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INSANITY AS A DEFENCE.

Some weeks ago, a Mrs. Coleman was tried in New York for the murder of her paramour. As the act could not be denied, the stereotyped defence of insanity was set up, and Chief Justice Davis, in charging the jury, took occasion to expound the law as it bears upon this subject. The judge, it has been supposed, had the Guiteau case in view in the observations made by him on this occasion. A portion of the charge is of interest. "Insanity," he said, is usually spoken of both in common language and in the books as a defence to crime. But it is no defence, because where the insanity recognized by the law exists there can be no crime to defend. An insane person is incapable of crime. He is devoid both in morals and in law of the elements essential to the constitution of crime, and hence is an object of pity and protection and not of punishment. Therefore, whenever it is established that a party accused of crime was at the time of its alleged commission insane within the established rules of the criminal law, he is entitled to acquittal on the ground of innocence because of incapacity to commit the offence, however monstrous his physical act may appear. Both humanity and the law revolt against the conviction and punishment of such a person. But insanity is a condition easily asserted and sometimes altogether too easily accepted. Hence juries, while they should be careful to see to it that no really insane person is found guilty of crime, should be equally careful that no guilty person escapes under an ill-founded pretext of insanity.

"In this State the test of responsibility for criminal acts, where insanity is asserted, is the capacity of the accused to distinguish between right and wrong at the time, and with respect to the act which is the subject of enquiry. This rule is stated by the authorities in different forms, but always in the same substance. In one case it was said, 'the inquiry is always brought down to the single question of capacity to distinguish between right and wrong at the time the act was done.' In the

most authoritative of the English cases it is said, 'it must be clearly proved that at the time of committing the offence the party accused was laboring under such a defect of reason from disease of the mind as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong.' And in a very late case in our Court of Appeals a charge in that language was held to present the law correctly to the jury. So you will see, gentlemen of the jury, that in this case the firing by the prisoner of the shot by which the deceased was killed being proved and admitted, the question whether the act was criminal depends upon your finding, as a matter of fact, whether at the time of doing the act the prisoner knew what she was doing, and that she was doing a wrong; or, in other words, did she know that she was shooting the deceased, and that such shooting was a wrongful act? If she did know these things her alleged insanity is not established within the rules of the law, however much you may be convinced that she acted under the intensest emotional excitement, or however fully she believed she was justified in avenging her own wrongs, or however much you may think the deceased was deserving of punishment. 'The doctrine that a criminal act may be excused upon the notion of an irresistible impulse to commit it when the offender has the ability to discover his legal and moral duty in respect to it, has no place in the law,' and there is no form of insanity known to the law as a shield for an act otherwise criminal, in which the faculties are so disordered or deranged that a man, though he perceives the moral quality of his acts as wrong, is unable to control them, and is urged by some mysterious pressure to the commission of the act, the consequences of which he anticipates and knows. This is substantially the language of the Court of Appeals in the case already referred to. If it were not so every thief to establish his irresponsibility could assert an irresistible impulse to steal, which he had not mental or moral force sufficient to resist, though knowing the wrongful nature of the act; and in every homicide it would only be necessary to assert that anger or hatred or revenge, or an overwhelming desire to redress an injury, or a belief that the killing is for some private or public good, has