the evidence of Dr. Edgerley was that the prisoner in committing the murder was influenced by his delusion. It was a delusion *ad hoc*. Yet the prisoner was held responsible. The evidence of Dr. Exley was particularly interesting. He testified that the prisoner knew he was doing wrong, but had no idea how wrong. The judge brushed this consideration on one side, and said it did not matter that the prisoner did not know how wrong the act was. In thus ruling, he went counter to the opinion of his very eminent predecessor, Mr. Justice Stephen, who attached great importance to the existence of full knowledge on the part of the prisoner.

It is not for me to bandy arguments on points of law with a judge, but it is certain that very many prisoners have been found "guilty but insane" on much less cogent evidence of insanity than was adduced in this case; and it is something of a shock to us, accustomed as we now are to the liberal, and what seems to us the enlightened, interpretation given to the old formula by so many judges, to find that there is still a judge on the bench capable of interpreting it in its narrowest and most literal sense. There is, of course, not the slightest chance of the sentence of death being carried out, and the only difference that the verdict makes to the prisoner is that he has had the death sentence, which he probably did not appreciate, pronounced upon him, before being remitted to Broadmoor, instead of being sent there without this preliminary. The sentencing of acknowledged lunatics to death is becoming less and less frequent as time goes on, and such a case as this will be regarded in a few more years in the same light as the public now regards the sentencing to death of children for stealing property of the value of forty shillings.

The true moral to be drawn from the case is the unsatisfactoriness of the arrangement by which a judge is taken from a Commercial Court, in which he has gained distinction, to try criminal cases of which he has had no experience. As long as this is done miscarriages of justice will occur.

Rex v. *James Jefferson* (Appeal allowed).

This was an appeal against a conviction for murder. The prisoner was tried at Leeds Assizes for the murder of a woman in circumstances

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of great atrocity, and the proceedings there were reported in *The Times* for July 20th last.

Mr. Lawrie appeared on behalf of the appellant; and Mr. Bruce Williamson and Mr. Lowenthal appeared for the Crown.

Mr. Lawrie, in opening the appeal, said the prisoner had been through two separate trials at Leeds. The only defence set up being insanity, there was first an inquiry as to whether he was fit to plead, and then there was the trial on the main charge. He now appealed on the ground that, on the medical evidence given at the preliminary inquiry, the prisoner ought not to have been tried on the main charge at all.

Mr. Justice Darling.—The Act only gives leave to appeal against a "conviction"; how can you say that a finding that a prisoner is fit to plead is a conviction?

Mr. Lawrie.—I must withdraw the appeal against the finding that the prisoner was fit to plead, and will confine myself to appealing against the subsequent conviction.

Mr. Justice Darling.—I want to make that clear as a ruling of this Court.

Mr. Lawrie then submitted that the Court, on the medical evidence, ought to find that the prisoner was insane, and order him to be kept in custody as a criminal lunatic under Section 5 (4) of the Criminal Appeal Act.

At the conclusion of Mr. Lawrie's argument,

Mr. Justice Lawrance asked Mr. Bruce Williamson if he was going to argue that the prisoner, having been found to be sane by the jury, was in fact sane.

Mr. Williamson said he thought it was his duty to call attention to the evidence so far as it supported the verdict of the jury: but, having regard to the very peculiar circumstances attaching to the commission of the crime and the conduct of the prisoner at the time, he could not suggest that there was not a serious question to be determined as to whether this man had a sane mind when he committed this horrible murder.

Mr. Justice Darling.—It was proved that he cut off the woman's head in the presence of witnesses and made no attempt to escape, and also that he took certain articles of clothing not worth sixpence and brought them away with him. Some of the doctors at the trial said he was insane even then.

Mr. Justice Lawrance.—No one here suggests that there was no evidence to go to the jury. The question is whether their finding was satisfactory, having regard to all the facts of the case.

Mr. Bruce Williamson.—Having regard to all the facts, we cannot say that the finding of the jury was satisfactory.

Mr. Justice Lawrance, in giving judgment, said that there was no doubt that the verdict given was unsatisfactory, and in his judgment it ought not to stand. He had read the evidence given by the doctors, and it appeared that there was strong evidence called before the jury which showed that this man was not in such a state of mind as to make him responsible for his act. The verdict given being unsatisfactory, he thought they ought to say that the verdict which the jury should have

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returned was that the man was insane when he committed the act. He hoped the case was not one of those in which the jury returned the verdict they found because they knew that there was a Court of Appeal behind them to which recourse might be had. The verdict would be set aside, and the order would be that the prisoner should be detained as a criminal lunatic during his Majesty's pleasure.—*Times*, July 31st, 1908.

The Court of Criminal Appeal took the only possible course open to it, but, if it had not existed, the same practical result would have ensued. Even counsel for the prosecution admitted that the finding of the jury was unsatisfactory. Whether the procedure of the Court of Appeal is on the whole better than the intervention of the Secretary of State, must be a matter of opinion. In such a case as this, in which the miscarriage of justice at the trial was open and palpable, there is probably not much difference between the two; it is in cases where the evidence is more evenly balanced that the difference will come into view. The Court of Appeal, though less bound by rules than the Assize Court, will not have the wide discretion in admitting evidence that inheres in the Secretary of State, but the publicity of proceedings in the Court will probably be more satisfactory to the public. We shall watch future cases with much interest.

The inability of the Court of Appeal to review the finding of the jury in the issue of fitness to plead is of interest, but perhaps not of much practical value.

Mr. Justice Lawrance said: "The verdict being unsatisfactory, he thought they ought to say that the verdict which the jury should have returned was that the man was insane when he committed the act." But this was precisely the verdict which the jury evidently wished to return, and would have returned if they had not been forbidden by Mr. Justice Bigham. If the report is correct, the judgment is very important, for judges are bound by the deliverances of the Court of Appeal, and in future it will not be necessary to prove knowledge of right and wrong, but only insanity of the prisoner at the time of committing the crime, in order to secure a verdict of guilty but insane.

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