

Mr. L. S. Huntington, who died at New York, May 19, at the age of 59, was little known to the profession as an advocate. He was called to the bar, however, in 1853, and in 1863, when his party formed an administration, he became Solicitor General for Lower Canada in the Sandfield Macdonald Cabinet. He represented Shefford in the Commons for a number of years, before and after Confederation, until defeated in 1878. He had considerable aptitude as a public speaker, and his powers in this respect were studiously cultivated, but a rather ponderous and formal manner, often observed in public speakers of the New England States and the section of Canada adjacent, rendered his oratory less effective than that of some men of inferior gifts. His inclinations were for public affairs and literature, rather than for the less flowery paths of the law, and the latest achievement which attracted public notice to the pursuits of his retirement in New York was the production of "Professor Conant," a novel which we have not been able to examine, but which obtained a moderate share of favor from the critics.

GUILT.

Filtered through the medium of a New York cable despatch, there appeared in 9 Leg. News, p. 153, the report of an incident in the trial of a man for voting on three different properties in the same electoral division. Mr. Justice Stephen was fully justified in the most peremptory condemnation of the application of the rule *actus non facit reum, nisi mens sit rea*, to the case before the court; but he goes further and questions both the meaning and the authority of the rule. Of course he was only pretexting ignorance when he desired to know its meaning in plain English, and whence it came. Both Mr. Justice Stephen and Mr. Williams must have known perfectly that the maxim is to be found in Broom, where the application of the rule is explained, and where the cases in which it has been examined are collected. Broom takes the rule from Coke's 3 Inst. p. 54. The only wonder is, that having thought and written a great deal about these things, the learned judge should have fancied he had a heresy to extirpate.

Whether any, or what mediæval writer

gave the rule as we find it in Coke, is of little importance, for it is founded in natural law; and in all times it has been applied, with unerring precision, as we employ it now. This might be illustrated from several passages of the Old Testament. The whole matter is, however, so familiar from our every day experience that it would be a waste of time to quote particular authorities to establish it.

The only objection to the absolute force of the rule is that a person accused may be ignorant of the law; but it is a necessary fiction that he knows it. Surely this cannot be the difficulty in Sir James Stephen's way to a complete understanding of the rule. It will be found that knowledge, *i. e.*, intention, real or presumed, is essential to constitute guilt, whether the intention be of the substance of the offence, as is sometimes said, and by which is probably meant, expressly included in the definition, or not. The remark may be pressed still further. Intent or guilty knowledge, express or implied, is to be found in the definition of every crime. It is so in murder, as much as in assault with intent to murder.

It is difficult to furnish a skeptic with original authority as to a natural precept, or it is too easy. But turn this maxim as one may, it will be found to be invariably true, that without intent guilt does not exist. So, an infant is incapable of crime, and so also are the insane. It should be noted that it is with regard to those not *compos mentis* that Coke quotes the rule, *actus non facit reum, &c.*

Another instance is where one acts under compulsion,—as when one obeys a king *de facto*. The rule of the Roman law as to inability to prevent, is based on the same principle, *Culpa caret, &c. ff. de reg. jur. 2. 50, nullum crimen, &c. lb. 2.109.*

Though ignorance of law is not an excuse in criminal matters, ignorance of fact absolves. If, then, Mr. Justice Stephen's farmer had voted by error in one place instead of another, believing, in fact, that the place he voted at was within the electoral division in which he had a right to vote, he would have been entitled to an acquittal; whereas the man who knowing what he is doing, reads his Bible in spite of the prohibition of the law, should be found guilty.