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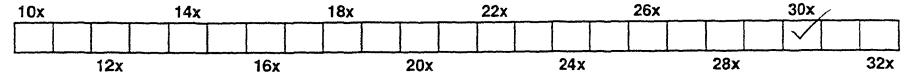
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## BILL

An Act for better giving effect, within this Province, to a Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain Offenders.

Received and read first time,

Second reading,

[ 250 Copies. ]

Honble. Mr.

<sup>5</sup> Derbishire and G Desbarats, Queen's Printer.

## BILL.

An Act for better giving effect, within this Province, to a Treaty between Her Malesty and the United States of America, for the apprehension and surrender of certain Offenders.

THEREAS by the tenth article of a Freamble Treaty between Her Majesty and 3 the United States of America, signed at Treaty with 1 Washington on the ninth day of August, in August, 1842, 5 the year one thousand eight hundred and cited-6 forty-two, the ratifications whereof were 7 exchanged at London, on the thirteenth day 8 of October in the same year, it was agreed 9 that Her Majesty and the said United 10 States, should, upon mutual requisitions by 11 them or their Ministers, Officers or autho-12 rities respectively made, deliver up to justice 13 all persons who, being charged with the 14 crime of Murder, or Assault with intent to 15 commit Murder, or Piracy, or Arson, or 16 Robbery, or Forgery, or the utterance of 17 Forged Paper, committed within the jurisis diction of either of the High Contracting 19 Parties, should seek an Asylum or should be 20 found within the Territories of the other; 21 provided that this should only be done 22 upon such evidence of criminality as ac-23 cording to the Laws of the place where the 24 fugitive or person so charged should be 25 found, would justify his apprehension and 26 commitment for trial if the crime or offence 27 had been there committed; and that the 23 respective Judges and other Magistrates of 29 the two Governments should have power, 30 jurisdiction and authority upon complaint 31 made under oath, to issue a warrant for the 32 apprehension of the fugitive or person so 33 charged, so that he might be brought before 34 such Judges or other Magistrates respective-35 ly, to the end that the evidence of criminality 36 might be heard and considered, and if on 37 such hearing the evidence should be deemed

sufficient to sustain the charge, it should be 1 the duty of the examining Judge or Magis- 2 trate to certify the same to the proper 3 Executive Authority, that a warrant might 4 issue for the surrender of such fugitive, and 5 that the expense of such apprehension and 6 delivery should be borne and defrayed by 7 the party making the requisition and receiv- 8 ing the fugitive; and it is by the eleventh 9 article of the said Treaty further agreed, 10 that the tenth article hereinbefore recited 11 should continue in force until one or other 19 of the High Contracting Parties should 13 signify its wish to terminate it, and no 14 longer: And whereas certain provisions of 15 the Act passed by the Parliament of the 16 United Kingdom of Great Britain and Ire-17 land, in the Session held in the sixth and 18 seventh years of Her Majesty's Reign for 19 giving effect to the Treaty aforesaid, and 20 intituled, An Act for giving effect to a21 Treaty between Her Majesty and the United 22 States of America, for the apprehension of 23 certain Offenders, have been found incon-24 venient in practice in this Province, and 25 more especially that provision which re-26 quires that before any such offender as27 aforesaid shall be arrested, a warrant shall 28 issue under the hand and seal of the person 29 administering the Government, to signify 30 that such requisition as aforesaid hath been 31 made by the authority of the United States 32 for the delivery of such offender as afore-33 said, and to require all Justices of the 34 Peace, and other Magistrates and Officers 35 of Justice, within their several jurisdictions, 36 to govern themselves accordingly, and to 37 aid in apprehending the person so accused, 38 and committing such person to Gaol for 39 the purpose of being delivered up to justice 40 according to the provisions of the said41 Treaty, in as much as by the delay occa-42 sioned by compliance with the said provi-43 sion, an offender may have time afforded 44 him for eluding pursuit: And whereas by 45 the fifth section of the said Act it is enacted, 46 that if by any law or ordinance to be there 47 after made by the local Legislature of any 48

Imperial Act 6 & 7 Vict cited

British Colony or Possession abroad, pro-2 vision shall be made for carrying into coma plete effect within such Colony or Posses-4 sion, the objects of the said Act, by the 5 substitution of some other enactment in 6 lieu thereof, then it shall be competent to 7 Her Majesty, with the advice of Her Privy s Council (if to Her Majesty in Council it 9 shall seem meet, but not otherwise) to sus-10 pend the operation within any such Colony 11 or Possession of the said Act of the said 12 Imperial Parliament, so long as such sub-13 stituted enactment shall continue in force 14 there, and no longer: And whereas it is 15 expedient to make provision for carrying 16 the objects of the said Act and Treaty into 17 complete effect within this Province, by 18 the substitution of other enactments in lieu 19 of the said Imperial Act: Be it therefore 20 enacted. &c.,

