

HIGH COURT DIVISION.

MIDDLETON, J., IN CHAMBERS.

JANUARY 17TH, 1914.

RE DACK.

Lunatic—Detention in Asylum for the Insane—Release on Probation—Re-commitment—Habeas Corpus—Application for Discharge—Evidence.

Motion on behalf of Norman Sinclair Dack, upon the return of a writ of habeas corpus, for his discharge from the custody of the Hospital for the Insane at Brockville.

R. H. Holmes, for the applicant.

William Proudfoot, K.C., for the respondents.

MIDDLETON, J.:— . . . The return to the writ, made by the superintendent of the asylum, shews that Dack was committed to the asylum upon the certificate of two medical practitioners, in accordance with secs. 7 and 8 of R.S.O. 1897 ch. 317, then in force, on the 15th February, 1913. The statute prescribes that, upon the certificate of two medical practitioners in a given form, the lunatic may be committed to the asylum. These certificates require that the practitioner shall have made due inquiry into all necessary facts, and shall certify that he found the person in question to be insane. The practitioner is also required in his certificate to specify the facts on which he has formed that opinion, distinguishing the facts observed by himself from the facts communicated by others. These certificates are produced, and shew examination by Dr. Crawford and Dr. Needy, both of Brockville.

In August, 1913, the patient was given into the custody of his father as a probationer under sec. 30 of the statute then in force, 3 & 4 Geo. V. ch. 83, the Hospitals for the Insane Act, which permits the inmate of an asylum to "be committed for a time to the custody of his friends . . . upon receiving a written undertaking, in the prescribed form, by one or more of the friends of such person, that he or they will keep an oversight over him."

The father coming to the conclusion that his son ought to be re-committed to an asylum, some correspondence took place with reference to placing him in a private institution; but it resulted in a telephone message desiring his re-committal to Brockville.