Medico-Legal Notes.

Rex *v.* Clifford Hulme.

This case was tried at Perth, Western Australia, on August 7 and 8, 1928.

The accused was a farm labourer, æt. 29. He had been employed for about four months by a farmer named Harold Eaton Smith, who lived, with his wife and three small children, in a somewhat lonely part of the country. Hulme was described by some of the witnesses for the prosecution as "an every-day man" and as a "quiet, ordinary sort of man." He appears to have given satisfaction as a worker, to have been on good terms with Smith and his wife, and never to have made any improper advances to the latter (this point is of importance, in view of subsequent occurrences).

On June 22 Smith and Hulme were engaged on the farm, working a tractor. About 5 p.m. Hulme returned to the house, carrying a rifle, and informed Mrs. Smith that her husband had turned the tractor over on his body, and was dead (his words were, "He's as dead as a door, and his head is as flat as a board"). He said he would go to the house of a neighbour for assistance. He returned half an hour later, saying that there was no one at the house. Having had some tea, he proceeded to strike Mrs. Smith in the face, telling her that he had shot her husband. He struck the children with a heavy block of wood; he tied Mrs. Smith to the bed, cut off her clothes with scissors, undressed himself, and raped her. He threw the bedclothes over her, saying, "You had better not catch cold. I won't kill you. The madness has passed. I will go and give myself up." One of the children had a fractured skull and a fractured jaw. Another child, an infant, also had a fractured skull. The third child was severely bruised, as was Mrs. Smith. The body of Smith was found, near the tractor, covered with cut-down scrub. There was a bullet wound in the temple, and another in the back, the latter bullet having passed through the heart. There was also a wound, inflicted after death, on the forehead. A blood-stained axe was found near the body.

After leaving the house Hulme went to a neighbour named Nelson, and said that Smith had met with an accident and that

https://doi.org/10.1192/bjp.75.308.124 Published online by Cambridge University Press

help was needed. The two men started off together, but Hulme made some excuse, and left Nelson. Next morning Hulme gave himself up to a constable, saying, " I have shot Smithy. I did it deliberately." He later made a written statement, in which, after stating that there had been no ill-feeling between him and the Smiths, he said, " About 5 p.m. something seemed to go wrong in my head. I picked up the gun and pulled the trigger. Smith had his back to me at the time. He fell off the tractor. I went to him, and he was unconscious. The tractor stopped itself. I changed my clothes, and went away." It will be noted that the statement said nothing about the happenings at the farm after the shooting. He refused to go to the farm, but informed the constable where the rifle would be found.

The facts, as outlined above, were not disputed, and the defence was that of insanity.

Hulme gave evidence on his own behalf. He said that, while working with Smith, " A light flashed in my eyes. I dropped the axe, grabbed the rifle, and pulled the trigger. The rifle was pointed to Smith, but I don't know why. The next thing I remember was sitting on the roadside, drinking water out of a wheel-rut. I tried to reason things out, and heard a voice saying, ' You've shot Smithy.' I then went to the police-station and told Constable Rowbottom." He further stated that he did not remember seeing Mrs. Smith after the shooting, but knew that he must have returned to the house, because, after he " came to," he found that he was wearing his best clothes. He stated that he was subject to " turns," and that, while working at Smith's, he had once wandered away into the bush. A relative on his mother's side had died in an asylum. He had suffered from blackwater fever, and had tried to shoot himself, when on active service in Egypt. He further said, " I don't know why I killed Smith, and I don't know now that I was doing any harm." In cross-examination, he admitted that before coming to Australia, as an assisted emigrant, he had been given a certificate by a doctor who had known him for fifteen years, and that this certificate described him as being normal in all respects.

Dr. James Bentley, Inspector-General of Insane, stated that he had examined Hulme on three occasions, and was convinced of his insanity at the time of the crime, although not satisfied that he was now insane (*i.e.*, at the trial). He arrived at his conclusion because (1) there was no motive for the crime, (2) an unnecessary amount of violence was employed, in that an axe was used after death, (3) unnecessary violence was used to the children, more especially to the baby. Blackwater fever was a severe form of malaria, and periods of loss of memory frequently followed malarial affections.

