left open to the jury to return a verdict of infanticide rather than one of wilful murder, and that Mr. Justice Talbot was wrong in declining to leave the question as to whether the child was "newly born" to the jury. It was stated that Mr. Justice Shearman had left such a question to the jury in the case of a child of six weeks old (Rex *v.* McConnell, tried at Reading Assizes, October 17, 1923), a verdict of infanticide being returned. The court, however, upheld Mr. Justice Talbot's ruling. The Lord Chief Justice said that the Infanticide Act, 1922, required three things to be established before a verdict of infanticide could be properly returned. (1) The child killed must be the child of the accused woman: (2) The child must be newly born. (3) At the time of the act or omission, from which the death of the child resulted, the woman had not fully recovered from the effect of giving birth to the child, and that by reason thereof the balance of her mind was then disturbed. The court held that the second of these requirements had not been satisfied in the present case. The court was not proposing to define the expression "newly born," but it was satisfied that a child of more than a month old was not within the meaning of the Act.

When the Infanticide Act became law, it was generally believed to have been passed in order to obviate the solemn and almost blasphemous farce of sentencing a woman to death with all the solemn accessories of the Black cap, etc., when everyone in court, except perhaps the unhappy victim, was well aware that there was no prospect of the death sentence being carried into effect. There have not been lacking critics who have complained of the vague wording of the Act. These criticisms will not be diminished in force by the occurrence of the present case.

Rex *v.* Edward Lloyd.

This man had been sentenced to death at Durham Assizes for the murder of a police-constable. The case was tried before Mr. Justice Roche. The defence was that of insanity, but no medical evidence was called in support of that plea. The case came before the Court of Criminal Appeal on December 12. It was urged that Lloyd had suffered from "shell-shock" in 1915, and was, in consequence, discharged from the army. In 1926 he was described as a congenital mental defective. He had attacked other persons, without any obvious reason, and he had threatened, apparently after very slight provocation, to "swing for" the man whom he ultimately murdered. The judge had told the jury, at the original trial, that a verdict of "guilty but insane" was open to them, and

https://doi.org/10.1192/bjp.74.304.100 Published online by Cambridge University Press

that if they returned a verdict of murder with a recommendation to mercy, he would support such recommendation. The jury adopted the latter alternative.

The Court held that the jury took the judge's remarks to mean that it would be better for the prisoner if they were to find him guilty of murder, as this verdict would probably not be followed by the usual consequences. The Court was satisfied that the prisoner was insane when he committed the act; they quashed the sentence of death passed upon him, and directed that he should be kept as a criminal lunatic.

Rex *v.* Bertram Horace Kirby.

This man had been tried before Mr. Justice Swift at Lincoln Assizes for the murder of his wife, and sentenced to death. The defence raised had been that of insanity. Kirby had been discharged from the army as insane in 1915, and had undergone a serious operation in 1926, which had increased his liability to mental trouble.

The case came before the Court of Criminal Appeal on December 12. It was urged that the judge had directed the jury that the burden of proof of insanity rested upon the defence, but had not made it clear that this burden would be discharged if it was shown that the prisoner had been insane at the time of the crime, and that it was not necessary to prove that he was insane at any later time.

The Court held that the jury had before them the evidence of a doctor that Kirby was insane for just the space of time in which he committed the crime, and that they had not been satisfied that the defence of insanity was established. The appeal was dismissed.

Rex *v.* John Thomas Dunn.

The prisoner had been tried for the murder of his wife at Durham Assizes, and sentenced to death. The defence had been that the wife had committed suicide, and the plea of insanity had only been incidentally raised.

The case came before the Court of Criminal Appeal on December 12. It was urged that, although the jury had not been invited by the prisoner's counsel to return a verdict of "guilty but insane," there was evidence upon which such a verdict could have been found. The Court, however, held that the defence of insanity must be strictly proved at the trial, and dismissed the appeal.

The case seems to show the danger of treating the plea of insanity as a kind of "secondary" defence, keeping it in the background, and endeavouring to obtain an acquittal on the facts.

https://doi.org/10.1192/bjp.74.304.100 Published online by Cambridge University Press