868-9, c. 116, s. 15; Code, s. 1637; Rev., s. 1834; C.S., s. 2218.)

§ 17-17. Liability of judge refusing attachment.

If any judge willfully refuses to grant the writ of attachment, as provided for in G.S. 17-16, he shall be liable to impeachment, and moreover shall forfeit to the party aggrieved twenty-five hundred dollars (\$2,500). (1870-1, c. 221, s. 2; Code, s. 1638; Rev., s. 1835; C.S., s. 2219.)

§ 17-18. Attachment against sheriff to be directed to coroner; procedure.

If a sheriff has neglected to return the writ agreeably to the command thereof, the attachment against him may be directed to the coroner or to any other person to be designated therein, who shall have power to execute the same, and such sheriff, upon being brought up, may be committed to the jail of any county other than his own. (1868-9, c. 116, s. 16; Code, s. 1639; Rev., s. 1836; C.S., s. 2220.)

§ 17-19. Precept to bring up party detained.

The court or judge by whom any such attachment may be issued may also at the same time, or afterwards, direct a precept to any sheriff, coroner, or other person to be designated therein, commanding him to bring forthwith before such court or judge the party, wherever to be found, for whose benefit the writ of habeas corpus has been granted. (1868-9, c. 116, s. 17; Code, s. 1640; Rev., s. 1837; C.S., s. 2221.)

§ 17-20. Liability of judge refusing precept.

If any judge refuses to grant the precept provided for in G.S. 17-19, he shall be liable to impeachment, and moreover shall forfeit to the party aggrieved twenty-five hundred dollars (\$2,500). (1870-1, c. 221, s. 3; Code, s. 1641; Rev., s. 1838; C.S., s. 2222.)

§ 17-21. Liability of judge conniving at insufficient return.

If any judge grants the attachment, or the precept, and gives the officer or other person charged with the execution of the same verbal or written instructions not to execute the same, or to make any evasive or insufficient return, or any return other than that provided by law; or shall connive at the failing to make any return or any evasive or insufficient return, or any return other than that provided by law, he shall be liable to impeachment, and moreover shall forfeit to the party

aggrieved twenty-five hundred dollars (\$2,500). (1870-1, c. 221, s. 4; Code, s. 1642; Rev., s. 1839; C.S., s. 2223.)

§ 17-22. Power of county to aid service.

In the execution of any such attachment, precept or writ, the sheriff, coroner, or other person to whom it may be directed, may call to his aid the power of the county, as in other cases. (1868-9, c. 116, s. 18; Code, s. 1643; Rev., s. 1840; C.S., s. 2224.)

§ 17-23. Obedience to order of discharge compelled.

Obedience to a judgment or order for the discharge of a prisoner or person restrained of his liberty, pursuant to the provisions of this Chapter, may be enforced by the court or judge by attachment in the same manner and with the same effect as for a neglect to make return to a writ of habeas corpus; and the person found guilty of such disobedience shall forfeit to the party aggrieved two thousand five hundred dollars (\$2,500), besides any special damages which such party may have sustained. (1868-9, c. 116, s. 24; Code, s. 1649; Rev., s. 1841; C.S., s. 2225.)

§ 17-24. No civil liability for obedience.

No officer or other person shall be liable to any civil action for obeying a judgment or order of discharge upon writ of habeas corpus. (1868-9, c. 116, s. 25; Code, s. 1650; Rev., s. 1842; C.S., s. 2226.)

§ 17-25. Recommittal after discharge; penalty.

If any person shall knowingly again imprison or detain one who has been set at large upon any writ of habeas corpus, for the same cause, other than by the legal process or order of the court wherein he is bound by recognizance to appear, or of any other court having jurisdiction in the case, he shall be guilty of a Class 1 misdemeanor. (1868-9, c. 116, s. 26; Code, s. 1651; Rev., s. 3581; C.S., s. 2227; 1993, c. 539, s. 306; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 17-26. Disobedience to writ or refusing copy of process; penalty.

If any person to whom a writ of habeas corpus is directed shall neglect or refuse to make due return thereto, or to bring the body of the party detained according to the command of the writ without delay, or shall not, within six hours after demand made therefor, deliver a copy of the commitment or cause of detainer, such person shall, upon conviction on indictment, be fined one thousand dollars (\$1,000), or imprisoned not exceeding 12 months, and if such person be an officer, shall moreover be removed from office. (1868-9, c. 116, s. 27; Code, s. 1652; Rev., s. 3597; C.S., s. 2228.)

§ 17-27. Penalty for false return.

If any person shall make a false return to a writ of habeas corpus, he shall be guilty of a Class 1 misdemeanor. (1868-9, c. 116, s. 28; Code, s. 1653; Rev., s. 3582; C.S., s. 2229; 1993, c. 539, s. 307; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 17-28. Penalty for concealing party entitled to writ.

If anyone having in his custody, or under his power, any party who, by law, would be entitled to a writ of habeas corpus, or for whose relief such writ shall have been issued, shall, with intent to elude the service of such writ, or to avoid the effect thereof, transfer the party to the custody, or

put him under the power or control, of another, or shall conceal or change the place of his confinement, or shall knowingly aid or abet another in so doing, he shall be guilty of a Class 1 misdemeanor. (1868-9, c. 116, ss. 29, 30; Code, ss. 1654, 1655; Rev., s. 3583; C.S., s. 2230; 1993, c. 539, s. 308; 1994, Ex. Sess., c. 24, s. 14(c).)