

HON. MR. JUSTICE MIDDLETON.

JUNE 30TH, 1914.

REX v. HUCKLE.

6 O. W. N. 661.

Criminal Law—Habeas Corpus—Application by Person Imprisoned in Penitentiary Under Conviction of Court of Record—Penitentiaries Act, secs. 64, 65—Remission of Part of Sentence for Good Behaviour—Cancellation—Prison Regulations—Prison Offences.

MIDDLETON, J., *held*, that sec. 64 of the Penitentiaries Act, R. S. C. c. 147, does not entitle a convict, as of course, by a mere observance of the prison rules passed under the authority thereof, to remission of a portion of the time to which he is sentenced, but that such remission is dependent, in addition to observance of said rules, upon the determination of the prison officials, subject to review by the Minister of Justice, as to whether the conduct of the convict is exemplary.

Held, that an application to the Courts for remission was improper; that the Habeas Corpus Act had no application to a question of remission but that the Minister of Justice was the proper person to review the action of prison officials.

Motion, upon the return of a *habeas corpus*, to discharge a convict from custody.

G. Russell, for the applicant.

W. G. Thurston, K.C., for the Crown.

HON. MR. JUSTICE MIDDLETON:—Huckle was convicted before His Honour Judge Snider of extortion and sentenced to seven years' imprisonment, on 12th December, 1908. His sentence would not expire by effluxion of time until 12th December, 1915.

Under sec. 64 of the Penitentiaries Act, the inspectors of penitentiaries are empowered, subject to the approval of the Minister of Justice, to make regulations under which a record may be kept of the daily conduct of every convict, noting his industry and the strictness with which he observes the prison rules, with a view of permitting the convict to earn a remission of a portion of the time for which he is sentenced, not exceeding six days for every month during which he is exemplary in conduct and industry. When the convict is thus accorded seventy-two days of remission, he is allowed to earn ten days' remission for each subsequent month during which his conduct and industry continue satisfactory. Under the Statute, for certain offences, such as