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He was not prepared to state from what form of insanity Hulme suffered.

Dr. C. D. Kerr, Medical Officer of Fremantle Prison, was called in rebuttal. He had examined Hulme immediately after admission to the prison, when he had no delusions. Since his admission Hulme had complained of hearing voices. Hulme was capable of feigning insanity, but it was difficult to say whether the loss of memory in his case was genuine or feigned. When the period of alleged loss of memory was sharply defined it was generally feigned. He did not think that anyone could affirm the state of the accused's mind at the time of the crime.

The Chief Justice, in his summing-up, told the jury that they should ask themselves if the crime seemed like that of a sane man. If it was, then Hulme must have been a devil incarnate. Hulme was well-respected in the district, and yet it seemed that he had suddenly developed into a monster. The absence of motive did not necessarily indicate insanity, because many murderers had been hanged for crimes for which no motive could be found. If it could be proved that there was a motive, that would go a long way towards disproving the plea of insanity. In this case it did not seem that the desire for immoral relations with Mrs. Smith was a motive for the crime, but rather that the crime was the result of a sudden unpremeditated temptation. If they believed that Hulme was insane at the time, they should return a verdict of not guilty on the ground of insanity.

The jury, after deliberating for an hour, returned a verdict of guilty. Sentence of death was passed, and we understand that the prisoner has been hanged.

The case is of much interest. There is, perhaps, no more difficult problem than that of deciding upon the "responsibility" of a person for a particular criminal act, when the main evidence of the existence of "insanity at the time of the act" rests upon an alleged amnesia, the genuineness of which has to be determined. Authorities differ upon the question as to whether clearly defined limits to such an amnesia constitute a proof of feigning. That the limits assigned to the alleged amnesia should be constant is, probably, a point of much greater importance, and the reports in this particular case give very little guidance upon this matter. It is evident that there was a strong *primâ facie* case for the defence of insanity. It is not for us to criticize those who decided to ignore that defence. But we may, perhaps, express regret that there was not a more prolonged period of observation prior to the trial. Not quite seven weeks elapsed between the crime and the trial, and part of this time must have been occupied by the coroner's and the

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magistrate's investigations. There was no opportunity of obtaining what might have been most essential information, regarding accused man's medical history before he went to Australia, and his alleged experiences during his military service. A longer interval would have had the advantage of mitigating the natural horror which the brutal details of the crime must have occasioned, and which could not have been devoid of influence upon all concerned in the case.

Rex *v.* Albert Spencer Banks.

This case was tried at the Somerset Assizes on October 26, 1928, before Mr. Justice Shearman.

The accused, a labour exchange manager, æt. 51, was charged with the murder of his wife and daughter by shooting them in their beds on July 28. The facts were not disputed, and the defence was that the crime was committed under the influence of a delusion.

The accused, an ex-quartermaster-sergeant of the Royal Artillery, had served twenty years in India. There was evidence that he had always lived on the most affectionate terms with his wife and daughter. In 1913 he had been in hospital for nineteen days, suffering from "delusional insanity," and in 1926 he was under observation for thirty days, on account of "mental disease." He appears to have been worried by some difficulties arising out of his duties. On July 28 he sent for a constable, and stated that he had killed his wife and daughter. At the police-station he made a statement to the following effect: "I believe I did kill her, but I cannot remember properly. When I woke up, it came across me in a flash that I had shot them in the night." Later, when asked if he would have legal assistance, he said, "No, no, he would only try to get me out of it. I don't want that. I want to be hanged."

Dr. J. M. Rutherford, of Brislington House, Bristol, said that Banks had a constitutional weakness, which rendered him liable to break down under any undue worry or strain. He had delusions of impending disaster. He got it into his head that the end of all things was coming, and that he must kill his wife and daughter for the sake of their happiness.

The learned judge instructed the jury that there was ample evidence upon which a verdict of insanity could be found. Immediately after the summing-up Banks asked that a statement, which he had given to counsel, should be read. This request was granted, and the statement was as follows: "Next morning, on waking after a good night's sleep, fully conscious of what had

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