police court, and while he was out on $500 bail furnished by his countrymen, he was seized by Canadian immigration officers for deportation. Having in mind what he has been taught of British fair-play and justice, and knowing how confidently he could appeal for it in India, Bhwagan Singh applied for a writ of habeas corpus against the immigration officers. It was granted by the court, but ignored by the immigration officers. A second application was made and a second writ was issued.

Then, incredible as it will seem in England or any other part of the empire beyond Canada, notwithstanding the pending of the criminal charge in the police court, notwithstanding the release on bail, nothwithstanding two separate writs of habeas corpus, notwithstanding the refusal of the captain of the Empress to take him on board, Bhwagan Singh, a priest, as the ship was leaving the wharf and the gang-plank had been drawn, was taken by immigration officers, acting under instructions from Ottawa, and flung bodily and at risk of breaking his neck on to the deck of the departing ship and so deported.

Mr. Matier, I need hardly say, condemns very severely the Government for this action of one of its officers, and at the same time he censures the immigration officers in uncompromising form:

But the whole trouble is caused by giving to government officials judicial powers which they cannot be trusted to exercise. Particularly in Oriental affairs one might as well set a blacksmith to repair a watch as to entrust the ordinary Canadian immigration officer with the handling of the Oriental situation in British Columbia. Yet the responsibility does not really rest upon these jacks-in-office, strong in the back and weak in the head. It rests upon Dr. Roche, upon Mr. Doherty, and finally upon Mr. Borden himself. This Bhwagan Singh affair will be talked about and brooded over in every Sikh household in India; and it will be deplored by every man who has the interests of the empire at heart; who has knowledge enough, and head enough and heart enough to be concerned for something more than his own special little corner where floats the Union Jack.

So, Mr. Speaker, it is not a very healthy condition of things in British Columbia when a British subject is forcibly deported in spite of the writ of habeas corpus granted by the judge of the Superior Court. I regret that the Minister of Justice is not in his place, for it would be worth while to have his opinion on the validity of a writ of habeas corpus as against the deportation clause of the Immigration Act. The hon. member for Edmonton (Mr. Oliver) cited a moment ago the Thaw case. I believe that in that case the action of the Minister of Justice was commendable. I believe that Thaw was the most undesirable citizen that Canada could receive. At the same time, we must not forget that a writ of habeas corpus was granted in the case of Thaw, and if the writ was not maintained that fact was due to a defect in the proceedings, to an error in the service of the writ. I have here the dictum of the Chief of Justice Sir Horace Archambault, of the Court of Appeal, Montreal:

I will commence by examining this last mentioned objection, seeing that, if the proceedings by way of habeas corpus are not permitted in this particular case, it is useless to examine the other question, as in such an event the writ itself would have been illegally granted.

The contentions of the respondents in this particular case are based on article 23 of the Immigration Act of 1910 (9 and 10 Edward VII, chap. 27), which reads as follows:

'No court and no judge or officer thereof shall have jurisdiction to review, quash, reverse, restrain or otherwise interfere with any proceeding, decision or order of the minister or of any board of inquiry or officer in charge had, made or given under the authority and in accordance with the provisions of this Act relating to the detention and deportation of any rejected immigrant, passenger or other person, upon any ground whatsoever, unless such person is a Canadian citizen or has Canadian domicile.'

Does this article take away the right to habeas corpus? We do not believe so. The right to individual liberty is and has always been considered one of the most precious privileges which the British constitution guarantees to the subject of the kingdom. Article 39 of Magna Charta (1215) sanctioned this guarantee in the following terms:—

'Nullus liber homo capiatur vel imprisonatur nisi par legale judicium parium suorum vel per legem terrae.'

The Chief Justice goes into a brief historical survey of the writ of habeas corpus, and closes with the following:

I will not discuss the question as to whether our Parliament can suspend or arrest, in certain cases, the operation of the Habeas Corpus Act. At first sight my opinion is that it has the power. I do not say that our Parliament can despoil Canadian subjects of the privileges of the disposition of Magna Charta which I have cited above. This privilege forms, to such an extent, part of the English constitution, that I do not believe that any colonial parliament can suppress it. But I believe that the Parliament of Canada possesses the power to suspend the provisions of our Habeas Corpus Act, just as it had the power to pass this Act. Yet, the dispositions embodied in this Act are so sacred to the mind of every British subject, as I have said above, that it would require a very formal law to suppress them. It is not by simple inference that one may come to this conclusion. On this point I entirely share the opinion of an ex-member of this court, Hon. Judge Ouimet, who said, in re Gaynor and Greene, 9 Can. Cr. Cas. 496, at 498:—

'I cannot admit that an Act of the importance of the Habeas Corpus Act can be amended and the rights of the subject intended to be preserved under it, can be curtailed by a casual expression found in a subsequent statute. To amend an existing Act there must