

The
Ontario Weekly Notes

Vol. III.

TORONTO, MARCH 6, 1912.

No. 25.

COURT OF APPEAL.

JANUARY 16TH, 1912.

REX v. JESSAMINE.

*Criminal Law—Murder—Insanity—Appreciation of Nature and
Quality of Act—Irresistible Impulse.*

The prisoner was tried on a charge of murder before RIDDELL, J., and a jury, at Toronto, on the 13th November, 1911.

It appeared that he had watched for one Lougheed upon the street and shot him several times, killing him almost instantly.

The defence was insanity.

The medical evidence was, that the prisoner was insane, incurably so; that he understood the nature and quality of the act, and that it was wrong in the sense that it was forbidden by the law; but he had lost the power of inhibition, and could not resist the impulse he had to kill Lougheed.

Riddell, J., charged the jury: "It is not the law that an insane man may kill whom he will without being punished for it. It is not the law that an insane man may kill another and escape punishment simply because he is insane. There have been hundreds of insane persons who have killed others, and who have been executed, both in England, whence we take our law, and in Canada, in which we live. . . . Life would not be safe under such circumstances. There is one in every three hundred persons in most countries . . . of persons who are insane, in one way or another, and it would never do if the law were such that one man out of every three hundred—that is, in Toronto, something over a thousand people—could go out and slay at will without being brought to task and punished by the strong arm of the law. . . . A man is not to be acquitted on the ground of insanity unless his mind is so affected by that insanity as that he is not capable of appreciating the nature and quality of his act and of knowing that such act was wrong. It is not the law