here, as it is said to be in some countries, that, if an insane person, who is capable of appreciating the nature and quality of the act and of knowing that it is forbidden by law—for that is the meaning in this connection of the word 'wrong'—yet has what is called an impulse to do the act, which impulse he cannot resist, then he is to be acquitted on the ground of insanity. . . I charge you as a matter of law that it is not enough for the prisoner to have proved for him . . that he had lost the power of inhibition—the power of preventing himself from doing what he knew was wrong. . . . It is your duty to find a verdict of guilty if you find that the prisoner killed Lougheed . . . and at the same time it has not been proved to your satisfaction that the condition described by Dr. Bruce Smith was not his actual condition—in other words, if he killed the man, and it has not been proved that his condition was not as Dr. Bruce Smith says it was, he is guilty of murder, and it is your duty to find so."

The prisoner was convicted and sentenced to death.

RIDDELL, J., refused to reserve a case upon the question whether the prisoner, being undoubtedly insane, could be executed.

RIDDELL, J., reserved a case, upon the above charge, as follows: "Was I wrong (to the prejudice of the prisoner) in charging the jury that, even if the prisoner was insane, if he appreciated the nature and quality of the act and knew it was wrong, they should not acquit on the ground of insanity, and that the existence of an irresistible impulse did not (even if they believed it to exist) justify an acquittal on the ground of insanity?"

The case was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

T. C. Robinette, K.C., for the prisoner.

J. R. Cartwright, K.C., and E. Bayly, K.C., for the Crown, were not called upon.

THE COURT answered the question in the negative, and affirmed the conviction.

[Cf. The King v. Creighton (1908), 14 Can. Crim. Cas. 349.]