

No. 4.

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In the matter  
of the  
Inquiry into the sanity of  
WILLIAM C. RHINELANDER.

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*Before*  
*Commissioners*  
*Patterson, Detmold*  
*and Nolan.*

NEW YORK, September 2nd, 1884.

## CLOSING ARGUMENT

OF

**Hon. George M. Curtis,**

*Counsel for Respondent.*

May it please your Honors, Gentlemen of the Commission :

We now approach the close of this most interesting cause; and the last duty that devolves upon me in relation to it, I am now about to perform to the best of my ability. It were puerile affectation on my part to deny the anxiety and interest which I feel in this inquiry. But I am confident that we have so fully met the issue, that we cannot but have satisfied the minds of this Commission, that the respondent is a sane person within the meaning of the act under which he is tried, and for that matter, within the definition of any legal or scientific principal that can be applied to mental alienation.

The learned District Attorney the other day, in the



course of his argument, referred to the principles of law which, in his judgment, govern this controversy. It may have struck your Honors' mind at the time that, while the principles of law were well stated, the authorities cited have failed in this most particular and essential element—application. Now you are not to sit here as dreamers, as speculators, you are not to sit here biased on one side or the other. You are to sit here not only in the capacity of a jury, the functions of which have been vested in you by this act, but you are to sit here as a judicial body, to control and apply the law that governs in this matter. And after all, the only enlightenment, and the only instruction that we received from the learned District Attorney's recitation of the decisions was this: That hundreds of years ago in England, commencing with the first decision, they were more enlightened, more liberal, more comprehensive in their treatment of this subject, than we are to-day. And in all the decisions that were cited, in all the opinions of the text writers that were alluded to, this principle conspicuously was in the foreground, that under enlightened judicial supervision, the question of a man's sanity or insanity was to be left to a jury. And we are apt to say that as we grow in years and experience, we grow more enlightened and more free. But it will be the everlasting reproach of our statute book on which this act is printed, that one or two hundred years after the jurists, of whom Russel is an Annotator, and after Blackstone—generations after. Blackstone and the great English writers have decided that this is a question eminently for a jury, for some purpose, which perhaps in this case, may have an individual application, for some purpose an act is passed, is made a part of our law, our system of jurisprudence, that gives absolutely the liberty and property of our citizens into the hands of a commission. Now that this is so, how much more right have we, to appeal, not only to your learning as jurists, but to your consciences as men, as laymen, and as jurors in this hearing.

The result of your determination is what? You have

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it in your power, if your consciences will permit you, to decree that the respondent is insane. You have it within your power, if your consciences will permit you to decree that he shall be confined in a lunatic asylum, from which he can only be rescued, according to the terms of this statute, by the certificate of the Superintendent.

Now it needs no prophet to reaffirm the declaration of Rhineland, that if he should be found insane by this commission, it will be a matter of exceeding difficulty to rescue him from the grasp of the superintendent of that asylum. Because if, in the face of all this proof which is in the nature of a mathematical demonstration, if in the face of all the evidence that has been produced here as to his sanity, if the conspicuous testimony of the falsity of the theory of the other side, can be rejected by men of education, learning, experience, who have a sincere desire to do justice; if such results can be brought about in reference to a commission such as I have described, it does not require much of a prophet to foresee that the difficulty of rescuing him from the position to which you assign him, will grow more and more difficult every day.

This act in its very terms, its scope, its object, its purposes, is a midnight surprise upon the liberties of this commonwealth, just as much as in time of war a village or town is surprised and slaughtered in its sleep. I endeavored to show before the learned Recorder, on a motion to vacate the commission in this case, that this law was unconstitutional; it was subversive of the organic principle which provided that no man should be deprived of life, liberty or property, without due process of law, that due process of law has been declared to be a trial by one's peers—a trial by one's peers, is a trial by a jury of the country. And here if your Honors please, in, and by this act, the application and operation of which may be so decisive to the fate of the respondent, he may be deprived of liberty; he may be deprived of civil and testamentary rights, without ever having enjoyed the



privilege of submitting his cause to a jury of the country.

The learned District Attorney took occasion the other day, to say that from this proceeding there was no appeal, and he cited the opinions of many eminent lawyers, whose names he did not disclose to that effect.

Your Honors know there can be no wrong perpetrated without a remedy. Your Honors knows that no conspiracy against the rights and property of citizens, even though it be typified by a Statute of the Legislature, even though it be spread upon the statute book of the State, can be allowed to perform its office without some channel of appeal existing, that the person aggrieved may have his remedy. But if he really believed that, why, when we first asked an adjournment in this matter, for reasons that we then stated, did he incessantly urge upon the attention of your Honors that this was a summary proceeding; and if we did not proceed summarily it would be irregular and therefore void?

It seems to me that there is but little to answer in what he presented. And it is more out of respect and deference to the gentleman himself, that I have said what I have stated, than from any apprehension that what he presented at that time, will, or ought to injure us in the slightest degree.

To resume in reference to Mr. Adams, there is nothing in the law that he cited, that we contend against. Every word that he declared to be the law, we reiterate, and it is with mortification and shame, that we ask you in the Nineteenth Century, to look back for liberty, to look back for the rights of the citizen to the catholic spirit of the law of Britain. And it is the most astonishing result of the legislation in this country, in regard to these particular matters, that the reproach is with the people of this day, that permit, in violation of these august precedents, those enormities to be perpetrated.

Now, if your Honors please, that Act should be en-



titled really, "An Act to permit the criminal rich and powerful, to escape justice; and to permit the criminal rich and powerful, to oppress and persecute the poor."

That is what it should be termed. And under, and by operation of it, why are we here? Now, I challenge you, sir, in your rich experience at the bar, I challenge your legal brother, that you have never witnessed, you have never heard of a case like this. This statute clearly contemplates that this intervention of the plea of insanity, shall only be made where its integrity is unquestioned.

The respondent was indicted by the people and their sworn officer, whether Mr. Adams or Mr. Olney officiating, I do not know. It is immaterial to inquire. And in solemn convocation the Grand Jury; the grand inquest of the County, declared that the respondent was guilty, so far as the determination of the Grand Jury could control the question.

Assault in the first degree. They also charge him if your Honors please, in a second count with assault in the second degree. Now, mark you! It is an old principal of the law, *falsus in unus, falsus in omnibus*; false in one thing, false in all. And a peculiarity in relation to the history of this indictment now presents itself. Almost every person—I believe every person who testified here in relation to the shooting, to the attempted homicide—appeared before the Grand Jury as witnesses against the respondent, and it was upon their evidence that the respondent was indicted.

Indicted for what? For the offence to which I have referred. Did they lisp a word in regard to his mental affliction? Was it ever broached in the Grand Jury room or elsewhere? So far as this record is concerned upon that subject there is no sight, no sound. And do you believe, if these men had declared before the grand inquest of the County, a body that *ex necessitate rei* is made up of the most intelligent, influential and wealthy of our citizens, that the respondent was insane, and was irresponsible for the act when he committed it, that that Grand Jury would have ever found the indict-



ment? By no means. But the indictment is found. And I desire you to understand, whatever may be the unfortunate fate of this young man, whether this be the consummation of the evil persecution that has pursued him for years; I want you to distinctly understand that he has never proposed and don't propose ever to shield or barricade himself behind a plea that is not legitimate and proper. Was it he, that under the provisions of this Code, said through his counsel or himself: "It is true I committed this physical act, but I was insane?" By no means. The issue was directly made by the people and him on the indictment. He came to plead to it. And then the most extraordinary spectacle that ever occurred in a Court of Justice, in any country on the face of the earth, one which, let us fondly hope and pray will never again occur in a Court of Justice, in this country at least, was presented to the people. And what was it, to which the respondent was ready to plead? He came there ready to plead to the indictment, and to make issue with the people. He was told that he was crazy, and should not plead. In other words, under and by virtue of this atrocious statute, under and by virtue of this legislative menace against the liberties and the rights of these people, secretly, unknown to this respondent, this commission was ordered, and by whom? Until the appearance of the learned and experienced counsel of the family in Court we were still in the dark?

Two experts, as they term themselves, made affidavits that the respondent was of unsound mind; and on these affidavits, in the face, it seemed to me, of the most (I am speaking now of the motion to vacate that commission,) of the most convincing affidavits to the contrary, the power, the authority for you to sit were given by the Recorder.

Now, that is the history. It now appears that this machinery was set in motion; not, as I have stated, by the respondent, but by his family. Read me, construe for me, legal members of this commission, the duty of the District Attorney, even under this Act of



civil assassination! Is it not his duty to aid the people in preventing an escape from justice by the plea of insanity? Is it his duty to invoke all the machinery of his great office, is it his duty to ally himself to the power of the family, to cheat the will of the people as expressed in that indictment, to strangle justice by collusion? Read it.

We were entitled in this proceeding to have physicians and witnesses provided for us at the expense of the Government. Every dollar of the expense that has been disbursed in the defence of this unfortunate man, has been contributed by his counsel in this proceeding. We were entitled to have every facility placed at our disposal in order to defeat this attempt to strangle justice. But instead of that, I repeat we have been confronted throughout, not only by the resources, the power and the wealth of the family represented by the learned and experienced counsel, but we have been oppressed by that legal machinery of the people which, in the hands of the present District Attorney, it seems to me, has been prostituted to unjust uses.

So much for that. And so much for this record from which the learned District Attorney says there is no appeal. And he delights in his heart, it seems to me, that if in your wisdom, you committed any error of ruling; if in your wisdom—you being fallible men—you may have made some mistakes of omission or commission so far as you are concerned, the District Attorney hugs the delusion to his heart that from it there is no appeal. He, and the friends with whom he has consulted, may be mistaken in that regard. There is no wrong that you could commit under the cover of the law for which your own conscience will not sometime or other rebuke you, and the law of man condemn you.



## WHAT IS THE CHARACTER OF HIS INSANITY ?

If your Honors will observe in relation, to this topic, there are necessarily three elements. Dr. MacDonald has spoken of his mental affliction as melancholia. I want you to remember that. Dr. Hamilton substantially has failed to characterize it. The other three assistants, Jackson, Hardy and Fitch, would have you believe that it is a case of general paresis.

