

produced an irresistible impulse to do a known illegal and wrongful act. Whatever the views of scientists or theorists on the subject of insanity may be, and however great a variety of classification they may adopt, the law in a criminal case brings the whole to the single test—did the person doing the act at that time have sufficient sense to know what he was doing, and that it was wrong to do it? If that be his condition it is of no consequence that he acts under an irresistible influence or an imaginary inspiration in committing the wrong. Emotional insanity, impulsive insanity, inspirational insanity, insanity of the will or of the moral sense all vanish into thin air whenever it appears that the accused knew the difference between right and wrong at the time and in respect of his act. No imaginary inspiration to do a personal and private wrong under a delusion or belief that some great public benefit will flow from it, when the nature of the act done and its probable consequences and that it is in itself wrong are known to the actor, can amount to that insanity which in law disarms the act of criminality. Under such notions of legal insanity life, property and rights, both public and private, would be altogether insecure; and every man who, by brooding over his wrongs, real or imaginary, shall work himself up to an irresistible impulse to avenge himself or his friend or his party, can with impunity become a self-elected judge, jury and executioner in his own case for the redress of his own injuries or of the imaginary wrongs of his friends, his party, or his country. But, happily, gentlemen, that is not the law; and whenever such ideas of insanity are applied to a given case as the law (as too often they have been), crime escapes punishment not through the legal insanity of the accused, but through the emotional insanity of courts and juries."

The jury, with the reluctance to punish murder so often witnessed, found the prisoner guilty of manslaughter in the third degree, that being the lowest offence which they could find under the indictment.

#### PROVINCIAL RIGHTS.

The speech of the Lieutenant Governor of Ontario, at the opening of the Session, contains the following paragraphs:—

"I congratulate you that recent decisions of the Judicial Committee of the Privy Council have set at rest all questions as to the right of the Provincial Legislature to legislate as our interests may from time to time require on matters of internal trade, and in particular on the law of insurance. Some further provisions seem now necessary in order to render effectual the legislation which had for its object the securing of uniform conditions in fire policies, and I invite your attention to the subject.

"I regret that the right of provinces to property escheated for want of heirs, unanimously maintained by the highest Courts in Ontario and Quebec, and acquiesced in by the Federal Government for several years, has, on an Ontario appeal to the Supreme Court of Canada by the Government in the name of the defendants in a well known case, been negated by a majority of the judges of the Court. The case in question is but one of several cases of the same kind which have occurred since confederation, and the constitutional question involved is so important, and some of the grounds on which the decision proceeds are of such far-reaching application, that I have lost no time in taking the necessary steps for obtaining a review of the judgment by Her Majesty's Privy Council. There is strong reason for expecting a favorable result."

#### NOTES OF CASES.

##### SUPERIOR COURT.

MONTREAL, Dec. 30, 1881.

Before JETTE, J.

COSSITT et al. v. LEMIEUX, & RATRAY, Petr.  
*Petition to vacate Sheriff's sale on the ground of an unexpired right of emphyteusis.*

1. *Before the coming into force of the Civil Code the obligation of improving the property was not an essential obligation in an emphyteutic lease.*
2. *The principal and distinguishing characteristic of an emphyteusis before the code was the alienation of the property.*
3. *A lease passed in 1846, by which the grantor declares "to have leased, demised, granted and to farm let for the space and term of fifty consecutive years" unto "the lessees for themselves, their heirs and assigns" a certain beach pro-*