The sections of the Lunacy Act, 1890, to which the judge referred were as follows:—"Every constable . . . who has knowledge that any person within the district . . . is deemed to be a lunatic, and is not under proper care and control, . . . shall within three days after obtaining such knowledge give information upon oath to a justice (Sect. 13).

"If a constable . . . is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable . . . may remove the alleged lunatic to the workhouse. . . ." (Sect. 20).

These proceedings are parallel to those of the judicial reception order, and of the urgency order in private cases, but no actual documentary order is required for the immediate removal of the alleged lunatic to the workhouse, nor is any statement required of the reasons for this step, such as is required in the case of the urgency order. The trial turned upon the point whether the chief constable, who was not a party to the action, was *satisfied* that this step was necessary. If he were so satisfied, his subordinates were justified in acting upon his orders, which in that case were legal, and the action would not lie. If he were not so satisfied, then the judge ruled that his order to remove the patient was illegal, the defendants were not protected by it, and the plaintiff must have his verdict upon this part of the case. The evidence upon which the chief constable acted was made up of (*a*) his own observation of the plaintiff, (*b*) the reports of his subordinate officers, and (*c*) the reports of Drs. Dawson, Lowndes, and Wiglesworth, who testified that the plaintiff was a lunatic who might develop dangerous tendencies, and that he ought to be placed under care and control. It is unfortunate that the actual terms of the certificates or rather reports, for they were not, and did not need to be, certificates in the form prescribed by the Act, are not given in the report of the trial, but the purport of them is given in the evidence. As described, they do not state that the plaintiff was a dangerous lunatic at the time of the examination, but that he might develop dangerous tendencies; and there does not appear to be sufficient warrant in this statement for the instant arrest of the plaintiff, his removal forthwith to the workhouse, and his incarceration in a padded room. If the chief constable were satisfied of the necessity of this action, it must have been from the evidence (*a*) and (*b*), and not from the medical reports. Dr. Wiglesworth explicitly stated in court that the confinement of the plaintiff in a padded room was unjustifiable, and therefore there could have been nothing in his report to justify this. It should be stated that this step was taken on the order by telephone of the workhouse medical officer, who had received information by telephone that a dangerous lunatic had been admitted. Examination of the evidence of the chief constable and of his subordinate officers does not reveal any act or threat on the part of the plaintiff that indicates the necessity for such instant action, and it is probable that this was the ground upon which the jury arrived at the conclusion that the chief constable was not "satisfied" within the meaning of the Act that such action was necessary. The case has been reported at length because it is one of considerable importance, and indicates how very necessary it is that the terms of the Act should be observed in the letter and in the spirit.

Rex v. *Simmons.*

Edward George Simmons, 36, was indicted for the murder of Hettie Stephens at Melcombe Regis, on March 27th.

Prisoner was steward of a club, opposite to which was the bar at which deceased served. Prisoner was a married man, but had paid great attention to the girl, and had given her presents. Shortly before the murder he had told the employer of the deceased that she was robbing him and that she drank. The employer, both at the time and at the trial, scouted the accusations as absurd. On the evening in question prisoner went into the bar and had some private conversation with the deceased over the counter. Deceased was heard to say, "I don't want anything more to say to you, Mr. Simmons;" and to some other observation of the prisoner, "No, not after what you said about me." Prisoner then fired three shots at the girl with a revolver, killing her on the spot, and a fourth shot into his own mouth, which gave him but a slight wound. A man who was in the bar seized the

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prisoner, on which the latter said, "Don't hold me, Purden, let me go and look after the girl. Look after the girl. I know I did it. I meant to do it." To the police he said, "I did it. I lost my temper. She did not treat me as she ought to have done a married man. I shot her. That is all I have to say." It was proved that the prisoner had bought the revolver two days before, and that on the same day he bought a butcher's knife, saying, what was manifestly untrue, that he wanted it to kill pigs with.

For the defence, the plea of insanity was raised, and in establishing this plea a degree of latitude was allowed to the defence which is rare even in these humanitarian days. The prisoner's eldest brother and many other witnesses were called, and gave the prisoner's history from infancy. As a child he was excitable and delicate. At school he was given special privileges on account of his health. He walked in his sleep. In 1883 a companion of his went to prisoner's home, and informed his father that prisoner had been at his rooms all the evening; that he could make nothing of prisoner, and had left him in charge of a friend. When his friends went for him prisoner seemed dazed, and could not walk properly, though he was not in drink. On the way home he revived, but talked rubbish. In July of the same year he disappeared, he was advertised for, and answered from Ramsgate, after being away for four days. Some time after that he again disappeared and enlisted. He served from 1886 to 1894, and left as sergeant. His certificate of discharge was, "Exemplary. A very good clerk. A thoroughly trustworthy and smart non-commissioned officer." After he left the service he became steward of a club in Manchester. Here he became excitable, restless, and sleepless, and complained that the committee were against him, which was not the fact. Before his escapade to Ramsgate he had complained that the foreman in the business in which he was employed was against him. While employed at this club he would frequently go about the premises and sit on the doorstep in the early morning in his pyjamas. He used to be very much worried and make a great fuss over trifles, and make troubles out of nothing. A week or two before the murder he had been worse. He complained of severe pains in the top of his head. He complained repeatedly that the top of his head was coming off, and begged his wife to press on it, which she did. He then consulted Dr. Wetherall, who treated him for alcoholic gastritis and spoke positively to the strong alcoholic odour of his breath, though other witnesses denied that the prisoner drank. On March 25th he was in a highly-wrought excitable state. A stranger who witnessed the purchase of the revolver remarked that he did not seem to be in his right mind. A day or two before, he had come home in a most excited state because a stranger had spoken to him without being introduced, and on another occasion because he had seen a man with a bracelet on his wrist.