You see at the outset there is a disturbance in their theory that is entirely fatal to them. Your Honor (to Commissioner Patterson) is conscious of this as an intelligent lawyer. And although I believe the learned Dr. Detmold has never made mental alienation a specialty, that he has confined his labors more to the duties of surgery and general practice; still his extensive reading must have impressed him, that where there is any disturbance in the actual theory that is relied on for the incarceration of the respondent, it is fatal to the claim. In other words instead of concentrating, they radiate, instead of agreeing, they disagree. And I shall demonstrate to you before I get through, that so far as their theory is concerned, it has no more, whether it be melancholia, paresis, imbecility, foundation in fact than that theory which seemed, toward the close, to be rising through the mist in the brain of Dr. Detmold—monomania.

*Commissioner Patterson :*

You don't mean Dr. Detmold ?

*Mr. Curtis :*

I say in the theory presented by him in the questions that he put, and *you* will see why—I saw why Dr. Detmold put these questions, or, as I thought he did, because he saw at once the inconsistency, or rather the irreconcilable character, of all the theories that had been advanced. Here was Dr. MacDonald swearing it was melancholia. Another man, that it was imbecility, another man, that it was general paresis. All these theories were successfully shot away by the stubbornness



of the respondent himself, who, to preserve himself from eternal captivity in a State Lunatic Asylum, persisted in going on the stand. And he persisted in refuting by facts these fanciful theories by which these banded conspirators have got to day the liberties and the properties of the citizens of the commonwealth in their grasp.

Mark you, you are setting a precedent perhaps of a very dangerous character, if against law, if against evidence, if against truth, if against your oath, if against your conscience, your duty and obligation to God, you find this man insane, you are setting a precedent for which the people in this community, of which you are, through the Court simply the stewards and the servants, some day may hold you to terrible responsibility, I say, and I repeat it, you have the pioneer chance, this is the pioneer occasion on which you have the opportunity to take this banded conspiracy by the throat. What citizen is safe? Whose property is secure? What rights are there that will not be invaded?

Two of these so-called experts, none of whom agree one with the other on the other side, can get together to-morrow, and put any sane man in the asylum, and before he will be able to get out, by the machinery they will set in motion against him, the probabilities are that, if he has a sensitive, high-minded, noble soul, he may become mad from mere association with the insane.

So much for the theory in general.

Now, if this respondent had made the remark that Dr. MacDonald said he, the Doctor absolutely believed in—as far as this insanity proceeding is concerned—I would have thrown up my brief.

Is it possible, as some suggest, that from long and constant association with the mad, that Dr. MacDonald's mind, is really beginning to crumble? Is it possible, that he himself is about to become the victim of that terrible system of oppression which has broken so many hearts and destroyed so many lives? Is it



possible that that retribution of God, which follows the wicked everywhere, is fast upon his footsteps? I repeat here now, that if Mr. Rhineland, with all his peculiarities and eccentricities had ever asserted seriously what Dr. MacDonald stated, I would have thrown up my brief so far as the insanity issue is concerned.

And what is it? Speaking of that miserable wretch Guiteau who undoubtedly was gibbeted in deference to public sentiment, who was undoubtedly condemned to death by a jury without the moral courage to stand against public opinion, speaking of Guiteau what did he, Dr. McDonald, say? That he believed that he, Guiteau, was an agent, an instrument of certain politicians known as the "Star Routers"—to do what? To assassinate the President. Now, there never was the slightest particle of proof in the history of that case in that direction. There was never the slightest belief in the calm hours of conflicting opinion that that man had ever any inspiration except his own dark, benighted mind. And when one who professes to be an expert upon the subject of the human mind, that most subtle essence; that which alone is comprehended by the Deity, talks in such extravagant language as that upon the stand, it is time for him and his friends to look to it and see that his own mental condition is unimpaired.

If your Honors please, make the test of Dr. MacDonald. What is it? He swears that he only saw the respondent for one hour. The respondent swears that he only saw him for fifteen minutes at the outside. Take his own test. Hoist him by his own petard. Let him stand in the pillory that he himself has made. And what is the evidence? That he was introduced to Rhineland as Lawyer MacDonald. True, he was a member of the bar. True, he has the right to practice that profession. But under what circumstances did he go there? Did he go there to alleviate his distress? Did he go there to take steps to extricate him from his dilemma? He went there, as he admits, upon the direction or request of the learned counsel who represents the family here. And for what pur-



pose? To ascertain his mental condition. Now, as we proceed, isolate idea from idea, and you will see in a moment how this remarkable fabric of falsehood and perjury was reared, and how soon it tumbles to the ground.

There is not a word in all Dr. MacDonald's evidence about paresis. There is not a word in Dr. MacDonald's evidence relative to the discovery of physical indications of the insane. There is not a word in his testimony in reference to Rhineland's complexion, his circulation, his congested finger tips—or rather with that exception—the congested finger tips; I think he spoke of that; but there is not a word in his testimony relative to the physical evidence of general paresis; and why? He was too wary. Now, when Dr. MacDonald made that affidavit originally, undoubtedly he believed that this thing would never be combated. Undoubtedly Hardy believed it would never be combated; it seemed impossible for one in Rhineland's extremity, in his distress, to find men to stand up for his rights, to battle for his liberty. So when they made those affidavits they were not as cautious as they would have been had they apprehended trouble in the future, and the result was that MacDonald, an experienced man upon the stand, a man of great natural ability, a man of great experience, a man who in diagnosis has always been considered careful—was afraid to venture on that dangerous ground which, like an Irish bog, afterwards drowned the others. So he says, like a ship tacking in retreat, he has got melancholia.

Mind you, Dr. Detmold, (one of the commission) it is not monomania that Dr. MacDonald swears to it is melancholia. How is it demonstrated—by delusions? Now we will see what those delusions are, and to typify my argument in that respect, if that young man had seriously believed in the over-mastering power of his family, their influence, social, financial and otherwise, and had so stated it, in my judgment he would not have been the victim of a delusion.



It is a delusion in which the people of this community share; and I repeat here now, after what I know of the history of this case, that if he had declared to the public everywhere and anywhere that his family was powerful to save, no matter what his extremity might be, he would only have told the truth. Shameful and humiliating as it is, that fact is so conspicuous and apparent, from the history of this case, that if you, in your righteous indignation do not put the seal of denial upon it, that which has been declared to be a delusion must hereafter be accepted as an accomplished fact.

But what is the delusion as declared by Dr. MacDonald? Rhinelander gave three explanations of the shooting. Now let us examine that question.

*First.* And I have not time to read from the minutes. I will state substantially the proof.

*First.* That he shot the injured person, because he had improper relations with his wife.

*Second.* That he had not the improper relations with his wife, but that he feared he might have; and

*Third.* That he shot him in self-defense.

Now, then, I do not ask you to say, as many journalists have declared in the last week, that these experts themselves are crazy. I do not ask you to say that their testimony is the result of the hire, the wages that they held in the hand, but I do ask you this, to believe when they swear to a theory as opposed to what your senses declare to be a fact, that you will take the fact against the theory.

Now, then, I ask you three sensible men, in themselves is there any inconsistency in those three explanations? I answer in the negative. And why? He might have made either, thinking of his defense, or as an excuse, or as a palliation, or believing the natural result of the conduct that was witnessed by Robinson that his wife might have succumbed. But no, the reasoning



faculty, evidently in the same conversation in answer to another question coming to his aid, he says: "No, it cannot be so; the truth must be that he simply desired to compromise her, and it might have resulted in that."

Not only are they reconcilable in themselves, not only have the experts, on our side, declared that which was superfluous, that they are reconcilable, but Rhinelanders tell you the exact conversation that he had with Dr. McDonald.

Before I come to discuss the possible defense of self-defense, I wish to draw your attention to a principle in mental alienation that is controlling in all this class of cases. While it is true that the most gifted beings that the Almighty God has created, while it is true that the men who have adorned science, who have led armies, who have directed statesmanship, who have governed countries, who have administered law; while it is true that the greatest executive minds of the earth in instances have been afflicted with this dire leprosy of the brain; still you must remember that on the subject of their delusion, they always spoke the truth. In other words, while you may find this combination of heart, genius and brain, while you may find such a man gifted in all respects to do the will of his Creator on the earth, he may have, I admit, this lurking, insane element in his brain, in the conceptions of his mind, but when you tap him on the subject of his delusion he is left naked to his enemies.

Mark you! If Rhinelanders had ever said "Oh! I am a Rhinelanders, when I am taken into Court the mere mention of my name, the mere mention of my family, will discharge me—" (if you call that delusion) if that thought had ever entered the mind of that unhappy man, the moment he was upon the stand uncontrolled, the moment he was asked about it, then in his pride of soul, then in the sentiment that actuated that conception of his mind, he would have risen before you, and said "Yes; they are a powerful family." But no! On the contrary when he was asked in relation to



that, what did he say? After describing with great dignity the visit of Dr. MacDonald the manner under which it was consummated, the introduction by Cruger Oakley, who, he says, in justice to his kinsman, departed with the flush of mortification on his face at being compelled to practice that deception; what does he say when asked in reference to that delusion? "No I never said that; but I did say that if I had killed a man, or shot a man for the sake of a woman whom my family loved, for the sake of a woman my family respected, they would have done all in their power to rescue me from the fate dictated by the law, but as it was, I, having shot a man in defense of a woman they despised, in defense of a woman that they hated and oppressed, then it was that this power, which should have been used in my behalf, passes over to the other side and becomes the instrument of my oppression."

And how true is it in the history of this case! How true it is! Drake is visited by the father and the mother. There this conspiracy is hatched. Behold this young man a captive, for doing a deed about which there is great difference, it may be, of opinion, a captive in a pestilential prison, a captive under the hostile eyes of those who have banded to destroy him, of those who forget their official duties, their official oaths, who are hired and paid, and who combine in the darkness, desolation, and death of that prison, for his destruction "Oh!" but says, Dr. MacDonald, "that is a delusion." It is no delusion. The explanations he gave Dr. MacDonald, even if he gave them, have been declared to be no delusion.

Now, then, the third, and at this point, I wish you would give me particular attention; it has been declared here, and only, by Dr. MacDonald—he was the only one—whose strong, soaring genius saw where the back of this case was weak, and he not only put a spine into it, but he put a spinal marrow into it, as he thought; he is the only one that has said that this respondent could not plead intelligently to an indictment, he is the only one who had the hardihood to



declare that this young man did not comprehend the act for which he was indicted, and could not instruct counsel properly for his defense.

