

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 counsel 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 of his own question. The discussion of insanity, in the abstract, must be left to essays and text-books. 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 insane 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 change of opinions, 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 the 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, seeing 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 ever 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 discussion which took place on this subject, at a meeting of the "Medico-Legal Society, of New York," "that he is in favour of punishing insane people, just as he would a tiger who went about destroying people. If a lunatic had a homicidal mania he would hang him."\* He would not only hang *any* and *all* insane people who killed any one, but he would hang them if they had a mania to kill, even were the deed not performed. This would be an effectual way to make vacancies in our asylums, and would remove perplexing problems from our courts of law to the scaffold and the grave. I am sure such a brutal idea will never prevail where humanity exists. One of the theories of the transmigration of souls was, that some one died when each mortal was born, and the soul of the dead one, was immediately translated to the new-born child. I am afraid no one died when Dr. Hammond was born. I take this charitable view of the author of such a horrible proposal.

There is reason for caution in a witness, when he is asked to acknowledge that peculiarities of mind may mean insanity and irresponsibility. A man may do a great many strange things, and still have perfect soundness of mind. There is no common standard to measure mentality with, analagous to the yard stick and bushel in the British museum. Each man must be gauged by himself, in his antecedent conduct and individuality, for among all the sons and daughters of Adam, no two are alike in body and mind. No man can be

\* *The Journal of Mental and Nervous Diseases*, July 1878, p. 556, et seq.