

ledge of right or wrong, or by his power to do certain sums in arithmetic, or whether he knew the amount of his income, and the power of his property to bear his extravagances. Instead of limiting the inquiry to the time during which he had been vicious and dissipated, the inquiry ought to have extended into a comparison of his mind with itself during his past life. But this was deliberately rejected by the Judge, who would not allow the evidence of the witness who deposed that he had known Windham since he was four years old, and that he was congenitally deficient; the Judge said it was not sufficient in law to prove idiocy or imbecility, he must be proved to be mentally unsound when he committed certain actions, or he must be acquitted. Clearly in such a case the point to be proved should be the incapacity, not whether he was unsound in the legal sense as to delusion, etc., but whether he was congenitally or subsequently deficient, so as to incapacitate him for self-guidance. The point on which he was tried was both false and foolish, false as a matter of science, and foolish as a matter of common sense. What could happen but what did happen? the mad doctors were stigmatized, and the whole inquiry was wrong, and a grievous injury to the individual, and to his relatives, and all because the law makes no difference between mental diseases and mental defects.

There is the case of Tyler, in the January No. of the Journal of Insanity, which is another case in point, and fortifies my position. Here also the evil arose from trying the case on an erroneous principle. The old man was brought before a jury to determine the unsoundness of his mind, but neither the medical experts nor the judge defined what they meant by the term.—It is to be inferred, by the direction to the jury, that the usual legal dictum was considered unsoundness. The witnesses had this definition in their mind, though Dr. Gray wisely and truly says, that “every individual should be judged from his own stand-point,” in other words the very doctrine I am advo-