Fact is superior to theory, and an assertion of that kind, scientific and professional in itself, is met by the fact that declares it to be a lie. Because this respondent, in this very identical hearing and examination, has displayed abilities of such high order and has defended himself with such address, has comprehended so fully, not only the nature of this particular hearing and charge but its greater scope and application to the crime wherewith he is charged, that I undertake to say that in all my experience, I have never met his equal. And I say it without any intention to offend. I say it without any intention to wound the feelings of a living being. But so far as my belief is concerned so far as my observation is concerned, he is intellectually the peer, if not the superior, of any man in this place.

Very well. Thompson—and I regretted to see that—Dr. Thompson went on the stand and said that he was crazy because he had a peculiarity of the eye and he could not listen. I asked him—because I intended to demolish him, and that was the scope of my cross-examination of that gentleman—whether he believed facts were superior to theories. Well, he finally conceded that facts were superior to theories, and when I showed this Commission not only that this respondent had the address to take care of himself upon the stand, not only that he had that judgment, that imagination or creative faculty to formulate and modulate (that Dr. Dimon spoke of), but that in every encounter in which the prepared thrusts of conspiracy had designed to overcome him, he came out victorious, repeating now and then scraps of evidence, history of the hearing that you had forgotten, applying them there and then to the necessities of his own evidence--when you saw conclusively that not only that he had listened, but that he had systematically put together the elements of his case, the points of



his defence; when you saw him rising intellectually above us all, there was in the City of New York, in you and in every honest heart, a feeling of admiration, blended with the pity we all had for misfortune, so conspicuous and so undeserved.

Could not listen! True, he has a peculiarity in the facial expression, but not so marked as the great Chief Justice Shaw. I remember reading when I was a boy, this anecdote of Mr. Choate: In company with a friend he entered the dining room of the Revere House in Boston, and they sat down at the same table with a short thick-set gentleman with a very small head, the hair of which came about the eyebrows of the man, which were very bushy, a man with a dull blank expression of the face; small eyes, absolutely void of expression, and the general facial contour of the porcine family. The friend of Mr. Choate could not keep his gaze from the man, he imagined that he had escaped from some idiot asylum; finally, in his perplexity, (he saw the man eating enormous quantities of food), he said to Mr. Choate: "Brother Choate, in the name of heaven who is that?" Mr. Choate looked over to the man who was feeding at the table; "Why" said he, "that is the great Chief-Justice Shaw." There was a man probably that will live as long as the judicial history of this country; there was a man who will live as long, certainly, as the judicial history of Massachusetts, who was conspicuous as we know as a great *nisi prius* Judge, who will always be thought by the profession one of the great exemplars of the human mind, one of the great lawyers of the Republic, and one of the purest men of the country. And still imagine the impression that was made upon the stranger by this great character, of whom Mr. Choate spoke. "We know that you are ugly, but we feel that you are great."

So you see gentlemen, and I want to dissipate from your minds at once, all prejudice in respect to mere facial appearance. And I say this, because it has been an experience of mine, in my practice. I used to be



deceived that way. I did not know what conclusion I would come to in reference to this young man, until I put him on the stand. And the most remarkable fact about it was this; I am free to say, I would say it anywhere, if I thought that he was an insane person. I would so declare it; because I would believe that it was unsafe to himself and others perhaps, for him to be at large under certain circumstances. Therefore I gave him the supreme test. I did not even consult him. He did not even know the questions I was going to put to him. He had not the slightest comprehension of the grand ordeal that I was preparing him to pass through, and why? Because I felt I had a higher duty to perform, than the mere seeking of professional triumph. I felt that I had this high duty to perform, to satisfy my own mind, of his real condition, and then being satisfied of it, to stand by him to the last. Therefore I put him on; I had no tremor, I had no doubt of the result. Not at all. Because instinctively I felt from certain things that appeared in the case, that the intellectual superiorities which he possesses, would manifest themselves in his examination. Was I justified? The learned District Attorney says; that I aided him during my examination. That was a very high compliment to me which I do not deserve. I am as much inferior to this young man, as many a student of 18 or 19 years may be to me. And I am not ashamed to own it. I now declare that but for that narrow, short-sighted policy that condemned and blasted his life because he dared to mate with a woman of his heart and love, if he had possessed parents who understood his intellectual constitution, and could have marked out a proper future for his life, instead of being in this most awful peril, instead of being here battling not only for his liberty, but for his reason and possibly for his life, what an ornament he might have been to society. Whose fault is it? It is this accursed spirit of caste that undertakes to decide what God only should determine.

Although I entrench upon your time, I mean to do



my last duty to this unfortunate man. Lest you may be deceived, by what was said about cripples, let me recall your attention to the most remarkable case with which I am familiar in medical history in this wide world. There is living to-day in the Empire of Russia, a Prince Trepotkine—of a noble family, of course as indicated by his title—who himself combines the genius of a statesman and poet, the malformation the eccentricities of a monstrosity. The Prince was born in 1853, and after his story shall have been told most people will be inclined to deem it a pity that he was not strangled at his birth. In this unheard of prodigy, his right arm instead of terminating in a hand, ended in the exact semblance of the head of a healthy child, while where the head should naturally have been was the appearance of an arm, curved and twisted, falling down and resting on the breast.

Now, if your Honors please, there, in my judgment, is the most conspicuous example of malformation that exists on this earth of which we have any knowledge, and still this monstrosity, hated by his father, himself the victim in his lonely hours, of alchoholism, still this montrosity has grown with the years intellectually, and he composes verses, composes books on public economy which have been used by the Nihilists, and he is in all respects, mentally one of the most remarkable men in that most remarkable empire.

Well, then, how little, mean and dwarfish it is for learned savants and doctors, seriously to stand up before a learned commission of the law, appointed by a judicial officer, and declare for instance, because a man has a shambling gait it is indicative of insanity. Why it is in the proof here—I am now coming to speak of the physical indications, and there is nothing in the evidence of Doctor MacDonald, and more especially in the testimony which was the result of his recall that is worthy of consideration—and although he is the one upon whom they necessarily relied, still you will see as they progressed that his evidence is



valueless because it establishes neither, principal nor theory upon which their case is to rest; but I say, I am coming now to the physical indications and their discussion.

“He is insane,” says the learned Doctor Hamilton, among other things, “because he hath the shambling gait.” Well, now, it is proper that I should do Dr. Hamilton justice to say that he combined this as in a group with other physical indications which I will soon describe. We have shown conclusively as I was about to say that the father of this young man has this physical infirmity in an exaggerated degree, and that so far as that particular infirmity is concerned it is congenital; that this respondent was treated for it from the time he was a youth by Dr. Marsh of Vesey street, and all the Doctors who have examined him in reference to that, mark you—declare that this shambling gait is the result of physical causes.

So much for that.

THE CIRCULATION. Dr. Hamilton said, that he had that carmine tint of the nose, that, in conjunction with other physical indications, points to insanity. What the hundreds of thousands of the followers of the jolly Bacchus will say when that new philosophy is preached unto them is more than I care to answer. But we find that the reason of the peculiar color of the nose is that Dr. Milne detected in it a *polypus*.

And with regard to the complexion and the color, it is that, says Dr. Dimon—it is that, say others—that you naturally see in persons who have been for a long time in captivity.

In regard to the action of the heart, and I treat these symptoms seriatim, in order to expose to the mind of Dr. Detmold, who is an anatomist and surgeon, the absurdity of these physical signs as taken by themselves. His circulation and his color were those of a person in confinement or naturally those of a person who has been held captive; very well, in reference to the heart—I did not rely upon hypothetical questions. The only object of hypothetical questions



is where the person who testifies has no opportunity for personal examination. It is like putting a question similar to this; "If a person is insane, is he insane?" and on the other hand, "if a person is sane is he sane?" that is all it amounts to. And I have never made it a habit where I could get personal diagnosis and personal examination to put any hypothetical questions, because they are of no use.

Dr. Kennedy and all those who have examined the heart, say that its action was normal; that there was no organic disease in reference to it, and that so far as any testimony of the experts, based upon any irregularity or disease of the heart, organic or otherwise, was concerned, it was worthless. I believe Dr. Dimon said incidentally that he discovered a slight murmur of the heart. Dr. Detmold knows and ought to tell you that that often occurs in very healthy persons of sedentary habits. You have it at times at night. Other healthy people have it. That itself amounts to nothing. Dr. Dimon says that the action of the heart was normal, that its condition as regards health was natural, and there was nothing about it that indicated disease.

What is the other test? Of course you must excuse me for going over these absurd propositions. They have been seriously relied upon and sworn to, and upon them men who are called mental experts base their reputation and their testimony. It is said that he could not run out his tongue like other men, that it lolled on one side; you never heard a word of that from Dr. MacDonald. But after Dr. MacDonald's evidence was given, they, expecting a more extensive cross than I gave *him*, found or believed they found, that they had omitted something. Wisdom would have compelled them to stop short with MacDonald. But they said it themselves, "It won't do, in the present state of public feeling and public sentiment, to go before the Commissioners with this evidence of Dr. MacDonald; we must have something additional." Yet in getting that additional testimony they commit-



ted the cardinal error of contradicting MacDonald. So these other witnesses, Fitch, whose acquaintance with Esquirol and Hannibal, certainly must have struck your Honors at the time, and Hardy and the poor man Jackson, who is evidently the victim of Bright's disease, if not of the opium habit, are brought in to testify to those physical peculiarities, such as the running out of the tongue. Why, they said, he could not run out his tongue. Well one thing is sure, if he could not run his tongue out, he kept it moving for three or four days to their disadvantage, and I did not notice any particular loll at one side or the other on these occasions.

They said that he had a twitching of the muscles. I think on the left side of the face.

For instance—I do not mean to be offensive—you take my learned and experienced friend Bowers; that is a great peculiarity of his, especially when he is interested in thought. I noticed it. I have noticed it since I sat here. There is a peculiar twitching of the left side of the face. That amounts to nothing.

The question was put while Dr. Milne was on the stand: “Were you sitting here yesterday with Judge Curtis?” “Yes,” he said. Another question was put to Dr. Dimon: “Did you notice when Rhinelanders was on the stand that there was a falling on one side of the face, or of the upper lip?” That was to affect you, sir (Dr. Detmold); and I will tell you why. Dr. Milne explained that the reason why one side of his face might be a little longer than the other was that the teeth on one side had become decayed, and mastication had to be done on the other side.

There is not a man in this room—even the little experts, if they are present—whose facial lines are regular, and there is not a man in this room, lawyer or layman, who by exact measurement would not find that one side of the face is either a trifle longer or shorter than the other. The drop of the upper lip amounts to nothing.

