

MIDDLETON, J., IN CHAMBERS.

MAY 2ND, 1917.

*REX v. JACKSON.

Judicial Decisions—Effect of—Judicature Act, sec. 32—Motion to Quash Conviction—Decision upon—Dictum on Motion for Leave to Appeal—Application for Discharge upon Habeas Corpus.

Motion by the defendant, on the return of a habeas corpus, for an order for his discharge from custody under a warrant of commitment issued pursuant to the conviction in question in *Rex v. Jackson* (1917), ante 77, 161.

T. N. Phelan, for the defendant.

J. R. Cartwright, K.C., for the Crown.

MIDDLETON, J., in a written judgment, said that in this case the Chief Justice of the King's Bench refused to quash the conviction (ante 77). The Chief Justice of the Exchequer was applied to for leave to appeal. He was of opinion (ante 161) that there was no authority to permit an appeal, but indicated that he did not agree with the view expressed on the motion to quash. As there was no jurisdiction to entertain the motion, this opinion had no binding effect so far as Middleton, J., was concerned; and, on the other hand, the view acted upon by the Chief Justice of the King's Bench was binding.

A motion was now made on the return of a habeas corpus, to discharge the prisoner, and the learned Judge was asked to sit in review upon the decision of another Judge. This was the thing prohibited by the Judicature Act, sec. 32. Middleton, J., understood it to be his duty to follow the decision of the Chief Justice of the King's Bench, leaving all criticism to the appellate Court.

Without expressing any independent opinion, he remanded the prisoner to custody.

MIDDLETON, J., IN CHAMBERS.

MAY 2ND, 1917.

RE SOLICITOR.

Solicitor—Bill of Costs—Solicitors Act, R.S.O. 1914 ch. 159, sec. 34—Itemised Bill—Lump Charge.

Motion by the client for an order directing the solicitor to deliver an itemised bill of costs.