Medico-Legal Notes.

REX *v.* DANIEL BERNARD CROWE.

This case was tried at Gladstone, South Australia, before Mr. Justice Napier and a jury, on November 14 and 15, 1929.

On the morning of August 27, 1929, a woman was found lying dead in bed at her home with a bullet-wound in the head. The accused, her husband, a man of forty, was found wandering outside the house suffering from the effects of poisoning. Evidence was brought by the Crown that he had been jealous of his wife's friendship with another man. Some time before the tragedy he had gone to the lodging-house where the man was staying, and had complained to the proprietress that his wife was keeping too late hours. On one occasion he had said, " If I see her here again there will be shots fired." In answer to questions by counsel for the defence, a witness said that sometimes the accused looked strange and would suddenly stop and stare; deceased woman's behaviour was entirely above suspicion. The husband of the proprietress of the lodging-house said that on the day before the tragedy he had walked with Crowe to the golf links. Crowe walked up to Mrs. Crowe, who was playing golf, and took a club away from her. Witness and accused then walked home and the latter said, " I will break her head with this," and " I saw —— run away from our door when I returned the other night and my wife made a rush to get into bed." Witness saw Crowe on the evening before the tragedy, and also at an hotel next morning. They had two or three drinks together, and Crowe showed signs of being under the influence of liquor. The constable came for him while the witness was with him. Evidence was also given that the accused was moody and reserved, and that since the death of a son by accident some years previously he had become emotional and a very changed man. A railway employee said that on the morning of the tragedy Crowe had asked him about lysol. He told Crowe that there was lysol in the ambulance box, and later he found the box broken open and the lysol missing. The fifteen-year-old daughter of the accused

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corroborated the evidence concerning the incident on the golf course, and said that in the early hours of August 27 she woke up and heard a noise of something falling on the floor. She then saw her father rush down the passage and heard him say, "Now, that's done." Her father took a bottle of beer from a cupboard. Witness went off to sleep again and was awakened some hours later by her sister, who told her about her mother. A constable gave evidence that just after one of the children had come to him with the news of the tragedy, he saw Crowe in the company of a previous witness. He called to Crowe, but the latter hurried away. He went to Crowe's house and saw the dead woman. He then went in search of the accused and saw him stagger and fall, not far from his home; he was unconscious and his breath smelled strongly of lysol. A little later witness was given a letter which the accused had handed to another witness. This letter, of some five hundred words, addressed to the constable, was full of references to the supposed infidelity of the murdered woman, with directions that various insurances and other property should be left to his children. The letter concluded: "This business with —— (the lodger) has got me down properly . . . And don't forget to blow Mrs. ——'s (the proprietress of the lodging-house) lights out the same as I did my wife's." Just after his arrest the accused said he did not remember having written the letter or anything about his wife's death.

A defence of insanity was advanced and evidence was called that the accused was epileptic. Two uncles had committed suicide. The accused said that he had had fits for a number of years, and sometimes carried out actions unconsciously. On one occasion he was driving a pair of horses and later found himself lying down beside them. They had been unharnessed and had their nosebags on. He admitted having suspected his wife for some months, but said that he was now convinced of his mistake. He said, "On the night of August 26 I had an argument with my wife in the bedroom, when I accused her of giving —— money. I was boiling with rage. From that time until I woke up in hospital my mind was a complete blank. I never had any intention to take the life of my wife, and have no memory of doing so." His brother gave evidence that he was subject to fits several times a year and had undergone medical treatment.

Dr. Harry Downey, Medical Superintendent of Parkside Mental Hospital, expressed his opinion that the accused was epileptic, and that at the time of his examination, a few days before the trial,

