

K.C., for the petitioner, Boudreau. W. L. Shurtleff, K.C., C. D. White, K.C. H. R. Fraser, K.C., and W. K. McKeown, for the prisoner.

KING'S BENCH.

Archambeault, C.J., Lavergne, Cross,
Carroll, Gervais, JJ.]

[13 D.L.R. 715.]

RE HARRY K. THAW.

THAW v. ROBERTSON (No. 3).

1. *Habeas corpus*—*Procedure*—*Serving original writ.*

A writ of habeas corpus can be properly served only by delivering the original writ to the person to whom it is addressed, or to the principal person where there are more than one; and where only copies of the writ had been served the irregularity is a ground for quashing the writ, although the original had been exhibited to the persons to whom it was addressed at the time when the copies were left with them.

2. *Aliens*—*Immigration Act (Can.)*—*Right to test constitutionality of habeas corpus.*

The provisions of the Immigration Act (Can.) depriving an alien ordered to be deported of any right to apply to the courts to review, quash, reverse, restrain, or otherwise interfere with an order of deportation made "under the authority and in accordance with the provisions of the Act" may prevent a writ of prohibition to the immigration officers, but it does not remove the right of the person detained to obtain a writ of habeas corpus to test the constitutionality of the statute; on due service of such writ the immigration officers would be bound, under penalty for contempt, to make return thereto with reasons assigned for the detention.

See *Re Gaynor and Greene* (No. 8), 9 Can. Cr. Cas. 496.

J. N. Grenshields, K.C., N. K. Laflamme, K.C., and W. K. McKeown, for petitioner Thaw. L. T. Marchal, K.C., and Gustave Lamothe, K.C., for respondents.

ANNOTATION ON ABOVE CASES—HABEAS CORPUS PROCEDURE.

The practice in *habeas corpus* in criminal matters varies in the several provinces, although subject to the same federal control as a part of the