

HABEAS CORPUS CASE AT OTTAWA

Question Yesterday Morning
Reached Supreme Court
of **Canada**

HEARING NEXT WEEK

Thursday, July 18, Date Set
for Argument on Important
Appeal

(Canadian Press Despatches.)

Ottawa, Ont., July 12.—The important question of the validity of the order in Council of April 20, canceling exemptions granted under the Military Service Act, reached the Supreme Court of **Canada** this morning in the form of an application for a writ of habeas corpus for Private Geo. Edwin Grey of Nipissing, who is under arrest because he refused to don a military uniform at Niagara Camp and also declined to be inoculated. After hearing the application in Chambers, Mr. Justice Anglin consented to the issuance of an order referring the matter to the full Supreme Court, which will sit on Thursday next, July 18. This was done at the request of Mr. E. L. Newcombe, Deputy Minister of Justice, and no objection was raised by F. H. Chrysler, K. C., Ottawa, or Mr. C. C. Robinson, who made the application on behalf of Grey. As a result this application will be the basis for the settlement by the courts of the highly important matter of the validity of the order in Council of April 20. There will be no appeal from the judgment of the Supreme Court of Alberta, danger of the possibility of an objection to such an appeal being taken thereby being avoided.

Grey Appeal Explained.

In the course of the proceedings before Hon. Justice Anglin, Mr. Chrysler explained that Grey, the applicant for the writ of habeas corpus, is a farmer who had been refused exemption by the local tribu-

al. He went before the Appeal Tribunal at Halleybury and secured exemption so long as he remained on the farm. From this decision the military authorities appealed to the Central Appeal Judge and the application was before Mr. Justice Duff on April 20, when the order in Council was issued. Like similar appeals relating to the classes affected by the order in Council, it was not proceeded with.

Mr. Chrysler said that Grey contended that the order in Council was not valid. "We wish," he said, "to have the question of the order in Council issued under the War Measures Act settled." He added that the only apparent ground for the action of the military authorities in ordering Grey to report was to be found in the order in Council. He was a soldier solely by the virtue of its provisions "we contend," he said, "that the order in Council is invalid because it is virtually a repeal of the Military Service Act by order in Council."

Mr. Justice Anglin referred to the fact that the order in Council had been passed when Parliament was in session. That was an objection to it which he said he would like to hear discussed. He also expressed a desire to see the judgment of the Alberta and Quebec Courts.

Alberta Judgment National.

Mr. Newcombe said that the Crown raised no objection to the regularity of the motion. It was a case, he said, where, if the invalidity of the order of April 20 could be established on behalf of the prisoner, he would be entitled to be discharged from custody. He referred to the importance and urgency of the matter, stating that the judgment of the Alberta court was having an effect all over the country. "It is," he said, "of the utmost public importance that the question should be set at rest."

Mr. Newcombe then suggested that the whole question of the validity of the order in Council as raised by this application should be referred to the whole Supreme Court.

"You think that more expeditious than an appeal from the judgment of the Alberta Court?" queried Mr. Justice Anglin.

Mr. Newcombe replied that this would be the more expeditious way of disposing of the matter. It would avoid the question of whether or not an appeal can be taken from the judgment of the Alberta Court.

Mr. Justice Anglin asked if it would be necessary to summon Parliament in special session should the Supreme Court declare the order in Council invalid, and Mr. Newcombe replied that it would.

Some discussion followed as to the date on which the Supreme Court should convene in special ses-

sion, and it was agreed to make every possible effort to be ready to proceed with the hearing on Thursday next. Mr. Justice Anglin agreed that this would be the proper course to pursue. "I could not," he said, "refuse the writ without overruling the Alberta Court. On the other hand, should I authorize the issuance of the writ, an appeal from my order might be taken."

Quebec Officials Confer.

Quebec City, July 12.—A secret meeting of all the principal officers of the military district Number 5, was held at noon to-day at the Quebec drill hall, and although no official announcement was forthcoming, it is known the conflict between the civil and military officials over the habeas corpus proceedings was dealt with.

As related yesterday, Justice Dornon of the Superior Court ruled that Colonel Rodgers and Major Paquet be jailed here for contempt of court if, on July 17, they have not produced Edward Durand, draftee, who obtained a writ of habeas corpus from the Superior Court.

That armed resistance would be offered by the local militia to officers of the civil law attempting to arrest Colonel Rodgers and Major Paquet, is not known yet, but it is believed the local militia will do as much as the Calgary barracks to resist the arrest of the above mentioned officers.

Montreal Awaits Doherty.

Montreal, July 12.—The military authorities this morning produced in court the four **foreigners** on whose behalf writs of habeas corpus had been secured by Percy Ryan, K. C. The case was adjourned until June 22, in order to give the Minister of Justice an opportunity of preparing his case on the constitutionality of the Military Service Act, which has been challenged here in so far as it affects the habeas corpus law. It had been announced here that if the men were not produced, an order for contempt of court against the officers under whose charge they have been placed, would have been applied for.