

partition wall insanity can fret itself and say, "I come thus far, in violation of law, guiltless, but beyond is inexorable justice and a tribute of an 'eye for an eye, and a tooth for a tooth.'" It is fair to demand this, if dejection, change of religious belief, or disbelief, slight and temporary aberration, and such like, so common to myriads of humanity, whose sanity, by any reasonable standard, is not doubted, are all factors to exculpate transgressors. In this case it was not (a) justifiable, or excusable homicide; (b) it was not manslaughter under extenuating circumstances, as far as personal danger or fear were concerned; (c) it was not murder in the second degree, which includes palliating circumstances of any kind, except insanity in the actor, but this view was ruled out by the jury; (d) it was finally reduced to murder in the first degree, *premeditated* and *malicious*. This verdict alone, without the appendix, would have been consistent, as an alternative to acquittal on the plea of unsoundness of mind. The writer is not a strong advocate for capital punishment, in this or any case, but he desires to see evidence and verdicts so clearly defined as to prevent innocent life from being taken on the gallows, or the truly guilty acquitted from half conceived and crude ideas on human responsibility and mentality, when there is a wide gulf of distinction between the two, within the observation and scope and ken of legal acumen and psychological research. It is a perversion of facts to attribute all insanity to disease, and an easy way to get rid of human depravity, or mental alienation. The laws of God and man determine human responsibility to consist of mental health. Man's vicious habits may engender bodily disease, but his modes of thought only, decide his guilt. To argue otherwise is to make man a mere machine possessed of no volition. Mechanical acts of man are not moral and punitive, but when done unknowingly. Persistency in cognizant evil make them often a second nature. The drinker imbibes until the habit becomes a mania, and beggary, bestiality, misery and death is the result. Does the law call him an irresponsible being? The love of gain, or of inordinate ambition, becomes so potent that all the decalogue is broken by the possessor. Are such pronounced faultless? The miser clutches to the death his gold bags, while a shrivelled carcase, an empty cupboard, a cold hearthstone and rags, tell that he has perished

wilfully and madly, through a mania for possession. Had he murdered for money, would the law send him to an Asylum? The rogue cheats and steals until fraud and theft become a second nature to him. Is he exempt from the punishment for crime because he is an old offender, and all the more excusable? There is not a passion or propensity of our nature but if indulged in, will increase in potency until the power becomes almost adamant in its hold of the luckless victim; but law justly sees no palliation in an old offender. The older the sinner the less is the excuse, although it presents as much a premium for crime as the other extreme of *lightning* or *rocket* insanity, which flashes up, destroys, and then vanishes forever. To a proper understanding of such cases, it is evident that reasoning like the following should be adopted, viz.:

1st A sense of right and wrong includes guilt in evil doing, and shows that the brain and mind are not sufficiently unbalanced to quench responsibility.

2nd Volition, in sufficient tonic to choose alternatives, should subject to penal law, the actor, whose physical manifestations violate human rights, privileges and immunities.

3rd All passions, emotions, desires and affections, which are common to humanity at large and possessed of, normally, by every balanced mind, cannot be taken into account as a groundwork for insanity. These in excess may belong to sane and insane in common and can be no evidence for or against *per se*.

4th To confound mental and physical disease and make them inseparable quality in crime is a doctrine against all human experience, for physical health and mental aberration are often seen together. "A sane mind in a sane body" is a happy union. The converse is unfortunate and frequent, but to say that this relation is unalterable, and that a diseased body cannot have a master mind within its crumbling walls, or to say that a healthy physical system cannot have a crazy occupant within its clay tenement, are assertions which the observations of every day belie. Divorce psychology from pathology, or to make them identical in disease of mind as many materialists seek to do, is to dissever on the one hand, or blend on the other what the Almighty has only put in intimate relation, and juxta-position.

It has become a serious matter in juris-prudence,