But these other indications of general paresis. There



was the eye—the terrible eye—and all there is about the eye is, he is afflicted with what they call asstygmatis-  
tism.

*Commissioner Detmold:*

Nystagmus.

*Mr. Curtis:*

I will use the word “Ass” it is perhaps the best word here. They say he has got “Asstygmatis-”. His father is afflicted in the same way, so we have proven, only if he had been produced here you would have discovered it to a very greater extent than in the son. This is a complaint that years don’t mend. It produces in some that lateral movement of the eye, that Dr. Hamilton looks upon with great apprehension; it produces in others, that dull, vacant, fixed look, that Thompson had undoubtedly in his mind, when he said in that grand flourish of his summing up. “There is no person in the room that can explain the expression of his eye.” I could of course—although I had not the knowledge that these learned men have.

Why did I subject him to that extraordinary ordeal? I had friends who said to me “Don’t do it, he will be torn all to pieces, he will contradict himself.” Sane! strong-minded men go upon the stand, they are cross-examined by counsel, men like Bowers and Adams; they become confused. I knew my man, not from any consultation with him, not from any prepared system with him, because as he has stated, I never asked him a question before he got on that stand, relative to the examination, for the reason I have stated. I believe I have a high public duty to discharge, not only the duty of an advocate, but one to the community, and I was determined to submit him to the greatest human test that could be applied. Why did I do it? Because as I say, I knew from certain ear marks, as we lawyers call them, in the case, that he was intellectually my superior; and I thought I might take the chance that he would prove as bright as the District Attorney.



Look at this physical group. This group of nurslings that Dr. Hamilton takes so fondly to his heart, and in the possession of which Jackson and Hardy, and the little man—what is his name?

*Mr. Rhinelanders:*

Fitch.

*Mr. Curtis:*

Yes, Fitch, in the possession of which they so greatly envy him (Dr. Hamilton) to such an extent that without the knowledge of MacDonald—probably without his direction or authority—they get together and say: “Well, you cannot convict Rhinelanders on MacDonald’s evidence—we must get up a new theory—that is the paresis theory.”

Now, that is the theory that they tried to work on poor Prouse Cooper, it cost him \$200,000. How much they made out of it we do not know. That is the theory they have tried to work upon several people in this city. In nine cases out of ten they have ruined the victim financially, if they have not destroyed him physically and mentally.

You must look, with a great deal of suspicion, on testimony that is shown; first, to be uniform; second, to be untrue; third, to be unworthy of belief, as an opinion.

Now, then, the last word for this group. We have shown that the shambling gait is the result of physical causes; we have shown that Rhinelanders was treated for that infirmity in his youth. We have shown to you that there never has been any abnormal operation or movement of the heart. We have shown to you his circulation, his complexion, even his nose, even that twitching on the side of his face, even the “astigmatism” of the eye—oh, yes! he cannot listen. This remarkable man who heard all the evidence from Alpha to Omega, that intellectual mind which stood in that greatest crucible and ordeal—he cannot listen! A witness on the stand—this man who rehearsed almost



all the evidence that had been given against him—he could not listen!

Now, your Honors, I should be criminally negligent of time if I spent any more of it upon a discussion of what are termed the physical indications of insanity.

But you must not forget, ere, I leave this subject of the physical indications, that the evidence in that regard on their own side is entirely conflicting, so far as the theory of insanity to be derived from it is concerned. And, with a single reference to an unpleasant topic, I will go to the discussion of the mental delusions. There has been a belief, up to within a very few years, that the practice of a certain vice had a specific effect upon the mental and the physical condition. I am not going to say anything that anybody cannot listen to. All I have to say, and your Honors must concur with me in this, is, that so far as that consideration is concerned, it cannot enter into the determination of this body, because Dr. Hamilton concedes that Rhinelanders was in no way afflicted constitutionally or mentally by reason of that fact, and if ever there was an exhibition of certain conduct on his part, it was the result of a mental imbecility, which did not permit him to control his physical acts. I want you to remember that. But this I want you to condemn, and you have to condemn it if you are men, and I believe you are. Here in the City Prison is a Warden, placed there by the representatives of the people; he has this gentleman under his custody, care and control. In that place are certain physicians. Well, now, I have always understood that the sense of honor, the *esprit de corps* of the medical men, was like that of lawyers and of men in the army. Do you consider it the conduct of a gentleman, for an *attache* of the City Prison, a salaried official of the city, appointed probably because of some political influence that he may have, at least paid and salaried by the people to be privately retained, and then seek in the prison where the unhappy captive is confined, for evidence not tending to his deliverance—for testimony



not establishing his liberty, but for proof that will forever shut him out from the light of day; that will forever destroy his civil, his testamentary rights; that will forever, so far as his future is concerned, realize the words of Dante: "He who enters here abandons hope"—I say is it the conduct of a physician, is it the conduct of a gentleman to intrude upon that man for the purpose of such discoveries? And if you declare that it is not, in the face of all this evidence, I ask you to declare that from the moment this species of investigation began, from the moment that system of inquiry was put on foot, the purpose presented itself, bold and clear by a combination of testimony, to put this young man in the asylum.

Now, what are the motives?

A word on that. Do you remember that in a portion of this evidence there was some allusion made to a young man named Renwick; he, the arrogant upstart married because he saw fit to wed the girl he loved; for that he was to be punished. He was declared insane. His insanity, as in this case, gentlemen, (see how near you have been becoming the tools of the family,) his insanity, as in this case, was made retrospective. Do you understand me now? It went back to a certain date; and on the strength of that the marriage was annulled. Of course the poor girl's heart was broken. Of course her happiness was blighted. Of course her future was destroyed. But the pride of the old Knickerbocker family was saved!

In this case, I notice by a peculiar subtlety in the testimony, that it is retrospective. It goes back to the day of childhood. It goes back to the day of college career. And if he is crazy now, he was crazy then. If he was crazy when he shot Drake, he was crazy then. What right have you, by your decree, to send this young man to the asylum, and permit them to annul and cancel the contract of marriage with Margueretta McGuinness, as they did the contract of marriage with Mrs. Renwick. "Whom God hath joined together let no man put asunder." And can you excuse it to your intelligence



hereafter, when it is the reproach of your conscience, that you did not know the object of this comprehensive villiany? Ignorance is no excuse. Justice is the anchor. Leave it and you are lost.

Now, before I go further—perhaps I may forget it—I had better say something about the personnel and history of these two families.

Who of us has not looked into the delightful and fascinating pages of Washington Irving, and who when he recalls them, does not see the old Dutch Burgher who inhabited New Amsterdam before the conquest of this island by the British? Who has not read of old Peter Stuyvesant, Wouter Van Twiller, William the Testy? Who has not read with delight the word-panorama of manner and custom, of that most intelligent and persevering race of people?

The Rhinelander's are so called because the original family in this country were peasantry from the Rhine River, and thus they got the name "Rhinelander," that is a man from the land of the Rhine. They had no more than John Jacob Astor, peculiar, social distinction at home; but, different from the case of Astor, their family glory, their family opulence, has been due entirely to the generous hand of nature, and the increase of population, business and prosperity on Manhattan Island, and the rise of real estate; these were humble, honest Dutch people; whether they wore wooden shoes or not, I do not know. I presume they did. It is not to their discredit. And one of their ancestors, by a stroke of good fortune came across a keg of doubloons which had been left by some Spanish pirates, concealed or buried in some part of Manhattan Island, or possibly by "Captain Kidd the rover, as he sailed, as he sailed." With that keg of doubloons he invested in real estate in Manhattan Island; and from that humble beginning the grateful use of piratical bounty (which was not intended for him, however,) these broad acres have grown, these palatial mansions have been erected, and this *creme de la creme*, this unadulterated blue blood from Rotterdam or Am-



sterdam is now to dictate the social law of the city of New York.

Well, shall I speak of the McGuinnesses? But a word. It is true that the lady Rhinelander married was not opulent. She was fairly educated. She was virtuous, she was modest, she was faithful, and he loved her. I am not here to contend that she is a lineal descendant of the Irish Kings, or a true princess in the line of Brien Boiroimhe; but I am here to contend that she was a member of a respectable Irish family, that her kin and kindred are reputable Irish people, and they are peers, in a real, manly, social way, of any people that I know of.

But the misfortune of this whole history is that as we, in this country, are embracing the centralizing, monarchical principle, which seems to be deserting the old land, and as we seem here to be establishing a sort of monied aristocracy or oligarchy on the ruins of Republican institutions, even as the light begins to penetrate the East, it seems as though that the same law of ostracism which prevailed two hundred years ago in the old kingdom, is to be dominant here, and that a man is to be arraigned, not for his moral conduct, not for the way in which he discharges his duties and avocations in life, but for the manner in which he salutes those who are the leaders of the ton or the leaders of the German.

The question is on this subject of delusion. Leaving that part of personal history, which I simply used as illustrative, the question is: (I will make the test before I come to the discussion of my side of the case). "Had he, Rhinelander reason to believe that Drake was interfering between him and his wife? and if he had reason to believe that he was so interfering between him and his wife, how does that affect the question of delusion?"

I will make it so plain by a simple repetition of this proof that not only did he have reason to believe that Drake was interfering with his wife, but that he did interfere with his wife, in point of fact, that your



Honors can, on your judgment and consciences say that it is proven beyond all question. Dogberry says that "all comparisons are odorous." Well, I won't indulge in them. But I ask your Honors to remember the conduct of Drake and the conduct of Rhineland upon the stand, and I ask you to say in whose heart, in whose conscience, was erected the altar of truth? who met the issues boldly, answered truthfully? Drake or Rhineland? I will prove to you that Drake cannot be believed, that he has already foresworn himself. I will prove to you that in the dark and treacherous purpose that his soul entertained of forever putting this man away from society, that he has resorted before you to the most desperate expedients and devices. That is a strong statement. If I don't prove it mathematically, if I do not demonstrate it beyond any controversy, reproach me, rebuke me as you will.

