
BILL.

No. 158.]

[1863.—2nd Sess.

An Act for more effectually securing the Liberty of the Subject.

WHEREAS the Writ of *Habeas Corpus* hath been found by ex-
Preamble.
perience to be an expeditious and effectual method of restoring
any person to his liberty, who hath been unjustly deprived thereof : And
whereas extending the remedy of such Writ, and enforcing obedience
5 thereunto, and preventing delays in the execution thereof, will be advan-
tageous to the public : And whereas the provisions made by an Act
passed in England, in the thirty-first year of King Charles the second,
intituled : “ An Act for the better securing the liberty of the subject,
and for prevention of imprisonment beyond the seas,” only extend
10 to cases of commitment or detainer for criminal or supposed criminal
matter : Therefore, Her Majesty, by and with the advice and consent of
the Legislative Council and Assembly of Canada, enacts as follows :—

1. When any person shall be confined or restrained of his or her
liberty (otherwise than for some criminal or supposed criminal matter,
15 and except persons imprisoned for debt, or by process in any
civil suit) within Upper Canada, it shall and may be lawful for
any of the Judges of either of the Superior Courts of Com-
mon Law in Upper Canada, and they are hereby required upon
complaint made to them by or on behalf of the person so confined
20 or restrained, if it shall appear by affidavit or affirmation (in cases
where by law an affirmation is allowed) that there is a probable
and reasonable ground for such complaint, to award in vacation time, a
writ of *Habeas Corpus ad Subjiciendum* under the seal of the Court
wherein the application shall be made, directed to the person or persons
25 in whose custody or power the party so confined or restrained shall be,
returnable immediately before the person so awarding the same, or be-
fore any Judge in Chambers for the time being.

Benefit of *Habeas Corpus*
extended to
persons con-
fined for
other than
criminal mat-
ters.

2. If the person or persons to whom any writ of *Habeas Corpus* shall
be directed according to the provisions of this Act, upon service of such
30 writ, either by the actual delivery thereof to him, her or them, or by
leaving the same at the place where the party shall be confined or re-
strained, with any servant or agent of the person or persons so confining
or restraining, shall wilfully neglect or refuse to make a return or
pay obedience thereto, he she or they shall be deemed guilty of a con-
tempt of the Court, under the seal whereof such writ shall have issued ;
35 and it shall be lawful to and for the Judge before whom such writ shall
be returnable, upon proof made by affidavit of wilful disobedience of the
said writ, to issue a warrant under his hand and seal for the apprehend-
ing and bringing before him or some other Judge of the said Courts the
person or persons so wilfully disobeying the said writ, in order to his,
40 her or their being bound to the Queen's Majesty, with two sufficient
sureties, in such sum as in the warrant shall be expressed, with con-

Disobedience
to be con-
sidered a con-
tempt of
Court.