world look upon that as obscene which others, equally good but of different training or temperament, consider not only harmless, but a thing of beauty: see Commonwealth v. Buckley, 86 N. E. Repr. 910, for an instance. It might not be safe for any magistrate to take the opinion of some persons —even some policemen—as to what was and what was not obscene. And what will "tend to corrupt morals" is very much a matter of individual opinion and judgment. Thousands of the best people would suffer persecution rather than look at a theatrical performance or a horse-race, while both are held harmless by many—some of whom assert that the former at least may be and often is edifying and of great moral value. The police magistrate might well, then, look at these productions—and, if he could do so before, he might after, the prisoner was in custody, or at any time.

There is nothing in what I have said at all opposed to Regina v. Petrie, 20 O. R. 317, or Rex v. Walsh, 8 Can. Crim. Cas. 101—this case may be looked at in respect to reading to the accused an information previously prepared as the charge reduced to writing—or Rex v. Legros, 17 O. L. R. 425, 12 O. W. R. 983. The British Columbia cases cited have no application: Rex v. McGregor, 11 B. C. R. 350; Rex v. Williams, ib. 351.

6. The information is that the prisoner did, "contrary to law, sell a quantity of obscene books . . ." The statutory offence is "knowingly, without lawful justification or excuse . . . sell . . . obscene books . . ." The gist of the offence consists in the scienter, and such scienter is not alleged. The charge as read to the prisoner contained no offence against the law.

Rex v. Hayes, 5 O. L. R. 198, 2 O. W. R. 123, is a case in which the defendant was convicted under 60 & 61 Vict. ch. 11 (D.), as amended by 1 Edw. VII. ch. 13 (D.), for unlawfully causing the importation of an alien from the United States into Canada under contract to perform labour in Canada. The statute contained the word "knowingly;" and the Court (Street and Britton, JJ.), held that the conviction was on its face bad, citing Carpenter v. Mason, 12 A. & E. 629; Regina v. Justices of Radnorshire, 9 Dowl. P. C. 90.

So also in Rex v. Beaver, 9 O. L. R. 418, 5 O. W. R. 102, the word "knowingly" was held by the Court of Appeal