It is a rule of law, as I have stated, that a person who swears falsely to one thing is not to be believed in reference to any other thing except he is corroborated. I don't believe that there is a legal member of this commission that will deny that as a principle of law. It appears that this marriage took place some eight years ago. With reference to the facts and circumstances under which it was solemnized I shall speak further on. But with reference to the particular part that Drake had, after the marriage was solemnized, in the attempt to annul it, to set it aside, I will immediately call your attention. He would have us believe that when he went to Canada his mission was obscure; that while he had been apprised that Mr. Rhineland had got into some difficulty with a female he was not aware that he had been married, and he was not aware that he was visiting Mr. Rhineland for any other purpose than to give him counsel and aid in a matter in which he had become involved with some female of perhaps doubtful antecedents. Well, how do we prove that that is a lie? I believe in using the right word. Use it after reflection, but after you come to the conclusion that it is a lie, so declare it. It appears from the evi-



dence that we have produced before the commission, that so far as Mr. Drake's proceeding to Canada to view the heights of Abraham, or the classic beauties of Montreal, or for any other simple purpose was concerned, he went to Toronto in company with Mr. Clarke, and that during the journey, and upon the New York Central Railroad, a young lady overheard a conversation in which Clarke and Drake were speaking of the young man whom they were going to visit and in reference to what their mission was regarding him. Now, remember this Miss Salisbury is in no way impeached. It is not contended that Drake made more than one journey. It is not contended that he went there to see anybody but Rhineland. And she says that in the course of that conversation Drake substantially made the remark, as expressing an opinion, that if any young man married beneath him, or if this young man married beneath him--the exact words your Honors will remember--his conduct was deserving of the lunatic asylum.

Mark you! whenever the Rhineland family pride had been assailed in times past, the remedy that immediately suggested itself was this, the lunatic asylum. Why, in the language of Rhineland himself, upon the stand, Miss Julia Rhineland could forgive him any thing, even possible embezzlement and larceny, but the last, the crowning act of infamy, the marriage beneath him, was one that could not be absolved, was one that could not be condoned.

Drake did know what he was going to Canada for, and when he said he did not, he deliberately uttered a falsehood to this Commission. How do we prove that? Where are those letters? And I am speaking directly to the subject of delusions, proving that all the alleged delusions in his mind were truths--facts. As a scientific and legal principle, it would be sufficient to establish that he reasonably and fairly believed from the information of others that they were facts. I am going further. I am going to cut this man Drake from the bladder to the lung. I am going to show that not



only was Rhinelanders reasonably, fairly obliged to believe the truth of these things, but that they were true—*that they were true.* And give me your ears, and however your minds may be, I will convince you if you let your reason play fairly.

Mr. Clarke testifies that at an early date, so far as these proceedings are concerned, he became acquainted with Mr Rhinelanders. My own impression and recollection of the evidence is that the acquaintance was casual. But meeting either upon a steamboat, or in a railway train, as young gentlemen, they associated together, they were pleased with each other, and on leaving they exchanged cards, and from that moment up to a time specified, about which I will speak a little further on, their relations were intimate and cordial. And you must observe that such must be the case, because in all the varied incidents of this checkered history, whenever Mr. Rhinelanders has desired a friend and comforter, Mr. Clarke has acted as his friend. Now I know the learned counsel, who is to reply here (and who will probably utilize it as his ability and genius will dictate) I know he will endeavor to criticise unfavorably the conduct of Mr. Clarke. He asked him, for instance upon the stand. “And you took that infamous proposal to Mr. Rhinelanders?” Did my learned friend forget that when he characterized that proposition as infamous, it was not one that suggested itself to the mind of Mr. Clarke alone, but was one that originated and generated in the minds of Mrs. Rhinelanders, the mother of the respondent, and Mrs. Oakley. And so that if there is any infamy in that conception, if there is any infamy in the proposition, it cannot attach itself to the conduct or the garment of Mr. Clarke alone, because he was simply the emissary that submitted it. But go further. He says he tried in a friendly way to dissuade Mr. Rhinelanders from marrying this young lady, and he tried to dissuade the young lady from marrying Mr. Rhinelanders. He gives his reasons for that, whether good or sound it is for you to determine, if that conclusion is important. But the manner



in which he looked upon it was this ; he thought as he says this lady, instead of being an abiding love, was only a passing fancy of Rhineland, and he believed as a friend to him, indirectly as a friend to her, that it would be far better for her happiness if the wedding was not consummated.

However, Rhineland insisted. Of course he had to have some witness to make it binding. He desired to keep it secret; consequently he requested Clarke to act as his witness. Clarke swears he knew it was inevitable; he knew that Rhineland desired to keep it secret; he knew there had to be some witness. If Clarke be a miscreant as is contended, the fact is unimportant. All the comment we have to make up to this point is this; they are irrevocably united by the representative of God on earth. And any man, whether his position be judicial or otherwise, that will vote to forever separate them on this evidence, that will vote to separate and divide that family, the father from wife and children, incurs a responsibility of which it is impossible for me to speak. But they are married. He goes to Canada. Mr. Clarke, in his interview with the family, is overcome, as he says, to this extent; that he promises or agrees to submit a proposition from them. That proposition was this: \$20,000 as a *douceur* to be paid down, and an annuity of \$3,000 per annum *in futuro*, if what? If the wife would consent to separate from the husband, take herself beyond the seas, put dividing lines between them, sacrifice her happiness, destroy her future, and all for so much tribute money in hand, and so much leperous annuity forever after. It was an infamous proposition. It was an infamous proposal; and it is no wonder that Mr. Rhineland, writing in that letter to his mother, from which my learned friend read the extract, characterized his friend Clarke, even in being the bearer of such a message, as unfriendly, treacherous and hostile to him. And by the way, that letter was pregnant with facts for us. Clarke's motive was, as he swears a desire, believing perhaps he had



done, he was younger then than he is now, a wrong to this great and powerful and proud family, listening to the complaints of the mother, the protests of the grandmother, the tears of both, that it was his duty to submit the proposition ; he did so; he rode with Drake. They started together, and Clarke swears that not only did Drake know (all these letters show it,) of the marriage ; but it was the subject matter of their conversation ; and the means were devised, considered, discussed, how to separate them. You have Clarke's testimony on that point. You have Rhinelander's evidence on that point. And mark you, gentlemen, especially you legal gentlemen, this case against them has gone by default. As honest men, you must declare that. When I put Rhinelander on the stand, I put all on the hazard of the die. I knew if they could contradict him in any essential matter, if they could prove that he had testified falsely, erroneously, whether under the influence of a diseased mind or not, it was not only their duty, but they would imperatively do so. What is the answer? Not even an attempt. And can anybody doubt who reads the evidence, much less, can anybody doubt who heard the testimony of Rhinelander, that from beginning to the end, the signet of truth was upon it ?

And I now declare that it appears from all this proof that the first gentleman of that whole family, the only true, noble gentleman that has appeared in these proceedings at least, is the one whom their persecution seeks to overthrow and dishonor.

And how through that evidence he protected the honor of his wife ! How through that testimony his heart thrilled for her happiness, and that of the children ! How through that proof, when he spoke of moral questions and principles, did he grandly ever take the side of right ? And how did he show conclusively—yes, to men who could not listen even if there were such—that from beginning to end, gauged by the standard of morality, or the precepts of the Saviour, he throughout has acted the gentleman, and the man



of honor? And I defied them then—I defy them now, in any essential particular, to show the falsehood of his story.

Clarke swears Drake went there for that purpose. Mr. Rhinelanders swears he went there for that purpose. Can he be believed? He certainly went there. Then for what purpose?

Now, it may be said that I should have called Mrs. Rhinelanders. I took the responsibility of not calling her for reasons that were sufficient to me. It is possible, beside the two little children that live, you have it in your power to blight and destroy one that is unborn. If you see fit to assume that responsibility, the question is between you and your Maker! I took the responsibility of not putting that delicate lady in her present condition, in a position to be insulted and assaulted by all manner and sort of questions that could be conceived in the ingenuity of counsel. And if there is any comment to be made upon that, let the responsibility fall upon me, and not upon the respondent. There have been too much tribulation and woe for that poor woman already. Her burden is heavy enough now. But I thank the Almighty Father, that in this moment of supreme trouble, from its very origin, whatever might have been the petty bickerings and differences between them before, this woman, loyal to her oath, this woman, true to the promise of her bridal, has stood to this unfortunate man a true, devoted, heroic wife.

You find this man Drake contradicted by Clarke, you find him contradicted by Rhinelanders. You find him contradicted by a mysterious disappearance of correspondence after the year 1881. You find him contradicted by every piece of correspondence that is in the proof and about that I will speak further in its proper place.

Where is the delusion? Here in my hand are the letters from this proud old lady, the grandmother. I believe my learned friend has a communication either from or to the mother, making an appointment with



Mr. Clarke, in relation to this business; and so secret, and so cautious were they, that many of these communications, although the handwriting is identified, you will find to be unsigned. For what purpose is Mr. Clarke sent there on that occasion? For what purpose did they pay his expenses? For what purpose did they hold out hopes of a retainer *in futuro*? Was it not the truth when he declared he went there to submit that proposition? Was it not the truth when Mr. Rhinelanders declares it was submitted? And was it not the truth when my friend, in an unguarded moment, read an extract from a letter to the mother in which Rhinelanders denounced Clarke for this very infamous proposition? Why, gentlemen, were you sitting in a Court of law—I am speaking now to the legal members of this Commission—evidence like this that we have produced, would be so convincing, that argument would be useless. And how is it that men can hesitate a moment when evidence of the highest character, comprehensive in its scope, touching in its cometary, sweep every part of the case, has been before you, how you can hesitate a moment in your determination, is beyond my present comprehension.

Not only did Drake go there, he went there for that purpose. Not only did Drake go for that purpose; but even then in his mind was running this idea of the lunatic asylum. He says as far back as 1876, a man who would do this thing, marry beneath him, ought to be put in a lunatic asylum. Now he has undertaken that mission which is the result of that conception. Warily, cautiously, although with his nose to the grind-stone for eight years, the victim had avoided this machination, until the fatal day of the shooting. Then, in a weakened, physical condition; then with all this statement of Robinson fresh in his mind; then with these aggravations and provocations, rushing like the current of Niagara to the Falls; then he lost for a moment his self-possession, and he gave himself over to his enemy. That was his mistake. That moment was seized upon. Justice is vitiated. Indictments are



trampled upon, (the machinery of law, used in the service of injustice; and learned men summoned to do the will of a pre-determined purpose.)

Now then, we have proved the positive fact. Let us go further. Mark you! while I put him upon the stand, and intentionally gave them, through his lips, by a most remarkable exercise of memory on his part, the name and residence of every person with whom he had lived in New York, not one was called—not one—to prove that his conduct was anything but rational. And mark you! The most remarkable phase of this case is that none of the people who swear against his rational conduct are people outside of the immediate investigation.

