the right of any person travelling or sojourning with any slave or slaves, within this state, such slave or slaves not being sold or otherwise disposed of, in this state, but carried by the owner out of this state, or attempted to be carried."

This section sufficiently explains the residence contemplated by the legislature in the first section. The term *sojourning* means something more than "travelling," and applies to a temporary, as contra-distinguished from a permanent, residence. The court is also of opinion, that the act contemplates and punishes an importation or bringing into the state by the master or owner of the slave. This construction, in addition to its plain justice, is supported by the words of the first section. That section declares, that "a person brought into this state as a slave, contrary to this act, if a slave before, shall, thereupon, cease to be the property of the person or persons so importing or bringing such slave within this state, and shall be free." It is apparent, that the legislasture had in view the case of a slave brought by the owner, since it is the property of the person importing the slave which is forfeited.

Upon the best consideration we have been able to give this statute, the court is unanimously of opinion, that the petitioner acquired no right to freedom, by having been brought into the county of Washington, by Mrs. Rankin, for one year's service, she having been, in the course of the year, carried back to Virginia by her master.

*The circuit court appears to have considered the case as coming within the proviso of the 2d section. If, in this opinion, that court were even to be thought mistaken, the error does not injure the petitioner, and is, therefore, no cause for reversal. The court is unanimously of opinion, that the judgment ought to be affirmed. [*6

Judgment affirmed.

Negro John Davis *et al. v.* Wood.

Evidence.—Hearsay.— Verdict.

Evidence by hearsay and general reputation is admissible only as to pedigree, but not to establish the freedom of the petitioner's ancestor, and thence to deduce his or her own.

Verdicts are evidence between parties and privies only: and a record proving the ancestor's freedom to have been established in a suit against another party, by whom the petitioner was sold to the present defendant, is inadmissible evidence to prove the petitioner's freedom.

Mima Queen *v.* Hepburn, 7 Cr. 290, re-affirmed.

This case was similar to the preceding, in which the petitioners excepted to the opinion of the court below: 1st. That they had offered to prove, by competent witnesses, that they (the witnesses) had heard old persons, now dead, declare, that a certain Mary Davis, now dead, was a white woman, born in England, and such was the general report in the neighborhood where she lived; and also offered the same kind of testimony, to prove that Susan *Davis, mother of the petitioners, was lineally descended, in the female line, from the said Mary; and it was admitted, that said Susan was, at the time of petitioning, free, and acting, in all respects, as a free woman; which evidence, by hearsay and general reputation, the court refused to admit, except so far as it was applicable to the fact of the petitioners' pedigree. 2d. That they having proved, that the petitioners are [*7

the children of Susan Davis, and that she is the same person named in a certain record, in a cause wherein Susan Davis, and her daughter Ary, were petitioners, against Caleb Swan, and recovered their freedom, the plaintiffs offered to read said record in evidence to the jury, as *primâ facie* testimony that they are descendants in the female line from a free woman, who was born free, and are of free condition, connected with the fact, that the defendant in this cause sold said Susan to Swan, the defendant in said record, which the court refused to suffer the petitioners to read to the jury as evidence in this cause.

Lee, for the plaintiffs in error and petitioners, referred to the opinion of the court (DUVALL, J., dissenting) in the case of *Mima Queen and child* v. *Hepburn*, February term 1813 (7 Cr. 290), as to the admissibility of hearsay evidence, in a similar case, remarking that, unless the court was disposed to review its decision, it must be taken for law, and he could not deny its authority.

DUVALL, J.—The petitioners in that case were descended from a yellow
*8] woman, a native of South *America. In this case, they are descended from a white woman.

Lee cited the opinion of the Virginia court of appeals, in the case of *Pegram* v. *Isabel*, 2 Hen. & Munf. 193, as to the admissibility of the record, in which a record was admitted.

Key, contrà, contended, that both grounds were irrevocably closed against the other party. The first, certainly ; and the second, equally so ; as the evidence could not be admissible as *primâ facie* testimony merely, but if admitted, must be conclusive. The decisions in the state courts of Virginia are against the evidence of the parent's or other ancestor's freedom being conclusive in favor of a child. The case of *Pegram* v. *Isabel* is no authority here, for it was formerly considered and repudiated by this court in the decision alluded to.

Lee and *Law* replied, and cited 2 Wash. 64, and Swift's Law of Evidence 13.

March 12th, 1816. MARSHALL, Ch. J., delivered the opinion of the court, and stated, that, as to the first exception, the court had revised its opinion in the case of *Mima Queen and child* v. *Hepburn*, and confirmed it. As to the second exception, the record was not between the same parties. The rule is, that verdicts are evidence between parties and privies.[1] The
*9] court does *not feel inclined to enlarge the exceptions to this general rule, and therefore, the judgment of the court below is affirmed.

Judgment affirmed.

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[1] See Vigel *v.* Naylor, 24 How. 208, 212 ; Alexander *v.* Stokely, 7 S. & R. 299.