

Divisional Court ordered to pay. Leaving aside these costs—the case stands claim for \$3,000: payment into Court of \$1,250: judgment for \$400 and interest: there is no plea of tender so as to entitle the defendants to all their costs as in some cases: and it seems to me that the costs are in the discretion of the Court.

I think the proper order to make is that the plaintiffs shall have their costs up to the delivery of the statement of defence and the defendants their costs thereafter including the reference, the appeal therefrom and motion for judgment with a set-off of such costs against the amount of damages and costs awarded to the plaintiff. The plaintiff to be declared to be entitled to receive from the defendants the sum of \$414.46 and interest thereon at the Court rate from June 25th, 1912, as damages—and the amount paid into Court to be paid out to the parties as their interest appears on the above basis. If the amount of costs payable to the defendants exceed the amount of damages and costs payable to the plaintiff the defendants will have judgment against him for the balance. The report of the Master-in-Ordinary is confirmed.

HON. MR. JUSTICE MIDDLETON.

NOVEMBER 15TH, 1912.

CHAMBERS.

RE MONTGOMERY ESTATE.

4 O. W. N. 308.

Lunatics—Not so Found—Statutory Committee—9 Edw. VII., ch. 37
—Jurisdiction of Court.

MIDDLETON, J., *held*, that the Court had no jurisdiction over lunatics or their estates or their statutory committee, under 9 Edw. VII., ch. 37, the Inspector of Prisons and Public Charities, until an order declaring insanity had been made.

Application for an order sanctioning a settlement between the Minister of Justice and the Inspector of Prisons and Public Charities, acting as statutory committee of Frances A. Towner, now confined in a public asylum.

F. Aylesworth, for the Inspector of Prisons and Public Charities.