

The Police Commissioners and Sheriff-
Decisions in the Habeas Corpus Cases.

Opinion.

In the matter of the application of James Young, Wm. Thos. Valiant and William Thomson, for writ of Habeas Corpus.

Under the Code of Public General Laws jurisdiction and power are conferred on me, as one of the Judges of the Court of Appeals, to grant the writ of habeas corpus — article forty-three, section one. By the fifteenth section of the same article, any judge, whether in Court or out of Court, who shall refuse the writ to a party entitled is made "liable to the action of the party grieved".

This great writ "employed for the summary vindication of the right of personal liberty when illegally restrained" is guaranteed to every citizen in the most solemn form under the constitution and laws as a writ of right which no judge is at liberty to refuse in any case where, by the law, the petitioner is entitled to it.

By the act of 1862, Chapter 36, which repealed the third section of article 43 of the code, it was enacted

"If any person be committed or detained for any crime, or under any color or pretence whatsoever, he, or any one on his behalf, may complain by petition to any one of the Courts or judges mentioned in the first section of this article, and said Court or judge shall forthwith grant a writ of habeas corpus directed to the officer or other person in whose custody the party detained shall be, returnable immediately before the said Court or judge granting the same; provided, the person detained be not committed or detained for treason or felony, plainly expressed in the warrant of commitment, or be not convicted or in execution by legal process".

The act then goes on to provide that if the person be detained under color of a warrant of commitment, the petition presented by him