Before me in Chambers, and on the argument of yesterday before a full court, counsel for the applicant based their client's claim for discharge from military custody solely on the ground that he had been granted exemption under the Military Service Act, 1917, and that two orders in Council of the 20th April, 1918 (numbers 919 and 962), purporting to cancel or set aside exemptions so granted to men of Class A between the ages of 20 and 23 (which apply to him) are invalid. Counsel representing the Attorney-General frankly conceded that if these impugned orders in Council cannot be upheld the applicant is entitled to his discharge.

The issue is therefore clean-cut, and, while the circumstances of the two cases differ somewhat in points not material, is precisely that recently passed upon by the Supreme Court of Alberta in the case of Norman Earl Lewis. That Court (Chief Justice Harvey dissenting) held the two orders in Council to be *ultra vires*.

As many thousands of young men throughout Canada, most of them already drafted, and a considerable number of them already overseas or en route to Europe, are affected, the importance of the matter involved is obvious. It has occasioned much public excitement and unrest, and numerous applications for writs of *habeas corpus* are already pending in the provincial courts. Under these circumstances it was obviously of great moment in the public interest that the question of the validity of these orders in Council should be authoritatively determined by this court. I therefore readily acceded to the suggestion of Mr. Newcombe, in which Mr. Chrysler concurred, that I should follow the course taken by Mr. Justice Duff, and approved of by the majority of this court in *Re Richard*, 38 S.C.R. 394, and subsequently sanctioned by rule 72 of our rules of court, and, instead of myself dealing with the motion, should refer it to the court.

The doubt which exists as to the appealability of the order for discharge made by the Alberta Court, in the *Lewis case*, the unavoidable delay that the taking of such an appeal (which solicitors for the respondent could scarcely be expected to expedite) might involve, the probability that if I should make a like order in the present case it would not be subject to appeal (sub-section 2 of section 62 gives a right of appeal to the court "if the judge refuses the writ or remands the prisoner") and the fact that it could not be expected that a decision of a single judge of this court would be accepted as binding in the provincial courts, seemed to me most cogent reasons for taking the course suggested, in view of Mr. Newcombe's assurance that it had been already arranged with the Chief Justice and the Acting Registrar that, should the reference be directed, a special session of the court to hear the motion would be called for an early date, so that the applicant would not suffer the prejudice of any undue delay.

Although some questions as to the case being within the s. 62 of the Supreme Court Act, and as to the right of the full court