

Medico-Legal Notes.**REX v. REES.**

The accused, Basil Sydney Rees, æt. 25, was employed as a wheeler at a colliery at Kurri Kurri, New South Wales, and stood his trial before Justice Halse-Rogers at the Newcastle Circuit Court, New South Wales, for the murder of his sweetheart, aged 26.

The evidence showed that the accused and the girl had been keeping company for about six months, and a marriage had been arranged to take place three days before the girl was found dead, but for some reason had been postponed. On the night before the murder the accused called at the house where the girl was staying, as he had been in the habit of doing for many months, and she appeared to be in the best of spirits. They were seen that night at a moving picture entertainment, and afterwards were also seen talking near the spot where, a few hours later, the girl was found dead. Early the next morning the accused visited the local police-station, and said to the constable on duty there, "I have come to tell you that I have had a row with my girl to-night and I have killed her. . . . I choked her with my hands." He then led the constable to the spot where the body was found lying, near a vacant house. The Government Medical Officer, Dr. Tennent, was then summoned, and while the body was being removed the doctor asked the accused, "What did you do to the girl?" He replied, "I caught my two hands round her throat and choked her." Later at the police-station the accused gave a perfectly sensible account of what took place, and even gave a demonstration of how it had happened. Evidence was given to the effect that the accused was quite calm, and showed no signs of emotion.

A number of witnesses were called by the defence, who testified that the accused had exhibited emotional instability both in his home life and at his work at the colliery. The defence also read from correspondence between the accused and the girl, and showed that the former was madly infatuated. Dr. Tennent stated that he had known Rees for some time, and during the few months

before the death of the girl he noticed a change in the man's disposition. He formed the opinion that he was under a mental aberration, in that he did not seem to realize the enormity of his action. He believed the accused was suffering from impulsive insanity. When questioned further on this point the doctor stated, "I think when he was committing the act he did not know what he was doing at all, but remembered after control had been re-established." The doctor, in reply to a question, agreed that although the accused's mind was a blank at the time, he would still be able to give a detailed account of what happened.

The accused then made the following statement from the dock: "I did not realize what I was doing. I could not realize that the girl I loved was dead. I always loved her and treated her with respect. I never harmed her in any way. I cannot explain what came over me at the time; I seemed to realize, after everything had happened, what I had done. God knows I did not mean to do it."

The judge, in his summing up, said that the defence of insanity stood on a distinct basis in English Law—that is, that the accused did not know or realize the nature of his act, or if he did, that he did not know that it was wrong. The English Law did not admit of the defence of uncontrollable impulse unless the latter was due to insanity. There was no evidence of insanity up to the date of the offence, and no evidence of insanity subsequently, and the defence rested on the theory that the accused suffered a period of irresponsibility during the time of the offence, and that at that particular time he was not aware of what he was doing. If the jury came to the conclusion that an impulse had come over him the question was: Did he know what he was doing, and did he know that what he was doing was wrong? If he did know, no matter how strong the impulse, it could not be relied upon as a defence to the charge.

The judge then stated it was his duty to inform the jury that they were entitled to return a verdict of manslaughter on the suggestion of the defence that it might have been an accident, but he would remind the jury that the accused stated he held the girl by the throat until she stopped breathing.

After a retirement of about an hour and a half the jury returned with a verdict of manslaughter, and added a recommendation to mercy.

"A verdict there is nothing to justify" was the judge's comment on the finding of the jury. He went on to say that, although the

verdict was illogical it had a considerable bearing on the question of sentence. It would be a very dangerous thing for the community if a defence of impulsive insanity could be raised, and then on a verdict of manslaughter the accused could go practically unpunished. He sentenced the accused to seven years' penal servitude, and added: "If, during your imprisonment at the end of about three years, the medical authorities report that you are suffering from no emotional derangement, and if your conduct has been good, I would be prepared to give favourable consideration to your case."

The verdict appears to have been a compromise.

There is little doubt that this tragedy was the outcome of an uncontrollable infatuation of a young man for a young woman, and that this passionate affection may have given way to a passionate jealousy, one or the other being produced by a state of mental instability which rendered the accused only partially responsible for his actions, and this appears to be the popular view as expressed by the verdict of the jury in this case.

It is noteworthy that no evidence was brought forward to show the existence of mental disease in support of the defence of "impulsive insanity," the latter being apparently depended upon as a mental malady "*sui generis*." The significance of this point would be readily recognized by modern psychiatric teaching, nevertheless the same conclusion was evidently arrived at by the jury, though apparently by some other method of reasoning.

GREY EWAN.