

The Legal News.

VOL. IV. NOVEMBER 5, 1881. No. 45.

INSANITY AS A DEFENCE.

The law periodicals of our neighbors on this continent continue to be largely occupied, as is natural, with discussions on the subject of insanity, in its bearings upon criminal acts. Many good people seem to imagine that because Guiteau did an unreasonable thing, in that he killed a worthy man, without the incentive of any immediate personal benefit to himself, such as might be reaped by a highway robber who shoots a person in order to steal his watch, he must be insane. That, of course, is not the doctrine of the law, and let us hope that it never will be. It is true that at the present time medical authority is not entirely consonant on the subject of insanity, but the difference between the higher lights on this question is not really so great as might be supposed. Let us hear what Dr. Hammond, who has devoted much study to the subject, has to say:—"An individual may be medically insane, and yet not a lunatic in a legal sense. His brain is diseased, either temporarily or permanently; his mind is not in all respects normal in its action, and yet he is responsible for his acts. Many of the insane are clearly irresponsible, and their punishment is demanded only by the imperative necessity which exists of securing the safety of society by preventing their committing criminal acts. This should be done in that way which experience shows is most conducive to the accomplishment of the end in view, even if it involves the taking of the life of the lunatic. But there are others, people with morbid impulses—with delusions as to their mission as reformers, messengers of God etc., with intense egotism and desire for notoriety, manifestly abnormal in character; with tendencies towards the performance of eccentric and unusual acts; with a total disregard for the restraints upon individual indulgence which a decent sense of the opinions of mankind requires, of excessively-developed passions, which lead them to the commission of various bestial crimes—but who nevertheless show little or no

want of intellectual power (indeed this is often above the average), who transact their every day routine work with regularity and precision, and who reason logically and clearly on the subject of their particular point of aberration. Such people are medically insane; their mental processes are radically different from those of mankind in general; there is some defect, inherent or acquired, in the organization of their nervous systems; and the medical expert who goes into court and testifies to the fact of their insanity is entirely justified, by the accumulated experience of those most competent to know, in so doing. They are insane from a medical standpoint, but they know right from wrong; they know legal acts from illegal ones; they are able at some time at least to control their propensities, and their delusions may be entirely without reference to the alleged criminal act they may have committed. *While a knowledge of right and wrong can never be properly regarded as a test of insanity, it is a test of responsibility: and by knowledge of right and wrong is not meant the moral knowledge that a particular act would be intrinsically right or wrong—in other words, a sin—but that it would be contrary to law.* In reality, however, the individual may not even have this knowledge; but he must have, in order to make him responsible, the mental capacity to have it."

The president of the Oneida community, to which Guiteau at one time belonged, has written a letter which chimes in with the foregoing. There really seems to be no evidence to show that Guiteau should be saved from the ordinary punishment meted out to murderers, unless his trial should bring out something yet unknown to the world. Of course the utmost latitude of defence should be accorded. Some people are so thoughtless that they would curtail the privileges of a criminal who has done something unusually atrocious. Surely, the world is old enough to have outgrown such folly. It has been wisely said that it would have been better that Guiteau should have been lynched by the mob than that he should be lynched by a Court of Justice. The greater the culprit, the more strictly must recognized rule and precedent be adhered to. The act of Mason, who shot at a helpless prisoner in his custody through the window of his cell, can excite nothing but disgust and contempt in persons of healthful mind.