Dr. Weatherly, called for the defence, was asked, "Have you formed an opinion of the prisoner's mental condition at the time of this act?" Prosecution objected to the question as being the question which would have to be answered by the jury.

The Judge: "No; only partially. I shall tell the jury that prisoner may not have been in a well-balanced state, and may even have had partial delusions, but that of itself would not be enough. But I cannot disallow this question."

Dr. Weatherly was of opinion that the prisoner suffered from *petit mal* without convulsion. He believed that the prisoner meant to kill himself, that he acted under the influence of morbid delusive fear, that he imagined that his whole life would be ruined if his wife knew that he had given a few presents to this girl, and that this produced the irresistible impulse to kill the girl.

The judge here put some very significant questions to this witness. "Have you ever," he said, "found this to be the fact—that a person suffering from mental disease, unhinged from some cause or other, would suddenly take a violent dislike to a person with whom up to that moment he had been on terms of intimate friendship of a perfectly proper nature, and proceed to make charges against that person, and then as suddenly agree to their being cast to the wind?" And, when this question had been answered in the affirmative he said, "Would there not be the same relative want of control in the charge made by the person as there would be want of control in an act done afterwards? would you not come to the conclusion that the whole thing was due to mental want of control?"

Dr. W. B. Morton gave evidence in the same sense.

In summing up, his lordship is reported to have said that there was a fine

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dividing line between the healthy, vigorous mind and the dilapidated mind of the insane; but though the mind of a man might not be healthily disposed, he might be responsible for his acts. Counsel for the defence asked them to say that there was overwhelming proof of a diseased mind. But it was not enough that he had a diseased mind. The jury must find that in consequence of that diseased mind prisoner had not at that particular time a full appreciation of the nature of the act which he committed. In other words, that his mind was a blank, or that he was under the uncontrollable impulse of a madman. Guilty, but insane.—Dorchester Assizes, Mr. Justice Bucknill.—*Dorchester Telegram*, June 10th.

It is certain that a few years ago this merciful verdict could not have been delivered in such a case as this. The evidence of deliberate intention was strong, as was the evidence of previous animosity. The prisoner had already attempted to injure the girl—to get her dismissed from her situation—by officiously representing to her employer that she was neither honest nor sober. He purchased both a revolver and a butcher's knife. He shot her dead at the first shot, and fired twice into her lifeless body. Immediately after he said, "I know I did it, I meant to do it." Subsequently he mitigated this statement by saying, "I lost my temper." In the act itself there is not only no trace of insanity in the legal sense, but there is ample evidence of intention and deliberation. The whole of the evidence of insanity was derived from the previous history of the prisoner, and it is precisely this class of evidence which many judges have rigorously excluded from the consideration of the jury. The whole of the prisoner's life, from infancy down to the time of the trial, was scrutinised with the utmost vigilance, and everything that could suggest that he was—I will not say insane, but different from the average ordinary man was adduced and dwelt upon. The experts called for the defence were not only allowed the widest possible latitude, but the judge himself went out of his way to suggest an exonerating hypothesis which had not occurred to them. Dr. Weatherly's opinion that the prisoner suffered from *petit mal* must have been founded upon facts which were not reported at the trial, and supposing it to be valid, it applies only to corroborate the hypothesis of the prisoner's general mental deterioration; for it is quite certain that the murder itself was not done in a period of post-epileptic automatism. The judge told the jury that he never recollected a case so fully charged with difficulties, and certainly the difficulties are very great. The first, and one of the greatest, is that of discerning an adequate motive for the crime. The prosecution suggested that the prisoner was in love with the girl, that he desired to possess her, that she refused, that he then tried to get her dismissed from her place in order that she might be more fully in his power, and that failing this, he shot her. It is proverbially dangerous to attribute motives. As has been before remarked in these pages, if we knew the full history and circumstances of the actors, the motives of most of the crimes that we call motiveless would be clear enough. Had the trial taken place in a neighbouring country, the agitation and excitement that the prisoner evinced on the two or three days preceding the murder would have been attributed to the resolution that he had then formed to commit the murder, and this hypothesis would have been as probable as that advanced by the prosecution. Certain it is that the circumstances of the crime alone lent no support to the plea of insanity. This was established solely by reference to the prisoner's previous life, and after this case it will be impossible even for Dr. Weatherly to assert that our legal procedure presses with undue severity upon prisoners of unsound mind, or that any difficulty is placed in the way of establishing the plea of insanity.

Rex v. *Burden*.

Frank Burden, 31, gardener, was indicted for the murder of his wife. Prisoner had spinal disease, and when his wife became pregnant he was convinced that she had been unfaithful, as he believed himself to be impotent and incapable therefore of being the father of the child. They had many quarrels on the subject, and after one of these the prisoner murdered his wife with a knife and a razor, which he then hid under the mattress of the bed. He subsequently tried to drown himself. Dr. Macdonald deposed that several relatives of both the father and the mother of the prisoner were insane, and that the prisoner suffered from the two fixed delusions that he was himself impotent and that his wife was unfaithful. Prisoner described

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