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.

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