

SUPREME COURT HEARING TO-DAY

Momentous Habeas Corpus Case to be Argued at Ottawa

NOT APPEAL SIMPLY

But a Direct Application to That Court for a Writ

(Canadian Press Despatches.)

Ottawa, July 17.—Before the full bench of the Supreme Court to-morrow morning argument opens on the case which is to decide the validity of the order in Council under which exemptions of men in Class 1, between twenty and twenty-two years of age, inclusive, were canceled. The case is not in the nature of an appeal from the ruling of the Appellate Division, Supreme Court of Alberta, although the main question—that of the constitutionality of the order in Council—is the same in both instances. It is a direct application to the Supreme Court of Canada for a writ of habeas corpus for Pte. George Edward Grey of Nipissing. Pte. Grey is now in detention for refusing to don a military uniform at Niagara Camp and for declining to be inoculated. Through his counsel, C. C. Robinson and F. H. Chrysler, K.C., Ottawa, he is making application direct to the Supreme Court for his release from the army by way of habeas corpus.

Farmer Asks Exemption.

Grey is a farmer. He was granted exemption by the Appeal Judge at Halleybury and the military representative appealed the ruling to the Central Appeal Judge. The appeal was still before the Central Appeal Judge on April 20, when the order in Council canceling the exemptions mentioned was passed.

The Department of Justice will be represented before the Supreme Court by E. L. Newcombe, K.C., Deputy Minister of Justice, with W. N. Tilley, K.C., of Toronto, as counsel.

Hold Minister Responsible.

Quebec, July 17.—The Minister of Militia is responsible for the decision of the Commanders of battalions not to appear in answer to writs of habeas corpus, and the same Minister has instructed Commanding Officers of all battalions not to produce men on behalf of whom writs have been obtained. Major Barclay, Deputy Judge Advocate, stated to-day in the Superior Court before Mr. Justice Cannon.

The case under consideration was that of Colonel Rogers, Commanding Officer of the Valcartier Camp, and also that of Major Paquet, Commanding Officer of the Laval C.O.T.C., at present under training at Valcartier.

The two had been summoned to court by ruling of Justice Dorion, who had ordered that they appear with the draftees on behalf of whom writs had been issued, or that the officers be jailed should they fail to observe the court's ruling.

Justice Cannon, answering the statement of Major Barclay, said that the rulings of the civil courts in all and any habeas corpus proceedings had to be observed, even by the military, and that the civil courts had it as their duty to see that the civil laws were observed by the military as well as by civilians.

Finally, Justice Cannon agreed to let the case stand till July 24, and said that then and there all commanding officers of battalions against whom writs have or shall have been issued by the Superior Court, must appear with the men on behalf of the writs that may have been issued.

He said that in the meantime the military could not remove draftees with habeas corpus proceedings in their favor from one camp to another without giving official notice of 24 hours to the court, which would then see to it that the men were duly protected.

Twenty-two more writs of habeas corpus have been taken in Quebec city yesterday against officers of the local militia.

Asks Writ For Man Overseas.

A novel kind of habeas corpus proceedings was instituted to-day, when Mr. Lavergne, on behalf of a draftee actually overseas, applied for a writ of habeas corpus.

General Newburn, Minister of Militia, at present overseas, and General Gwatkin, Adjutant-General are to be made respondents in this case.

Declaratory Action Instituted.

Montreal, July 17.—A novel line of attack was made to-day on the Military Service Act in the action entered in the Superior Court on behalf of a soldier named Jacob Blanshay, of Russian birth, against Hon. C. J. Doherty as Attorney-General of the Dominion. The case is taken for the purpose of obtaining a declaratory judgment establishing that plaintiff is not subject to the Military Service Act. This is the first declaratory action instituted here and the Attorney-General is called by it to defend the legality of the orders in Council based on the War Measures Act. It is taken to reinforce the plaintiff's position, already taken by habeas corpus writ.