

—to review, quash, reverse, restrain or otherwise interfere with, any proceedings, decision or order.

Now I say, that is in express language, not by inference, not by any casual expression. It is the express declaration of this Parliament that no court and no judge, by any means whatsoever, shall have jurisdiction to interfere with the order of the minister or of the authorities under that Immigration Act. Now there is nothing to be inferred, there are no casual expressions to be interpreted, there is the most absolute form of language, the most absolute negation of jurisdiction by any process whatsoever. The very first thing that you require to enable a judge to issue a writ of habeas corpus is that he should have jurisdiction. Action of a judge without jurisdiction is vain, and this Parliament has said in so many words there is no jurisdiction in any judge, by any means whatsoever, to interfere with the action of the authorities under the Immigration Act. So that while, as I said, I am not laying down any final opinion, and I do not want to make any pretension that what I say settles this matter, I do say that it is fair to point out that the reasons upon which the Hon. Chief Justice made that expression of opinion, which was not a holding of the court, do not, when carefully examined, justify that opinion. I certainly would be surprised if authority could be found for that other proposition which is necessary to maintain the opinion, namely, that you cannot suspend or abolish, with regard to particular proceedings, the Habeas Corpus Act without specifically saying: habeas corpus. It is not in the genius of our laws to attach so grave an importance to the use of specific words. To my mind, Parliament has clearly said that by no means whatsoever has any court or judge any power to interfere with an Order under this Act; and the writ of habeas corpus being one of the means by which a court or judge might otherwise interfere is one of those things that is excluded by the express terms of this Act. Now, of course, I do not want to run away to extravagant conclusions. If one did, one might find oneself in a very bad box because it might turn out, as it turned out in the judgment of Chief Justice Hunter, that a person who thought he was acting under this Act was not acting under it at all, then he would be in a very embarrassing situation if he had taken on himself to deter-

mine that he was acting regularly, and that there was no habeas corpus.

**Mr. LEMIEUX:** My hon. friend will recollect occasions when habeas corpus was suspended in this country; for instance during the rebellion of 1837.

**Mr. DOHERTY:** I believe that is true. There you are dealing with an Act to specifically suspend habeas corpus in specific cases and for specific reasons, but if you are going to say no court or judge shall interfere why should you have to enumerate every possible process by which a court or judge ever interfered? This Parliament having made up its mind that this Act was to be administered under the responsibility of the minister, said in absolute express terms: 'no court or judge shall interfere by any means whatever.' I think I may fairly assume that the hon. Chief Justice cited all the authority he relied on, and I pointed out that it does not seem to justify the conclusion he reached. I do not want to be misunderstood in that regard. Any officer who believes he is acting under that Act and finds himself served with a writ of habeas corpus would do well to think twice, yes, three or four times, before he takes upon himself not to produce the man, because it may turn out as it turned out in the case judged by Chief Justice Hunter, that an officer who thought he was deporting a man under this Act was not so deporting him; and if it turned out that an officer was not protected by this Act because he was not absolutely acting within its letter and spirit he would be in a very bad position indeed and liable to all the penalties that would fall on a man for contempt of court. Therefore, it behooves any officer who finds himself in the position that he believes he is carrying out that Act to think perhaps more than once before taking on himself not to obey a habeas corpus writ served upon him. I see no reason so far as my examination of the question has gone, to doubt that if the official is absolutely assured that there is absolutely no room for question but that his proceeding is absolutely and perfectly regular under that Act, and if he is in a position to demonstrate that before the court from which has issued the writ of habeas corpus he would by so doing justify his non-production of the individual on whose behalf the writ was issued. I do not say I am settling that as an absolutely final thing because we are dealing with a new law and one that, so far as I know has yet to be interpreted by the courts. It becomes everybody to speak with