Am I correct? Drake, Douglass the deaf man, whose tongue evidently does not loll on one side although there is some stoppage in his ears—Douglass the deaf man, his brother the Doctor—all who swear to irrational acts are those closely identified with Drake and the family. And in the whole course of eight years, in the whole course of his career since college where they say he was the “butt,” but where we prove that he was excellent if not brilliant in mathematics—that he had a German prize; all from that day down to this hour who swear against his rational character and conduct are those immediately connected with the shooting. Now, then, is not that significant? Not one person, I say, could they bring to corroborate them.

Very well. Pass that. Was he subject of a delusion in reference to the immediate deed that is the subject of the indictment? Not a bit of it as I will show you.

Delusions are of two kinds as has been proven—sane and insane. A sane man may have a delusion out of which he can be argued. An insane man can never be convinced of his error. Mr. Rhinelanderswears to you that he had repeatedly notified Drake not to receive his wife in his office, and he shows that Drake, instead of respecting that wish of the husband, had said to him in abusive language that he should receive the wife



when he chose, that he should give her money if he chose, in all respects he acted like a man who was entirely indifferent to the wishes of Mr. Rhineland. Now, then, Mr. Rhineland said to him, what he says upon the stand, what he has said from the start ; and, in spite of the false and fabricated evidence against him in that regard he will not be swerved from it ; he is more than anchored to it ; he believes in the loyalty of his wife ; he believes in the honor of that woman who is the mother of his children ; but he believes now, as he stated then, that if she was permitted to visit Drake and he succeeded in getting an influence over her sufficient for the separation, that he might compromise her. Who denies that ? A woman may be compromised, and still before God not dishonored. A woman may be compromised in the eyes of the world, and still in a point of fact be as virtuous as the Virgin. What he declared was this : that she must be not only like Cæsar's wife, above suspicion, but that in her movements, in her relations to Drake, they must be so guarded and watchful that if he desired to separate them on account of the marriage, he could not compromise her by getting her into his control

You see how these infernal devils have constructed the theory against this unfortunate man by the torture of the simplest language. And you see the moment they have comprehended his legitimate desire in avoiding the mere compromising of the woman, how in their fiendish devilment they contrived this whole theory of insanity. It is as clear to me as the sun that shines. But like all the creations and fabrications of evil and fraud, there is weakness in the edifice—when truth assaults it, it crumbles. Did Rhineland, I say, forbid her to go there ? Yes. Any contradiction ? No. And here is a strange circumstance : no Farrell is here. The deaf Douglass is here. As I said before, he possesses no infirmity in his tongue when it is employed against us. But the moment the question is put by us, there is some extra obstruction in his ear, which probably like the polypus in Rhineland's nose, affects his cir-



culatation. So that we are unable to get anything out of him, but yes and no, this, that, and the other. Isn't it singular, I say, that nobody connected with that office, except Douglass, is brought here to prove that Rhinelander is mistaken? But go further.

Is he victim of a delusion when, in order to satisfy his own mind, he does what? He employs another man—and in this regard he showed his great sense. He did not go to a professional detective. A man salutes him in the street by the name of Robinson. He says, “I am poor, will you give me some alms?” The crazy man looks him over and he sees in his face, that while he may not have the sublety of Vidocq or an Inspector Byrnes, he has got honesty of expression, and what he wants is fidelity. This lunatic wants to serve this poor man; he goes after him and he says “stop: do you want to earn a dollar and a half a day, or two dollars?” He says “yes.” “I want you to watch a certain lady.” The man is grateful for any employment; he accepts it. What does the lunatic do? Does he unfold to him his purpose? Does he confide to him the secret of his heart? Does he tell him of the intention of his mind? Not a bit of it. He takes him by a circuitous route from the place where he met him to the house that he desires him to watch and instructs him as to his duty. And here is a remarkable fact, gentlemen, not even after he shot Drake and had that conversation with Robinson on the very evening of the shooting did Robinson know that the life of Drake had been attempted.

Here is a man who conceals his own name, mark you—who conceals the name of his family, of his wife, conceals the object of his detective business, and does the whole thing in such a persevering, persistent, determined way—with intellectual foresight back of that—that it excites the admiration of everybody; and still we are told that he is a lunatic. It is monstrous to make those arguments.

Very well. What does Robinson swear to. Leaving out all the immediate particulars, he swears that



on the day of the shooting he tracked that lady, Mrs. Rhineland, into Drake's office. Did he communicate that to Rhineland? Yes. Even if it was untrue, Mr. Chairman, that he saw that lady in the office that day, if he communicated to Rhineland that he did, it was in no sense a delusion because Rhineland had a reasonable cause to believe in the truth of the statement, and he had a right to act upon it. And I do not care what maudlin sentiment may declare, I say for myself—and I believe I speak for a good portion of the community—that if a man is forbidden to approach, to interview, to harass or annoy, or to seek to influence or control, another man's wife, and is forbidden to receive her visits, the man who insists and persists in that course of conduct must abide the responsibility. And I know that were many men in this country subjected to the treatment that Rhineland received, there would have been a gunning expedition much earlier in the history of this drama. Robinson told him he saw her there. Therefore, there is no delusion in regard to that.

Now, it appears that there were two difficulties between these parties before—one with the ruler in which Farrell was a participant. They have not called Farrell to show that Rhineland has not told the truth. Farrell was there. Perhaps Farrell had certain reasons—certain objections to stating what was not true. Don't you suppose they would have called Farrell if he could have aided them? There was the other difficulty in the 23rd Street house. That is not contradicted.

Now, then, one word in relation to a threat about which Mr. Adams cross-examined Mr. Rhineland, it seemed to me, with some animation as though he derived some comfort from it. Do you remember that there was a conversation between Drake and Rhineland, in which Rhineland had said that if he did not cease importuning his wife against him, that if she did not cease her visits to his office on his solicitation, that if he did not discountenance her visits there, that



he would do something serious to him. Drake then said to him, in the language of Rhineland. "Oh! I am ready for you; I have a half dozen weapons" or "pistols" or "clubs"—he would not characterize them. It is not improbable that Drake may have said that, thinking that he could intimidate Rhineland. That is not improbable—thinking that if he told him he was prepared for him, he would *not* assault him. But that is cured by the fact, so far as its inference against us, is concerned, by the voluntary statement of Rhineland himself, when he says, "I looked upon that as partly a joke, because he could not have six weapons himself."

Now, that is the solitary grain of comfort that they get out of this man after a continuous, combined assault of three days. I ask any gentleman of this Commission. Is there one of you, able as you are, distinguished as you are, learned as you are, who could go through that same ordeal with the same credit and advantage? If you could, then all I have to say is you intellectually are remarkable creations of the Deity.

They started off with the doctrine of imbecility—that has blown up. Certainly, whatever the condition of his mind is, he is not an imbecile. The great Pagoda of general paresis is gone to pieces. Even the great Chinese God Joss, don't sit on top of that temple any more. What have they left? Why! the doctrine of melancholia with delusions, as declared by MacDonald is the last, solitary barricade that is left; and even Dr. Detmold, by the form of his question, seemed to indicate that he had not much faith in that, and he was going to pin his hope to monomania. Now which will you have it, Doctor? It certainly does not grow out of a practice that we consider too delicate to discuss, because, if Carlyle speaks the truth in that regard, Frederick the Great and perhaps another great historical character was similarly afflicted. But I want you to tell me where the bell is that you ring, and I will take the clapper out for you. Certainly it cannot



be paresis. It cannot be imbecility, then it cannot be melancholia with fixed delusions, because that has been all shot away, although Dr. MacDonald tells us with a great deal of gravity, that he has seen no reason to change his opinion. Well, of course, if he had, that would end his usefulness and revenue, as an expert. Now I don't wish to say anything about Dr. Hamilton, to come back to the experts, except that of a kindly nature.

What I have to say about that hypothetical question was expressed the other day before your Honors, in an objection to its admission into the proof. If there is one humbug in these investigations that is conspicuous above another, it is a hypothetical question. They go to work and they frame together a lot of assumptions, well, it could be well illustrated in this way: "Assume that a bird is a white bird, is it a black bird or a canary bird? Assume that a man had no brain, assume that he had no mind, assume that he had no moral ideas, assume that he had no vital forces, assume in fact, that he is a dull, tremendous blank, and corpse, what do you say, is he a live man or a dead man?" Now, that is about just what a hypothetical question is. They strung together here a lot of the fables of Drake, a lot of the fabrications of his fancy, and the necessities of the case, a lot of assumptions which, in the first place were not supported by their proof, but which have been shot away irresistibly by ours. And then MacDonald with the nerve and to the credit of his leonine nature, says "No, it would not change my opinion," like the man who was asked in the railway trial, "But if the man had died, would that have changed your opinion?" said "Not a bit; he ought not to have died."

No matter what the facts are, they are determined to put this man in the lunatic asylum. That is the journey they started on. That is the legal conspiracy into which they have entered. Now, it makes no difference whether we show instead of being the victim of general paresis, he is a Hercules or an Adonis. It



makes no difference that instead of showing that he is the victim of Melancholia with fixed delusions, that he has never had a delusion. It is immaterial. They started in with an affidavit of his insanity. This mighty machinery has been invoked. They are ashamed perhaps of its initiation. What are they to do? They are to shift its responsibility from their shoulders to yours. Oh! we said yes, he was crazy, but who has not said it? Why the Commission have said it. There the expert releases himself from his responsibility, and gets great renown in the land for his accuracy.

Now, gentlemen, in reference to Dr. Hamilton's evidence, I have this to say, that it ought not to weigh in the presence of the facts that have been proven, in the presence of the expert evidence that has been adduced, one iota in your consideration. I am sorry to say that because Dr. Hamilton is not only a gentleman by birth, but is the descendant of gentlemen; he has written a great many pleasing works; and, after all, you look in all these books, and you find the authors have simply stolen the livery of Esquirol. They put on a new button now and then another piece of braid, a little lace—after all it is the garment of the great man. They sit down and they write these books, and they get elected to certain societies. They get certain titles. They say they know the anatomy of the mind. They say that they know all the secret conceptions of the human soul, and they can tell by a man's eye, they can tell by the polypus in his nose, the shrug of his shoulders, the turning-out of his toes, or the knocking-in of his knees, whether he is sane or insane. And do you remember what Barnum says—"If there is one thing the American people delight in, it is being humbugged." Now, these men are deriving great revenue from this very business; and no man is safe from their machinations. Many a man perhaps who has read and listened to this trial, is in danger; we cannot tell but what some of the Commission may be a victim



yet, we cannot tell what moment two men may band together, and say they are of unsound mind. What remedy have they?

