

One hundred years ago

Criminal Law Amendment Act, 1885, s. 5 (2); offence against imbecile woman; definition of ‘imbecility’

On behalf of the prosecution it was pointed out that there was no definition of the word “imbecile” contained in the Act, and it was submitted that an “imbecile” was a person of defective mental power of less degree than idiocy, and not congenital.

For the defence *R. v. Barratt*, L.R. 2 C.C.R. 81, and *R. v. Fletcher*, L.R. 1 C.C.R. 39 were cited.

His lordship, in the course of his summing up to the jury, said that there had not been many cases under that section of the Act, which had been passed to prevent men, either by a trick or superior will power, from taking advantage of women

who, from physical or mental disabilities, had special claims on the law’s protection. There were cases where, although a woman had will and understanding, it might be so weak that a man who by persuasion overcame her scruples ought to be held to have broken the law. He cited Taylor’s *Medical Jurisprudence* (twelfth edition), pp. 1045 and 1046, and *R. v. Turner*, *Sessions Papers of the Central Criminal Court* (1886), and proceeded to direct them that there must be such weakness that under the will of the man there was no fair chance for the woman. The woman must be incapable of resisting persuasion, of exercising an act of her own will, or of giving or withholding her consent.

He left the following questions to the jury: (1) Was the woman an imbecile? (2) Did the prisoner know it?

The jury answered both the questions in the affirmative, but strongly recommended the prisoner to mercy on account of his age.

At Bodmin Assizes, before Mr. Justice Kennedy, a man was indicted for an offence under Section 5 (2) of the Criminal Law Amendment Act in respect of an imbecile woman. It appeared that the imbecile when she was fourteen years of age was in the second standard at school, where the average age of the children was only eight years. At the present time she was not fit to be trusted alone, and was not considered capable of going out to service.

REFERENCE

Journal of Mental Science, January 1907, 143.
 Researched by Henry Rollin, Emeritus Consultant Psychiatrist, Horton Hospital, Epsom, Surrey
 doi: 10.1192/bjp.190.4.365

Corrigendum

Phenotypic and genetic complexity of psychosis. Invited commentary on . . . Schizophrenia: a common disease caused by

multiple rare alleles. *BJP*, 190, 200–203. The doi for this commentary is 10.1192/bjp.bp.106.033761; the doi included with

the online version has been corrected in deviation from print and in accordance with this corrigendum.

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