

July 1914

IN THE COURT OF APPEAL
IN THE MATTER OF)
MUNSHI SINGH) JUDGMENT OF

THE HONOURABLE CHIEF JUSTICE MACDONALD.

The appellant Munshi Singh who seeks to enter Canada as an immigrant, is a native of India and a British subject. He is one of a large number of immigrants who have come to the port of Vancouver in the Komagata Maru. He was denied permission to land, and after formal proceedings were had before a Board of Inquiry he was rejected and an order was made by the Board for his deportation. He then applied to a Judge for a writ of habeas corpus to test the legality of his detention and from the refusal of the writ he now appeals to this Court.

On the threshold of the case is the question of the constitutionality of the Immigration Act. That the king with the advice and consent of the Imperial Parliament had the power to make laws for the exclusion from British possessions of immigrants, whether British subjects or not, has not been questioned, as indeed it could not be doubted. By the terms of the British North America Act the Parliament of Canada is clothed with sovereign power in matters relating to immigration into any part of the Dominion. No residue of authority except the power of disallowance is left with the Imperial Parliament, and hence subject to that power which has not been exercised with respect to the Immigration Act, Canada's authority to admit immigrants of any or every race or nationality, on any terms she pleases, is complete "Authority as plenary and as ample.....as the Imperial Parliament in the plentitude of its power possess and could bestow."