

VAGRANTS CAN NOT BE SOLD.

The Act Permitting Such Action Is Declared Unconstitutional.

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JEFFERSON CITY, Mo., June 19.—In the Supreme court today an opinion was handed down by Judge Sherwood in the case of Thompson, petitioner in habeas corpus proceedings, in which the law under which a number of negro vagrants have been sold in this State is declared unconstitutional. Thompson, the petitioner in this case, is a negro living in Audrain county. He was arrested, charged with being a vagrant, and the evidence adduced at the trial sustaining the charge, the justice ordered the constable to hire out, or sell, Thompson at the Court house door, for six months, to the highest bidder. Pending the execution of this order the case was brought to the Supreme court by Fred W. Lehmann, attorney of the Wabash Railway company, who became interested in it, to test the validity of the law, which is found in chapter 169 of the Revised Statutes of 1889.

The validity of the warrant of commitment was questioned by Thompson's counsel on two grounds, first on the ground that the statutory provisions found in the chapter named, were repealed by implication and by the enactment of other legislation, and second, if not thus repealed, that they were unconstitutional. In his opinion Judge Sherwood says that the constitution of the State declares "that there can not be in this State either slavery or involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted." The petitioner, he continues, has been guilty of no crime; that these proceedings if allowed to continue and reach their anticipated and ultimate development would result in the imprisonment of Thompson, and his being subjected to involuntary servitude and to punishment. He concludes his opinion by saying:

"The convict may lawfully be condemned to involuntary servitude or to imprisonment in punishment of his crime; not so with one in similar circumstances to those of the petitioner. Doubtless he might be proceeded against and punished under the provisions of section 28411, which makes the act of being a vagrant punishable as a crime; but in no other way if obedience is due to express constitutional prohibition. The premises considered we hold that the law under which petitioner is restrained of his liberty contravenes the constitution of the United States and of this State, and he is, therefore, entitled to be discharged, and it is so ordered."