

surrender of such fugitive. The expenses of such apprehension and delivery shall be borne and defrayed by the party who makes the Requisition and receives the fugitive.

To enable this Treaty to be carried out in the British Dominions a statutory enactment was necessary, and the Parliament of Great Britain in the 6th and 7th year of Her Majesty's reign passed an Act for giving effect to the Treaty, which after reciting the 10th article of the Treaty, and the 11th with reference to the duration of this portion of it, after reciting that it is expedient that provision should be made for carrying the said agreement into effect, enacts as follows:

"Be it enacted, &c., That in case requisition shall at any time be made by the authority of the said United States in pursuance of and according to the said Treaty, for the delivery of any person charged with the crime of murder, or assault with intent to commit murder, or with the crime of piracy or arson, or robbery or forgery, or the utterance of forged paper, committed within the jurisdiction of the United States of America, who shall be found within the territories of Her Majesty, it shall be lawful for one of Her Majesty's Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad, for the officer administering the Government of any such Colony or Possession, by Warrant under his hand and seal to signify that such Requisition has been so made, and to require all Justices of the Peace and other Magistrates and Officers of Justice within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to Gaol, for the purpose of being delivered up to Justice, according to the provisions of the said Treaty; and thereupon it shall be lawful for any Justice of the Peace or other person having power to commit for trial persons accused of crimes against the laws of that part of Her Majesty's Dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as, according to the laws of that part of Her Majesty's Dominions would justify the apprehension and committal for trial of the person so accused if the crime of which he or she shall be so accused had been there committed, it shall be lawful for such Justice of the Peace, or other person having power to commit as

aforesaid, to issue his warrant for the apprehension of such person, and also to commit the person so accused to Gaol, there to remain until delivered pursuant to such requisition as aforesaid.

2nd. Provided always and be it enacted. That in every such case, copies of the depositions upon which the original Warrant was granted, certified under the hand of the person or persons issuing such Warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended."

The authority which this statute gives the officer administering the Government of any Colony and all Justices of the Peace and other Magistrates and Officers of Justice within their several jurisdictions to act being a statutory power, they must use and act strictly in accordance with the authority given, and rigidly pursue that authority. Bearing this in mind I proceed to the consideration of the first objection. We must look closely to the Act of Parliament, for it is from that, and that alone, the authority to act proceeds, and the very first words of the enacting part of the statute show that the basis of this right is on an event. "In case Requisition shall at any time be made by the authority of the United States in pursuance of and according to the said Treaty for the delivery of any person charged with (certain crimes including Piracy) committed within the jurisdiction of the United States." &c. Thus we see the Requisition is not to be a simple bald request for the delivery up of the person named, but it is a Requisition which must be by the authority of the U. S.—it must be in pursuance of and in accordance with the Treaty—it must be for the delivery of a person charged with one of the offences mentioned in the Treaty, and the offence with which he is charged must have been committed within the jurisdiction of the United States. If a case perfect in all these ingredients is presented the statute says it shall be lawful for the Administrator of the Government of any Colony or Possession by a Warrant under his hand and seal, to signify that such requisition has been made. Deficient in any one of these statutory requirements the Governor is powerless to act.

Let us therefore examine the documents upon which His Excellency issued his Warrant in this case. They all bear date on the same day, and in the absence of any evidence to the contrary, I may assume were laid be-

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