21 And it is hereby enacted by the authority of By whose 22 the same, That it shall be lawful for any of order and on 23 the Judges of any of Her Majesty's Superior 24 Courts in this Province, or for any of Her charged w 25 Majesty's Justices of the Peace in the same, 26 and they are hereby severally vested with arrested and 27 power, jurisdiction and authority, upon escomplaint made under oath or affirmation, 29 charging any person found within the limits 30 of this Province with having committed. 31 within the jurisdiction of the United States 32 of America, or of any of such States, any of 33 the crimes enumerated or provided for by 34 the said Treaty, to issue his Warrant for the 35 apprehension of the person so charged, that 36 he may be brought before such Judge or such 37 Justice of the Peace, to the end that the evi-38 dence of criminality may be heard and 39 considered; and if, on such hearing the evi-40 dence be deemed sufficient by him to sustain 41 the charge according to the laws of this Pro-42 vince, if the offence alleged had been com-43 mitted therein, it shall be his duty to certify 44 the same, together with a copy of all the 45 testimony taken before him, to the Gover-46 nor or Lieutenant-Governor of this Province. 47 or to the Person administering the Govern-48 ment of the same for the time being, that a

what evidence persons charged with mitted in the U S may be detained

Proceedings to be certified to the Governor.

And the offender to be committed until duly discharged Warrant may issue, upon the requisition of 1 the proper authorities of the said United 2 States or of any of such States, for the sur-3 render of such person, according to the 4 stipulations of the said Treaty; and it shall 5 be the duty of the said Judge or of the said 6 Justice of the Peace to issue his Warrant 7 for the commitment of the person so charged 8 to the proper Gaol, there to remain until such 9 surrender shall be made, or until such per-10 son shall be discharged according to law. 11

Properly attested copies of depositions taken in U S to be refer ed as evidence of criminality

IL Provided always, and be it enacted, 12 That in every case of complaint as afore-13 said, and of a hearing upon the return of 14 the Warrant of arrest, copies of the deposi-15 tions upon which an original Warrant in 16 any of the said United States may have 17 been granted, certified under the hand of 18 the person or persons issuing such Warrant, 19 or under the hand of the Officer or person 20 having the legal custody thereof, and attested 21 upon the oath of the party producing them 22 to be true copies of the original depositions, 23 may be received in evidence of the crimina-24 lity of the person so apprehended.

Governor mas order the delivery of the offendor to the U-S or to eny one of the States

III. And be it enacted, That it shall be 26 lawful for the Governor or Lieutenant-Go-27 vernor of this Province, or the person28 administering the Government of the same 29 for the time being, upon a requisition made 30 as aloresaid by the authority of the saidsi United States or of any of such States, by 32 warrant under his hand and seal, to order33 the person so committed to be delivered to 34 such person or persons as shall be autho-35 rized in the name and on the behalf of 36 the said United States or of any of such 37 States, to be tried for the crime of which 38 such person shall be so accused, and such 39 person shall be delivered up accordingly;40 and it shall be lawful for the person or per-41 sons authorized as aforesaid, to hold such 42 person in custody, and to take him or her43 to the territories of the said United States,44 pursuant to the said Treaty; and if the 45 person so accused shall escape out of any 46 custody to which he or she shall be com-47

1 mitted, or to which he or she shall be de-2 livered as aforesaid, it shall be lawful to 3 retake such person, in the same manner as 4 any person accused of any crime against 5 the laws of this Province, may be retaken 6 upon an escape. Oftenders escaping may be retaken

IV. And be it enacted. That when any s person who shall have been committed unoder this Act and the Treaty aforesaid, to 10 remain until delivered up in pursuance of a 11 requisition as aforesaid, shall not be deli-12 vered up pursuant thereto, and conveyed 13 out of this Province within two calendar 14 months after such commitment, over and 15 above the time actually required to convey 16 the prisoner from the gaol to which he or 17 she may have been committed, by the rea-18 diest way out of this Province, it shall in 19 every such case, be lawful for any of the 20 Judges of Her Majesty's Superior Courts 21 in this Province, having power to grant a 22 Writ of Habeas Corpus, upon application 23 made to him or them by or on behalf of the 24 person so committed, and upon proof made 25 to him or them that reasonable notice of 26 the intention to make such application has 27 been given to the Provincial Secretary, to 28 order the person so committed to be dis-29 charged out of custody, unless sufficient 30 cause shall be shewn to such Judge or Jud-31 ges why such discharge shall not be or-3≥ dered.

Any person so arrested and not delivered up within two months, may obtain his discharge, unless good cause for his further detention be

V. And be it enacted, That this Act shall 34 come into force upon the day to be ap-35 pointed for that purpose in any proclama-36 tion to be issued by the Governor, Lieu-37 tenant-Governor, or Person Administering 38 the Government of this Province, for the 39 purpose of promulgating any Order of Her 10 Majesty with the advice of Her Privy Coun-41 cil suspending the operation of the Impe-42 rial Act hereinbefore cited within this Pro-43 vince, and not before, and shall thereafter 44 continue in force during the continuance of 45 the tenth article of the said Treaty, and no 46 longer.

Commencement and du ration of this Act