

pronounce an unsound mind; or rather a physical disease has instrumentally impeded the healthful exercise of mental vigour. The ancient aphorism holds true amid all the fluctuations of mental philosophy, *i.e.*, "a sane mind in a sane body." The appearances of disease may be faint when taken in detail, but to a practical eye, and to a matured judgment, accustomed to study the faintest outcrop of mental aberrations, those peculiarities tell a tale which may have no weight with the unskilled in the protean forms of insanity.

It is sometimes insisted upon that a categorical answer may be given to every question put to a witness. It may be impossible truthfully to do this, because of the form in which the interrogation is put. The examiner is well aware of this fact, hence the bait cunningly thrown out to catch the unwary. For example, were it asked about a patient, "Did he then refrain from speaking nonsense?" Were the answer "yes," it would imply that he had been speaking it, but had ceased to do so. Were the answer "no," it would mean that he had spoken nonsense, and continued to speak in the same strain up to the time under discussion. Neither answer might be true, for if the patient had not spoken at all, as indicated, the fallacy lay in an assumption which had no existence. It would be begging the whole question, and neither a positive nor a negative answer could cover the ground. This is only one specimen of a legion of such questions which often perplex beginners, and are expounded with that object in view, and a negative or positive answer demanded with legal pertinacity. When such traps are set and baited with sagacious design, a state of "masterly inactivity" is best, until the questioner goes back to legitimate interrogation. A medical witness should never quote authorities, nor should he be entrapped into endorsing or refuting such, if they should be presented by council for his consideration. No published books on medical subjects are competent witnesses in court; nor is a witness compelled to give an opinion about the views the authors may advance. The writers themselves are the only legitimate persons who can testify to their theories and beliefs. I have often seen witnesses caught in this way, even

before the opposing council could put a veto on the irregularity. "Do you agree with Maudsley in his view on this point?" "How does it happen that Bucknill and you differ in this respect?" "Can you give me Tuke's opinions on the subject under discussion?" "In Ray's Jurisprudence such and such theories are advanced, what do you think about them?" "You have read Taylor, will you state what he says about insanity in respect to competent wills, or suicide, or homicidal mania?" These are specimen interrogations which may be put, but need not be answered. A refusal to do so will be sustained by the Court. If a witness begins to air his medical lore by quoting authors, he may be able to show his possession of good memory, but he will not contribute any facts of which he is cognizant, through giving lectures on the opinion of others.

The most difficult position a medical man can be put in is when called to give evidence in cases of contested wills. The capacity of a testator to make a will, and the soundness of mind requisite to make a valid one, are often questions of great difficulty. It should be held generally as essential that the testator should have sufficient mental capacity to comprehend perfectly the condition of his property, his relation to the persons who were or might have been the objects of his bounty, the scope and bearings of the provisions of his will, and a memory of an activity sufficient to collect in his mind, without prompting, the particulars or elements of the business to be transacted, and to retain them in his mind for a period sufficient to perceive at least their obvious relations to each other, and to be able to form some rational judgment with relation to them. (*Vide* Rokenbaugh on Testamentary Capacity, *Journal of Nervous and Mental Disease*, July, 1878.) This test will cover all the ground. It does not assert incapacity to eccentric testators, nor those who may be labouring under delusions of facts. Esquirol says: The brain may be affected, but it does not necessarily mean an impairment of the understanding. On the other hand, it was strongly asserted by Lord Brougham, and is now by a certain class of thinkers, that *any* insane delusion entirely destroys the mental capacity of a testator to