

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

WHEREAS the Writ of *Habeas Corpus* hath been found by experience 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 thereunto, and preventing delays in the execution thereof, will be advantageous 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 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:—

Preamble.

- 15 **1.** When any person shall be confined or restrained of his or her liberty (except persons imprisoned for debt, or by process in any civil suit, or by the judgment, conviction or decree of any Court of Record, Court of Oyer and Terminer or General Gaol Delivery, or Court of General Quarter Sessions of the Peace, or Recorder's Court not being a Court wherein the Recorder shall sit alone without a jury), within Upper Canada, it shall and may be lawful for any of the Judges of either of the Superior Courts of Law or Equity in Upper Canada, and they are hereby required upon complaint made to them by or
- 25 on behalf of the person so confined 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
- 30 wherein the application shall be made, directed to the person or persons in whose custody or power the party so confined or restrained shall be, returnable immediately before the person so awarding the same, or before any Judge in Chambers for the time being.
- 35 **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 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 restrained, with any servant or
- 40 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 contempt

In what cases Hab. Corp. ad Subjiciendum may be awarded.

Return.

Proceedings in case of disobedience to the writ.