In regard to our evidence the great question to decide here is this; *Can this man plead to an indictment?* The comprehensive language of this most atrocious Statute, directly leveled at the liberties and the property of the citizens, evidently drafted by a jurist in the immediate service of Mephistopheles, is "They must inquire into the sanity of the party at the time of the examination" the object being to ascertain, can he plead to the indictment? Can any man on that Commission stand up and take his oath to Almighty God, that he does not believe this man understood the charge against him? And does any man on that Commission dare stand up and take his oath to Almighty God, that he does not believe that the same subtle mind, the same imagination and judgment, that have directed the defence on this charge, would be able to care for their possessor, in a trial which involved another charge and much less serious consequences? You have not got to that pitch of courage yet. That is the whole issue. Why, I undertake to say not only has he a legal defense, from his statement of the shooting, but I would undertake, not before a jury of his family,—to use his own felicitous expression—but I would undertake before a jury of his country, to defend him before an impartial panel, and I believe by the grace of God, I could acquit him. And that is what Drake knows. That is what the family know. And, now that this secret of the marriage, now that this secret of the life that has been led, now that these relations between the patrician and the pauper, have been panoramaed in this record, now all is known, in the place of a desire of concealment, is the blood-thirsty, the sanguinary emotion of revenge.

Have any of you ever been in a lunatic asylum for even a few hours? If you have, you comprehend to some extent the enormities practised there. I do not believe that in the conception of Shakespeare or Dante



—in any of the great minds of the world,—there ever was a comprehension of the realities and the enormities of these hells on earth. And every effort will be made, every step will be taken to fight this injustice to the last. I would not guarantee that if this young man spent two or three months in the lunatic asylum, as he has spent them in the City Prison, under circumstances tending to destroy his mind, under circumstances tending to bring him down—it is only in the providence of God, that he was strong enough to give his evidence against his enemies and their machinations; I would not undertake to say that he might not be so affected by his association, that those who pursue him in their malice, might realize the final fruit of his mental destruction. But for that state of things you are responsible.

Now, Dr. Dimond says he is not insane. True, my brother in his cross-examination tried to show that Dimon had testified at one time, or found at one time that a certain man in a state of alcoholism was sane who afterwards turned out to be insane. In that opinion he was joined by the great Dr. Gray and I think by Dr. Chapin; also brother Bowers sought to show that on one occasion, in two or three hundred cases, he had found a man sane who was insane, and that afterwards that man committed suicide. Well, that is a new doctrine. I have heard of new theories in mental science advanced on this hearing, but that is a new principle. A man is not necessarily insane because he takes his own life. A man is not necessarily insane because he anticipates the will of God and rushes unbidden to his judgment seat. Any alienist that would contend that, is absurd. Dr. Dimond says he is sane; he examined him in reference to his bodily, his physical characteristics. Now, then, Dr. Milne gives you the same result, Dr. Kennedy the same. And in that most comprehensive, pertinent and lucid testimony of Dr. Hannan you have this whole charge refuted, on physical and intellectual grounds. And Dr. Hannan took occasion to say that which



is very appropriate—that in the exercise of the domestic affections, in love of children, in all that endears a man to his fireside, his family—in all those relations so near and dear to the human heart, Rhinelanders were conspicuously a fond parent, a good man. Mrs. Osborn says, in that simplicity which, best becomes her, lady as she is, “I wish I could take him home with me to-day.” She is one who has little children there, children of other guests running about her home; she is one who has been associated with the respondent intimately for over a year; she is one who has daughters and sons; she is one who has a household; and she, looking contemptuously at this prosecution, says “Let me take him home to-day; I will take him home.”

Dangerous lunatic! Do you know what that was put in for? I will tell you. You Dr. Detmold, have not seen so many of those things put up as I have. You have cut off more legs; you have delivered more lectures on anatomy. You have never seen one of these things put up as often as I have. As soon as Dr. MacDonald’s evidence failed, then they had to get in a new link. What was that? and you see how the devil deserted them in that. They had to get up a theory before this Commission that he was a dangerous man. Do you see? So this poor half demented Jackson, who, if there is anything in appearance and observation will be in his grave within a year, either from Bright’s disease or dementia—he says of Rhinelanders, “he was like a raving, roaring lion; he was going to kill somebody.” What is the solution of that? They had to present it in some tangible shape. So they said that he had stated on one occasion or more that if any man had a dispute with him in relation to property, and refused to give the property up, he would have a right to shoot him. He never said anything of the kind. What he did say was this. He asked Cruger Oakley or some one else, if in a dispute about property that was his in the possession of another, he seeking to take that property from the possession of the holder, the holder should assault him



and place his life in peril, would not he have the right to shoot him? Of course he would. But you see by what infernal malignity and diabolism, the plainest statements of this man are tortured.

Is Drake afraid of him? Drake says he is not. Rhinelanders says he has no further controversy with Drake. Why? He has had the satisfaction of a gentleman. Drake no longer will disturb his wife or him. Is it contended that he ever had any altercation with anybody else in all these years? Not one. And is any man in his senses going to believe in this theory of MacDonald, that he is going to run a muck against the whole human race? Did he ever have a solitary difficulty with any human being on earth? Answer to God and your consciences! Never. And he don't believe in any such piratical doctrines as are ascribed to him. If you are not beings of stone and wood, if you are not beings determined to crucify justice, if you are not beings resolved on the destruction of law and right, then this evidence spoke to you in tones that are trumpet-tongued.

Why! here, as late as 1884—this spring—a lawyer employs him to do delicate detective work. Lawyers do not employ idiots for that purpose. And he accomplishes his mission successfully. Why! compare Drake's mind with Rhinelanders' on the stand? It is a grain of sand, Drake is stupid in comparison. I asked Drake did he (Rhinelanders) ask him, after this trouble about the horses, "could the horses be attached?" I said to Drake, "Do you consider that evidence of insanity?" "Yes." Well, what is the very first thing the man would say to him. "Can the horses be taken away, be attached? Could I be arrested." Said I to Drake, "Do you consider that evidence of insanity?" "Yes—the mere fact that he took the horses away under such circumstances rendered him liable to arrest." I do not think, if that is a test of Drake's legal knowledge, that I should care to have him defend me for my life. Compared with this grand



intellectual colossus, he is an ass. And you all must admit it.

Gentlemen, there have been certain letters introduced here, and I want you to examine those letters—those written by Rhineland—*and point out if you can a single incoherent line, word, statement, sentence* They say he was incoherent. How incoherent was he four days upon the witness stand continuously? Often in that testimony of his, sentiments of surpassing beauty, clothed in most felicitous language, in terms that could only suggest themselves to the mind of an honorable man, and the pure heart of a gentleman, fell from his lips, and I must say that I have seen witnesses from Maine to Kentucky, and I have seen them all over the country, but I have never witnessed his equal in intellectual power, in intellectual force, and in moral beauty. And it would be an everlasting insult to the sense of the intelligence of this community, it would be an everlasting brand upon the name of justice itself, if you undertake to declare that the man who was capable of that extraordinary intellectual exhibition is an insane person. Why! here, although he was neglected by his mother, although family pride seems to have frozen the natural affection that should have flowed from her own heart, what did he say? “And saying that my mother does not look well and seems troubled at my absence, I wish you to encourage and not dishearten her. Tell her that it will turn out well; that from personal acquaintance you know my wife to be ladylike in manners and conversation, and that in time I will be able to raise her to my position.” There was the pleading voice of the son trying to melt the frozen pride of the mother. There was the loyal zeal, fidelity of the husband, protecting the woman that he had sworn to honor. There was that hope, that loyalty in his heart. Unfortunate it is that he has been disappointed and broken hearted. There was the hope that never died in his heart, that there would be a reconciliation; that this family pride would melt, and that the natural affections of their



hearts would blend together in the current of their ancient love. Is there—can there be—a more graceful tribute, a more beautiful commentary, on the feelings, the emotions, the mind, and the character of this unhappy man? How can you, gentlemen, even after all that has been hinted at separation, say that love does not exist between them?

Let us see what that amounts to. In all of eight years this man, who was a Rhinelander, this man who is the patrician descendant from the Dutch ancestor, this man who used to clean his own horses, take care of his own vehicles, walk in the streets with books and bundles under his arm, and on all occasions proper concealing, even to misspelling the name—the name of his family. Because in his happiness he did not desire to intrench upon theirs, and if they were too proud to recognize him in his lowly condition and his wife in the position to which affection had drifted her, he was willing that they should not be annoyed by his name in connection with theirs. Was he not self-sacrificing? Was he not in everything the gentleman?

He had certain ideas about a residence; he said his wife ought to go were he did. I suppose as a matter of social domestic law that is correct—on legal principles. They had their little spats, like everybody else. Nothing serious. There is a paper in there which he was not allowed to explain because his attention was not called to it. That is that agreement. There is no doubt that his wife was a fond, jealous, loving woman. Othello, the great conception of the greatest mind of all time, slew the object of his jealousy. It has never been contended that the emotion that led to his jealousy and his crime was insane. Mrs. Rhinelander with the tender love that she possessed for her husband was jealous perhaps even of her own sister in the house. And one day in humor—mark you what little things they magnify—one day in humor he sat down and wrote a contract for her to sign, which she never signed and which was never seriously submitted to her



for that purpose, that she should not object to his driving out with his sister-in-law, of speaking to his sister-in-law, and giving her those little attentions which he felt bound as a brother-in-law to do. That little thing got into Drake's hands. Of that—for you saw when Rhinelander was on the stand that he was a man of humor and philosophy—they did not try to ask him for an explanation ; they may try in the summing up to make a mountain of it. Take this correspondence through, and say if you can find an incoherent word, if you can find a sentiment unworthy of a gentleman, if you can find one trace, one atom, one element of deceit—if you can find anything but the honorable sentiments of a gentleman ; a man whose life has been so dark and gloomy, when it might have been so bright, so cheerful and so honored ; a man whose true nature—if in their stupidity these parents could have been blest by a divine revelation to discover the intellect of the offspring they were permitted to rear would have blessed mankind, and how much of this tragedy had been spared. But to say, in the language of the law, upon your oaths that this respondent does not comprehend the indictment against him, that he is unable to plead, that he is unable to go to trial, that his destiny is an eternal sequestration in a lunatic asylum, gentlemen, is more than this evidence warrants you in declaring.

