according to the findings of necessity by the jury, that the castle doctrine would afford. The killing was wanton, and it was proper to punish it fully.

R. J. H., '30.

HOMICIDE—INSANITY AS AFFECTING DEGREE OF GUILT.—The defendant was charged with murder and entered two pleas: not guilty, and not guilty by reason of insanity. In a preliminary trial upon the latter plea, accused was found sane. *Held*, it was not error to reject evidence of the defendant's mental condition, offered to reduce the grade of the homicide under the plea of not guilty. *People v. Troche* (Cal., 1928), 273 P. 767. The doctrine of partial insanity is not recognized by the courts of California, and insanity is a complete defense or none at all.

While this, no doubt, is the majority view and prevails both in those states where the defense of insanity is available under a plea of not guilty and in those where such a defense must be specially pleaded, the courts generally have allowed evidence of intoxication and of "heat of blood," not as a complete defense to homicide, but to indicate a condition of the mind which renders it incapable of sustaining the deliberation and premeditation necessary to support a charge of first degree murder. *State v. Sporegrove* (1907), 134 Ia. 599, 112 N. W. 83; *Commonwealth v. Colando* (1911), 281 Pa. St. 343, 80 A. 571. Furthermore, the law which recognizes but one degree of insanity has never precluded the introduction of evidence as to the defendant's state of mind at the time of the commission of the crime when presented together with the surrounding circumstances to reveal a lack of the requisite intent in the defendant. *Sage v. State* (1883), 91 Ind. 141. Thus it seems inconsistent and a matter purely of terminology to refuse to recognize insanity which will lower the degree of crime for which a person may be held responsible and at the same time to permit the condition of the defendant's mind as influenced by outside circumstances to be shown for the purpose of determining the gravity of the offense committed.

Notwithstanding the very simple "right and wrong" test as applied by the majority of the courts, insanity is difficult of precise definition and covers a variety of mental diseases, only the minority of which constitute legal irresponsibility. Because of this and the tendency, whether conscious or unconscious, of juries to permit a lay conception of insanity to influence them, they have declared, in the face of obvious knowledge in the defendant of right and wrong, such defendant insane. By the adoption of the doctrine of partial insanity, which allows a reduction in the degree of the crime charged, the liberation of persons who are not legally insane would be somewhat diminished, if not entirely eliminated.

There are at least two states which have recognized the doctrine of partial insanity. The supreme court of Utah in *State v. Anselmo* (1915), 46 Utah 137, 148 P. 1071, holds: "In determining the question of such design and premeditation, they [the jury] should take into consideration all the facts and circumstances developed at the trial as well as those relating to the mental condition including that of intoxication of the accused where such

evidence has been introduced." The court further states "A person's mental condition may not be such as to make him irresponsible for his acts and yet it may be such as to relieve him from the extreme penalty imposed by the law for the committed act." In a more recent case of *State v. Schilling* (N. J., 1920), 112 A. 400, the New Jersey Supreme Court approved the following charge to the jury: "[If] at the time of doing the act, the evidence shows you that the defendant was so feeble-minded that his faculties were prostrated and rendered him incapable of forming the specific intent to kill with its wilful, deliberate and premeditated character, then although it is no defense or justification, his offense would be murder in the second degree." While these decisions are not in accord with the majority view, they are indicative of a progressive spirit, and have at least refused to shackle a particular case with inflexible tests which can not possibly be appropriate generally. F. E. M., '30.

JUDICIAL NOTICE—LAWS OF ANOTHER STATE.—In a suit in a Missouri Court to have a decree of divorce granted in Illinois declared invalid and to secure separate maintenance, the plaintiff offered evidence of statutes of Illinois to show that the divorce judgment obtained there by publication was void. *Held*, this evidence was inadmissible. "Where the cause of action rests upon the laws of another state, and the same are not merely an evidential part of the cause of action, they must be both pleaded and proved." *Keena v. Keena* (Mo. 1928), 10 S. W. (2d) 344.

At common law, courts of the several states being considered as foreign to one another, are not bound to take judicial notice of the laws of any other state. Statutes of other states are regarded as matters of fact, and when relied on to support a cause of action or defense must be pleaded and proved as other facts. *Fidelity Loan Securities Co. v. Moore* (1919), 280 Mo. 315, 217 S. W. 286. This common doctrine prevailed in Missouri until an act was passed in 1927 providing: "In every action or proceeding wherein the law of another state of the United States of America is pleaded, the courts of this state shall take judicial notice of the public statutes and judicial decisions." In deciding the principal case, the Missouri Court of Appeals apparently disregarded this piece of constructive legislation, for all of the cases cited and relied on by the court were decided prior to the enactment of this statute. It is an unquestioned rule that a court will take judicial notice of the statutes of its own state. *Lyons v. Reinecke* (1926), 10 F. (2d) 3; *Dortch v. Reichel Motor Co.* (Mo. A. 1920), 223 S. W. 675; *Moore v. Clem* (Tex. A. 1927), 295 S. W. 941. Apparently the only excuse the Missouri court can offer for failing to employ the statute in question is the fact that it overlooked it entirely. Had the court heeded this statute, proof would have been unnecessary, for judicial notice is the cognizance of certain facts which judges and jurors already know. *United States v. Hammers* (1917), 241 F. 542. In deciding the principal case without regard to the statute the Missouri court ignored the modern tendency to abandon the cumbersome machinery used in most of the states.