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he was free from delusions and hallucinations. He had not only major attacks, but also attacks of fainting and weakness, sometimes preceded by a blinking of the eyes. He had bitten his tongue during a fit. The accused remembered the quarrel with his wife up to a certain point, when there occurred a blank. That would fit in with the theory that a fit began at that moment. He would be no more responsible than a man walking in his sleep. In the witness's opinion the accused knew what he was doing, but did not know at the time that it was morally wrong. In this state he would think that he had a moral right to kill his wife, but he would know at the same time that he was legally wrong. The witness pointed out that in a previous automatism the accused had unharnessed his horses and fitted the nosebags, indicating that he knew the nature and quality of his actions at that time, although he did not realize until he came out of the automatism that his actions had been unnecessary and foolish. The following question was put to the witness: "Supposing some months before the death of the deceased in this case the accused had developed suspicions of his wife's fidelity, and those suspicions became more and more pronounced until the day before her death he threatened her and stated his intention of killing her with a golf stick, and also his intention of shooting in the way —— (a witness) described, and early the next morning he did in fact shoot his wife, would that affect your opinion as to there being a reasonable possibility of this being an act performed in a post-epileptic state?" Dr. Downey expressed the opinion that such a state of affairs would be exceptional for a post-epileptic automatism. He was then asked, "Supposing the accused, thaving hreatened the night before to kill his wife, did kill her in the morning, then wrote a letter in which he admitted having killed her, waited for a favourable opportunity to obtain lysol and then took lysol, would those things tend to suggest that he was carrying out a purposeful train of action; that is, a train of action purposeful, whether it originated before or in the state of epilepsy?" Dr. Downey replied that it would not be unusual if the plan was thought out during the epileptic condition, but that it would be unusual if the plan was thought out before the epileptic condition.

In summing up, the Judge pointed out that the defence asked the jury to acquit the accused on the grounds that when the act was done it was done without any appreciation of its nature and quality, or, if there was any such appreciation, then that the accused did not realize that he was doing wrong. It was not

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denied by the Crown Prosecutor that the accused was subject to epilepsy. As regards epileptic states, the Judge said that automatism implied a course of action without the direction of any conscious will or intention. If that were established in the case of the accused, then he would legally be regarded as having been insane at the time he committed the crime. But epileptics might also manifest a subsidiary or dual personality, in which case it would be necessary to ask, " Did the accused know that his act was wrong in law? " If the subject realized that he was committing murder in killing his wife, then he was responsible in law, however much his personality might have been dislocated. The jury must decide whether they agreed with Dr. Downey in accepting the symptoms related to the latter as true. In regard to the earlier phases of automatism, the jury should note that they probably did not cover a period of many hours, whereas in the present case the alleged duration was some nine or ten hours. In His Honour's words, " That is a long time, hardly paralleled by the seizures spoken of as earlier occasions. It would be easier to believe that the act was done during a seizure and that the subsequent acts were done in a state of remorse or despair." The Judge went on to say that it might be difficult to believe that the accused did not remember writing the letter, or indeed that he would have written while he was in an unconscious state. After writing the letter he probably lapsed into unconsciousness from the effects of poison. The accused had said that he did not remember shooting his wife. If that were so Dr. Downey maintained that the act was done in a state of post-epileptic automatism. It was for the jury to decide how far they believed the accused when he said that he did not remember. If the jury could dismiss all reasonable doubt that the accused had done the act, had he, from disease of mind, not known the nature and quality of the act, or had he not known that what he was doing was wrong?

The jury failed to agree. A month after the trial Crowe was certified as insane and sent to the Hospital for Criminal Defectives. In hospital he had periods of a few days during which he was dull, depressed, and apparently taking no interest in his surroundings. On one occasion he had a " twinkling of the eyes," after which he felt weak and ill. The medical officer who observed the attack considered this as a manifestation of *petit mal.* After several months of treatment the man has recently been reported to be bright and mentally clear and free from attacks.

I wish to express my indebtedness to Dr. M. H. Downey for

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placing at my disposal various documents from which this report was compiled, and for permission to publish his evidence.

W. S. DAWSON.

REX *v.* HETTY JOHNS.

This case was tried at the Central Criminal Court on September 11, before Mr. Justice Finlay. The accused, æt. 16, was charged with arson, and surrendered to her bail. She had been employed as a domestic servant at a house in Regent's Park from December 24 to 31, 1929. During this short period no less than four fires occurred in the house. In May of the present year she was engaged as a domestic servant at a flat in Marylebone. Early in the morning of May 23 she came into her employer's bedroom, and announced that there had been burglars in the flat. She also said, " It is all smoke in the sitting-room." The sitting-room was found to be on fire.

The jury found the prisoner " Guilty " on all the counts, but strongly recommended her to mercy as, in their opinion, she did not realize the seriousness of what she was doing.

The judge said that investigation of the accused's mental condition should certainly be undertaken; and he sentenced her to nine months' imprisonment in the second division, as this would give an opportunity for medical examination to be made.

The result of this trial furnishes an illustration of the disadvantage of giving bail in cases of this kind. Fire-raising is an offence which should always occasion suspicion as to the mentality of the accused person, and adequate medical investigation should always be made before the trial. Prison may not be the ideal place for such examination. But it is at least better that examination should be made in prison than that there should have been no examination at all, as, to judge from the published report, happened in this case.

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