

*Judgment of the Lords of the Judicial Committee of the Privy Council in the matter of the Petition for special leave to appeal of J. B. Gregory, from Victoria; delivered 28th July 1900.*

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Present at the Hearing:

LORD MACNAGHTEN.

LORD LINDLEY.

SIR RICHARD COUCH.

SIR HENRY STRONG.

[*Delivered by Lord Lindley.*]

This is an application by a gentleman who is detained in the Colony of Victoria as a lunatic, for special leave to appeal against certain orders, his object being to compel the authorities there to try the question of his lunacy by means of a Jury.

Their Lordships have looked with care through the Lunacy Act applicable to this case—the Lunacy Act of 1890, and they have come to the following conclusion upon it. If a person is detained as a lunatic he can only be discharged, first, by *habeas corpus*, which this gentleman has applied for, and secondly, under the Sections of the Lunacy Act relating to discharge, and those are the Sections 22 to 27 and 98 to 105. Under none of those Sections is there any right to a Jury, but great care is taken to insure the discovery and discharge of any one who ought not to be detained. In addition to those sections, Sections 71, 82, 83, and 85 may be referred to as important. Under a *habeas corpus* the Applicant

is not entitled to have his sanity ascertained by a Jury. The Court may come to a conclusion, as it has done in this case, that the Applicant is lawfully detained upon the evidence before it. The Court is not bound to direct an issue to be tried by a Jury. The Court can always direct such an issue if the Court is of opinion that justice requires it.

Under these circumstances their Lordships will not advise Her Majesty to grant the leave asked for in this case.

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