legally wrong, but committed without provocation, and therefore wrong in him but for the fact that he felt himself utterly unable to prevent himself doing it. Sir Henry Hawkins obviously does not see the matter in this light, nor, as we pointed out in the case of "Regina v. Cole," was there during that trial any indication of such a reading of the law as this. We can therefore only continue to urge a change in the present mode of expressing the legal test of criminal responsibility, and we must rejoice that so luminous and outspoken an utterance should have proceeded from the Bench, one so entirely in accordance with the remonstrances of mental physicians who have written on the plea of insanity in criminal cases. We are glad also to find his Lordship making the observation that "he had not spoken only his own views upon the matter, for more than one of the Judges had expressed the desire that the law upon the subject should be revised and a little more definite understanding arrived at." This augurs well for the future recognition of correct views on this important subject on the part of the lawyers and the legislature.

Action Against the Lewes Magistrates.

A very unusual application was made on the 9th of February in the High Court of Justice, before Mr. Justice Grove and Baron Huddleston. Sir H. Giffard moved for a rule *nisi* for a writ of *certiorari* to bring up an order of two Justices of Sussex, directing the conveyance to the County Lunatic Asylum of a Mr. Hillman, in order that it might be quashed. It appears that this gentleman, who resides at Lewes, is of independent means. One day, when about to sit down to dinner, the parish constable called at his house with the order of the Justices. Mr. Hillman declined to open the door, and it was consequently broken open, Mr. Hillman being removed from his house to the Haywards Heath Asylum. He was transferred thence to St. Luke's Hospital, where he was examined by the Commissioners in Lunacy, and immediately discharged.

As under Jarvis's Act there is a provision that when an order has been made against anyone by the Justices it must be quashed before an action can be commenced against them, Sir H. Giffard made the above application. It was not suggested that the Lewes Justices were actuated by improper motives, the contention by Mr. Hillman being that the proceedings were taken with a malicious object by persons employing the Justices to carry out the scheme. It was urged, however, that the Justices had disregarded every provision of the Lunacy Act. Mr. Hillman had not been brought as a wandering lunatic before the Justices. A medical man had not been called to their assistance; and, above all, the Justices had not themselves, as directed by the Act, properly examined the alleged lunatic in order to ascertain whether he was a fit person to be sent to an asylum.

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It was alleged that on the 24th of November last, Mr. Hillman, when at the Fitzroy Library, Lewes, was accosted by a Dr. Crosskey, who, however, in no way examined him. Further, that the two Justices referred to only saw Mr. Hillman on the same occasion through a glass door in the Library. Mr. Justice Grove observed that it would be a very strained opinion to suppose that the "examination" required by the Act meant looking through a glass door. He thought that it was too improbable to have occurred. Baron Huddleston, while agreeing with Mr Justice Grove, said he had found in many instances that Justices signed their orders with the greatest carelessness. "I am afraid too much laxity is introduced into these matters," said his Lordship.

The rule *nisi* was granted by the Court.

If the above statements are substantiated, they are a striking illustration of the perfunctory manner in which Magistrates fulfil the duties with which they are charged in regard to the examination of lunatics prior to their removal to the County Asylum. It is peculiarly important at the present time to realize how slight a safeguard magisterial examination forms against the improper admission of patients into asylums, seeing that an attempt is being made to require examination by a Justice, in every case, whether private or public, before confinement in an Institution for the Insane. It may satisfy the public demand for fresh restrictions, but it would be delusive, and would, therefore, be mischievous, like the Sheriff's Order in Scotland, in leading people to suppose that the guardianship of the liberties of the insane is secured by being left in the hands of these personages.

Since the above was in type, it has been ruled by Mr. Justice Grove and Mr. Baron Huddleston that the action of the Magistrates in this case was illegal on the ground that the removal of Mr. Hillman to the asylum was made without proper personal examination, this only having been made after his seizure, and while the complainant was in the carriage on his way to the asylum. The judgment turned upon the interpretation of the 68th sec. of 16 and 17 Vic., chap. 97. It appears that shortly after the Magistrates left the library they were informed that he was in a carriage close by, and to this they went, and had four or five minutes' conversation with him. He was then taken to the asylum, and they proceeded to make their order for his removal, appending the medical certificate. Mr. Justice Grove came to the conclusion that the above examination did not fulfil the requirements of the statute. He held that it was intended that an alleged lunatic should be brought before the Magistrates, and that there must be a joint examination by them and the medical man. If the examination of the Lewes Magistrates were within the meaning of the statute, it might lead, he held, to the most flagrant abuse and the most formidable consequences.

Mr. Baron Huddleston, after severely criticising the laxity of the Lunacy Laws in regard to private patients, observed that in the

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enactment in question the Legislature have endeavoured by every species of safeguard to prevent the liberty of those to whom it refers being improperly interfered with; and yet, he proceeded to say, it is remarkable that almost every one of these safeguards had been neglected in the present case. It is a startling fact also that the Clerk to the Magistrates stated that it had been his practice for 17 years to make lunacy orders in this way.

"First," said his Lordship, "there is to be an 'information' upon oath, but there was none here before the proceedings commenced. The Relieving Officer, made an 'information,' but that was after the medical man made his certificate and after the Magistrates had come to their conclusion, and after the alleged lunatic had been taken to the asylum; then it was that for the first time the Magistrates had an 'information.' The Relieving Officer arranged with Dr. Crosskey to give the certificate, and had arranged with the Magistrates to go and meet him at the library, and then it was that the Magistrates saw Hillman through a glass door, and then, without any authority, the policeman went with another man to Mr. Hillman's lodgings, where he had locked his door, and, being refused admittance, broke open the door with the assistance of a blacksmith, and conveyed him away to the asylum. No order, no examination, no information on oath; nothing but the medical certificate. That was the way in which the provisions of the Statute for the protection of alleged lunatics were carried out. The medical man made his examination without any authority. 'Somebody' sent the policeman with the blacksmith to the house to break open the door and take him away. 'Somebody' had hired a carriage to take him. 'Somebody' had caused this to be done without any order, or any previous inquiry, or any personal examination. I cannot believe for a moment that they could justifiably, without any evidence, find that the complainant was a 'person proper to be detained under care and treatment,' they themselves finding that he was not dangerous to himself or others; and the only thing put forward in the affidavits being, that somebody says that his landlady says that he had thrown open his window—a really ludicrous thing to suggest as an indication of insanity. I am of opinion that the Justices had no jurisdiction to make the order; and that the writ of *certiorari* must issue to bring it before the Court that it may set it aside. I regret the result, because the Magistrates had no bad motive, but if the Legislature has made certain provisions for the protection of the public, it is our duty to see that they are not disregarded."

It is evident from what transpired in Court, as well as from the experience of County Asylum superintendents, that the Lewes Magistrates are not sinners above all other Magistrates because they suffer such things, and will suffer, we doubt not, much more. A lax custom has grown up, and it is high time that either the law should be modified or that the Magistrates should be obliged to perform their duties according to the requirements of the Statutes. To this end the judgment delivered by the Judges will, no doubt, largely contribute. Magistrates will now be obliged, no less than medical men, to be extremely careful how they infringe the Lunacy Acts, and subject themselves to actions at law, involving them in blame, anxiety, and expense. Judges do well to enforce the law.

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