

The exciting cause may affect the encephalon from without, or it may be beyond the research of the pathologist, and cannot be a basis to support the definition above given. Even if this definition were correct, it would be impossible to state when it existed except by mental and physical manifestations; then why not accept a formula like that of the German Penal Code, viz.: "An act is not punishable when the person at the time of doing it was in a state of unconsciousness, or disease of mind, by which a free determination of the will was excluded." This does not reject the idea of bodily disease, but it takes the outward manifestation as an indicator of the mischief within, just as the hands of a watch point out the condition of the machinery within. It is a question of *will not* and *can not*—of voluntary or involuntary action—or, in other words, had the accused in any particular act sufficient mental strength to control his actions at any time he wished, or was he led blindly and irresistibly, from any cause, to conduct unnatural and unusual for him to do? Properly speaking none are absolutely free. Inherited predisposition, educated bias, confirmed habit, hobby-riding, well-fed ambition, and such like, are manacles to impede volition. The free will of a sane man must always be considered in a modified sense, for the ball and chain are hanging at our limbs, as we are paying the penalty for the transgressions of ourselves and ancestors.

The medical witness is to remember, however, that it is not his province to give a general definition of insanity. He is often entrapped into an attempt to do this, in order to give a council an opportunity to hold him and his opinions up to ridicule. He is asked in derision, "What is insanity?" but he can retort by demanding the catechist to define one of the terms

his own question. The discussion of insanity in the abstract must be left to essays and textbooks. Only facts and legitimate opinions, deduced from them, are asked for to enable the Court to decide for itself whether they are such as to warrant the plea of insanity on behalf of the person under consideration. The witness is to guard against being led into defining the insanity of any one, as being a want of power to distinguish *right* from *wrong*. True, many in-

sane people have not that discrimination, but, on the other hand, a large percentage of lunatics have that power as fully as the sound in mind. No jurist, who has the slightest experience of insanity, now holds that view, because it flies in the face of accepted facts. An illustrious race of English judges, for centuries past, and down to this hour, pronounce verdicts based on this inadequate judgment. On examining recent charges to the juries of Canada, I see indications of changes of opinion, in this respect, among our judges, which are more in keeping with the truths of modern investigation.

In the Toronto Asylum there is an estimable lady who is afflicted with religious melancholy. She has made several attempts at suicide. She never loses her sense of "the wickedness of the attempt," as she calls it, but the uncontrollable impulse is too strong for her. On one occasion recently she felt a strong desire coming on, and begged to have the leather muff put on her hands, lest she might be forced otherwise to accomplish her design. The courts would hold her to be an accountable being, because the sense of right and wrong had not been extinguished. A powerful mulatto is in the refractory ward, who is constantly persecuted with spirits. He has, intermittently, a longing to kill somebody. He knows it is wrong to even think so, and at these times he asks the supervisor to lock him in his room. According to the interpretations of law, should he commit homicide, he ought to be hanged. In another ward is a patient who was at one time a prominent writer for the press. He is afflicted with chronic mania of the most pronounced kind. On a recent occasion he told me that he "felt like wanting to kill" one of the patients, against whom he had taken a dislike. He said he knew it was wrong to think so, but cunningly added, "You know I am crazy, so they wouldn't hang me." If, unfortunately, such homicide should take place, he should be hanged according to law. Dozens of such cases could be cited in any of our asylums. Dr. Hammond, a reputed expert on insanity, an extensive writer on the subject, at one time Surgeon-general of the United States Army, and now associate editor of *The Journal of Nervous and Mental Disease*, said recently in a