

144. The report that you made, then, embodying Johnston's statement of the 2nd December was made on the 4th March?—That was the final report. I then reviewed everything within my own knowledge.

*Hon. Mr. Fisher:* The Commissioner points out that on the 1st March Dr. Hay asked for a report, and a memorandum went to Inspector Wright asking him to get a report from Sergeant Wohlmann as to all the incidents that led up to action being taken with a view to having Johnston committed.

145. *Mr. Robertson.*] "You say it was the duty of the police to get two medical men and have Johnston examined if you had reason to believe that he was mentally defective?—That is so.

146. Is that your reading of the Mental Defectives Act, 1911? I am referring to section 16 of the Act, under which your report states that he was committed. It is your duty as sergeant of police to get the medical men to examine a man whom you believe is mentally defective?—The usual and proper course is for a man to be examined by two doctors, and it is our duty to arrange that that is done: that is all.

147. Let me read section 16 to you: "Every constable who has reasonable cause to believe that any person (a) is mentally defective; and (b) is neglected or cruelly treated by any person having the care or charge of him, or is suicidal or dangerous, or acts in a manner offensive to public decency; and (c) is not under proper oversight, care, or control, shall forthwith make or cause to be made to a Magistrate an application for a reception-order in respect of that person in accordance with the provisions of section four hereof." There is provision in the Act for two Justices of the Peace acting if a Magistrate is not within ten miles at the time. Then, section 4 provides that the Magistrate shall call to his assistance two medical men, who shall make an examination?—That is so.

148. Do you consider, then, that it is your duty to call in the medical men, or do you not think the Act is quite clear about it that it is your duty to make application to the Justices first and give them the responsibility of calling in the medical men and of saying what medical men shall be called?—We are all in the Justice Department, and we act in conjunction with the Court. The Court is the office of the Magistrate. Copies of the application form and copies of the doctors' certificates go to the Court. We are the servants of the Court in that respect. We simply do as we are told.

149. But in this case you did not do as you were told—you did it without being told: you called in the medical men?—How do you know?

150. I am taking your own statement in the report?—You must remember the circumstances. The Court was extremely busy, and it has been the custom to assist the Clerk of the Court and the Court officials. The Clerk cannot go out to look for doctors and Justices, and he relies on the police to do so. The ordinary custom was followed.

151. Do you not see that the object of placing this responsibility on a Magistrate is to safeguard the public against any collusion between the police and medical men in order to get a man committed to a mental hospital?—I never heard of a suspicion of collusion between the police and medical men before.

152. I can assure you that officials of mental hospitals do have that suspicion. This is what Dr. Beattie said in reply to my questions: "Q. The first action should be for the police to make proper application on a proper form to a Magistrate or two Justices of the Peace, and he or they take the responsibility?—A. Yes, that is so. Q. In your opinion that is practically the only safeguard the public have under that section of the Act so far as committal is concerned?—A. It is the best safeguard we have at the present time. Q. It is a safeguard?—A. Yes. Q. It might be dangerous if that procedure were departed from?—A. It would be wrong to depart from it: it might lead to collusion and corruption." You see the position you place yourselves in by acting in that way, which is contrary to the Act?—I saw a letter of Dr. Beattie's in which he said that under no circumstances would he be guided by statements of the police—that he thought so little of the police that any statement made by them he would disregard altogether. I gathered from the tone of his letter that he had very little time for the police.

153. This is your application for a reception-order [produced]?—That is so.

154. To whom did you make this application?—It is written out to the Justices who were there to commit, in the absence of a Magistrate.

155. Then the Justices, being satisfied from the evidence of the medical men, would naturally make out the order for reception?—Yes.

156. Here is the order for reception [produced]: that is also in your handwriting?—Yes.

157. The Justices did not make it out?—No.

158. You made it out, and asked them to sign it?—They signed it. They interviewed the man; they saw the doctors' certificates; they had a talk to Johnston. They felt satisfied, apparently. They had no motive.

159. Were they present during the medical examination?—No.

160. That examination was conducted in the presence of the doctors and the police only?—Yes.

161. Yet the Act distinctly states that the examination shall be made on the order of the Magistrate or the Justices, who shall call in the medical men?—It does not say that the Justices must be present while the doctors are examining.

162. Section 5 says this: "On the presentation of the application the Magistrate may examine the person alleged to be mentally defective at his abode or elsewhere, and for the purpose of further inquiry shall call to his assistance two medical practitioners . . . and such medical practitioners shall either together or separately examine that person"—That is exactly what was followed in this case.