It is idle to disguise the fact that the community is greatly excited in reference to this case, for the simple reason that it involves principles which are to become precedents by your decision. The community have read the evidence in this case. The community have read the testimony brought out on the part of the family ; and I say they look, and they have a right to look, with a great deal of anxiety and interest and hope upon your determination. I say they have a right to look on your decision with interest, with hope and perhaps with anxiety ; because if on evidence like this, a man can be taken and placed in an asylum, his liberty forfeited, his civil rights determined, what safety,



they will ask, is there for any member of the community?

I have satisfied your Honors, I think, that in regard to delusions, they never did exist—in regard to physical indications of insanity, they never did exist—in regard to all that goes to make up the insane, mental and physical, in character and aspect, they are entirely wanting in this case. What we ask and demand the right to do, is to plead. Let us join with our adversary, in the language of the Scripture “Let us go down to battle with him”—you have no right to come between us and the arrows of that issue.

Why! so infernal was the malignity displayed, that some witnesses, thinking probably to affect the Commissioners, said that he threatened to shoot his mother I don't know about the future state from experience; but the villain who uttered that lie, if he can go to Heaven without particular absolution, then my ideas of orthodoxy are erroneous. Understand! This respondent, in the grandeur of his position, was driving them like routed rebels, when, in order to uphold this machinery, in order to give an excuse to this Commission, they began to invent the most diabolical and villainous lies against him; the man, the passage in whose letter I have just read; the man who in the midst of all his difficulties and troubles, the man who had been disinherited, ostracised and outlawed, the man who then says, in the simplicity of his love for his mother, an affection that outlives all others, in human nature, “I still hope for the day when the reconciliation will be complete.” To add to the infamy, the filth, the outrage, the lies, the fabrications, the perjury, and the falsehood, which are the stones in this edifice, they put that as the crowning one, the keystone in the arch! Oh! if I had a jury. Oh! if I could tell these things to men who would receive them as they ought. If I could show you as plainly as in my own mind it is panoramed, the exceeding, the terrible, darkness, wickedness, iniquity of this business, I believe, without a moment's consultation, you would say to this



young man, "Go and meet the law that thou hast offended." It is no mercy we ask at your hands, but beware you do us no injustice.

Why! Drake says that he never knew of a cruel man that was not crazy. What did they try to do with this poor unfortunate man? Kill him in the public estimation. They say he tied up a horse, and left him for thirty-six hours without nourishment. How did he meet that? True, he tied the horse up, but the horse had a congestive chill, and Dr. Detmold knows enough of comparative anatomy to understand that an animal in that condition, whether cattle or equine, must be kept on his feet. How that was tortured? How that villain sought, in all their acquaintanceship, —thinking that we would not put Rhinelanders on the stand—to torture and misrepresent every incident and event in this man's life? Oh! if he were not wounded how I wish he were here!

Another thing. They say that the respondent has an eye that is remarkable and different from other people; and that years ago, mark you! before Drake went before the grand jury, before he had this trouble with him, he ran against a poor man in Toronto, who had a ladder. Now if it ever occurred, it was simple, it was so outside the pale of plausible facts on which to build an edifice of insanity, that it would make men smile if we did not know the purpose of this machinery. We dare not laugh, because the sword is above us.

Cruel! why this most affectionate man in the world, drove little girls out, whose mothers were too poor to give them an airing, saying in the simplicity of his heart "It will do them good, God's air and sunshine,"

Cruel! More cruel than the grave, is the perjury of that man Drake. And from all I know of him, God help him when he comes into a Court of law, where I am again. When he was on the stand before I had a sympathy for him. I was in doubt myself, was not sure then as to the actual mental condition of this respondent. Now, the clouds have rolled away.



I see this villian Drake revealed, and the wonder to me is that the stroke that was intended to end his villainous existence, was not delivered years before it was.

Gentlemen, with the exception perhaps of some few details, and statement of general principles, I have covered all that I desire to say in this case. I can simply add, if this evidence does not convince you, if you are still determined against him, it would be useless for an angel to speak from heaven. I have spoken to you in the language of the law, of justice and of the truth. If this cannot effect any determination that you have already formed in your minds, it would be useless for me to proceed.

I leave this case to you reminding you that it is a pioneer one; that you are to decide great principles that effect not only the individual, but the popular liberty; that you were put here by a great and incorruptable magistrate, that he did not put you here for any special purpose; that he did put you here to do justice; and that he, I am assured, from his high character, has no service for you to perform outside of the legitimate one, the discharge of your functions.

Gentlemen, throughout I have craved no mercy for this respondent. I stand upon the justice of his cause. The only word that I shall ever utter in his behalf is one that demands strict justice and nothing more. He does not care for your intervention. He protests against it. He desires to put himself upon his country, if he has violated the law. And if a jury of his country shall determine that he has so violated it, he is willing to suffer the penalty—the penalty with which he is familiar.

Now, what excuse can you give to your consciences what excuse can you give to your reason? A group of doctors, who have sworn absurdities against each other? A group of doctors, who, in the parlance of the day, have thoroughly “knocked each other out” on their side? What can you do? What excuse can you



give? A lot of physical indications that have excited the merriment of the American people, from the woods of Aristook in Maine, to California! What can you do?

The respondent has passed through an intellectual test that determines him one of the ablest men in this country. Can you undertake to say that such a man is crazy?

If he has got a monomania, on what subject? It don't appear on the examination. If he has got a delusion, where did you tap it? Unless one of you discovered it, unless one of you tapped it, either the monomania or delusion, you cannot say to your colleagues when you go out that he has got it. No, gentlemen.

It is fair to the experts to say that when they spoke of "*asstygmatis*m" they probably meant "*nystagmus*"—the first is a physical defect solely, capable of cure and has no relation to, and is in no way connected with, mental infirmity.

The last may or may not be the result of mental disorder. In this case we have shown that the respondent's difficulty of the eye has its origin in physical trouble.

This peculiar lateral rolling of the eye is conspicuous in one of the ablest and purest members of our Bar.

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With a few suggestions as to the medical and legal principles which control this controversy, I leave this cause for your final determination. You may find as matter of fact that the witness Clarke standing by himself is not to be believed, but you must remember that he is corroborated by Rhineland and Miss Salisbury. Whether or not he has dishonored a noble profession, or proved a false friend, is a question that cannot enter into your deliberations. This is to be said in Clarke's favor, that he was not bred to the legal profession, and may not understand its strict etiquette and



lofty sense of personal honor—and the weight, the character the quality of the general testimony is with us, overwhelmingly. As a guide to your deliberations, I will define in the briefest terms possible, the different phases of mental alienation. It has been my lot to settle more insanity law perhaps than any advocate in America. I have tried causes civil and criminal, in which the issue of the mind was involved in nine states of this Union. I shall state no principle that is not borne out by precedent, that has not survived the test of time. Esquirol is the father of the science of mental alienation as now intellegently known in our and the medical profession. He has done for this science what Blackstone did for the law of England, Russel for criminal jurisprudence, and Wharton for the principles which govern the intercourse and comity of nations. Esquirol does what very few text writers have ever done, he gives the personal diagnosis and treatment of a large number of unfortunates afflicted with mental malady.

For the purpose of this inquiry, the question of insanity may be divided into two elements with certain subdivisions. First, those conditions of mental disease having their origin in congenital defects of the brain, or in the imperfect development of its faculties or functions during infancy, such as idiocy and imbecility.

It is nowhere contended that the respondent is amenable to the charge of idiocy or imbelicity.

Let us then consider the second element, which is all those forms of mental derangement or disturbance, which arise from disease of the brain, subsequent to its full development, and which may be said to constitute insanity, or mental disease in its strict significance.

The terms Mania, Melancholia, Monomania, Dementia and General Paresis, typify this class.

Mania is divided into two forms or classes, acute and chronic. It is not contended that the respondent is afflicted with either, therefore I shall not discuss the doctrine of mania. Dr. McDonald says that the re-



spondent is afflicted with Melancholia. What is that? What are its character, origin and effects? As a rule, it demonstrates its existence suddenly, as a consequence of strong moral emotion, as grief or fright. Generally the development is slow. The patient by degrees loses interest in his family affairs and business relations, and becomes depressed, reticent and solitary. There is no phase of Melancholia that applies to Rhineland, as we have proven over and over again.

Is the respondent afflicted with Monomania? The answer of the proof is in the negative.

I am aware that some of the more recent writers discard the use of the word, monomania, but I prefer it to any other terms in use to indicate a certain unbalance of the mind.

The very existence of monomania in its literal sense has been denied by eminent authorities, while others equally entitled to respect have asserted its existence as beyond question.

Monomania in its proper application may include not only positive cases of lunacy in which some prominent delusion absorbs the mind and controls the conduct, but also those instances of morbid activity of the perceptive faculties, and the imagination, marked by hallucinations of the senses. Does Rhineland come within this definition? Certainly not. There is not a particle of evidence to support this theory.

The most remarkable instance perhaps of monomania accompanied by hallucination, is the case of Annis Simpson, who confessed before the King of Scotland, and his Privy Council, that she in conjunction with other witches, by inspiring hostile gales, had prevented the Danish fleet, carrying the fair bride of James, from approaching the Scottish Coasts!

This poor mad woman *believed this to be true*, and by the ignorant and superstitious sentiment of the Judges who passed upon her fate, was sentenced to expiate the crime of witchcraft by an awful death!

The great effort of the other side has been to establish general paresis. This may be defined in a simple



way as a general physical and mental paralysis, and this term was first used in France in 1822, by an eminent mental alienist, and has been generally adopted by the later writers. How triumphantly the respondent refuted this theory, the evidence discloses. It needs no further elaboration, and the last topic to be discussed is dementia. It is appropriately defined to be the tomb of the human mind, the grave of all mental power and glory. Shall I enlarge upon this branch of the case? I see that it would be but a waste of time. I leave the cause with you, with this warning. *You are on the threshold of a great crime—do not cross it.*

The Commissioners decided as follows: two voted that Rhinelanders was insane, and one (Mr. Patterson) that he was sane. Judge Curtis immediately took the matter before Recorder Smythe, who after hearing Frederick R. Coudert, in favor of sustaining the majority report of the commissioners, and Judge Curtis opposed, decided that Rhinelanders was sane, and discharged him on \$10,000 bail to answer the indictment charging him with the shooting of John Drake.